REPORT

of the

PUBLIC UTILITIES COMMISSION

OF UTAH

For the Period April 3, 1917 to
December 31, 1917, Inclusive

TO THE GOVERNOR

PRESS OF
THE F. W. GARDINER CO.
SALT LAKE

COMMISSIONERS

JOSHUA GREENWOOD, President
HENRY H. BLOOD
WARREN STOUTNOUR
T. E. BANNING, Secretary

Office: State Capitol, Salt Lake City, Utah

CONTENTS

TABLE OF CASES REPORTED

To His Excellency, Simon Bamberger, Governor of the State of Utah.

Sir: In compliance with Section 6, Article 1, of the Public Utilities Act of Utah, approved March 8, 1917, herewith is transmitted to you report of proceedings of the Public Utilities Commission of Utah for the period April 3, 1917, to December 31, 1917, inclusive.

ORGANIZATION AND PERSONNEL

The Commission was organized April 3, 1917, with Joshua Greenwood, Henry H. Blood and Warren Stoutnour as members. Joshua Greenwood was elected President. Later T. E. Banning was appointed Secretary and Harold S. Barnes Clerk and Stenographer.

The personnel was increased before the end of the year by the employment of the following persons:

Miss Eva Penrose, Stenographer.
Rollo W. Gallacher, Reporter.
Fred M. Abbott, Special Investigator.

JURISDICTION

The Public Utilities Act vests in this Commission jurisdiction over rates, rules and regulations of all common carriers and public utilities operating within the State of Utah, and defines both common carriers and public utilities. The Commission has jurisdiction over steam and electric railways, street railways, express companies and automobile stage lines as common carriers. The Commission also has jurisdiction over heat corporations, gas corporations, electric corporations, telephone corporations, telegraph corporations, water corporations and warehousemen.

RAILROADS SUBJECT TO THE JURISDICTION OF THE COMMISSION

The following railroads are subject to the jurisdiction of the Commission as to their operations within the State of Utah:

STEAM RAILWAYS.

NAME OF COMPANY.	Miles Owned Main Line	Miles Owned Branches or Spurs	Miles Operated Main Line	Miles Operated Branches or Spurs
Bingham & Garfield Ry. Co.	19.60	15.93	36.06	80.92
Deep Creek Railroad Company	44.70	2.27	44.70	2.27
Denver & Rio Grande Railroad Co.	298.57	390.66	298.57	371.65
Inland Railway Company	3.06	1.96	3.06	1.96
Los Angeles & Salt Lake R. R. Co.	280.84	231.65	280.84	250.80
Oregon Short Line Railroad Co.	113.48	103.26	113.48	113.26
Salt Lake & Alta Railroad Co.	.....	.....	.....	.....
Salt Lake, Garfield & Western Ry. Co.	14.02	1.91	15.57	1.91
St. John & Ophir Railway Co.	8.56	.36	8.56	.36
Southern Pacific Company	.....	.....	*260.64	.....
Tooele Valley Railway Company	6.23	1.04	6.23	1.04
Uintah Railway Company	68.64	3.67	68.64	3.67
Union Pacific Railroad Co.	70.13	27.59	65.13	34.02
Utah Railway Company	46.56	.....	46.56	**52.10
Western Pacific Railroad Co.	121.63	15.52	121.63	15.85

ELECTRIC RAILWAYS.

Bamberger Electric Railroad Co.	25.94	7.63	61.84	7.63
Ogden, Logan & Idaho Ry. Co.	124.86	29.55	124.86	29.55
Salt Lake & Utah Railroad Co.	75.16	13.52	75.77	14.38

**Includes line operated under trackage rights.
*Lines operated under lease, contract and trackage rights.

AUTOMOBILE CORPORATIONS

Some difficulty has been encountered in applying to the automobile service the control and regulation that is contemplated by the utilities act. We have had particular difficulty with the passenger service performed by automobiles. In some parts of this State there is a recognized necessity for automobile transportation because such large areas of the State are not adequately served by railways. It has been the purpose of the Commission to encourage the establishment of regular stage lines and of regular freight transportation systems by automobile into these remote districts, and much good has been accomplished along this line. In attempting to accomplish this it has been found necessary to give what amounts practically to a monopoly of the business to companies that have applied for and been granted certificates of convenience and necessity under our law. We have been flooded with applications by individuals and companies who

desired to give competing service, and when we have declined to issue certificates of convenience and necessity where companies already operating were able and willing to give adequate service, we have found an unwillingness on the part of the rival companies to acknowledge our jurisdiction and yield to our orders. We shall perhaps find it necessary to appeal to the State courts for enforcement of the orders, rules and regulations of the Commission.

We are inclined to think that the part of the law which has to do with automobile corporations should be very materially strengthened or that it should be repealed.

It might be well to call your attention to the fact that very few of the states in the Union have attempted to control automobile traffic. Idaho has made a very earnest effort to handle this class of transportation through its public utilities commission, but it is noteworthy that the Idaho Commission is now in favor of a repeal of that part of its law, or amendments that will make the law more specific and certain.

ANNUAL REPORTS

The Commission has prescribed forms for annual reports of steam, electric and street railroads, the said forms being those provided by the Interstate Commerce Commission for use by state commissions. They follow very closely the standard forms adopted and used by the Interstate Commerce Commission.

The Commission has not yet prescribed report forms for utilities other than those mentioned, for the reasons hereinafter stated.

PETITIONS, APPLICATIONS AND COMPLAINTS

Cases filed with the Commission fall under two heads—formal and informal.

Formal proceedings are those filed under the rules of practice and procedure adopted by the Commission. Questions involving a change of rates, rules or regulations, or those in which a particular service is attacked or is desired to be changed, may be adjudicated by the Commission on a formal hearing. Such a hearing may be had on complaint of an individual or corporation, or the Commission, on its own motion, may institute proceedings of this character.

Informal matters are usually brought by letter or by the attention of the Commission being called to a matter that needs correction. In such a case it has been the practice of the Commission to refer the informal complaint, thus presented, to the utility complained of, and subsequently to arrange for a conference between the parties in interest, in an effort to effect a settlement. In a very great majority of such cases the Commission has been able to reconcile the differences of the parties and bring about an amicable adjustment with a minimum of trouble and expense to both parties. The number of such complaints that have been handled by the Commission shows that the public has been quick to avail itself of the services of a disinterested tribunal which could use its good offices for making such adjustments as were considered proper. Occasionally it has been found necessary to change an informal complaint into a formal proceeding in case the differences appeared to be irreconcilable, but in general, as stated, such has not been found to be the case.

During the period covered by this report, 19 formal cases were before the Commission, 11 of which were closed and 8 pending at the end of the year. During the same period 90 informal cases were handled, usually to a satisfactory conclusion. In addition there have been issued 247 ex parte orders, 110 of them having reference to electric rail lines and 137 to steam lines. There have been issued 3 certificates of convenience and necessity, 13 grade crossing permits, 10 special automobile orders, 2 special electric orders and 1 clearance permit, which makes a total of 385 formal and informal matters that have received the attention of the Commission:

A classification of these cases shows the following:

Steam Railroads	195
Interurban Electric Railroads	135
Street Railroads	3
Electric Lines	19
Water Companies	2
Telephone Companies	17
Telegraph Companies	2
Automobile Companies	13
Total	385

CLEARANCES

In order to promote the safety of operation of railroads the Commission has prescribed standard clearances to be observed in new construction by railroads, or by individuals or corporations where such construction is to be used in connection with the movement of trains or cars.

Clearances have also been established and rules promulgated for observance in electrical construction. In this connection, Circular No. 54, issued by the Bureau of Standards of the Department of Commerce, has been tentatively adopted for the governing of new construction of electric lines.

GOVERNMENT CONTROL OF RAILROADS

On December 28, 1917, the Government took over the operation of the railroads. The effect of this action upon the work of state commissioners will doubtless be to limit the authority of the commissions in the handling of freight and passenger rates, but it is assumed that the question of service will still be in the hands of the local regulating bodies. It is our view that the functions of the Commission in handling questions of service of utility corporations is of prime importance. With that in mind we have attempted carefully to check up the service being given by the utilities with a view of improving conditions and protecting the interests of the traveling and consuming public.

STATISTICS AND VALUATION

The Commission has in view the organizing of a statistical division and an engineering division, provided sufficient funds are available. The basis of rate regulation is, and must always be, an accurate determination of the value of property used and usable in giving the service to the public. The appropriation made by the Legislature for the first biennial period during which this Commission is to operate, is inadequate to permit us to enter extensively into valuation work, but certain cases have already been before the Commission which have shown the vital necessity of this matter receiving the early attention of the Commission, and it would seem certain that the organizing of a valuation division can not long be delayed.

It is important, also, that a statistical division take up the matter of prescribing proper accounting systems for the numerous small utility corporations that come under the jurisdiction of the Commission. These accounting systems will, of necessity, be so devised that comprehensive reports can be made to the Commission by the various utilities. It is hoped that funds will be found available for this important department of our work. Until proper accounting systems have been prescribed it will probably be necessary to allow some latitude to utilities in the matter of filing reports. It has been found that many of the smaller utility corporations are owned and operated by men who have not the technical training required to originate bookkeeping systems. Indeed it has been found difficult for the Commission to get tariffs filed in proper form or to get sufficient data from the meager account books usually found in the offices of such companies, upon which to base a judgment as to what is their financial condition. We are, therefore, proceeding somewhat slowly in matters pertaining to such corporations, pending the time that we can render them the necessary assistance to bring about uniformity of accounting.

FINANCIAL

The following statement will show the condition of the finances of the Commission as of December 31, 1917:

Legislative appropriation	$50,000.00	
Receipt from sale of transcripts of evidence, etc.	2,150.95	
		$52,150.95

Disbursements.

Salaries	$14,179.33	
Traveling Expenses	951.57	
Office Furniture and Fixtures	844.48	
Books and Publications	142.12	
Stationery and Printing	543.72	
Postage	111.89	
Miscellaneous	184.21	
Apparatus	21.06	
		$16,978.38
Unexpended balance December 31, 1917		$35,172.57

Respectfully submitted,

JOSHUA GREENWOOD,
President.
HENRY H. BLOOD,
Commissioner.

Attest:
T. E. BANNING,
Secretary.

NOTE.—Commissioner Warren Stoutnour was on leave of absence when this report was signed, having volunteered in the Naval Service and having been commissioned Lieutenant, April 22, 1918, with headquarters at Norfolk, Va.

APPENDIX I.

Part 1.—Formal Cases.

Part 2.—Informal Cases.

Part 3.—Ex-Parte Orders.

APPENDIX I.

Part 1.—Formal Cases.

1. **In the Matter of the Application of the EMIGRATION CANYON RAILROAD COMPANY for the right to dismantle its road and permanently cease operating same, in Emigration Canyon.**

CASE NO. 1

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the EMIGRATION CANYON RAILROAD COMPANY for the right to dismantle its road and permanently cease operating, in Emigration Canyon.

STATEMENT—DECISION—ORDER.

The above entitled matter came on for hearing before the Public Utilities Commission of Utah, upon the petition of the Emigration Canyon Railroad Company, and the objections and counter-petition of the Emigration Canyon Improvement Company, and others, protesting against the entering of an order authorizing or allowing the petitioner to discontinue its operation or dismantle its road, but asking that the said petitioner be required to operate said road; and further, demurring to the jurisdiction and authority of the Commission to hear and determine the subject of the said petition.

The demurrer of the said protestants was, by the Commission, in part sustained, in this; that the Commission held that it had no jurisdiction or right to order a sale or a distribution of the said property, or to make any order concerning the disposition of the same; but held that the Commission did have a right to hear and determine the question of operating or dismantling of said railroad.

The petitioner thereupon amended its petition to conform to the views expressed by the Commission; and the issues being properly joined, a hearing was ordered and had, as appears of record filed herein.

The grounds upon which the petitioner predicates its

right to discontinue operation of the railroad in question, and to dismantle the same, are set forth in its petition, and consists in an allegation of the lack of income from the operation of said railroad, to meet the running expenses, alleging that there has been an operating loss each year in the sum of from $5,000 to $8,000; and added to that, a deficiency to pay interest on bonds and taxes amounting to about $18,000 per year. It is further alleged by the petitioner that the property is bonded, but that the bond holders are willing that the Company cease operation and dispose of the same.

The protestants, with the exception of the National Real Estate & Investment Company, City of Salt Lake, and B. L. Kesler and Julia Kesler, of Bountiful, Utah, after hearing the case, and before a decision was reached by the Commission, voluntarily withdrew all opposition, and asked, in effect, that their protest and counter-petition be dismissed.

The questions for the Commission to pass upon and determine are as follows:

> FIRST: Has the Commission under the law the jurisdiction and authority to hear and determine the matter set out in the amended petition of the petitioner?
>
> SECOND: Is the showing as made by the petitioner sufficient to support the allegations of its petition and thereby warrant the Commission to issue the order permitting the Company to discontinue operation and to dismantle its road?
>
> THIRD: Have the protestants who have not withdrawn their opposition made such a showing as would preclude the plaintiff the right to discontinue and abandon its road?

As to the first question, touching the authority and jurisdiction of the Commission: We first refer to the Act creating the Public Utilities Commission of Utah, Section 1, Article 4, which reads as follows:

> "The Commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in this State, as defined in this Act, and to supervise all of the business of every such 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 jurisdiction."

An examination of the authorities who have had occasion to construe and pass upon this question, together with the action of most all the state commissions, clearly shows that the weight of authority and action of the different state commissions, support the position of this Commission in its ruling upon the matter of the authority and right of the Commission to deal with this question, at the time the demurrer was passed upon.

The Public Utilities Commission of Colorado, in construing the statute of that State, whose law is, in effect, the same as our law, has held that the Commission did have authority and jurisdiction to hear and determine the question of authority now before this Commission. In the case reported in the Public Utilities Commission of Colorado Reports, Volume 2, Page 161, the Supreme Court of the State of Colorado (Denver & Southern Platt Railroad Company vs. The City of Englewood), sustains the position of the Commission taken herein.

The State of Idaho has taken the same position in the case of "Sandpoint & Interurban Railway Company," wherein it issued an order authorizing the railroad company to discontue the service of its company and dispose of all property used in the operation of said railroad. (P. U. R. 1916 F, Page 1077.)

The State of Illinois Public Utilities Commission, as reported in "P. U. R. 1916 B, Page 220," held that the Commission had power and authority to permit public utilities to discontinue serving the public where the conditions justified and demanded it.

The Railroad Commission of Wisconsin, in the case of "The Chicago & Northwestern Railway Company," held that the State Commission had authority to hear, and determine the operation and abandonment of a utility.

The State of California, in the case of "Montery & D. M. Heights Railroad Company's application for an abandonment of the operation of the railroad," held:

> "That a refusal of permission to abandon a line and railroad between certain towns on the theory that it affected the investment of certain quarries, was unjustified, when it appeared that the revenues derived from the shipments had been small for a considerable period prior to the application."

The Missouri State Commission, in the case of "Paul M. Culver vs. The St. Joseph & Grande Island Railway Company, et al.," held that the State Commission had authority to determine a question of abandonment of a railroad. (P. U. R. 1917 B, Page 442.)

In the application of the New York Central & Hudson River Railroad Company, the Commission said:

> "The duty of a railroad corporation is to perform the services for which it was incorporated, and to determine all the facts in this respect and the nature of required service of the railroads, is now vested in the Public Service Commission. Prior to the time the Public Service Commission laws were enacted, to compel a railroad company to perform its duty as a common carrier, was by way of mandamus."

The next question is: "Has the petitioner made a proper and sufficient showing to support the material allegations of its petition?"

The testimony in this case clearly shows that the railroad in question was built about the year 1907, beginning at a point within the limits of Salt Lake City, and ending at a point in what is known as the Emigration Canyon, covering a distance of about fourteen miles; that in 1908 actual service was commenced; that the purpose of constructing said railway, primarily, was to bring down to the City of Salt Lake, certain sand-stone for building material; and for some time considerable rock was brought down by the Company and disposed of for building purposes. In connection with the sand-stone business, passenger traffic was carried on to some extent, coming from people who had invested in lots and had erected homes in the said Emigration Canyon, and also from other seekers of recreation in the mountain resort. Soon after beginning the operation of said railroad in freighting said stone for building purposes, concrete for building purposes became a strong competitor, resulting in the use of concrete in preference to the sand-stone; but on account of such condition, the call for sand-stone was getting less and less, and the business of freighting from the stone quarries almost closed up, leaving the operation of the railroad to depend almost entirely upon the passenger traffic.

The evidence further shows that the income and earnings

from the operation under the changed conditions, were not sufficient to pay the operating expenses, and that the operation of said railroad was at a considerable loss, and that in addition to the deficit as to operating expenses, there were fixed demands on the Company, by way of interest on bonds and taxes, that had to be met or arranged for.

That brings us to the question as to whether or not a railway company can, or should, be forced to continue its operation when it appears that the purpose for which it was originally built had ceased to exist, and there being no hope of such changed conditions as would make a demand for a renewal of operation for the bringing down of said sandstone, or sufficient business from passenger or freight traffic to justify a continuance of service.

In passing upon this question we are not unmindful of the fact that corporations and persons who have constructed and maintained, and held out to the public the hopes of continuous maintenance and operation of railroads, have assumed certain obligations and duties that can not be avoided without the consent of the State.

We are in full sympathy with the expressions recently made by the United States Supreme Court, which says:

> "A common carrier must discharge the obligations which inhere to the nature of its business. It must supply facilities that are reasonably adequate. It must be operated upon just and reasonable terms. These obligations are properly called public duties, and the State, within the limit of its jurisdiction, may enforce them."

A railroad corporation, it is held, is created for public purposes, and performs a function of the state, and is under governmental supervision; and in its charter its rights and privileges are granted by authority, on condition that its services will be acceptable. It takes upon it a duty to operate in the manner and for the purpose contemplated by the law.

In the case reported in "P. U. R. 1917 B, Page 559, the Commission states:

> It is true that the charter is permissive in its terms, and probably no obligation rests upon the corporation to construct the railroad; the option to exercise the right of

eminent domain and other public rights is granted. And when that option has been made, and the corporation has located and constructed its line of track, exercising the power of the state in taking property of others, and, in so locating and constructing its road, has invited, by implication, the public to rely upon the continuance of said railroad; such corporation has no right, against the will of the state, to abandon the enterprise without permission.

The road, when constructed, becomes a public instrumentality, and the roadbed, superstructure, and other permanent property of the corporation are devoted to the public use. Further, the corporation, person or company, deriving its title by purchase, either voluntarily or judicially, can not sell or discontinue its use without the consent of the state. It matters not whether the enterprise as an investment be profitable or unprofitable, the property may not be destroyed without the sanction of that authority which brought it into existence; the rule being that said authority has not and should not compel operation at a loss or without hopes of reasonable profit.

It was held in a case, "Ohio & M. R. Company vs. The People" (120th Illinois, Page 200):

If the line of a road is not capable under proper management, of being self-sustaining, it simply shows that there is not a demand or necessity for the road, and the sooner, therefore, the state revokes the franchise, the better. A business that will not pay, ought not to be followed, as it adds nothing to the wealth of those pursuing it, or to the state.

In the case of "State vs. Dodge City, M. & T. R. Co." (36th Pacific Reporter, Page 775), it was held:

Where it was found that the road could not be operated except at a great loss, and a part of the tracks were torn up, the court refused to order the tracks to be replaced, when there was no reasonable probability that the road could operate with profit. If a railway will not pay its mere operating expenses, the public has little interest in the operation of the road, or its being kept in repair.

In the case of "State vs. Old Colony Trust Company" (L. R. A. 1915 A), it is held:

> That a carrier may be permitted to abandon a branch line which was not safe, being in a dilapidated condition, and for the continued operation of which there is little public necessity, where the road is insolvent and has no means of obtaining the money to rehabilitate the branch, the operation of which in its present condition is dangerous; the court said the railroad company may abandon such unprofitable part of its road.

In the case of "Jack vs. Williams" (113 Fed. Rep 823), the syllabus reads as follows:

> "2nd. Railroad. Duty to Operate. Nature and Extent. In the absence of special circumstances, or an express contract embodied in a charter, the owner of a railroad, whether a corporation or individual, cannot be compelled to maintain and operate the same at an actual loss. The duty arising from the ownership of the franchise is merely to meet the public requirements, and, where the traffic on a road is not sufficient to pay its operating expenses, such duties do not require its operation, and it may be abandoned."

The able writer, Morawetz, further states and lays down:

> "That the duty of a railroad company to operate its road, requires it merely to meet the public wants and exigencies. If there is not sufficient traffic for a particular line or road to pay the running expenses of trains, this is sufficient evidence that the public does not require it to be kept in operation; and in such case the company may cease operating the road, unless it is contrary to the expressed terms of its charter."

It is true that we have found some cases in which a petition has been denied to abandon service, under some of the following conditions:

> 1.—Where a branch has been operated at a loss, but belonged to a system which was as a whole operating with profit.
>
> 2.—Where the operation was discontinued for a time,

and where there were prospects for resuming operation under changed conditions to an advantage or profit.

3.—Where the charter rights are interfered with, as above expressed.

4.—Where there are certain contractual obligations and relations which might in proper proceedings before a proper jurisdiction, serve as an estoppel as to the right of abandonment.

In the case under consideration, there seems to be no question of connection with other railroads; there seems to be no charter obligations urged at all, that might be invoked as an estoppel under the rule; there appears to be no prospects of a changed condition, in the near future at least.

The contention of the protestants who have not withdrawn their opposition to the petition, appears to be based upon alleged contractual relations and obligations, implied or expressed as follows:

No testimony was given by Mr. B. L. Kesler or wife, in support of their letter of protest, in which they claim that the National Real Estate & Investment Company sold them a building spot, upon which improvements were placed, along the railroad line, with the promise that the railroad would be operated; that, should the railroad discontinue operation, their property would greatly decrease in value.

The National Real Estate & Investment Company's contention is predicated upon alleged contractual relations, which, it urges, is sufficient to preclude the right of the petitioner to cease operating and abandon said railway; and further, that persons who have expended money in purchasing land and building homes thereon, will be greatly damaged if the road is not operated as before.

Some testimony was given bearing upon such claims, and it appeared that inducements were held out to parties who purchased land and built summer homes thereon. The evidence was not clear, however, that the petitioner or its agents, had unduly influenced, by contractual relations or otherwise, the persons purchasing or improving the land along the said railroad track, and if such relations were had and maintained between the Railroad Company and others, we are of the opinion that the same could not be determined or enforced by this Commission. The fact that numerous people purchased land and made improvements thereon, with the thought

and idea that the railroad would be operated, is not, in the minds of this Commission under the law, sufficient reason to require a continuation of the operation of the railroad by a carrier.

A case recently decided by the Colorado Commission, July 11th, 1916, reported in the "Decisions of Public Utilities Commission of the State of Colorado," Vol. 2, Page 179, states:

> "Evidence introduced by property owners to the effect that abandonment of street car service and the removal of the street railway track will depreciate the value of the property or that an extension of a street railway track will appreciate the value of the property, could not be considered by the Commission. Every public utility under the jurisdiction of the Commission must furnish, provide, and maintain such service, instrumentalities, equipment, and facilities, as shall promote the health, comfort and safety of those persons employed, and the public; and shall in all respects be equipped just and reasonably; but the Commission has no authority to prohibit the removal of the street railway tracks for the reason that the removal of said tracks will be depreciating the value of the property. This Commission is not an instrument to aid in increasing real estate value, nor to give assistance to property owners to maintain the present value of their property."

Salt Lake City filed a written protest or statement which has not been supported by testimony, and if it had been, we are of the opinion that it does not state facts sufficient to constitute a bar, or create an estoppel in the case under consideration. It is not urged by the City, that charter conditions and requirements would be violated.

As to the question of the procedure had and followed in this particular case, there is some difference of opinion. In the case of the New York Central & Hudson River Railway Company, asking for authority to discontinue service, it was held that the proper procedure was for the parties objecting to the discontinuance of the railroad, to file a petition upon the failure of the railroad to operate its lines. It is true, as held, by the New York Commission, that such procedure would be regular and proper, yet it does not necessarily follow that the procedure taken in this case was improper for the reason

that the question to be settled may be reached by either method of procedure.

The question for consideration in this case as in the case of New York, was: "Should the railroad be required to operate its road?" In this case, the petitioner raised the question by its petition, asking the Commission to investigate and determine the right of said Company to discontinue service of its road. The same question could have been raised and passed upon by a petition from the parties concerned, asking that an order be issued requiring the petitioner to operate its road, on its failure to do so. In this very case, the propriety of the rule of procedure which was followed by this Commission, was demonstrated when it developed in the hearing that the settling of the question of the right to discontinue and dismantle said road was of vital importance to the petitioner. Such procedure has also been adopted by a number of state commissions.

Upon the above statement of facts and decisions of authorities, together with a careful examination and consideration of the same, we are of the opinion that the petition of the Emigration Canyon Railroad Company, has, by a preponderance of the evidence, shown that the material allegations of its petition are true, and that it is entitled to an order of this Commission, granting to it the right and privilege to discontinue service of its railroad, and to dismantle the same, as prayed for in its amended petition.

We find from the evidence:

FIRST: That the Railroad Company in question has been operated for some time at a loss, and

SECOND: The evidence, which detailed the history, condition and circumstances of its operations, showed that there are not hopes or probabilities of conditions being changed to the extent that the road can be operated with profit; and that under the authorities and the holdings, the Company should not be required to continue its operations, unless there are other obligations which have been entered into by the Railroad Company, which would prevent it or serve as an estoppel to said Company, from claiming a right to discontinue and abandon said road.

The Commission further finds that the objections urged against granting the petition of the said Railroad Company should be dismissed.

IT IS THEREFORE ORDERED, Adjudged and Decreed,

That the Emigration Canyon Railroad Company be allowed, authorized and permitted to discontinue any and all service upon its said railroad, and to dismantle the same.

By order of the Commission.

Dated Salt Lake City, Utah, August 20, 1917.

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

2. **CAMERON COAL COMPANY, et al.,**
Complainants,
vs.
DENVER & RIO GRANDE RAILROAD CO., et al.,
Defendants.

This complaint was filed May 16, 1917. Complainants allege unjust and unreasonable rates on coal from Rio Grande (Utah) Mines to Oregon Short Line Stations in Northern Utah. PENDING.

3. **In the Matter of the Application of the various Railroads operating in the State of Utah, for permission to increase freight rates, horizontally, fifteen per cent.**

After hearing the above matters the railroads withdrew their applications, and the tariffs covering the advances in rates were withdrawn by the carriers, same having been suspended by the Commission. DISMISSED.

4. CITIZENS' COAL COMPANY, et al.,
Complainants,
vs.
MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY,
Respondent.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

CITIZENS' COAL COMPANY, CENTRAL COAL & COKE COMPANY, and the FEDERAL COAL COMPANY, corporations,
Complainants,
vs.
MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, a public utility corporation,
Respondent.

CASE No. 4.

STATEMENT—DECISION—ORDER.

The plaintiffs in the above entitled case, complained of the action of the defendant corporation in changing certain prefixes and certain numbers by which their places of business have been known and used, over the telephone line, for a long time past; that such changes were made wrongfully and without the consent and against the will of the plaintiffs, thereby seeking to compel the plaintiffs to abandon said numbers and prefixes heretofore used, and to accept in lieu thereof, other and higher numbers, and other prefixes, as is more particularly defined and set out in the complaint filed herein.

The plaintiffs further contend that such changes are without any sufficient or valid reason, legal or otherwise, and will result in irreparable damage to the respective business of the plaintiffs. The plaintiffs ask that an order be issued from this Commission, requiring the defendant to restore to them the respective telephone numbers and prefixes heretofore furnished and used.

The plaintiffs further complain and charge, that said Telephone Company is guilty of discrimination in the operation of said telephone line or lines.

The defendant Company, by its answer, admits the changing of the prefixes and numbers as complained of, but denies that such changes were made wrongfully, illegally, or without sufficient and valid reason; and further denies that on account of such changes the plaintiffs will sustain great damages, or any damages whatsoever; and further contends that any changes made, as herein complained of, are in strict conformity with the rules, regulations and contracts promulgated, adopted and entered into, between the Telephone Company and its subscribers, including the plaintiffs; that said changes were necessarily made, and for the only purpose and reason of bettering the service in the interest of the general public and its subscribers; that said changes were made in a manner and under such conditions and provisions as to make and produce as little inconvenience to the plaintiffs as is practicable under the circumstances; and that other and numerous changes have been made and will necessarily have to be made in keeping with the changing conditions occasioned for the purpose and necessity of furnishing public service.

The issues were joined, and a hearing ordered and had, in which testimony was given by the plaintiffs, likewise by the defendant, transcript of the same having been made by the reporter and filed in the office of the Commission.

Testimony of the plaintiff shows that for a number of years they had used the numbers and prefixes sought to be changed by the defendant Company; that in the transaction of their business, such as coal business and other matters, they had used the said numbers, and said numbers had been placed upon their letterheads, advertisements, and in other forms for the purpose of advertising their business; that their customers had become well acquainted with said numbers, and that if other numbers were given to them with which to transact their business, it would result in great damage.

The testimony of the defendant was to the effect that numbers have been used by the plaintiffs, and that on account of conditions arising because of increasing their list of patrons, and the making necessary a rearranging of the switch-board, it had become necessary to make the changes and give to the plaintiffs such other numbers as would conform to the changes on the switch-board occasioned by the desired change of conditions. Testimony was to the effect that other changes had been made, and still others would be made; that the changes were made not with any feeling of

discrimination or idea of making it inconvenient for the plaintiffs, but that in making the changes the defendant Company had adopted the most reasonable, and the least inconvenient methods, in keeping with the best possible service to the general public. In fact, the testimony was given with but little contradiction on either side, there being very little, if any, dispute as to the facts; and from a consideration of the issues made up by the complaint and answer, together with the testimony given during the investigation, the following points of inquiry should be settled and passed upon:

FIRST: What, if any, contracts, rules and regulations were entered into by the plaintiffs and the defendant, concerning the right of the defendant Company to make such changes in the operation of its telephone system, as are herein complained of?

SECOND: Do the changes made, and as complained of, come within the prerogative of the defendant Telephone Company under the law and rules, regulations and contracts entered into by the parties hereto?

THIRD: Were such changes made at a time and under such conditions as made it reasonably necessary in the conducting of the defendant Company's business?

FOURTH: Under the contract and published literature of the defendant Company, were the plaintiffs notified and reasonably put upon their notice, that such change might be expected at any time?

FIFTH: Are the contracts, rules and regulations, as made by the defendant Company, and referred to in the testimony, such rules, regulations and contracts as should be observed as being necessary, reasonable, and not against public policy?

SIXTH: Does the testimony show a reasonable necessity in the interests of public service, and in keeping with the rules, regulations and contracts for the making of such changes as are complained of by the plaintiff?

SEVENTH: Has the showing made, touching the question of discrimination complained of, been sufficient to warrant further investigation into the service of the said defendant Company?

As to the question of contracts, rules and regulations under which the Telephone Company defends its action, reference is made to Exhibits A, B, C and D. An examination of

these Exhibits discloses certain rules and regulations which would imply on their face, a right to make such changes. There appears to be no contention by the attorney for the plaintiffs, that such a contract existed.

On Page 100 of the Official Transcript of the proceedings had at the hearing, the following appears:

> "COMMISSIONER GREENWOOD: Do I understand you to admit that the contract implies the right of this corporation to change, but your contention is that it is not such a contract that ought to be in force?
>
> "MR. SULLIVAN: Exactly."

The rules and regulations applying to all subscribers, a copy of which was furnished to the plaintiffs, and was introduced in evidence as Exhibit "D," being The Telephone Directory of said defendant Company, on the second page under "Rules and Regulations Applying to All Subscribers' Contracts," the following is found:

> "The subscriber has no property right in the telephone number, or any right to continuance of service through any certain exchange, and the Company may change the telephone number or the exchange through which connections are made, whenever it deems it necessary in the conduct of its business."

A similar rule was promulgated, as shown in Exhibit "B," Telephone Directory, under date of May, 1915, all of which clearly shows that such contracts, rules and regulations, were in force at the time of the change complained of.

In Exhibits "A" and "C," containing contracts and promises made by the plaintiffs and defendant, the following appears:

> "The undersigned agrees to the above terms and conditions on the back hereof, and the Telephone Company's **Rules** and **Regulations** published in its **Periodical Directories.**
>
> (Signed) CITIZENS' COAL COMPANY,
> By E. H. O'Brien, President.
>
> Dated: August 31, 1915."

Added to the above is the following:

"Accepted by the Mountain States Telephone & Telegraph Company. By C. C. CAMPBELL,
District Mgr.
Dated: September 2, 1915."

It further appeared in the evidence, that similar memorandum of contract was entered into by other subscribers, including the plaintiffs herein.

As to question No. 2:

"Do the changes made, and as complained of, come within the prerogative of the defendant Telephone Company under the law and the rules, regulations, and contracts entered into by the parties hereto?"

It would seem that such prerogative and right is contemplated and given the defendant Company, unless the exercise of the same is unreasonable, unnecessary, or against public policy; or that such a contract, rule or regulation was of a nature that could not and should not be held good by the Commission. It does appear, however, that the defendant Company, under proper and necessary circumstances and conditions, would be warranted in making the changes complained of. This view has been upheld by a number of state Commissions.

The Michigan Railroad Commission, in the case of JONES VS. CASS COUNTY HOME TELEPHONE COMPANY, reported in Commission Leaflet, No. 9, Page 14, Paragraph 5, provides and upholds the rule that:

"Subscriber agrees that the Company shall have the right to change his telephone number at any time that the Company finds it necessary to do so."

In that case, as in the case under consideration, the complaint contends that to a business man a **telephone number** comes in time to have an element of value; that this is something of which the individual subscriber should not be deprived, by the discrimination of the Company, and that it is an unreasonable regulation for it to exercise this power.

Numbers are given subscribers largely in the interest of

efficient operation, and for convenience switch-boards are constructed to be operated with numbers, not with individual names. As new subscribers are added, it is constantly being found necessary to change positions on switch-boards, and it becomes a practical impossibility to preserve subscribers a particular number.

In the case under consideration, the testimony shows that the section of the switch-board on which were placed the numbers carrying the prefix "Main," and on which plaintiffs' numbers were located, was difficult and inefficient in operation, for the reason that the numbers were not placed on said "Main" switch-board in regular and consecutive order; that this condition had been in existence when the present Company took over the telephone system from its predecessor in ownership; that for some time past the defendant Company has been making like changes of numbers of other subscribers, in order finally to place the "Main" switch-board in conformity with other sections thereof; that the particular numbers of these plaintiffs could not be placed in their regular and proper position on said "Main" switch-board because it would interfere with the numbers of other subscribers, and that the greatest efficiency could be secured with the least trouble and inconvenience to subscribers by making changes as proposed by the defendant Company.

The State Commission of Indiana, in the case reported on Page 930 of P. U. R. 1915 A, holds and supports the rule referred to:

> "The prefix and number assigned to a subscriber's telephone are no part of the contract with said Company, and may be changed by said Company at any time as the exigencies of the business may require."

Wyman, on "Public Service Corporations," Section 867, under "Regulations Limiting the Service," says:

> "Speaking generally, a public service company may establish and promulgate rules and regulations governing the time and place and the manner and form in which it will render the service asked. Such regulations, however, must not go so far in any of the points mentioned as to work prejudice to an applicant in any of his substantial rights, or operate so as to constitute a virtual

refusal to perform the real duties imposed upon the company."

As to the third question, viz.:

"Were such changes made at a time and under such conditions as made it reasonably necessary in the conducting of the defendant Company's business?"

The testimony on the part of the defendant was directed to the plan of the switch-board being used, showing the conditions and system maintained, and that in order to meet the increased service it was necessary to make some changes, among which were the changes complained of by the plaintiffs. The necessity seemed to be predicated upon the requirements of the increasing of the Company's business, likewise to its operating efficiency and the flexibility of its operations, and that such changes were made for the good of the service, and to meet the demands made upon the Company; and witnesses testified that if a rule be laid down denying the Company the right to change its numbers, much waste of efficiency and proper service to the general public would be sustained.

Under this controversy we have the question of service, as well as the means of service, the plaintiffs holding that they are not only entitled to the service, but that the defendant Company which renders the service is estopped from making certain changes in the means and methods of service.

In the case found in Vol. 158, "Federal Reporter," Page 734, the United States Circuit Court of Appeals in the opinion rendered, states that:

"Courts and Commissions ought not to interfere with the established rules and practices of transportation companies on account of incidental inconveniences and trivial troubles to which the conduct of all business is necessarily subject. The business of railroad companies and express companies can not be conducted for the purpose of carrying on the business of their customers exclusively, nor without some discomforts and inconveniences to all parties engaged in any of these occupations. Unless a clear injustice is perpetrated or a substantial injury is inflicted, or there is an imminent threat of them, the annoyances and inconveniences in the trans-

action of the business of the transportation companies should be left for correction to the pecuniary interests and business instincts of the respective parties concerned, and their laudable anxiety to secure, retain and increase their business."

What would be true of a common carrier corporation, in a general way, would be true of a telephone company.

Concerning general principles by which companies should be regulated, Wyman, on "Public Service Corporations," Section 860, states:

> "The part which regulations play in the conduct of of a public business is very considerable. Public businesses are usually carried on upon a large scale, and for their proper conduct established regulations are plainly necessary. In recognition of this fact great scope is given to regulations by the law, large discretion being given to those who are confronted with the problem of reducing to order a complicated business. As a result the rule usually followed by the courts, is to hold justifiable a regulation which is made by a company in good faith and enforced by it without discrimination, unless it is plainly outrageous in its general operation. * * * Without regulations a company may refuse to accede to particular requests, but it must then show that the particular request is unreasonable. But with a general regulation a service may be refused to any one notwithstanding his particular hardship unless the whole rule is shown to be unreasonable."

As to the Fourth question, viz.:

> "Under the contract and published literature of the defendant Company, were the plaintiffs notified and reasonably put upon their notice, that such change might be expected at any time?"

We find in Exhibit "D," Telephone Directory of the defendant Company, Page 4, under the head, "General Notices," the following:

> "Subscribers are cautioned against using the numbers of their stations in advertising matter, as these num-

bers from the necessities of the business, are liable to be changed from time to time. Party line numbers are liable to be changed at any time upon very short notice, but to avoid confusion, such changes will be made, as far as possible, at the time of the distribution of a new telephone directory."

This would, in our minds, be a notice to the subscribers that a change in number might be expected, and that the use of a particular number in advertisements and letter-heads, which no doubt were used for the legitimate purpose of extending to the public notice of the business of said companies, would be subject to the right of the Company to make necessary changes. It would appear that such use in advertising on the part of the plaintiffs was with constructive notice that said numbers, so used, were likely to be changed.

It would appear from the authorities, that Exhibit "D" fills the requirement of the publication of regulations. (See Wyman on Public Service Corporations, Volume 2, Section 862):

> "By the general rule regulations are not binding unless there has been due notification of them. This does not mean that in every individual case they must have been brought home to the person who is held to be governed by them; it simply means there must be such publication of them as should fairly affect the patrons concerned with knowledge of them. Publication may be by notices posted upon the premises, by provisions printed upon tickets, by advertisements or handbills or in any other way that promises sufficient publicity."

As to the Fifth question, viz.:

> "Are the contracts, rules and regulations, as made by the defendant Company, and referred to in the testimony, such rules, regulations and contracts as should be observed as being necessary, reasonable, and not against public policy?"

This proposition in part has been covered in the discussion of the other questions heretofore referred to. The question of a reasonable necessity for the changes made was, according to testimony, clearly shown, in the conditions and re-

quirements under the system adopted by the defendant Company, and which had been used for some years. The changes no doubt occasioned some inconveneince to the plaintiffs, as well as some expense in the changing of said numbers upon advertising matter. Such inconvenience and expense should be allowed only when it appears to be reasonable and necessary, and in keeping with the rules, regulations, notices and contracts under which service is rendered to its patrons by the defendant Company.

We quote with approval, the Michigan Railroad Commission, in the case above referred to:

> "The defendant is a public service corporation and as such is charged with certain public duties which it may not refuse. The company is bound to comply with the provisions of the statute quoted; it is bound to render the public efficient service and that at reasonable rates. That such duties may be promptly performed it has the power to establish rules and regulations conducive and essential to that end when they do not conflict with the provisions of general law or with the provisions of any franchise under which it exercises its corporate powers. It is essential to the orderly conduct of the telephone business and the satisfaction of public demands that regulations be established that insure equality of service for numerous patrons. Regulations which promote these important considerations are enforced by the courts and will be followed by this Commission."

All of this clearly shows that if the Telephone Company is required to give service that is reasonable and efficient, it should be allowed in giving such service a reasonable latitude to adopt and enforce such regulations as will permit it to render such expected and required service. Should any other rule than this be promulgated by the courts and by the Commission, then it would be vain under all conditions and circumstances, to expect a corporation to render reasonable and efficient service to the general public.

We are of the opinion that under the showing, there was a reasonable necessity, in the interest of the public service, for making the changes complained of.

As to the question of discrimination, raised in the complaint of the plaintiffs, it would appear that the plaintiffs do not strongly contend, or at all, that the showing was suf-

ficient to prove the necessary elements which go to make up a case of discrimination.

After a full and careful examination of the law, and the evidence in this case, we are of the opinion that the changes made by the Telephone Company, defendant, were made under the rules, regulations and contracts entered into by the plaintiffs; that the changes were reasonably necessary, and made for the purpose of improving the condition of the system under which telephone service is furnished to the general public; that the plaintiffs have failed to make out a case as alleged in their complaint; and that the complaint should be dismissed.

IT IS THEREFORE ORDERED, and Adjudged, that the complaint of the plaintiff should be dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 21st day of September, A. D. 1917.

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

5. In the Matter of the Application of UTAH RAILROADS, for permission to advance rates on coal and coke fifteen cents per ton. PENDING.

6. In the Matter of the Application of the UTAH LIGHT AND TRACTION COMPANY, for permission to increase its fares and charges.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH
Case No. 6.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY for permission to increase its rates.

Submitted November 6, 1917. Decided December 29, 1917.

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1. Rates, fares and charges fixed by a franchise ordinance prior to the enactment of the law creating the Commission, may be changed by the Commission, where authority to fix such rates was not expressly delegated to the municipality of the legislature.

2. Present revenues of petitioner found to be insufficient.

3. Commutation books of fifty tickets for $2.00, abolished.

4. Permission to change one cent for transfer, denied.

5. Permission to establish additional rate zone on Centerville and Sandy-Midvale Line, denied, and new division of zones, more nearly equalizing mileage on these lines, prescribed.

6. Free transfer privileges ordered at Midvale Junction to or from Sandy and Midvale.

7. Not more than one five-cent fare may be charged for a ride wholly within Bountiful City and Murray City.

8. Physical valuation for rate-making purposes should be ascertained.

J. F. MacLane, for Utah Light & Traction Company.
Wm. H. Folland, for Salt Lake City.
R. B. Porter, for Salt Lake County.
L. E. Cluff, for Sandy City.
D. W. Moffat, for Murray City, and Affiliated Commercial Clubs.
H. A. Smith, for Midvale City.
Frank Jardine, for Bountiful City.
Jos. E. Williams and F. W. Walton, for Centerville City.
T. D. Walton, for E. A. Walton.
A. V. Watkins and L. I. Layton, for Davis County.

REPORT OF THE COMMISSION

By the Commission:

The petitioner in this case is a corporation, having its principal place of business in Salt Lake City, Utah, and its petition alleges that the rates and fares now in effect on city and suburban lines have failed to produce sufficient revenues for the successful operation of its street railway system. Under the prevailing high prices of materials, and on account of the increase of wages of its employees, its revenues have been decreased during the past few years, and have reached a point where it is necessary to have additional revenue or to curtail service.

The protestants are municipalities, communities and individuals who are receiving service from the petitioner.

The petition is attacked on the grounds, first, that there are existing franchise agreements which cannot be legally set aside, and which prevent increases in existing rates and fares; and, second, that there are established community interests, particularly on and along the suburban lines of the petitioner, which will be seriously disturbed if changes in transportation rates go into effect.

The case came on for hearing before the Commission, at its offices in Salt Lake City, Utah, on August 15, 1917, at which time the petitioner presented its case, and the protestants were granted time in which to prepare for cross-examination of petitioner's witnesses. The hearing was resumed before the Commission on September 11, 1917, when cross-examination was conducted. The hearing was then adjourned until November 6, 1917, when oral arguments were presented. Final briefs were thereafter submitted, and the case was taken under advisement by the Commission.

JURISDICTION

The protestants allege:

First: That the Commission has no right to interfere with rates fixed by franchises granted to the petitioner, said franchises constituting a valid and sufficient contract, which cannot be disturbed by this Commission.

Second: That the Act creating the Public Utilities Commission of Utah, especially protects and perpetuates the rates fixed by franchise contracts, under which the petitioner occupies the public streets and highways.

As to the first proposition, the United States Supreme Court, in the case of Citizens Street Railway vs. Detroit Railway, reported in 171, U. S. 48, lays down the doctrine that the power of a municipal corporation to grant exclusive privileges must be conferred by explicit terms, if not inferred from other powers. It is not enough that the power is convenient to other powers, it must be indispensable to them.

In the case of Brumitt vs. Water Works, reported in 33rd Utah, Page 285, the Supreme Court in defining powers of municipalities to make contracts and fix rates, says:

> "In this State no such power has been expressly conferred, nor has it been done by necessary implication. The power, therefore, does not exist. Municipalities in this State, therefore, cannot enter into binding contracts with regard to the rates for service rendered to the public. The right to regulate and fix rates cannot be surrendered, and the duty to exercise the right whenever the rates are or become excessive can be enforced at any time."

In the case of Benwood vs. Public Service Commission reported in L. R. A. 1915 C, Page 265, the action was brought to prevent the Public Service Commission of West Virginia from changing certain rates fixed in a franchise granted by the plaintiff city. The question raised in that case was the same as is raised in the case under consideration. The Court says:

> "The case presents squarely the question: May the Public Service Commission alter a rate that was fixed by franchise ordinance prior to the enactment of the law by which the Commission was created and given powers?
> * * * That the Public Service Commission may change any intrastate rate for service rendered to the public, when to do so will conflict with no paramount law or constitutional inhibition, we have no doubt. The very spirit and purpose of the act by which the Commission is established and performs its functions affirm that it may do so. The broad and general powers prescribed for it by statute include that of general rate regulation. A reading of the act fully discloses that the Legislature meant to delegate to the Public Service Commission the

administrative supervision and regulation of all service rendered to the public throughout the whole of the State. * * *

"The City of Benwood, at the time of the granting of the franchise, had no rate-making power that could bind the State, if the Legislature of the sovereign state had not theretofore delegated the same to the city. And if such delegation or grant of rate-making power was made to the city prior to the delegation of general and statewide powers in the same particular by the legislature to the Public Service Commission, the language relied upon as evidence of such delegation or grant to the city must be clear and express."

The rule laid down in the case of Milwaukee Electric Power & Light Company vs. Railroad Commission, reported in L. R. A., 1915-F, Pages 744-746, is as follows:

"On the part of the appellant the familiar principle is relied on that where municipal authorities, acting under clear and unmistakable legislative authority so to do, have granted the use of streets to a public utitlity corporation for the purpose of serving the people, and the grant has been accepted by the utility and performance entered upon, a contract has been created between the public and the corporation which cannot be impaired by subsequent legislation."

So, the question in this case to be settled is: Did the Municipal authorities act under clear and unmistakable legislative authority when the franchise was granted and the rates fixed, and was the authority such that it gave the municipality power to bargain away the sovereign right of the state in the mater of regulating fares and tolls?

The above case was taken to the United States Supreme Court in 1915, reported in 238 U. S., Page 180, and an opinion was written by Justice Day, in which he said:

"The fixing of rates which may be charged by public service corporations, of the character here involved, is a legislative function of the state, and while the right to make contracts which shall prevent the state during a given period from exercising this important power has been recognized and approved by judicial decisions, it

has been uniformly held in this court that the renunciation of a sovereign right of this character must be evidenced by terms so clearly and unequivocal as to permit of no doubt as to their proper construction. This proposition has been so frequently declared by decisions of this court as to render unnecessary any reference to the many cases in which the doctrine has been affirmed."

In a number of cases Federal Courts have repeatedly held in keeping with the above. Our own Supreme Court, in the case of Brumitt vs. Water Works, above cited, page 303, has the following:

"The courts have frequently held that as the fixing and regulating of rates is a governmental function, which may not be delegated or surrendered by an agency of the sovereign without express authority, no contractual rights can be granted or obtained with respect thereto."

In the same case, the Supreme Court, concluding the opinion, states:

"We are constrained to hold, therefore, that the agreement fixing the rates for the entire period of the contract cannot be upheld; that the City Council had the right to agree upon and fix temporary rates; that the rates agreed upon and set forth in the ordinance are presumed to be fair and reasonable until to the contrary shown; that the City Council cannot delegate its duty to regulate, fix, and maintain reasonable rates, but that it must exercise its power and duty in that regard whenever the rates are or become excessive and unreasonable; that the City or any taxpayer may have recourse to the courts to enforce reasonable rates and prevent the company from collecting such; that the company may likewise have recourse to the courts to prevent the City Council from enforcing confiscatory rates."

The position of D. W. Moffat, counsel for Murray City and others, protestants, is that the State Constitution protects and guarantees certain powers and privileges to cities, which even the state itself cannot evade. A close reading of the Constitutional provision, discloses the principle that "no law shall be passed granting a right to operate a street railroad

within any city or incorporated town, without the consent of the local authorities." In keeping with such constitutional provision, the State Legislature has prescribed the powers and duties of municipal corporations. Among many powers and duties, is found the authority to permit, regulate, or prohibit the locating, constructing or laying of tracks in any street, alley, or public place, thereby recognizing the jurisdiction over these matters of such city or town, as contemplated by the Constitution; but nowhere within the Constitution or acts of the Legislature, do we find anything which might be construed to imply a power to fix rates, or any delegation of the sovereign right of the State to regulate rates and charges.

The legislative delegation of power to a city to fix rates which affects a service given by a public service corporation, and which is to remain unmodified or changed, must, under the great weight of authorities, be certain, clear and specifically set out. This doctrine is clearly announced by the Supreme Court of Illinois (Smith vs. McDowell), 148 Illinois, 51-52. Speaking of the powers of cities, it states:

> "Their power is measuerd by the legislative grant, and they can exercise such powers only as are expressly granted, or are necessarily implied from the powers expressly conferred."

In the Railroad Commission Case, 116 U. S., 307-325, Chief Justice Waite, in speaking of the power of the regulation of rates, said:

> "This power of regulation is a power of government, continuing in its nature, and if it can be bargained away at all it can only be by words of positive grant, or something which is in law equivalent. If there is a reasonable doubt it must be resolved in favor of the existence of the power."

Chief Justice Marshall, in Providence Bank vs. Billings,, 4 Pet. 514, 561, speaking of the power of regulation being in the government, states:

> "Its abandonment ought not to be presumed in a case in which the deliberate purpose of the State to abandon it does not appear."

In City of Benwood, et al., vs. Public Service Commis-

sion, the West Virginia Supreme Court of Appeals, as reported in L. R. A., 1915-C, Page 261, speaking of public service corporations and rate-making power and legislature, states:

> "The rate-making power is inherent in and belongs primarily to the legislature. The presumption is against exclusive delegation of the power. Unless there has been such delegation by clear and unmistakable terms, the power remains in the legislature, which can exercise the same when it sees fit."

In the same case, speaking of the power of the Commission, the court says:

> "The Public Service Commission may change a public service rate which was fixed for a municipality by franchise ordinance prior to the enactment of the law creating the Commission, where authority to fix such rate was not expressly delegated to the municipal corporation by the legislature."

There is no express authority in the constitution of the state or of the acts of the legislature, that would authorize the cities or towns in this case, to fix rates that cannot be modified or changed by authority of the legislature, and, therefore, the contention of protestants cannot be sustained. To take any other position would be to nullify important provisions of the act creating this Commission, and setting forth its duties and powers. The law as written, when reasonably interpreted in the light of a great weight of the authorities on this subject, some of which are herein referred to, justify but one conclusion. If the rates fixed by the municipalities in this case are found to be reasonable, they need not be disturbed, but if they are unreasonable by being too high or too low, they may be changed by the Commission to provide a reasonable rate for the service performed.

In the application of Huntington Railroad Company, decided November 20, 1917, for an increase in the rate of fares, the New York Commission held as follows:

> "Notwithstanding the conditions in the several franchises granted by municipal bodies to the applicant which attempt to fix a five-cent fare within certain specified territory, the same was only binding upon the Company

until such time as the Legislature, whose creature the municipal corporation is, should intervene for the purpose of fixing the rate of fare. That the Legislature has full power to delegate the rate-making power to the Commission, and by such law which has empowered the Commission to regulate the rates of fares to be charged by street railways. The power to regulate includes the power to increase the rates or decrease them. Hence, the Commission has power to authorize a street railway, upon proper showing, to increase its rates of fares above that prescribed in the railroad law and above that fixed in its franchise."

In a very recent order issued by the Public Service Commission of the State of Oregon, upon an application of the Portland Street Railway, dated October 5th, 1917, it is held as follows:

"At the outset we are confronted with the question as to whether or not the Commission is clothed with the authority to grant the relief sought. First: Because of the provisions of an act of the Legislative Assembly of 1901, which provides that it shall be unlawful to charge in excess of five cents for one continual trip in one general direction between any two points within the limits of cities having a population of over 50,000 inhabitants. Second: Because of the fact that fares are fixed by the franchise under which the Company occupies the streets. As to these points no extended discussion need here be attempted. Under a well established line of authority we are convinced that the 1901 Statute was repealed by implication by the Public Utilities Act, and with the franchised provisions were made subject to sovereign power of the State to regulate rates, and the State having chosen to exercise that power, having constituted the Commission to administer that function, franchises must yield to the Commission's administration. We see no legal reason why the Commission should not proceed in the determination of this case."

And so in our own situation it appears that when the Legislature enacted the Public Utilities Commission Law, its intention was to delegate all its powers in respect to rate regulation to such Commission. That was one of the chief reasons for the creation of the Public Utilities Commission.

In the application of Long Island Railroad Company to increase its rates, before the New York Railroad Commission, decided November, 1917, the Commission held as follows, which we quote with approval:

> "The Commission was created to do justice to public utility corporations and the public alike, and, in the long run, the best interests of both the corporations and the public require fair treatment. A rate too low may be as much an injustice and detriment to the public as a rate too high. In calculating the fair average cost and revenues over a period of years, the changes brought about by the World War must be taken into account. The Commission will not indulge in the violent assumption that the after-the-war prices and operating cost will of necessity return to the before-the-war levels. In endeavoring to form a fair estimate of probabilities, emergency conditions and their probable influence on price levels must be taken into account. A broad, constructive, far-sighted policy is needed in dealing with applications for rate increases, designed to afford emergency relief from emergency conditions. It is in the public interests that vital public utilities should be kept in a condition of solvency. * * * Public utility corporations will, of course, hardly expect to retain their nominal rate of return. They will not ask for aid in shifting to their patrons all the burdens of the war costs, at a time when all individuals and businesses are having to assume a share of the Nation's work. They will not seek to do violence to long established rate schedules, merely by reason of the increased cost and margin of returns brought by emergency conditions, both unusual and temporary."

In the matter of the application of Meyer, reported in 209 N. Y., at page 386, it is held:

> "Where particular application of a statute in accordance with its apparent intention will occasion great inconvenience or produce inequality or injustice, another and more reasonable interpretation is to be sought. The courts must in that event look to the act as a whole, to the subjects with which it deals, to the reason and spirit of the enactment, and thereby determine the true legislative intent and purpose."

The second proposition urged by protestants, raises the question of the power of the Commission to change the rates heretofore fixed by franchise, for the reason that such franchises were legal contracts, which are continued in force and effect by the provisions of Sub-division (c), Section 5, Article 3, of the Public Utilities Act of Utah, which reads as follows:

> "Nothing in this Act contained shall be construed to prohibit * * * nor to prevent the carrying out of contracts for free or reduced rate passenger transportation or other public utility service heretofore made, founded upon adequate consideration and lawful when made."

The provisions of various state laws creating public utilities commissions, are similar to ours. While the wording of parts of the section have above quoted is somewhat different from provisions of other state laws, with the exception of the California law, which is practically identical with ours, the difference is not material, and following the well established rule under which the whole act should be construed together, there appears no reason why we should not be guided by decisions of other commissions that have passed on the question here presented.

Examination of practically all orders of state utilities commission decisions, and decisions of courts, show that so-called franchise contracts and agreements have been modified, changed or set aside as conditions warranted.

The above quoted section deals with free passes, or reduced rate transportation, and it is in that connection that the clause referred to by the protestants, is inserted. Sub-section (d) of the same Article, also deals with the subject of free or reduced rates.

It would appear that the thought in the minds of the law-makers in inserting the questioned phrase, was more especially directed to contracts other than those pertaining to rates and fares. If it were intended by the law-makers to make an exception to the powers and duties of the Commission, as contended for by the protestants in this case, the expression of such intention was not very happily shown, either as to its phraseology or its position with relation to the material subject which it greatly modified, for the law throughout, wherein it specifies the powers and duties of the Commission with reference to the operation of railroads and other

utilities, confers wide powers with reference to controlling and regulating rates, fares and charges, and nowhere do we find anything to indicate the intention of limiting the powers of the Commission to fix rates in any particular.

As we have said hereinbefore, the authority to fix rates is vested in the State, and unless it is clearly and specifically delegated to municipalities, such power is retained by the State, and may be delegated to such functions of the State government as it may select.

It is unreasonable to think that the legislature would enact a law creating a public utilities commission, expressly clothing it with broad regulatory powers over common carriers, and then deliberately by the insertion of a clause in an obscure position in one subsection of the law, annul the powers of the Commission that were conferred by other parts of the act, and by this means perpetuate an injustice either on the public or on the utilities concerned. We find no warrant for accepting the theory that such action was taken or intended to be taken by the legislature.

CONCLUSION:

In keeping with the above reasoning we are of the opinion that, notwithsanding the provisions of franchise agreements referred to in this case in which fares are fixed, the same were binding upon the company only until the legislature saw fit to intervene for the purpose of regulating and controlling the petitioner and others, and fixing their rates, fares and charges; that the legislature has now intervened by creating the Public Utilities Commission and investing said Commission with power to revise, if necessary, rates, fares and charges fixed by franchises, as well as all other rates, fares and charges of any and all public utilities.

SEPARATION OF DEPARTMENTS:

During the investigation and hearing of this case, the subject of making an inquiry into the financial conditions and workings of the Utah Power & Light Company was insisted upon by some of the protestants.

The Commission took the position that while the said Utah Power & Light Company was the parent company of the petitioner, and the petitioner obtained the power with which

it operates its cars from the said Utah Power & Light Company, and the stockholders of one were the stockholders of the other, yet the business transactions of both could not be intermingled or inquired into for the purpose of reaching a conclusion as to what is a just and reasonable rate to be charged to those who ride upon the street railway. The mat- of what the petitioner is paying to the Power & Light Company is a legitimate inquiry in this case, and, from the showing made upon that feature of the operating expenses of the petitioner, the Commission decided and determined that the price paid for such power was not unreasonable.

The question of investigating the rates and charges of the Utah Power & Light Company can only be gone into upon an attack being made upon said rates and charges. The subscribers and patrons of the said Utah Power & Light Company may not be the same people who ride upon the cars operated by the petitioner. If the Power & Light Company's rates upon a proper hearing prove to be unjust and exorbitant, they may be corrected and made to respond to what is a just and reasonable rate to charge. The person who pays for light and power cannot be required to help pay part of the rate charged to the person who rides the street cars.

This position is well supported by eminent authorities upon the subject, and we are still of the opinion that the position of the Commission heretofore taken upon the question of going into the business of the Power & Light Company, was well taken.

In a very recent case before the Public Service Commission of Oregon, Order No. 275, just out, the Commission held as follows:

> "Applying the principles therein set forth (meaning the separation of departments) to the case under discussion, the Commission apprehends any attempt to compel the unprofitable operation of a street railway system on the theory that the other departments of the utility are earning sufficient revenue to make the business as a whole profitable, would, if resisted, fail. And, we believe rightly so. We see no justice in compelling a light or power consumer to assume the burdens which arise from the street car operations, and for which the car rider alone is responsible."

VALUATION:

In the hearing of this case, written reports were offered in evidence by the petitioner with reference to certain valuations, but these reports did not purport to be a complete or even a partial valuation of the properties of the Company.

On Page 7 of Petitioner's Exhibit No. 2, it is stated:

> "This report is nothing more than a statement of physical cost as taken from the records of the Company and hence as actually incurred by the Company at the time of constructing, in some minor cases acquiring, the several parts of the property in question."

A number of exhibits have been introduced. They have been variously named. For example: Petitioner's Exhibit No. 1, Page 3, states:

> "This report covers the physical property investment of the Railway System of the Utah Light & Traction Company and Predecessor Companies. * * * All indirect and overhead costs have been eliminated, and there is shown, as property investment, only the actual direct cost of producing the physical properties existing today, the account being credited in part by property replaced in reconstruction, and with any apparent indirect costs included in financial statements of Predecessor Companies."

The uncertainties of valuations thus arrived at are still further evidenced when we reach the question of depreciation. Depreciation by inspection depends upon opinion evidence. The conclusion is personal to the man who makes it. It depends upon his experience, judgment, and environment. He may arrive at different conclusions on different days. This kind of evidence should have all supporting data possible. The same applies to opinion evidence as developed in the composite life of the property.

The rules of valuation of public utility property cannot be said to have been established. Courts and Commissions have discussed these questions, and have made decisions in particular cases, many of them reaching almost diametrically opposite conclusions. This has resulted in much confusion

and uncertainty. We think, however, that commissions are tending to more liberal treatment of this problem.

As regards depreciation, we believe this Commission may well hold along the same lines as the Idaho Supreme Court, which in Murray vs. Public Utilities Commission, 150 Pac. 47, said:

> "So far as the question of depreciation is concerned, we think deductions should be made only for actual, tangible depreciation, and not for theoretical depreciation sometimes called 'accrued depreciation'."

A way must be found to insure investors with certainty, the treatment their investment will receive, if public service by private initiative is to be continued. A fair valuation of the property for rate-making purposes should, therefore, be ascertained. The Commission recognizes that it is the proper body to ascertain this fair valuation of the physical property of the petitioner devoted to street car service, but to make such valuation would require considerable time and expense to the petitioner and to the Commission, and, in the meantime, on the face of the showing made, it appears to us that the petitioner is entitled to some measure of relief if it is to maintain adequate service.

This judgment is based not upon the valuations shown or the rates of returns received by the petitioner, but upon the fact that there has been a substantial increase in the total wages of petitioner's employees, and a very formidable advance in the cost of materials required in the maintenance and operation of the traction lines.

INCREASED COSTS

The advance in wages is indicated in the following table:

	Conductors and Motormen:			Barn and Shop Men:		
	1917	1916	Inc.	1917	1916	Inc.
May	$ 36,595.55	$ 31,437.06	$ 5,158.49	$ 7,234.04	$ 4,699.01	$ 2,535.03
June	35,978.57	29,899.19	6,079.38	6.917.53	4,793.09	2.124.44
July	36,405.30	31,193.90	5,211.40	7,054.11	4,581.78	2,472.33
August	36.528.97	31,262.99	5,165.98	7,371.96	4,731.45	2,640.51
September	34,463.54	30,151.86	4,311.68	7,099.82	4,547.53	2,552.29
October	36,672.28	31,129.15	5,543.13	7,416.06	4,769.86	2,646.20
November	33,278.24	30,259.21	3,019.03	7,685.60	5,125.33	2,560.27
Totals	$249,922.45	$215,433.36	$34,489.09	$50,779.12	$33,248.05	$17,531.07
Average per Month			4,927.00			2,504.00
Average Annual Increase			59,124.00			30,048.00

It will be seen that the advance has been at the rate of $7,431.00 per month, indicating an annual increase of $89,-172.00. Testimony was given to the effect that there has been an increase of materials required for maintenance and operation of from 50 per cent to 75 per cent. This testimony was undisputed.

A statement was filed showing the result of the operation of the petitioner's street railway for a number of years past, and up to June 30th of the present year. The statement is based on the petitioner's own valuation of its property, arrived at in the somewhat indirect and unsatisfactory manner mentioned above, and is, of course, subject to acceptance only after being tested by an actual physical valuation of the property. On its face, however, it shows the depreciated property investment and net returns for the various periods, to be as follows:

Year	Property Investment (Depreciated)	Rate of Return on Property (Depreciated)
1907	$3,812,056.67	3.5%
1908	4,358,397.89	5.3%
1909	4,803,720.87	4.2%
1910	5,167,391.63	3.8%
1911	5,293,850.76	4.9%
1912	5,272,964.11	5.7%
1913	5,609,883.21	6.9%
1914	6,281,026.70	4 %
1915	6,305,426.63	3.5%
1916	6,352,889.70	4 %
January 1 to June 30, 1917	6,370,582.36	3.1%

A statement was also filed with the Commission, showing the prospective earnings under the proposed advance asked for by the petitioner, as follows:

ESTIMATED INCREASE IN REVENUE FROM REVISED TARIFF, BASED ON YEAR 1916 OPERATION.

Total Commutation Ticket and Transfer Passengers carried during the year 1916:

4c Commutation Tickets	Transfers
12,007,449	5,434,435

Estimated Increase in Revenue (based on Application of Revised Tariff):

12,007,449 4c Commutation Ticket Passengers @ 1c	$120,774
5,343,435 Transfer Passengers @ 1c	54,344
Increase in revenue from Murray-Sandy-Midvale Lines	45,534
Increase in revenue from Bountiful-Centerville Lines	15,153
Total	$235,805
Estimated decrease on account of application of Commutation Ticket Rates and decrease in traffic on account of increase rates 20%	$ 47,161
Net total	$188,644

The petitioner has also compiled the hypothetical results of operation for one year, based on the application of the revised tariff proposed by it, applied to the operations of the first six months of the year 1917, which shows that if the Commission granted all that was asked for by petitioners, the net returns on a depreciated property valuation of $6,370,-582.36, would be 5.4%.

It could not be expected that the petitioner at this critical time should obtain such relief as to make its investment whole. Part of the burden occasioned by the World War should properly be borne by the Company.

The question as to what means should be adopted to give a partial relief, has been a matter of concern to the Commission. The petitioner has asked that it be permitted to charge for all transfers; that the 4c commutation tickets be abolished, thus making a straight 5c cash fare; and that additional zones be established on two of the suburban lines. We are of the opinion that not all that is asked for should be granted, but that relief is necessary appears to us to be evident, and it should be granted, in the absence of evidence to show that the Company has been making such profits in the past as would carry its increased expenses over the present period, and until conditions have changed and become normal.

We believe that the public is interested most in efficient service, and that in order to provide for that service and give an adequate return on the invested capital, the public should be, and will be, willing to bear part of the company's

burdens. The relief should be granted, however, in a way to distribute the extra charges equally upon all of the users of the petitioner's service, and this we have attempted to do in the settlemnet of this case.

SUBURBAN LINES.

The suburban lines of the petitioner's system, embrace a line from Salt Lake City to Midvale, 11.9 miles in length, and to Sandy, 12.56 miles in length, designated as the Sandy-Midvale Line; also a line running from Centerville, Davis County, through Salt Lake City to Holliday, Salt Lake County, known as the Centerville-Holliday Line, with mileage of 9.46 from Salt Lake City to Holliday, and 13.50 from Salt Lake City to Centerville.

The Sandy-Midvale Line is being operated with four rate zones; the Holliday Line with three rate zones, and the Centerville Line with four rate zones; each zone having a five-cent cash fare charge for passenger transportation, making a twenty-cent cash fare charge from Salt Lake City to Sandy, Midvale and Centerville, and a fifteen-cent cash fare charge to Holliday. The commutation books of four-cent tickets, are available for use on all of these lines, and transfer privileges in Salt Lake City are in effect for suburban passengers as well as for those using the city lines.

By the use of the four-cent commutation tickets a reduction of 20 per cent from the cash fare charge may be made; thus allowing commuters in Sandy and Midvale and Centerville, to ride for sixteen cents; Holliday commuters for twelve cents, and those from intermediate points, at proportionate reductions.

Under the new schedules of petitioner, two changes are proposed:

(1) That an additional zone be established on the Sandy-Midvale Line, and on the Centerville Line, by the division of the second zone as now fixed on each line.

(2) That the four-cent commutation ticket be withdrawn from use, and in lieu thereof, there be placed on sale a 50-ride commutation book and a 20-ride commutation book.

With regard to the proposed new zones, it is somewhat difficult to determine with exactness what would be the effect on the purses of the patrons, or on the revenues of the company, if the additional zones were allowed. Cash fare passengers using only the first zone would not be affected.

Those using the second zone as far as Murray Smelter on the Sandy-Midvale Line, and as far as Cudahy on the Centerville Line, would likewise pay the same as now. All passengers going beyond Murray Smelter on the south and Cudahy on the north, would pay an extra fare, the effect of which on each line, would be a 50 per cent advance for third zone passengers, 33 1-3 per cent advance for fourth zone passengers, and 25 per cent advance for fifth zone passengers. We are of the opinion that this advance, on its face, is more than is justified by prevailing conditions, and that the application for permission to form additional zones should, therefore, be denied. We are led to this conclusion by consideration of the purposes of building and operating suburban lines, and by the industrial and residential conditions that have resulted from the providing of suburban transportation. Many people have been induced to go out of the City to make homes in suburban localities because of the facilities provided for getting to and from city employment, quickly and cheaply. To grant a sweeping change such as would follow the adding of a new zone, as proposed, would result in injury to suburban residents, and if the advance in transportation cost were such as to compel them to return to the city to live, the final result would be an injury rather than a benefit to the traction company.

INEQUALITY OF ZONES.

Public service should be rendered both as to efficiency and price, in a way to avoid discrimination as between individuals or communities. Railroad fares should be based on the service performed. In the case under consideration, it would be desirable to have zones and rates so adjusted that there will not be serious discrimination as between different communities, along the suburban lines.

The proposed tariffs submitted, as well as tariffs now in effect, are apparently subject to adverse criticism because of inequality of zone mileage, and the resultant difference in charges. Perhaps the most notable instance of the kind is to be found on the Sandy-Midvale Line. The zones on that line under the old tariff are as follows:

OLD SCHEDULE:

	Miles
First Zone—Salt Lake City to 33rd South	4.95
Second Zone—33rd South to Murray South Limits	4.61
Third Zone—Murray South Limits to Midvale Jct.	1.43
Fourth Zone—Midvale Jct. to Midvale	.81
Fourth Zone—Midvale Jct. to Sandy	1.47

The charge for transportation in each zone is the same; therefore, while those using the first zone, ride for approximately one cent a mile, and those in the second zone for a fraction more than one cent a mile, those in the third zone and on the Sandy Line, pay about three and one-half cents, and Midvale passengers pay over six cents a mile.

The new schedule submitted for our approval is open to the same criticism, the only difference being that the second zone has been divided into two zones; but inasmuch as we have denied permission to make the new schedule effective, it need not be given further consideration.

On the Centerville Line the schedule now in effect shows mileage and rates per mile in the four zones as follows:

First Zone,	4.77	miles;	rate,	1.05	cents	per	mile
Second	"	4.47	"	"	1.12	"	"	"
Third	"	2.70	"	"	1.85	"	"	"
Fourth	"	1.56	"	"	3.2	"	"	"

While the question of the discriminations shown are not among the primary issues in this case, we are nevertheless of the opinion that there should be an adjustment of zone-mileage so as to more equitably base the charges for transportation. We, therefore, submit the following zones and cash fares for the Sandy-Midvale and Centerville suburban lines:

SANDY-MIDVALE LINE.

Zone—Between Salt Lake City and:	Miles	Cash Fare
First—33rd South Street	4.95	5c
Second—Murray, 59th South St.	3.94	10c
Third—Midvale	3.01	15c
Third—Sandy	3.67	15c

CENTERVILLE LINE.

First—Salt Lake City North Limits	4.77	5c
Second—Val Verda	2.78	10c
Third—Bountiful Main Street	3.15	15c
Fourth—Centerville	2.80	20c

COMMUTATION RATES.

The second proposition, that of discontinuing the sale of the four-cent ticket on suburban lines, and substituting therefor a 50-ride commutation ticket based on one and one-third cents per mile rate, is apparently untenable in its entirety, in view of the position we take that the extra zone should not be permitted.

There is, nevertheless, value in the argument that suburban lines should contribute a just proportion of the additional revenue that should be provided for the traction company, and, therefore, we are inclined to permit the elimination of the four-cent commutation rate on suburban lines, as well as in the city district.

The question of commutation rates for suburban residents will be held for further consideration.

Our investigation of conditions under which traction service on suburban lines is given, has seemed to us to justify some recommendations for changes that we think the public are entitled to have made effective immediately.

The first of these has to do with the Sandy-Midvale Line. Under present arrangements, a patron boarding a car at Midvale terminus to go to Sandy, pays one fare for the .81 mile to Midvale Junction, and transfers there to the Sandy car, paying another fare for the 1.47 miles to Sandy. We suggest that the traction company immediately provide for free transfers at Midvale Junction for passengers to or from Sandy and Midvale.

The change of zones on the Centerville Line and on the Sandy-Midvale Line makes necessary a special rule for the charging of one fare only for a ride commenced and ended within the corporate limits of Bountiful City and Murray City, and we recommend that this be provided for in the tariff.

We further recommend that passengers to or from Bountiful be permitted to begin or end their journey at any point

in the Bountiful business district, from First South Street to Fourth North Street, on Main Street.

INCREASED EFFICIENCY OF SERVICE

Investigation has shown that on some lines of the traction system, service in excess of the demands of the public is being given during some parts of the day. This is an economic loss that must be made up to the company by its patrons. On other lines, and at certain times of the day, the service is not adequate, and the public suffers thereby. In the interest of efficiency and economy, in which the company and the public are mutually interested, we believe a careful study of service conditions should be made, and if necessary, adjustments should be ordered.

It will not be the policy of the Commission to permit an impairment of service below the needs of the community; nor shall we demand the maintenance of service schedules that are unnecessary to the handling of the traffic offered. If we were forced to choose between a curtailment of service below the reasonable needs of the public, and an increase of rates, we would not hesitate to grant the rate increase, but if and wherein the service is found to be wasteful and excessive, we would recommend the adjustment of the service and not the rates. We shall give close attention to this matter with a view of improving conditions and relieving congestion of traffic during morning and evening peaks of demand, and hope to have the co-operation of the public and the company in reaching a solution of some of the City's traffic problems.

To facilitate the accomplishment of this purpose, we shall require the petitioner to submit frequent statements and reports covering its service operations on its various lines severally, in such form as shall indicate whether excessive or insufficient service is being rendered.

We shall also require reports of the earnings on city lines and suburban lines separately, compiled in such a way as to show what, if any, modifications should be made of the orders entered herein.

The Commission expressly retains jurisdiction in this case for the purpose of keeping in touch with the entire situation, and reserves the right to modify any or all of its orders if further investigation warrants such action.

FINDINGS.

After a full and careful consideration of the evidence in this case, the Commission finds as a fact:

1. That the present revenues derived from the operation of petitioner's street railway system, are not sufficient adequately to compensate the Company for such service.

2. That no sale of four cent commutation tickets should be made after December 31, 1917.

3. That all commutation tickets sold on or before December 31, 1917, should be honored by the Company up to and including the 31st day of January, 1918, and that all outstanding commutation tickets shall be subject to redemption if presented on or before February 28, 1918, by the Company refunding to the purchaser in cash the value of all unused commutation tickets, computed at four cents for each of such unused tickets.

4. That the proposed addition of one zone each on the Sandy-Midvale and Centerville suburban lines should not be permitted.

5. That the changes in zones on the Sandy-Midvale and Centerville suburban lines, suggested in the Commission's report, should be adopted.

6. That the matter of commutation rates on suburban lines should be held for further investigation.

7. That permission to charge one cent for transfers should be denied.

8. That free transfer privileges should be permitted at Midvale Junction to or from Sandy and Midvale.

9. That not more than one five-cent fare should be charged for a ride wholly within Bountiful City or Murray City.

10. That no changes except such as are hereby specifically permitted, should be made in existing tariffs.

An appropriate order will be entered.

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 29th day of December, A. D. 1917.

Case No. 6.

In the Matter of the Application of the Utah Light and Traction Company for permission to increase its rates.

This case being at issue upon petition and protests on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having on the date hereof, 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 above named petitioner be, and is hereby authorized to discontinue the sale of four (4) cent commutation tickets after the 31st day of December, A. D. 1917.

IT IS FURTHER ORDERED, That such four-cent commutation tickets shall be honored to and including January 31st, A. D. 1918, and that all such four-cent commutation tickets as may be outstanding after January 31st, 1918, shall, if presented for refund on or before February 28, 1918, be redeemed by said petitioner refunding holder four (4) cents in cash for each unused ticket.

IT IS FURTHER ORDERED, That no change shall be made in existing transfer rules and regulations,

AND IT IS ORDERED FURTHER, That there shall be no increase in the number of zones on suburban lines.

IT IS ORDERED FURTHER, That the present zones and fares on the Sandy-Midvale suburban line and the Centerville suburban line, shall be modified as follows:

SANDY-MIDVALE LINE.

Zone—Between Salt Lake City and:	Miles	Cash Fare
First—33rd South Street	4.95	5c
Second—Murray, 59th South St.	3.94	10c
Third—Midvale	3.01	15c
Third—Sandy	3.67	15c

CENTERVILLE.

First—Salt Lake City North Limits	4.77	5c
Second—Val Verda	2.78	10c
Third—Bountiful, Main Street	3.15	15c
Fourth—Centerville	2.80	20c

IT IS FURTHER ORDERED, That not more than one five-cent fare shall be charged for a ride wholly within Bountiful City or Murray City.

IT IS FURTHER ORDERED, That transfers shall be issued at Midvale Junction to passengers between Midvale and Sandy.

IT IS FURTHER ORDERED. That the Commission retain jurisdiction and reserves the right to modify any order contained herein, and may require petitioner to furnish such reports covering expenses and revenues, and services rendered, as may be necessary pending final disposition of the case.

This shall be effective on and after December 31st, A. D. 1917.

By the Commission.

(Signature) T. E. BANNING,
Secretary.

(Seal)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY for permission to increase its charges. **Case No. 6.**

ORDER DENYING PETITIONS FOR REHEARING.

The petitions for rehearing in the above entitled matter came on for hearing before the Commission February 8, 1918, at 10 o'clock A. M., the petitioners being represented as follows:

Wm. H. Folland for Salt Lake City.

D. W. Moffatt for Murray City and Affiliated Commercial Clubs of Salt Lake County.

Walton & Walton for E. A. Walton.

Bismarck Snyder for the Utah Light & Traction Co.

The matter was submitted to the Commission without any showing by affidavits or otherwise.

The Commission, being advised as to the grounds upon which a rehearing is predicated, and after duly considering the same, is of the opinion that the showing in support of said petitions is not sufficient to grant a rehearing, and it is accordingly denied.

By way of further defining the Commission's attitude upon certain matters mentioned in some of the petitions, wherein it is claimed that the fixing of certain zones and the rates under the same are not just and equitable, we here suggest that a rehearing upon such matters may be taken up at any time upon proper complaint and notice as provided by the law, together with the rules and regulations adopted by the Commission.

By order of the Commission.

Dated at Salt Lake City, Utah, this 9th day of February, A. D. 1918.

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

Attest:
T. E. BANNING,
Secretary.

7. **AMALGAMATED SUGAR COMPANY**, et al., Complainants,

vs.

DENVER & RIO GRANDE RAILROAD CO., et al., Defendants.

This complaint was filed August 13, 1917, attacking the rates on coal and coke. PENDING.

8. **SALT LAKE CITY, STATE OF UTAH**, Complainant,

vs.

DENVER & RIO GRANDE RAILRAOD CO., et al., Defendants.

This complaint was filed August 14, 1917, covering the same action as Case No. 7. PENDING.

9. MARSH COAL COMPANY, et al., Petitioners, vs. DENVER & RIO GRANDE RAILROAD CO., Defendant.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

Case No. 9.

MARSH COAL COMPANY, et al., vs. DENVER & RIO GRANDE RAILROAD COMPANY.

Submitted October 25, 1917. Decided December 7, 1917.

1. Rate of $1.25 per ton on bituminous coal from Carbon County, Utah, points, to Salt Lake City, Utah, is a proportional rate on traffic destined to points on Salt Lake & Los Angeles R. R. (now Salt Lake, Garfield & Western R. R.) beyond Salt Lake City.

2. Publication of supplements containing $1.25 rate does not affect rate of $1.60 per ton on coal destined Salt Lake City.

3. Request for ruling making $1.25 rate apply on all shipments to petitioners, moving while said supplements have been effective, denied.

W. M. LANGDON, for petitioners.

W. D. RITER and FRED WILD, JR., for Denver & Rio Grande R. R. Co.

REPORT OF THE COMMISSION.

BY THE COMMISSION:

Petitioners are wholesale and retail coal dealers doing business in Salt Lake City, Utah. They ask that an investigation be made of the application in actual practice of the rate of $1.25 per ton on shipments of coal, published in Supplements Nos. 8, 9 and 10, to D. & R. G. Freight Tariff 4614-E, and that an affirmative ruling thereon be issued making said rate apply on all shipments to petitioners moving while said supplements have been successively in effect, or since November 20, 1914, instead of a rate of $1.60 per ton carried in said Freight Tariff 4614-E, which has been assessed and collected by the Defendant Company on shipments to petitioners.

In support of their petition, they allege that since the effective date of Supplement No. 8 to said Tariff, $1.25 per ton has been the only legal rate on coal from the Carbon County mines to Salt Lake City; that the said rate has been applied on several hundred carloads of coal which originated at points named in said Supplements, which coal was shipped to and unloaded on the tracks of the Salt Lake & Los Angeles Railroad Company (now the Salt Lake, Garfield & Western Railway Company, and hereinafter referred to as the "Saltair Line"), in Salt Lake City, but that the Defendant Company has refused, and still refuses, to apply the same rate on shipments to the petitioners; that the Saltair Line operates a railroad out of Salt Lake City and is a competitor of the Petitioners, when coal is delivered to it in Salt Lake City.

The Defendant Company answers and admits that since November 20, 1914, it has carried a rate of $1.25 per ton, on coal from Utah mines, but asserts that such rate applies only on shipments consigned to points on the Saltair Line, and that it is, therefore, a proportional rate.

It denies the allegation of the petitioners, that several hundred carloads of coal have been moved by it on said proportional rate from the mines in Carbon County to Salt Lake City, and says that if any such shipments of coal have been so moved and delivered and used in Salt Lake City it was without the knowledge and consent of the Defendant Company; that all coal shipped at the said proportional rate to the said Saltair Line was for the sole use and consumption of said railroads.

Defendant Company further denies that the proportional rate herein referred to was intended to or did apply to shipments destined to Salt Lake City, but declares that such rate was intended to, and did, in fact, apply only to shipments destined to points on the Saltair Line beyond Salt Lake City.

Defendant Company further contends that the coal so transported at the proportional rate, does not compete with the coal sold and delivered to petitioners in Salt Lake City under the rate of $1.60 per ton, and that upon learning that some coal in transit to points beyond Salt Lake City, had been taken from the cars and used in private residences in Salt Lake City, said Company immediately made bills against the Saltair Line, based on the full published tariff of $1.60, and

presented them to the parties concerned, all of which bills have been paid.

The testimony in this case is in no way conflicting. The tariffs introduced in evidence bearing upon the issues are as follows:

(1) Page 5 of D. & R. G. Freight Tariff No. 4614-E, effective December 14, 1912, which shows that the rate per ton on coal from certain Carbon County, Utah, points, to Salt Lake City, Utah, is as follows:

Lump and run of Mine Coal	$1.60
Nut Coal	1.60
Slack Coal	1.35

To this tariff there seems to be no modification.

(2) Page 5, of Supplement No. 8 to D. & R. G. Freight Tariff No. 4614-E, effective November 20, 1914, which shows the rate per ton on coal from certain points in Carbon County, Utah, to:

Salt Lake City, Utah.....$1.25 (7)

This rate is modified as follows:

Reduction.

(7) Applies only on traffic destined to stations on the Salt Lake & Los Angeles R. R.

(3) Page 5, of Supplement No. 9, cancelling Supplement No. 8 to D. & R. G. Freight Tariff No. 4614-E, effective December 11, 1914, which shows the rate per ton on coal from certain points in Carbon County, Utah, to:

(8) Salt Lake City, Utah.....$1.25 (7)

This rate is modified as follows:

(7) Applies only on traffic destined to stations on the Salt Lake & Los Angeles R. R.

(8) "Reissue, Effective November 20, 1914, in Supplement 8."

(4) Page 5, of Supplement No. 10, cancelling Supplement No. 9, to D. & R. G. Freight Tariff No. 4614-E, effective February 25, 1915, shows the rate per ton on coal from certain Carbon County, Utah, points, to:

(8) Salt Lake City, Utah.....$1.25 (7)

This rate is modified as follows:

(7) Applies only to traffic destined to stations on the Salt Lake & Los Angeles Railroad.

The testimony shows that the physical connection between the two railroads concerned in this matter, is at a point in Salt Lake City; that shipments of coal made over the Defendant Company's lines destined to points beyond Salt Lake City on the Saltair Line, are necessarily given over to the Saltair Line at a point within the limits of Salt Lake City; that such delivery consists of a physical act of switching over a transfer track from the Defendant Company to the tracks of the said Saltair Line; that after the said transfer has been accomplished, the said shipments are no longer under control of the Defendant Company, but are under the control of the said Saltair Line; and that such disposition as is made of said coal thereafter, is made by the last named company.

The testimony of Mr. Joseph Nelson, President of the Saltair Line, showed that the coal delivered to his railroad over the transfer track in Salt Lake City, was used for coaling engines of his Line, or was transported over his Line to industrial plants served by the Saltair Line, beyond Salt Lake City or to Saltair resort. That portion of it that was used as engine coal was unloaded into coal chutes in the Saltair Line yards, which was located within the corporate limits of Salt Lake City, or was unloaded from the cars directly into the company's engines, while in the Salt Lake Terminal yards of the company. On all of this coal the rate paid was $1.25.

It was further testified that coal in transit, or after it had been delivered to the Saltair Line, was taken off and appropriated by Mr. Joseph Nelson, President of the said Line, for his own use, and also for the use of some of his employees; that Mr. Nelson considered he had a right to do this, but disclaimed any understanding with the Defendant Company regarding such transactions, or any consent to or knowledge of such use of coal, by said company. It appeared that this had been practiced for some time, but on learning of such practice the Defendant Company proceeded at once to collect an additional 35c per ton on all such coal so taken while in transit, together with the coal in each car that had been so intercepted, whether part or all of it had been so taken. On Page 3, of the transcript of testimony taken in this case, this question was gone into, as follows:

"MR. NELSON: When the Rio Grande complained that I had been using some of the coal for my personal

use, which I had—when I would want a load of coal, I would go down and get it—they simply billed me extra for that which they complained about; so I paid it.

MR. LANGDON (Attorney for Petitioners): Yes, I know, but I took this freight bill—you have only paid the 35c additional per ton on coal, on shipments of coal that you distributed in town here? (Meaning Salt Lake City.)

MR. NELSON: That is the way I understand it.

MR. LANGDON: Now, are you sure that they have collected from you, Mr. Nelson, on all of the shipments?

MR. NELSON: Well, I would not be absolutely sure of that, but I think so, and I think, in addition to that, they collected—that is what I believe—that they were collecting from me two or three times what I had distributed, because when we took but two or three loads out of a car, they made us pay for the whole car."

The testimony of the Defendant Company was that it had no knowledge of any misapplication by the Saltair Line, of the proportional rate of $1.25 per ton, but had supposed and understood that all coal on which said proportional rate was applied, was destined to points on the said Line beyond Salt Lake City. It was further stated in the testimony for the Defendant Company, that a full investigation is being conducted to ascertain the disposition of every carload of coal delivered to the Saltair Line since November 20th, 1914, and if it shall develop that any one or all of the said cars, or the contents thereof, were delivered within the corporate limits of Salt Lake City, the Defendant Company will make bill against the Saltair Line for the difference between the freight charges collected thereon and the amount that would accrue under the regular rates of $1.60 per ton, properly applicable on shipments to Salt Lake City, and that they will insist on full payment thereof.

The purposes of published rates are:

1st. To inform shippers of the rates to be paid; and

2nd. To record the application of such rates to all shippers, and thereby promote equality of treatment without any form of discrimination.

Published tariffs are of value only when the shipper can depend upon the statements therein contained, and he should not be compelled to make any investigations outside the tariffs

themselves, in order to be informed as to what the rates are. The rule established by courts and commissions is, that when there are two conflicting rates set out in the published tariffs of a company, the shipper is entitled to the lower rate.

The question at issue in this case, is, therefore, whether there are two conflicting rates in effect in the Defendant Company's tariffs on coal from Carbon County points to Salt Lake City, and if not, whether the rate is $1.60 as claimed by the Defendant Company, or $1.25 as claimed by the petitioners.

The solution of this question hinges on the proper interpretation of Supplements Nos. 8, 9 and 10, to Tariff 4614-E, and particularly on the correct meaning of the modifying words and phrases, which in all of the supplements referred to follow as footnotes, the items quoting the rate of $1.25 per ton, which the Defendant Company claims to be a proportional rate.

It will be seen that Tariff 4614-E, carried no specific rate on shipments destined to points on the Saltair Line, and under that tariff shipments to such points would have to move to Salt Lake City, under the rate of $1.60 per ton provided in the tariff, plus the rate from Salt Lake City to point of destination on Saltair Line.

In Supplement No. 8, the figures 125, stated to be "rate in cents per ton of 2,000 pounds," are followed by a dot (.) and a figure seven enclosed in a circle, thus: (7). The footnotes to which these symbols refer show that the dot means "Reduction," and (7) is followed by the words: "Applies only on traffic destined to stations on the Salt Lake & Los Angeles R. R." (Saltair Lines.) It will be seen, therefore, that the maker of the tariff employed the usual method of indicating to the shipping public that the item referred to effected a reduction in the rate formerly carried on shipments of coal to points on the Saltair Line, the rate on such shipments under this supplement, being $1.25 per ton instead of $1.60 per ton, from points of origin named therein to Salt Lake City, plus the rate from Salt Lake City to place of destination on said Saltair Line.

Supplement No. 9 carried the same (7) and the words, "Applies only on traffic destined to stations on the Salt Lake & Los Angeles R. R.," but omits the dot, because no further reduction was made in this Supplement.

Supplement No. 10 likewise carries the same words. This

limiting clause is carried on each supplement on the same page whereon the $1.25 per ton rate is given.

The petitioners, however, contend that the limitation attempted to be made to the application of the rate, and which, had it been properly expressed, would have made it in fact a proportional rate, is fatally defective in that it fails to state in words on the same page where the rate is given, that it is a proportional rate.

Tariff 4614-E on the title page thereof, purports to give local rates only on coal. Supplements Nos. 8, 9 and 10, to said Tariff, in which the $1.25 per ton rate is quoted, carry on the title page the words, "Local and Proportional Rates." The shipper is thereby placed on notice that the supplement contains proportional rates on coal as well as local rates. Turning to page 5, he finds the reduced rate to Salt Lake City, "on traffic destined to stations on the Salt Lake & Los Angeles R. R." It seems to us he could not fail to clearly understand that such was the proportional rate referred to on the title page. We think, therefore, that the tariff is sufficiently self-explanatory.

While it is admitted that the language of the limiting clause would have been clearer if there had been added to it the words, "beyond Salt Lake City," nevertheless, there seems to have been no misunderstanding or misconception or doubt in the minds of petitioners or other dealers in coal in Salt Lake City, each and all of whom for more than two and a half years, during all of which time the $1.25 per ton rate has been in effect, have been receiving coal shipments and regularly paying the rate of $1.60 per ton, which charge they have added to their cost of coal and passed on to, and collected from, the ultimate consumers.

It would seem, therefore, that no one has suffered from the alleged erroneous method, or lack of clearness in the form of expression, used in the publication of the rate, which the Defendant Company says, was intended to be used and applied as a proportional rate.

The petitioners urge the point that the intention of the Defendant Company avails nothing, and quote 23 I. C. C. 370, Lust Digest, Page 815, as follows:

> "Tariffs are to be construed according to their language and not by the arbitrary practice or intention of the carrier."

And the following from 21 I. C. C. 196, Lust Digest, Page 818:W.

> "Tariffs are to be interpreted according to the reasonable construction of the language; the intention of the framers and practice of the carriers do not control."

We find ourselves in agreement with this doctrine, but we fail to see how a reasonable construction of the language employed in the footnotes referred to in Supplements Nos. 8, 9 and 10 can give warrant for the application of the rate therein named on coal destined to Salt Lake City, which never touches the rails or even the transfer tracks leading to the rails of the Saltair Line, but goes directly to the unloading yards of the petitioners and other dealers or consumers.

Clearly the rate of $1.25 per ton can only be applied under any reasonable construction of the language used in Supplements 8, 9 and 10, to shipments destined to points on the Saltair Line, and inasmuch as the petitioners themselves make no claim that their yards are on that line, it would seem anything but a reasonable construction of the tariff to declare the rate effective on shipments moving under billing which, as to consignee and destination, showed conclusively that the coal was to be delivered and used at places in Salt Lake City in no way connected with the Saltair Line, and record of which shipments conclusively prove they were so delivered and so used.

In seeking to arrive at a reasonable construction of the tariffs under review, we are free to consider the reason for their publication and the effect on the shipping public of their application in actual practice.

Mr. Justice McKenna, of the United States Supreme Court, pointed out clearly the rights of regulatory Commissions in this class of investigations, in an opinion rendered in the case of the Interstate Commerce Commission vs. Baltimore & Ohio Railroad, 225 U. S. 345, wherein he says:

> "Tariffs are but forms of words, and certainly the Commission in the exercise of its powers to administer the Interstate Commerce Act, can look beyond the forms to what caused them and what they are intended to cause, and do cause."

What, then was the purpose, and what the effect of the publication of the $1.25 per ton rate on coal destined to Salt-air Line points?

The record in this case makes clear the purpose of the rate. We quote from the testimony of Fred Wild, Jr., a witness for the Defendant Company:

> "For a great many years, railroads generally had reciprocal arrangements with each other, whereby their company freight was carried at somewhat less than the rates charged for the transportation of commercial freight. Under such an arrangement, the Denver & Rio Grande Company carried a rate of $1.25 per ton on engine coal from the Castle Gate district to Salt Lake City for steam railroads, including the Salt Lake & Los Angeles. Upon inquiry, the Interstate Commerce Commission announced it as its opinion that such special rates for railroads were not justified. They were, therefore, immediately eliminated so far as interstate traffic was concerned. It was lated determined by our Company, I might say, as well as by all other railroad companies, that if they were not permissible on interstate traffic, they were not permissible on intra-state traffic. Therefore, our Company, in company with others, withdrew on August 18, 1914, all such special rates, and our connections thereafter paid us for the transportation of their engine coal the same proportions up to our junction points with them as was paid on commercial shipments. When that special rate to Salt Lake City was withdrawn, all of our connections consigned their coal to points on their own lines and in a division of joint accounts the Denver & Rio Grande Company received the same revenue as it would have received had the business moved in commercial traffic. At that time the Salt Lake & Los Angeles situation was lost sight of, * * * and they were charged the full commercial rates into Salt Lake City, as there were no joint through rates to stations on that line.
>
> "The matter was brought to my attention by the late Mr. Darrah, and thereupon, on September 30, 1914, we issued Amendment No. 2 to Denver & Rio Grande Tariff 4614-E, and established therein a proportional rate of $1.25 per ton from Castle Gate district to Salt Lake City, appli-

cable only to traffic destined to stations on the Salt Lake & Los Angeles Railroad, and as there was nothing illegal at that time in our so doing, we antedated the tariff to become effective on August 14, 1914, so as to take care of the period for which we had unintentionally failed to provide a rate."

Witness then referred to the tariffs under review in this case, and particularly to Supplement No. 10, wherein the $1.25 per ton rate is quoted, and continued:

"Now, that is our proportional rate to Salt Lake City, and is intended to apply and does apply only on the coal traffic moving to points on the Salt Lake, Garfield & Western Railroad, formerly the Salt Lake & Los Angeles Railroad." (Saltair Line.)

We have perhaps sufficiently discussed hereinbefore the effect of the new rates so far as relates to the coal business in general, conducted by petitioners and others in Salt Lake City. None of the dealers seem to have been damaged by the application of the $1.25 per ton rate on coal to Saltair Line points. There was no disturbance of, or change in, the rate theretofore applied on coal shipments to Salt Lake City.

In view of all the conditions shown by the testimony, we are of the opinion and it is, therefore, held, that the rate of $1.25 per ton on coal from Carbon County points to Salt Lake City, carried in Supplements Nos. 8, 9 and 10, is a proportional rate; that it is intended to and does properly apply only on traffic destined to points on the Saltair Line **beyond** Salt Lake City; that the publication of tariffs containing said proportional rate, does not affect rate of $1.60 per ton on coal destined Salt Lake City; that the application of petitioners for an affirmative ruling making the said rate applicable on all shipments of petitioners to Salt Lake City moving while said supplements have been successively in effect, should be denied.

While the issues in this case do not call for a ruling by this Commission at this time on the question as to whether improper use has been made of the proportional rate herein confirmed, nevertheless the testimony presented bearing on the movement of coal under said rate, may require the Commission to further investigate the application of said rate for the purpose of ascertaining the facts as a foundation for such

rulings and orders as may seem justified by such investigation, to the end that the proportional rate, and all limitations attached thereto, shall be correctly and lawfully applied to all shipments moving thereunder since March 8, 1917. It is hoped, however, that no further action by this Commission will be necessary to bring about corrections and adjustments, if, and wherein, they are found to be required.

An order will be entered in accordance with the foregoing:

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

As a General Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 7th day of December, A. D. 1917.

Case No. 9.

Marsh Coal Company, et al.,
vs.
Denver & Rio Grande Railroad Company.

This case, being at issue upon petition and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, 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 petition in this proceeding be, and it is hereby denied.

By order of the Commission.

(SEAL) (Signed) T. E. BANNING,
Secretary.

10. In the Matter of the Application of the SALT LAKE AND ALTA RAILROAD COMPANY, for permission to increase its freight rates.

The Salt Lake & Alta Railroad Company filed a petition for permission to increase its rates, July 11, 1917. Notice of the advance was served on shippers of the Company and protest received from the Michigan-Utah Consolidated Mines. The Railroad Company withdrew its application and vacating order was issued by the Commission. DISMISSED.

11. In the Matter of the Application of the UINTAH RAILWAY COMPANY, for permission to increase its freight rates on its wagon line between Watson and Vernal, Utah.

In the Matter of the Complaint of Certain Shippers of Vernal, Utah,

vs.

Uintah Railway Company, operating a Wagon Haul Freight Line between Watson and Vernal, Utah, application to increase freight rates.

Case No. 11.

REPORT OF COMMISSIONER STOUTNOUR

ORDER.

The Uintah Railway extends from Watson, Utah, to Mack, Colorado, where it connects with the Denver & Rio Grande Railroad. This Railway was originally constructed to transport gilsonite, a mineral, from deposits found near the end of the railway to Mack, thence to outside markets.

To the northward of Watson lies an extremely fertile country. Among the towns in this section are Vernal, Roosevelt and Fort Duchesne. Formerly all of the supplies of this country had been transported via the Denver & Rio Grande Railroad to Price, Utah, thence to the Uintah Basin by wagon haul eighty or ninety miles. The Uintah Railway conceived the idea of attracting business from this country and constructed a wagon road from Watson to Vernal and Fort Duchesne and established a wagon service for the purpose of giving the country both freight and passenger service. Considerable business has been built up for the railway in this way. This freight traffic moves from the south to the north over the railway, and is in the nature of a back haul for the said railway, its principal business being the movement of freight from the north southward. The wagon road cost at the time it was constructed about $37,000.00.

On August 24th, 1917, the Uintah Railway Company filed with this Commission a new wagon tariff showing substantial increases over the tariff in effect, alleging that the wagon line had always been run at a great loss, on account of the increase in labor rates and the cost of supplies. On August 29th, 1917, this tariff was suspended under Investigation and Suspension Docket No. 4 to October 31st, 1917. Various ship-

pers have been communicated with and, no formal protest having been filed by said interested shippers, this tariff was allowed to go into effect tentatively.

On November 5th, 1917, Mr. Don B. Colton, as Attorney for the shippers, filed a protest with the Commission, setting forth that the shippers thought they were filing a formal protest at the time they communicated with the Commission. A hearing was then held in the above entitled case at Vernal, Utah, and Mack, Colorado, November 9th and 10th, 1917.

The Uintah Railway Company introduced evidence at this hearing to show that the operating expenses of the wagon line exceeded the gross receipts by approximately $5,000.00, for the eight months ending September 30th, 1917. The cost of forage and supplies and labor had greatly increased. For instance, baled hay now costs $13.00, whereas its cost last year was $8.50. Last year oats cost $1.75 per cwt., and it now costs $1.85 to $2.50 per cwt. Wages of employees engaged in transportation have advanced approximately thirty per cent.

The hearing developed the fact that the service has been very poor on the Uintah Wagon Line. In many cases an unusually long time is consumed in delivering freight to merchants. Competition from privately owned teams had been very keen, with the result that whereas one hundred twenty head of stock had been in use by the Uintah Railway Company several years ago, the number has now been reduced to thirty-five or forty head. The Uintah Railway Company at this time transports only about 25 per cent of the total tonnage between Watson and Vernal. This condition was explained by the Railroad Company as having been caused by the fact that the merchants found their accounts were growing larger and harder to collect and, in order to cancel these obligations, the merchants were engaging farmers to haul freight for them, thus paying their indebtedness at the store. The protestants in this case stated that it was the lack of service that forced the merchants to secure private teams to haul their freight.

These private teams make a trip in a somewhat shorter time than the teams of the Uintah Railway. The Uintah Railway have regular stations along the road where they camp at night. These stations have an agent and are maintained at considerable expense. In one of the places, at least, it is necessary to haul water to the station at certain intervals of the

year. The private teams camp wherever night overtakes them, thus there is practically no overhead expense to them.

There is a conflict in the evidence as to the number of private teams that could be secured to handle this freight, some contending that private teams may be had at any time of the year, while others contend that it is very hard to secure private teams at certain seasons. Such teams as the Uintah Railway Company have are engaged in making regular trips and the service should be compensated for on a basis of the cost of rendering that service to the public.

Uintah Railway also operates a stage and passenger line. The hearing developed that on a through ticket purchased to outside points the wagon line is only credited with twenty-five (25) cents per one-way haul. The local stage fare, however, between Vernal and Watson is $5.50, so that on a through ticket only about five per cent of the local fare is credited to wagon line. This method of fare distribution is contended by the Railroad to be in accordance with Rule 34-H in Tariff Circular 18-A—I. C. C.

I do not believe the Commission is called upon at this time to interpret this rule, but from the viewpoint of the wagon haul line, it is not receiving its reasonable proportion of the rate for the service rendered.

In establishing a rate for freight for the wagon-haul line, each type of traffic must be considered separately, the rates established must afford adequate compensation to the carrier for that particular service.

While there has been a substantial upward trend in prices for labor, forage and materials, there has been no such advance as would justify this substantial increase in the wagon haul freight, the application to increase rates as filed with this Commission is therefore denied. The wagon freight line is, however, entitled to relief to compensate it for the manifest increase in operation and I would, therefore, recommend that a horizontal increase in rates of approximately twenty (20) per cent be granted.

However, the service has been unsatisfactory and any increase in rates should go hand in hand with a betterment of service. I therefore recommend that the Uintah Railway Company be ordered to better its facilities so as to adequately and reasonably take care of the business offered to the wagon freight line.

I therefore submit the following Form of Order:

ORDER.

IT IS THEREFORE ORDERED, That the Wagon Freight Tariff No. W-9, effective November 1st, 1917, filed with this Commission by the Uintah Railway Company, is hereby cancelled and set aside as of December 1st, 1917. The said Uintah Railway is hereby authorized to charge in cents per one hundred pounds the amounts shown in the following schedule of rates to points on its Freight Wagon Line, the same to be effective December 1st, 1917.

THE UINTAH RAILWAY COMPANY

Wagon Freight Tariff No. W-10

Cancels Tariff No. W-9.

On all freight classified in Western Classification as first-class, or less, the following class rates will apply:

BETWEEN		AND		Rate per 100 pounds in Cents
Watson	Utah	Ouray	Utah	$ .75R
Watson	"	*Whiterocks and Myton	"	1.10R
Watson	"	Ft. Duchesne and Vernal	"	.90R
Watson	"	Roosevelt	"	1.00R
Watson	"	Bonanza Shearing Corral	"	.45R
Vernal	"	Bonanza. Shearing Corral	"	.55R
Watson	"	Ouray (wagon loads 6,000 lbs)	"	.60R

(*Freight wagons will be forwarded through Roosevelt, Whiterocks, or Myton only when wagon load weighs in the aggregate 6,000 pounds.)

BETWEEN OTHER WAGON LINE STATIONS THE RATES WILL BE:	Rate per 100 pounds in Cents
From any wagon line stations to first station beyond	$ .30R
From any wagon line station to second station beyond	.60R
From any wagon line station to third station beyond	.75R
From any wagon line station to fourth station beyond	.90R

THE FOLLOWING COMMODITY RATES WILL APPLY:

COMMODITY	FROM	TO	Rate per 100 pounds in Cents
Crude Asphaltum, in sacks	Bonanza ..... Utah	Watson ..... Utah	$ .20
Crude Asphaltum, in sacks	Little Bonanza ..... "	Watson ..... "	.21¼
Wool, in bales	Bonanza Corral .... "	Watson ..... "	.35
Wool, in bales	Alhandra and Ouray ..... "	Watson ..... "	.50
Wool, in bales	Ft. Duchesne and Vernal ..... "	Watson ..... "	.60
		Ft. Duchesne and Vernal ..... "	.75R
Canned Goods, *Sugar, Cement, Soap, Wire, Nails, *Salt, *Rock Salt	Watson ..... "	Roosevelt ..... "	.90R

(*Minimum weight of each commodity 3,000 pounds.)
RDenotes reduction.

Rate to any point located between regular stations will be the rate to the first station beyond destination.

Rates named herein to be increased proportionately on goods taking higher than first-class in current Western Classification.

Minimum charges on freight taking first-class or less, will be the rate charged for 100 pounds. On freight taking higher than first class the minimum charge will be the amount based on the higher rate, but not less than the charge for 100 pounds at first class.

Governed by the rules and regulations of the Western Classification.

IT IS FURTHER ORDERED, That the said Uintah Railway Company increase its facilities, equipment and service so as to adequately, efficiently and reasonably serve the public in the transportation of freight between stations shown in its tariff No. W-10.

BY THE COMMISSION:

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

Salt Lake City, Utah, November 26th, 1917.

12. In the Matter of the Application of the UTAH POWER AND LIGHT COMPANY, for permission to increase its rates for electrical service, in Utah.

The Utah Power & Light Company filed a schedule containing an advance in the minimum rate and allowing a cash discount of a similar amount as the advance. Said rates were to become effective on statutory notice. The Commission suspended the proposed tariff until October 31, 1917, when they were permitted to go into effect as filed, with the exception of American Fork City, which filed protest. (See Case No. 16 for further action.)

13. In the Matter of the Application of SALT LAKE COUNTY to have rates fixed for the lighting of roads and streets in Salt Lake County, Utah.

Petition was filed August 17, 1917, asking the Commission to fix rates for lighting streets of Salt Lake County. Stipulation was entered into between the County and various Power Companies interested, copy being filed with the Commission December 13, 1917, naming rates and conditions of agreement. CLOSED.

14. In the Matter of the Application of the SALT LAKE, GARFIELD & WESTERN RAILWAY COMPANY, for permission to cross at grade the tracks of Western Pacific Railroad Company and Los Angeles & Salt Lake Railroad Company, and a sand spur of Bingham & Garfield Railway Company.

Protests having been filed a hearing was held in the matter. PENDING.

15. LEVI PEARSON, et al., Complainants,
vs.
KAMAS-WOODLAND TELEPHONE COMPANY, Defendant.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

LEVI PEARSON, et al., Complainants, vs. KAMAS-WOODLAND TELEPHONE CO., Defendants.	**Case No. 15.** **STATEMENT, DECISION, ORDER.**

GREENWOOD, President: The above entitled matter came before the Commission upon a complaint being filed by the complainants, in which it is alleged:

1. That there were so many subscribers on some line that it was impossible to get reasonable service.
2. That the defendant's poles and lines were in bad condition, and "not a pleasing obstacle to visitors in our Valley."
3. The defendant had acted unreasonably in some cases where complaints were made.
4. That the rates charged for the service were excessive.

The defendant in its answer:

Denied that any greater number of subscribers were on one line than is reasonable under the circumstances existing in the locality where said Company operates, and that under such necessary conditions the service was given as expeditiously as could be expected.

Denied the other allegations of the complaint, and for a defense to said complaint contends that said Company is operating the telephone system in question reasonably, and at a reasonable rate, as far as complaints are concerned, and that such service is being given at a loss to the defendant Telephone Company.

A hearing was ordered upon the above issues, and I, in connection with Mr. Harold S. Barnes, Clerk, proceeded to Kamas, in Summit County, Utah, where the parties hereto reside, and where the telephone system is located, for the purpose of taking testimony, and examining the system of the defendant Telephone Company. Three sessions were held, during which time a number of witnesses were produced, sworn, and testified concerning the matters in controversy, and from such testimony it appeared that the present owner, Mr. A. S. Potts, purchased from his predecessors, all interests in said Telephone Company, which had been operated for some time, first by the Mountain States Telephone & Telegraph Company, and subsequently by a local organization, and operated for some time without profit, and that later the said A. S. Potts became the owner and now operates the same.

Testimony showed that as many as seventeen telephones were being operated on one line, which no doubt gave rise to the complaints, or at least some of them; and that on account of such condition satisfactory service had not and could not be given.

It further appeared by the testimony, that the defendant was making preparations to relieve the situation by stringing another wire, thereby reducing the number of stations from seventeen to about eight, on a line. It appeared that such improvement had been contemplated by the defendant Company, but on account of a lack of funds arising from the operation of the telephone system, it was not able to put such extra wire in at an earlier date. This fact was made apparent by the accounts which were gone into, and which, without contradiction, disclosed the fact that the service had been furnished by the Telephone Company at a loss of about $165.00 per month. The service rendered was, to some extent, under unfavorable conditions and circumstances, and had it not been for the family of Mr. Potts, who, according to the testimony, was doing most of the work, it would have been impossible to have operated the system, or given any service whatever.

It further appeared in the testimony that some personal feelings had been indulged in between some of the subscribers and the owner of the Telephone Company, on account of some misunderstandings between the owner of the Telephone Company and the subscribers.

There is no question but that the business end of looking

after the service is not as efficient as it no doubt will be after Mr. Potts gains more experience in the operation of the telephone system. For instance, in one instance a line had been constructed for one mile, upon which there was but one phone being operated, at the rate of about $2.00 per month, and the one phone on the said mile of line had been discontinued, all of which was a loss to the Telephone Company.

The complaint that there were too many subscribers on some lines, was not denied by the defendant Company, but the Company's intention and preparation to relieve the situation by an extra wire seemed to satisfy the subscribers, and under the conditions seemed to be all that could be expected of the Company.

As to the unsightly condition of the poles, an examination of some of them disclosed that they were as good as the usual class of poles used in rural telephone lines.

Concerning the actions of Mr. Potts, it is true that some things may have ben said and done that were not in keeping with strict rules of operating a telephone line. It is true that here, as elsewhere, operators may some times become a little careless and fail to pay the attention to the work that the service requires. Mr. Potts has in his employ two young girls and his son, as operators, all of whom are young, and no doubt were not as proficient and attentive in every particular, as they might be, and no doubt will become.

The rates charged, as hereinbefore stated, could not be excessive under the showing of the receipts and disbursements, unless the business end of the service has been neglected. Further, the rates so charged, are not excessive under the conditions and circumstances, with the exception that in some instances long distance toll charges may have been high, over which the defendant Company could not exert any influence.

After three sessions, during which time broad and liberal scope was given to the subscribers, who were not represented by an attorney, it developed that most of the complainants were willing to accept the improved conditions, by the number of phones being cut down to a number not to exceed eight on each line, and expressed the view that they had been very much enlightened upon the subject of operation of a telephone line, and that they desired the service.

It also developed in the hearing, that a great deal of misunderstanding was had by lack of necessary information that telephone companies should give to the subscribers. For

instance, the matter of furnishing necessary cards or directories, and rules, was gone into, and it was agreed upon the part of the Telephone Company to change the directory so as to place alphabetically, all subscribers in the different zones or districts, together, this for the more and better convenience of all the subscribers. It was agreed that such amended directory would be furnished to all of the subscribers. It was further agreed that a copy of the rules of said Company should be furnished to any and all of the subscribers, that they might familiarize themselves with the rules under which the service was given, and thereby assist the Company, and each other, in obtaining better service.

It further appeared here, as elsewhere, that many subscribers are not sufficiently considerate of the rights of each other, and that they, many times, become impatient with the service, and expect such perfect service from the Company, that when they do not get the same, they feel that their rights have been infringed upon, or they are not receiving value for the amount paid for such service.

Concerning the matter of increase in the charge for monthly rental service by the defendant, this question could only be heard upon a proper application. It is possible that the defendant Company would be entitled to some relief, and it was at this point that I suggested that it might be a good thing to see the subscribers personally, and get them to consent to an advance. If not, the only way it could be reached would be upon a proper hearing, as it is not a matter mentioned in the complaint, so as to give it such consideration and thereby act upon the same. In any event, no advance could be made without first filing such schedule of proposed advances with the Commission for approval, and upon a proper showing being made. A proper showing no doubt would be sufficient if the subscribers as well as the Company had reached a mutual understanding and agreement as to an advance.

After listening to the testimony and the concessions made by both sides, together with an examination of a part of the telephone system in question, I am of the opinion that the complaint of the complainants has not been sufficiently proven. It is true, that there are some matters or inferences which have grown out of the complaint, that will be mentioned in the following recomemndations and order.

IT IS HEREBY ORDERED and Decreed, (1) That the

Telephone Company shall, within a reasonable time, put into operation another and separate line to relieve the line upon which seventeen telephones have been operated.

(2) That the said Telephone Company furnish to the subscribers, such directory and rules as above indicated, and make such amendments and changes as agreed upon at the hearing.

(3) That a copy of such rules shall be submitted to this Commission for its approval and suggestions, and that such directory also be submitted to the Commission for its approval.

(4) It is further suggested and ORDERED, That the operators operating in behalf of the Company, be held to strict obedience and attention to the rules and regulations, in giving service to the subscribers.

(5) It is further suggested that care should be given to the lines and poles, especially during the stormy season, so that a communication may be kept up between the different points where service is to be rendered. This is especially necessary in a country that is sparsely settled, and where people live some distance apart.

(6) It is further suggested in this order that the subscribers should act in conjunction with the Telephone Company to give the most efficient service, and that the miscellaneous use of the telephone by those who are not subscribers, should not be encouraged by the subscribers themselves; That the Telephone Company is entitled to remuneration when its lines are used by other than those of its subscribers and that if the line is made to pay in that section of the country, it will require the united effort and good feelings on the part of the Company as well as the people who are expecting the service.

Dated at Salt Lake City, Utah, this 1st day of November, A. D. 1917.

(Signed)
JOSHUA GREENWOOD,
We concur: President.
(Signed)
WARREN STOUTNOUR,
(SEAL) HENRY H. BLOOD,
Attest: Commissioners.
(Signed) T. E. BANNING,
Secretary.

16. **AMERICAN FORK CITY, UTAH,** an incorporated City, by John Hunter, Mayor, Complainant,
vs.
UTAH POWER & LIGHT COMPANY, Defendant.

Complaint was filed October 26, 1917, by American Fork City, against the proposed increase of the minimum rate by the Power Company, together with the cash discount allowed for prompt payment. (See Case No. 12) Complainant also attacked rates for power service.
PENDING.

17. **JUMBO PLASTER & CEMENT COMPANY,** Complainant,
vs.
DENVER & RIO GRANDE RAILROAD CO., et al., Defendants.

Complaint filed December 8, 1917, against the freight rates on crushed gypsum rock from Sigurd, Utah, to Devil's Slide, Utah. PENDING.

18. **In the Matter of the Application of the BEAR RIVER VALLEY TELEPHONE COMPANY,** for permission to increase its charges.

Petition filed on September 13, 1917, asking for permission to increase the charges for telephone service.
PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the matter of TRANSPORTATION IN EXCHANGE FOR ADVERTISING. Transportation of persons or property cannot be issued in exchange for newspaper or other advertising.	**Case No. 126**

REPORT OF THE COMMISSION.

By the Commission:

The Commission having been called upon to render a ruling as to whether common carriers within the State of Utah may legally issue transportation to publishers of newspapers and their employees in exchange for newspaper advertising, finds as follows:

Under the Act to Regulate Commerce, passed June 29th, 1906, the Interstate Commerce Commission has held that nothing but money can lawfully be received or accepted for transportation, subject to the Act. (Conference Ruling No. 207, Sept. 15th, 1906.)

The Supreme Court of the United States in the case of the Chicago, Indianapolis and Louisville Railway Company, vs. the United States, appealed from the decision of the District Court of the United States for the North District of Illinois, has given construction to Section Six of the Interstate Commerce Act.

In the above case petitioner alleged that the defendant Railroad Company made a written contract with Frank A. Munsey Company, Publisher, whereby said publisher was to furnish certain advertising in consideration of the said railroad issuing to it transportation, based on the regular published rate, the transportation to be trip tickets or mileage, the value of the advertising to be $500.00, and the value of the transportation to be $500.00. The petitioner alleged that this contract and other similar contracts made by other railroad companies with publishers of magazines and newspapers, are in violation of the Act of Congress regulating commerce, referring particularly to Sections Two and Six, in that the contracts require furnishing of interstate transportation at rates which in this instance are "less and different" than the rates contemporaneously exacted from the general public under substantionally similar circumstances and conditions.

In discussing this case Chief Justice Harlan said:

"The decisive question in this case is whether the contract between the railway company and the Munsey Company is repugnant to the act of Congress regulating commerce. In other words, could the Company, in return for the transportation which it agreed to furnish and did furnish to the Munsey Publisher over its interstate lines, and to his employees and to the immediate member of his and their families, accept as compensation for such service anything less than money, the amount to be determined by its published schedule of rates and charges. Upon the authority of Louisville & Nashville R. R. Co., vs. Mottley, in Volume 219 of the U. S. Court Reports, at page 467, and according to the principles announced in the opinion in that case, the answer to the above question must be in the negative. The acceptance by the railway company of advertising, not of money, in payment of the interstate transportation furnished to the publisher of the Munsey Magazine, his employees and the immediate member of his and their families, was for the reasons given in the Mottley case, in violation of the commerce act. The facts in the present case show how easily, under any other rule, the act can be evaded and the object of Congress entirely defeated. The Legislative Department intended that all who obtained transportation on interstate lines should be treated alike in the matter of rates, and that all who availed themselves of the services of the railway company (with certain specified exceptions), should be on a plane of equality. Those ends cannot be met otherwise than by requiring transportation to be paid for in money which has a certain value known to all and not in commodities or services or otherwise than in money.

"In the case of the Louisville & Nashville R. R. Co. vs. Mottley, supra, the Court in construing what was meant by the words 'a greater or less or different compensation' found in the Interstate Commerce Act, said: 'The words "or different," looking at the context cannot be regarded as superfluous or meaningless. We must have regard to all the words used by Congress, and as far as possible give effect to them. This history of the act relating to commerce shows that Congress, when introducing into the act of 1906, the word "different" had in mind the purpose of curing a defect in the law and of suppressing evil practices under it by prohibiting the carrier from charging or receiving compensation except as indicated in its published tariff.'"

The principles laid down above are also found to govern in the following cases:

U. P. Ry. vs. Goodridge, 149 U. S. 690, 691;
Gulf, Colorado, etc., Ry. Co. vs. Hefley, 158 U. S. 98, 102;
I. C. C. vs. Ches. & Ohio Ry. Co., 200 U. S. 361, 391;
Texas & Pacific Ry. Co. vs. Abilene Cotton Oil Co., 204 U. S. 426, 439.

Section 37 of the Act providing for the Regulation of Public Utilities, in the State of Illinois, approved June 30, 1913, reads as follows:

> "Except as in this regulation 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 or other charges applicable to such product or commodity or service as specified in its schedule on file and in effect at the time, except as provided in Section 35. Nor shall any such public utility refund or remit directly or indirectly in any manner or by any device in violation of the rules or charges so specified, or extend to any corporation or person in the form of a contract or agreement or any rule or regulation or any facility or privilege except as are regularly and uniformly extended to all corporations and persons."

Commissioner Thompson of the Public Utilities Commission of Illinois, in a decision rendered on October 8th, 1914, in Case No. 2948, which involved the exchanging of advertising for transportation, cited the case above mentioned, and held as follows:

> "There is complete analogy as to the words employed in the Interstate Commerce Act, and the words employed in creating the Public Utilities Commission of Illinois; the words are not only analogeous, they are positively identical. Different compensation as applied to the Illinois Act cannot be held to mean something other and different from that from which it has been construed to mean by the Interstate Commerce Commission and the Supreme Court of the United States. The object sought to be attained and the authorities above quoted permit no construction of said act which would authorize this Commission to allow railway companies and publishers to enter into a contract with reference to transportation which includes a compensation other than money. To

authorize such an exchange would defeat the purpose of the law which requires the filing of rates and schedules. Rates and schedules filed would become meaningless. No information of real value would be obtainable where an effort was made to ascertain what rates and charges were being made for a service rendered in the way of transportation. If compensation for transportation may be paid by advertising in newspapers, then on principal, transportation may be paid for under any arrangement of barter, exchange or trade, on the same basis that property is transferred from one to the other. Values of property other than money rest solely within the judgment of men. There is no fixed standard by which a certain quantity of property of any kind can be said to equal at all times a definite sum of money. Confusion, discrimination and inequality would certainly attend such contracts if permitted under the law."

A comparison of the Act to Regulate Commerce, passed June 29th, 1906, with the Laws of the States of Utah and Illinois, developes that the language used in the sections relating to transportation is identical, except the state laws include other utilities than common carries. Section Six of the Act to Regulate Commerce provides: "No common carrier * * * shall charge, demand, collect or receive a greater or less or different compensation * * * ."

In Section 37 of the Public Utilities Commission Law of Illinois, approved June 30th, 1913, we find: "* * * no public utility shall charge, demand, collect or receive a greater or less or different compensation * * * ."

Section 6 of the Public Utilities Act of Utah, approved March 8th, 1917, is identical with the law of Illinois quoted above.

IT IS THEREFORE HELD, That the issuance of transportation in exchange for newspaper or other advertising, is in violation of the Public Utilities Act of Utah, approved March 8th, 1917.

An order will issue in accordance herewith.

(Signed) JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

(Seal)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER.

At a General Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 10th day of December, A. D., 1917.

In the matter of TRANSPORTATION IN EXCHAGE FOR ADVERTISING } **Case No. 126**

The question before the Commission having been considered and the Commission having, on the date hereof, made and filed a report containing its findings and conclusions thereon, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That carriers may not issue, nor any person accept transportation for either persons or property, for other than actual money consideration.

ORDERED FURTHER, That any and all contracts now existing between newspaper or other publishers and common carriers, be terminated on or before January 1st, 1918.

By the Commission,

Signed) T. E. BANNING,
Secretary.

(Seal)

APPENDIX I.

Part 2—Informal Cases.

In re Application of Denver & Rio Grande Railroad Company for relief from the Commission's tentative general order governing clearance at Salt Lake City freight depot.

GRANTED.

In re Commutation Tickets on Bingham & Garfield Railway Company. Rate reduced from $5.25 to $4.70 for thirty rides between Salt Lake City and Magna, July 12, 1917.

CLOSED.

In re BINGHAM & GARFIELD Commutation tickets. Due to change in time of trains, commutation tickets would not permit holders to reach Magna and Arthur in time for work. Order issued authorizing refund of value of unused portion of commutation tickets. CLOSED.

In re Spur Track—UNION PACIFIC RAILROAD COMPANY.. Advice was received that the spur track leading to the Weber Coal Company's mine, two miles east of Coalville, Utah, was in no condition to be used. The matter was taken up with the Railway officials and an agreement was reached whereby the track would be repaired immediately.

CLOSED.

In re Coal from Utah Mines. Complaint having been made that the DENVER & RIO GRANDE RAILROAD COMPANY was not furnishing sufficient cars to handle the output of the Utah mines, the Commission investigated the matter and succeeded in securing an ample supply of cars.

CLOSED.

In re Cars for Lime Rock. Complaint was received on September 15, 1917, that the Denver & Rio Grande Railroad Company was not furnishing sufficient cars to supply the Sugar Factory at Logan with lime rock. The matter was taken up with the Railroad and sufficient cars were furnished. CLOSED.

In re Round Trip Tickets on DENVER & RIO GRANDE RAILROAD COMPANY. Complaint having been made that

the Denver & Rio Grande had discontinued the sale of round trip tickets between Green River and Salt Lake City, thereby effecting an increase of rates, the matter was taken up with the Railroad and arrangements made whereby tickets would be sold at the former rate. CLOSED.

In re Service—DENVER & RIO GRANDE RAILROAD COMPANY. Complaint having been made by various shippers of the poor service accorded L. C. L. freight, the Commission took the matter up with the Railroad Company, and has had no further complaint. CLOSED.

In re Rates—SALT LAKE ROUTE. Informal complaint having been made by Morrison, Merill & Co. against the rates on coal from Utah Mines to Salt Lake City, via Salt Lake Route, an informal meeting was held in an effort to adjust the matter. As the Railroad Company refused to establish the rates requested, the complainants were notified that formal complaint should be filed before the Commission could take further action. The complainant did not desire to do this and the matter was closed. CLOSED.

In re DEEP CREEK RAILROAD COMPANY station at Ferber. Application from the Deep Creek Railroad Company to discontinue Ferber Station and cancel rates, account no traffic. GRANTED.

In re Uintah Railway Company WAGON LINE Freight Service. Complaint having been made that the Uintah Railway Company's wagon line was not moving freight consisting of wooden water pipe promptly from Watson to Vernal, the matter was taken up with the Company and satisfactory service secured. CLOSED.

In re Freight Shipments of Merchandise — OREGON SHORT LINE RAILROAD COMPANY. Complaint having been made that the Oregon Short Line Railroad was not promptly unloading its merchandise cars, the matter was taken up and arrangements made whereby the congestion was relieved.

CLOSED.

In re Train Service on the Heber Branch of the DENVER & RIO GRANDE RAILROAD COMPANY. Complaint

was received against the train service accorded on this Branch. The matter was taken up with the Railroad and no further complaints have been received. CLOSED.

In re Service—SALT LAKE, GARFIELD & WESTERN RAILWAY COMPANY. Complaint that the National Wool Growers' Association were unable to secure cars or train service to move 100 cars of live stock from the State Fair Grounds, was received. The matter was investigated by the Commission and arrangements made whereby cars and engines were furnished to handle shipments. CLOSED.

In re Blocking Crossings—UNION PACIFIC RAILROAD COMPANY. Complaint having been made that the Union Pacific Railroad Company was blocking the wagon crossings at Echo, the Commission investigated the matter and notified the Railroad officials. No further complaints have been received. CLOSED.

In re Service—OREGON SHORT LINE RAILROAD COMPANY. Complaint from Brigham City, September 24, 1917, that the Oregon Short Line Railroad Company was unable to furnish cars for handling the peach crop. The matter was taken up with the Railroad Company and a supply of cars secured. CLOSED.

Service—DENVER & RIO GRANDE RAILROAD COMPANY. On October 30, 1917, complaint was received that shipments of coal consigned to a manufacturing concern at Ogden was delayed enroute. This was traced and shipment delivered the following day. CLOSED.

Service—DENVER & RIO GRANDE RAILROAD COMPANY. Complaint was received on November 9, 1917, that sufficient cars for handling potatoes from Sanpete County were not being furnished. The matter was taken up with the Railroad Company and the cars received by shippers. CLOSED.

In re Spur Track—UNION PACIFIC RAILROAD COMPANY. Application to have the spur track from Coalville to Summit Mine repaired. Upon taking the matter up with the Railroad Company the Commission was advised that the track would be placed in proper repair at the earliest possible date. CLOSED.

In re Rates—SALT LAKE ROUTE. Application for reparation on shipment of straw, carloads, from Nephi to Salt Lake City. Investigation developed that charges were assessed in accordance with published tariffs and complainant advised that it would be necessary to file formal complaint. The Commission asked the Railroad Company to amend their tariff so as to permit shippers to load the full minimum weight in a car. No further communications were received from complainant. CLOSED.

In re Reparation—SALT LAKE, GARFIELD & WESTERN RAILWAY COMPANY. Authority to make reparation to a rate of two and one-half cents per ton on coal, Salt Lake City to Crystal Junction, consigned Utah Chemical Company. GRANTED.

In re Reparation—DENVER & RIO GRANDE RAILROAD COMPANY. Application to make reparation of $68.00 to American Smelting & Refining Company, on coke. DENIED.

In re Reparation—OREGON SHORT LINE RAILROAD COMPANY. Complaint that minimum weights on hay moving from point on the Denver & Rio Grande Railroad Company to Wellsville, Utah, exceeded the capacity of the car. Reparation of $3.50 authorized. CLOSED.

In re Reparation—SALT LAKE ROUTE. Application to waive demurrage charges on carload shipment of automobiles forwarded to Milford and returned to Salt Lake City without proper authority. GRANTED.

In re Reparation—SALT LAKE ROUTE. Application to apply seventy-five per cent of the cattle rate on shipment of sheep moving from Oasis to Salt Lake City, February 7, 1917. GRANTED.

In re Reparation—SALT LAKE ROUTE. Application to refund excess charges on shipment of machinery moving Modena to Salt Lake City, account rate published higher than rate from Los Angeles to Salt Lake City. GRANTED.

In re Rates on Asphalt Rock from Asphalt, Thistle and Reo, Utah, to Salt Lake City. DENVER & RIO GRANDE RAILROAD COMPANY made application to cancel rates as above, account no movement.

DENIED.

In re Rates on Sheep—Various Lines. Complaint that the rates assessed by various carriers on feeder sheep from winter range were excessive. Carriers voluntarily reduced rates to cover this movement.

CLOSED.

In re Rates—LOCAL UTAH FREIGHT TARIFF. Complaint against increased rates on petroleum shown in Local Utah Freight Tariff 1-J. The question was taken up with the interested lines and the old rate re-established.

CLOSED.

In re Reparation—OGDEN, LOGAN & IDAHO RAILROAD COMPANY. Authority to refund $19.48, overcharge on shipments of cucumbers from Plain City and Brigham to Ogden, Utah, during July and August, 1917.

GRANTED.

In re OGDEN, LOGAN & IDAHO RAILWAY COMPANY Depot at Providence, Utah. Upon complaint of residents of Providence the Commission took up with the Railway Company the matter of establishing a depot at that station, which was accomplished.

CLOSED.

In re Service—UTAH LIGHT & TRACTION COMPANY. Complaint, October 1, 1917, that the Traction Company was not furnishing sufficient cars upon certain lines during the rush hour period. The matter was taken up and additional service has been furnished.

CLOSED.

In re INDEPENDENT TELEPHONE COMPANY vs. MIDLAND TELEPHONE COMPANY. Order entered reducing switching rates from $1.00 per telephone per month to 75 cents.

CLOSED.

In re Telephone Service—Complaint that the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY was unable to furnish complainant with telephone service that was badly needed. The matter was taken up with the Telephone Company and the service desired was furnished.

CLOSED.

In re Charges—MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY . October 26, 1917, complaint was received that the Telephone Company was assessing a reconnection charge where telephones had been disconnected for non-payment of dues. This rule not having been published the required thirty days the Company was instructed to reconnect the telephone without assessing this charge.

CLOSED.

In re Telephone Number—MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY. Complaint was received on November 6, 1917, that the Telephone numbers of a grocery store that had changed hands had not been changed. Matter was called to the attention of the Telephone Company and a satisfactory settlement made.

CLOSED.

In re Telephone Extension. Complaint was received on July 21, 1917, that the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY would not install telephone service at Stockton, Utah, unless applicant would make a $60.00 deposit. The matter was taken up with the Telephone Company and telephone connected immediately, there having been a misunderstanding between applicant and Telephone Company.

CLOSED.

In re Vacation Rates. Complaint that the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, at Ogden, Utah, was not giving the service offered in their tariff under the head of "Vacation Rates." Investigation developed that the service was in accordance with tariff requirements and no action taken.

CLOSED.

In re Telephone Charges. Complaint that the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY

had discontinued service account non-payment of rentals. Investigation developed that complainant was in arrears and that the Company had complied with their tariff regulations in disconnecting the telephone and assessing charge of $1.00 for reconnection. CLOSED.

In re Deposit—MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY. Complaint against the deposit required by the Telephone Company at Ogden. Complainant was advised that the charges were in accordance with tariff regulations and must be adhered to by the Company.
CLOSED.

In re Telephone Service. Application for individual line service in the Hyland Exchange. This exchange being so congested that the service could not be furnished, the applicant was so advised.
CLOSED.

In re Rural Line Service at Sandy, Utah. On account of labor conditions the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY advised that it had been unable to give this service previously, but that their engineers were engaged in reconstructing a line and telephone service would be available for applicant in the near future.
CLOSED.

In re Service—WESTERN UNION TELEGRAPH COMPANY. Complaint was received that the Western Pnion Telegraph Company, was not delivering messages addressed to Helper, Utah, promptly. This was taken up with the Telegraph Company and a messenger was employed at that point, thus improving the service.
CLOSED.

In re Heber Light & Power Plant, Heber, Utah. Order issued authorizing applicant to assess ten cents per K. W. H. on meter basis, former rates being on a flat basis.
CLOSED.

In re PRICE MUNICIPAL ELECTRIC LIGHT PLANT. Order issued December 3, 1917, authorizing increase in rates from ten to twelve cents per K. W. H.
CLOSED.

In re Charges—CLARK ELECTRIC POWER COMPANY. Upon complaint against the charge of eleven cents per K. W. H. assessed by the Clark Electric Power Company, at Grantsville, informal meeting was had and rate ordered reduced to ten cents per K. W. H.

CLOSED.

In re Electric Light Extension. Complaint received October 31, 1917, that the UTAH POWER & LIGHT COMPANY refused to serve complainant unless he made deposit to cover cost of extension, which was not his understanding at the time he made application. The matter was adjusted satisfactorily. CLOSED.

In re Service—UTAH POWER & LIGHT COMPANY. Complaint that the Utah Power & Light Company had disconnected light service, in Salt Lake City. Investigation developed that this was due to failure of consumer to pay his light bill. Upon payment being made the lights were reconnected. CLOSED.

In re Service—UTAH POWER & LIGHT COMPANY—Extensions. Complaint that the Utah Power & Light Company would not extend its line to furnish light to a resident at Provo, Utah, without deposit to cover cost of construction. Investigation developed that the Company was following its published rules and no relief could be given applicant under complaint filed.

CLOSED.

In re Rates—UTAH POWER & LIGHT COMPANY. Complaint relative charges assessed for power to operate sausage and ice machines. The matter was satisfactorily adjusted between the parties.

CLOSED.

In re Rates—UINTAH POWER & LIGHT COMPANY. Informal complaint that the charges assessed by the Uintah Power & Light Company for power were excessive. The complainant was asked to file formal complaint in order that the matter might be properly handled. No formal complaint being filed no further action taken.

CLOSED.

In re Meter Deposits—PROGRESS COMPANY, Murray, Utah. Informal complaint alleging unreasonableness of meter deposits required by the Progress Company. After investigation the complainant asked that the case be dismissed.

CLOSED.

In re Complaint of ASSOCIATED INVESTMENT COMPANY vs. ST. JOSEPH WATER & IRRIGATION COMPANY. Informal hearing held July 26, 1917, account insufficient water being furnished residents near Cudahy Packing Plant, at North Salt Lake. No further complaints received.

CLOSED.

APPENDIX I.

Part 3—Ex Parte Orders Issued.

RAILROADS.

During the period covered by this report the Commission acted upon two hundred seventy-eight applications for permission to publish rates upon less than statutory notice. By far the greater number of these applications were for permission to effect reductions in the existing rate or fare. These ex parte orders may be classified by railroads, as follows:

Name.	Number
Bingham & Garfield Railway Co	16
Denver & Rio Grande Railroad Co	44
Deep Creek Railroad Company	3
F. W. Gomph, Agent	1
C. H. Griffin, Agent	13
Ogden, Logan & Idaho Railway Co	47
Oregon Short Line Railroad Co	24
St. John & Ophir Railroad Co	1
Salt Lake & Ogden Railway Co	32
Salt Lake Route	36
Salt Lake, Garfield & Western Ry. Co	4
Southern Pacific Company	1
Tooele Valley Railway Company	1
Union Pacific Railroad Company	8
Western Pacific Railroad Company	19

Automobile Stage Lines.

The Commission issued ten ex parte automobile orders. These orders may be classified as follows:

	Number
Permission to change schedule, discontinue operation, etc.	6
Permission to make increases in rates	3
Permission to make reductions in rates	1

APPENDIX II.

Part 1.—General Orders.

Part 2.—Tariff Circulars.

APPENDIX II.

Part 1.—General Orders.

PUBLIC UTILITIES COMMISSION OF UTAH.

General Order No. 1.

In re: Proposed increases in freight rates in the State of Utah.

Application having been made by Geo. H. Smith and John O. Moran, attorneys for the various railways operating within the State of Utah, for permission to file brief supplements to existing tariffs making a horizontal increase of 15 per cent in all existing freight rates of petitioners over which this Commission has jurisdiction, such increased rates to become effective July 1, 1917;

And it appearing that similar action has been approved by the Interstate Commerce Commission in their "Special Permission No. 41750," dated April 23rd, 1917;

And it further appearing that similar petitions have been filed with the various State Commissions throughout the Intermountain and Western Territory;

And it further appearing that there is no reason why this Commission should not grant similar authority;

It is therefore ORDERED that the carriers be, and they are hereby permitted to file special supplements to freight tariffs upon not less than 30 days' notice to the Commission and the general public, proposing to increase, effective July 1, 1917, rates and charges which are in effect on said July 1, 1917, but not thereafter, provided that this order be, and it is subject to the rules and provisions prescribed in "Special Permission No. 41750," issued by the Interstate Commerce Commission on the 23rd day of April, 1917, in so far as said provisions are applicable. The Commission does not hereby approve any rates or charges that may be filed under this authority, all such rates or charges being subject to protest, suspension, complaint, investigation and correction, if in conflict with any provisions of the act.

By the Commission.

(Signed) HAROLD S. BARNES,
Acting Secretary.

Dated: Salt Lake City, Utah, May 19, 1917.

(For further action on proposed rates see Formal Case No. 3.)

PUBLIC UTILITIES COMMISSION OF UTAH.

General Order No. 2.

Section Fifteen, Article Four, of the Public Utilities Act of Utah, effective March 18th, 1917, provides:

> "Every public utility is hereby required to file with the Commission, under such rules and regulations as the Commission may prescribe, a report of each accident occurring of such kinds or classes as the Commission may from time to time designate."

In accordance with the foregoing, the Public Utilities Commission of Utah has adopted the standard rules of the Interstate Commerce Commission, 1915 Revision, effective July 1, 1915, as to rules governing reports of accidents occurring on steam and electric railways, and has adopted the I. C. C. standard form of reports, and all common carriers subject to the Public Utilities Act of Utah shall be governed accordingly, provided that when any such accident occasions the loss of life or limb to any person, or accidents resulting in damage to equipment and tracks amounting to One Hundred Fifty ($150.00) Dollars, or over, such railway shall immediately notify the Commission by the speediest means of communication, whether telephone, telegraph or post.

This order shall be effective as of March 8, 1917, and all accidents which have occurred since March 8th, 1917, shall be promptly reported. Effective October 1, 1917, all such reports must be filed within thirty days after the close of the month for which report is rendered.

Done in open session at the office of the Commission, Salt Lake City, this Twenty-first day of August, A. D. 1917.

(SEAL)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

Attest:

T. E. BANNING, Secretary.

IN THE MATTER OF PROMULGATING AND ESTABLISHING RULES GOVERNING THE CONSTRUCTION OF CLEARANCES AND CONSTRUCTION OF CROSSINGS OF RAILROADS, INTERURBAN RAILROADS, AND STREET RAILROADS, WITH EACH OTHER, AND WITH STREETS AND PUBLIC HIGHWAYS; IN ADDITION, OTHER OVERHEAD AND SIDE CLEARANCES OF RAILROADS, INTERURBAN RAILROADS AND STREET RAILROADS IN THE STATE OF UTAH.

TENTATIVE GENERAL ORDER.

The subject of uniform rules and regulations governing the clearances and construction of crossings of railroads, interurban railroads, street railroads, with each other and with streets and public highways, in addition, other overhead and side clearances of railroads and street railroads, in the State of Utah, being under consideration; and

The Commission having caused investigation to be made, and being fully advised in the premises;

IT IS HEREBY ORDERED, that the following rules and regulations be, and the same hereby are, adopted and promulgated for the government of all utilities interested therein, or affected thereby;

These rules and regulations shall apply to all new construction and reconstruction of all utilities interested therein in the State of Utah, but do not limit the right of the Commission to order the change of any existing installation that is hazardous.

CLEARANCES.

Article "A."

Sec. I. Railroads, interurban railroads and street railroads.

When railroads, interurban railroads, street railroads, street or public highways, cross above railroads, interurban railroads or street railroads, which transport or propose to transport standard freight cars, a minimum overhead clearance above the top of rails shall be provided of twenty-two (22) feet. When such crossings are above street railroads which do not transport or propose to transport standard freight cars and are not located on streets or public highways, the minimum clearance above top of rail of such street railroad shall be nineteen (19) feet. When such crossings are over and above such street railroads located on streets or pub-

lic highways the minimum clearance above top of rail shall be fourteen (14) feet. When such crossings are above railroads and interurban railroads operated by overhead trolley wires the minimum clearance above top of rail shall be twenty-two (22) feet, or otherwise as specified in Article "C," of Section 1 of this order.

For bridges, tunnels and other overhead structures, the minimum overhead clearance above the top of rails of railroads, interurban railroads and street railroads, which transport or propose to transport standard freight cars, shall be twenty-two (22) feet.

Sec. II. The minimum side clearance on each side of the center line of the main line of railroads, interurban railroads and street railroads, for tunnels, bridges, water stations, fuel stations, pole lines, and all other side structures, shall be eight (8) feet, except in case of double track, interurban railroads and street railroads, with center pole construction, when such minimum clearance shall be seven and one-half ($7\frac{1}{2}$) feet.

Sec. III. The minimum clearance between the center line of yard and industrial tracks of standard gauge railroads, interurban railroads and street railroads, and the sides of nearest projection of buildings and structures, including platform of height greater than four (4) feet above top of rail, shall be eight and one-half ($8\frac{1}{2}$) feet. For platforms four (4) feet or less in height, the minimum clearance shall be seven and one-half ($7\frac{1}{2}$) feet.

For narrow gauge railroads, yard and industrial tracks, the minimum clearance between the side of the widest car and the nearest projection of any side structure, including platforms of a height greater than four (4) feet above the top of rail shall be forty-two (42) inches, and in the second case mentioned in the above paragraph, twenty-seven (27) inches.

All above named distances in this section are considered in connection with straight work. In case of curved track, such additional distance allowance shall be made that will give the same relative car clearance for curved as for straight track.

Sec. IV. The minimum distance between the center lines of parallel tracks, standard gauge railroads and interurban railroads, measured at right angles thereto, shall be thirteen (13) feet, except that for house tracks and team tracks, such distance may be twelve (12) feet.

For narrow gauge railroads, such distance shall be sufficient to provide a clearance between the sides of the widest cars, in the first case, of not less than thirty-six (36) inches, and in the second case of not less than twenty-one (21) inches.

Sec. V. The minimum distance between the center lines of all tracks of standard gauge street railroads, shall be eleven and one-half ($11\frac{1}{2}$) feet. For narrow gauge street railroads, such distance shall be sufficient to provide a clearance between the sides of widest cars of not less than twenty-eight (28) inches.

STREETS AND PUBLIC HIGHWAYS.

Article "B."

Sec. 1. Railroads, interurban railroads and street railroads which cross above streets and public highways not occupied by railroads, interurban railroads or street railroads, shall have a minimum overhead clearance above the surface of such streets or highways, of fourteen (14) feet, and a minimum side clearance between abutments or supports, when one span is used, of twenty (20) feet; and a minimum side clearance when two or more spans are used, of twelve (12) feet. When such streets or public highways are occupied by railroads, interurban railroads, or street railroads, the minimum overhead clearance shall be as specified hereinbefore, in Article "A," Section I.

When the street or public highway is occupied by one track, the minimum horizontal distance between abutments or supports shall be twenty-eight (28) feet, and when there is more than one track, an additional distance allowance shall be added for each track, of thirteen (13) feet.

TROLLEY WIRES AND TROLLEY FEEDERS.

Article "C."

Sec. I. Trolley wires and trolley feeders, of railroads, interurban railroads and street railroads, which transport or propose to transport standard freight cars, shall have a minimum clearance over their own rails of twenty-two (22) feet, and of other street railroads of nineteen (19) feet, provided that at under grade crossings mentioned in Article "B," Section I, where maximum clearance of trolley wires above rails shall be secured under conditions therein specified, such trolley wires and trolley feeders shall have a minimum clear-

ance at crossings, above the rails of other railroads, interurban railroads and street railroads, which transport or propose to transport standard freight cars, of twenty-two (22) feet, and above other street railroads, of nineteen (19) feet.

For cause shown in special cases, the Commission may afford relief from the operation of these regulations, to any particular public utility, when public convenience and safety will not be injured.

The Commission will issue at a later date, rules governing the construction of pole, wire and cable lines, of telephone, telegraph, signal, electric power, and other circuits of similar character, other than trolley and feeder lines; and for the crossing of wires or cables of telegraph, telephone, signal electric power and other circuits, in the State of Utah.

This order shall be effective on and after September 1st, 1917.

By order of the Commission.

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSON OF UTAH

In the Matter of Promulgating and establishing rules governing the clearance of electrical conductors, carrying electricity, when constructed over and across railroads, interurban railroads, and street railroads, in the State of Utah.

TENTATIVE GENERAL ORDER.

The question of establishing rules governing the clearance of electrical conductors when constructed over and across railroads, interurban railroads, and street railroads, in the State of Utah, having come before the Commission, and the Commission having caused investigation to be made, and being fully advised in the premises;

IT IS HEREBY ORDERED, That the following rules and regulations be, and the same are hereby tentatively adopted and promulgated:

Clearance of Electrical Conductors Above Top of Rails, of Railroads, Interurban Railroads, and Street Railroads, in the State of Utah.

No wires carrying electrical currents, except trolley wires, shall be constructed across any railroad, interurban railroad or street railroad, nor shall any railroad, interurban railroad, or street railroad be constructed beneath any wires carrying electrical currents, without having filed with the Public Utilities Commission of Utah, at least ten days prior to beginning of such construction, a drawing showing the general plan of the right-of-way, tracks, wires, and construction proposed, including location of the poles of both crossings and adjoining spans, the number, kind, and size of wires, etc.

The clearance of all said wires above the top of rails shall at all times, and under any conditions of loading and temperature, be not less than twenty-eight (28) feet for circuits carrying voltages of 15,000 or less. For circuits exceeding 15,000 volts, the clearance above top of rail specified above, shall be increased three-fourths ($\frac{3}{4}$) inch for each additional 1,000 volts.

These rules and regulations shall apply to all new construction and reconstruction of all utilities interested therein, in the State of Utah, but do not limit the right of the Commission to order the change of any existing installation that is hazardous.

Effective December 1st, 1917.

By the Commission.

Dated at Salt Lake City, Utah, this 1st day of December, A. D. 1917.

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

APPENDIX II.

Part 2.—Tariff Circulars.

PUBLIC UTILITIES COMMISSION OF UTAH.

TARIFF CIRCULAR No. 1.

FREIGHT TARIFFS shall be published and filed in accordance with the rules of the Interstate Commerce Commission, Circular 18-A. In addition they shall bear on the title page, "P. U. C. U. No.....," and if a previous issue bearing P. U. C. U. member is cancelled by the publication, the P. U. C. U. numbers of cancelled tariffs must be shown in smaller type directly beneath current number, using separate series for freight and passenger tariffs.

PASSENGER TARIFFS (except excursion tariffs issued on less than statutory notice) shall be published and filed as provided in I. C. C. Circular 18-A, and shall bear in addition, "P. U. C. U. No.....," same being shown on title page. When a tariff is reissued the P. U. C. U. number of cancelled tariff shall be shown in smaller type directly beneath current number.

SPECIAL EXCURSION TARIFFS issued on less than statutory notice may be typewritten or mimeographed when consisting of not more than four (4) pages, and must be filed as prescribed by I. C. C. Circular 18-A, and in addition by posting two (2) copies in each waiting room at each agency station from which tariff applies.

Issued July 7th, 1917. Effective July 16th, 1917.

By order of the Commission.

T. E. BANNING,
Secretary.

PUBLIC UTILITIES COMMISSION OF UTAH.

TARIFF CIRCULAR No. 2.

Supersedes Tariff Circular No. 1, Dated July 16, 1917.

FREIGHT TARIFFS shall be published and filed in accordance with the rules of the Interstate Commerce Commission, Circular 18-A. In addition they shall bear on the title page, "P. U. C. U. No.....," and if a previous issue bearing P. U. C. U. number is cancelled by the publication, the P. U. C. U. number of cancelled tariffs must be shown in smaller type directly beneath current number, using separate series for freight and passenger tariffs.

PASSENGER TARIFFS shall be published and filed as provided in I. C. C. Circular 18-A, and shall bear in addition, "P.U.C.U. No. ....," the same being shown on title page. When a tariff is reissued the P. U. C. U. number of cancelled tariff shall be shown in smaller type directly beneath current number.

SPECIAL EXCURSION TARIFFS may be issued on less than thirty days' notice to the public and to the Commission, as provided in Interstate Commerce Commission Circular 18-A, and may be typewritten or mimeographed when consisting of not more than four (4) pages, and must be filed as prescribed by I. C. C. Circular 18-A, and in addition by posting two (2) copies in each waiting room at each agency station from which tariff applies.

CONCURRENCES AND POWERS OF ATTORNEY shall be filed with the Commission in substantially the same form described by the Interstate Commerce Commission, substituting the words Public Utilities Commission of Utah whenever the words Interstate Commerce Commission appear. This shall apply to Freight and Passenger Tariffs.

A JOINT AGENT duly authorized to act for several carriers must file joint tariffs or exception sheets under P. U. C. U. serial numbers of his own.

INTERSTATE TARIFFS; Every carrier or Joint Agent publishing tariffs naming rates covering the transportation of persons or property from points in the State of Utah to points in other states or territories or from points in other states or territories to points in the State of Utah, shall file

with the Public Utilities Commission of Utah two (2) copies of all such tariffs in the manner provided above.

Issued December 10th, 1917. Effective January 1st. 1918.

By the Commission.

T. E. BANNING,
Secretary.

APPENDIX III.

Part 1.—Grade Crossing Permits.

Part 2.—Certificates of Convenience and Necessity.

APPENDIX III.

Part 1.—Grade Crossing Permits.

The Commission issued thirteen Highway Grade Crossing Permits during the period covered by this report. These permits granted authority to construct grade crossings, and prescribed the necessary safety precautions established by the Commission. Following permits were issued:

Name.	Number
Amalgamated Sugar Company	2
Denver & Rio Grande Railroad Co.	1
Los Angeles & Salt Lake Railroad Co.	3
Ogden, Logan & Idaho Railway Co.	2
Oregon Short Line Railroad Co.	1
Salt Lake & Utah Railroad Co.	3
Salt Lake Terminal Company	1

APPENDIX III.

Part 2.—Certificates of Convenience and Necessity.

1. Application of the SOUTHERN UTAH POWER COMPANY for permission to construct, maintain and operate a transmission and distributing system in the towns of Marysvale, Piute County, Utah, and in the city of Panguitch, Garfield County, Utah, and to construct, operate and maintain a power plant in said city of Panguitch.

GRANTED.

2. Application of the UTAH POWER & LIGHT COMPANY for permission to construct an electric transmission line from its Grace Power Plant in Idaho to its Terminal Substation located six miles west of Salt Lake City, Utah, through the corporate limits of Brigham City, Perry and Willard City, Fielding and Paradise.

GRANTED.

3. Application of the SOUTHERN UTAH POWER COMPANY for permission to construct electric power transmission and distributing lines in the Counties of Garfield and Piute, State of Utah.

GRANTED.

APPENDIX IV.

Part 1.—Accidents.

APPENDIX IV.

Part 1.—Accidents.

The Commission is charged with the duty of safeguarding the operations of various utilities, and in this connection adopted the standard form of accident reports used by the Interstate Commerce Commission, upon which it is required that all common carriers subject to the Public Utilities Act report all accidents resulting in serious injury to persons, or in loss of life, or destruction or damage of property to the extent of $150.00 or over. It has been the practice to investigate the serious accidents and where necessary to make recommendations with the purpose of preventing similar accidents in the future.

The Commission investigated thirteen accidents which were reported by various utilities. Recommendations were made by the Commission as a result of the following investigations:

DENVER & RIO GRANDE RAILROAD CO.

On May 21, 1917, C. F. Hiller, a machinist employed in the Denver & Rio Grande Railroad Shops at Salt Lake City, was electrocuted due to insulation being worn from the extension cord to the electric light being used, the cord coming in contact with steel borings upon the floor. The electric current used was 220 volts.

Recommended that extension cords he checked in and out of tool room, and carefully inspected; that voltage be reduced from 220 to 110 volts; that all borings be swept up at completion of each job and at the close of each day. Recommendation adopted by the Company.

August 8, 1917, Frank Prazen and Joseph Sonone, while making repairs to freight cars in the Helper Yards of the Denver & Rio Grande Railroad Company, were seriously injured. Investigation developed the fact that the rip track is on a heavy grade, and some of the cars ran away, colliding with cars being repaired. The flag or signal used to protect workmen on this track would be of little use in accidents of this nature.

Recommended that rip tracks be protected at each end with Hayes derails, or derails of similar type, said derails to

be connected with targets, locked, painted blue, and operated only by foreman of rip track. Recommendation adopted by the Company.

On September 15, 1917, westbound and eastbound trains collided, near Maxwell, Utah, account of misreading train orders. Upon investigating conditions at this point it was found that Maxwell is located on a curve at the top of a small divide, and that an old irrigation ditch runs near the railway track which ditch is covered by a heavy growth of brush.

Recommended that the brush be removed so as not to obstruct the view.

OGDEN, UNION RAILWAY & DEPOT COMPANY.

On June 9, 1917, Mrs. Christensen, of Ogden, Utah, was struck by Union Pacific train. Mrs. Christensen was walking between the track and right-of-way fence.

Recommended that warning signs be placed along this right-of-way. This was done by the Company.

SALT LAKE ROUTE.

H. R. Robinson and E. G. Wideman, while standing on the top of empty cars, near Hickory Spur, Utah, came in contact with high tension wires of the Beaver River Power Company.

Recommended that Railroad Company check all crossings where high tension wires pass over, with a view of obtaining the proper clearance. Recommendation carried out.

OREGON SHORT LINE RAILROAD CO.

On May 28, 1917, while adjusting load of steel in the Ogden Yards, several workmen were injured when the brace on which the steel was resting slipped. Investigation developed that the steel had been improperly loaded at point of origin.

Recommended that instructions be issued as to the proper method of loading, so as to eliminate the necessity of re-adjusting the load en route. Adopted.

L. H. Becraft, Jr., was seriously injured by being struck by a switch engine while crossing tracks at Twenty-second Street, Ogden, Utah. Investigation showed that a high bill-board on a vacant lot located on the northwest corner of the

intersection, would obstruct the view of persons approaching this crossing.

Recommendations made to Oregon Short Line Safety Department, that this conditions be eliminated.

On October 27, 1917, while looking out of the cab window, V. H. McChord suffered a scalp wound, when passing the linen house of the Pullman Company, North Yards, Salt Lake City, account insufficient clearance.

Recommended that proper clearance be maintained. Adopted by the Railroad Company.

UTAH POWER & LIGHT COMPANY.

Reports reached the Commission of hay derrick accidents occurring when farmers attempted to move their derricks under high tension wires without lowering the boom.

Recommended that an educational campaign be carried out with farmers living near lines of the Utah Power & Light Company, and that some warning sign be placed on the poles. Recommendation adopted by the Company.

APPENDIX V.

Part 1.—Rules of Practice and Procedure.

Part 2.—Rules and Regulations Governing Automobile Stage Lines.

APPENDIX V.

Part 1.—Rules of Practice and Procedure.

PUBLIC UTILITIES COMMISSION OF UTAH.

Rules of Practice and Procedure and Forms Governing Matters before the Commission.

Rule I. Definitions.

1. The term "Petition" when used herein means a Formal proceeding, having for its purpose the Granting of Relief or permission to do and perform an Act, or the suspension of an Act or Acts.

2. 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 upon either (a) a complaint, petition or (b) an application.

3. 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.

4. 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.

General sessions of the Commission for hearing contested cases will be held at its office in the Capitol, in the City of Salt Lake on such days and at such hours as the Commission may designate, or at such other places as the Commission may designate.

The principal office of the Commission shall be in Salt Lake City, Utah, and shall be open for business between the hours of 9 o'clock a. m. and 5 o'clock p. m., each legal business day in the year.

Rule III. Secretary to Furnish Information.

The Secretary to the Commission will, upon request, ad-

vise as to the form of petition, answer, or other papers necessary to be filed in any case, and furnish such information from the files of the Commission as will conduce to a full presentation of material facts.

Rule IV. Formal Proceedings—General Matters Applicable to All Cases.

1. ADDRESS OF THE COMMISSION. All communications should be addressed to "Public Utilities Commission, State Capitol, Salt Lake City, Utah."

2. CASE NUMBERS AND TITLES. Each matter coming formally before the Commission will be known as a case and shall receive a number and a title, descriptive of the subject matter. Such number and title shall be used on all papers in the case.

3. FORM AND SIZE OF PAPER FILED. All documents filed with the Commission shall be printed or typewritten, and, so far as practicable, shall be upon paper 8½ by 13 inches in size.

4. SERVICE OF PAPERS. Notices, orders or other papers may be served personally or by mail as provided by Section 2 of Article 5 of the Public Utilities Act, or by the Code of Civil Procedure, and when any party has appeared by attorney, service upon such attorney will be deemed proper service upon the party.

5. WITNESSES AND SUBPOENAS. Subpoenas requiring the attendance of witnesses for the purpose of taking testimony may, upon the application of any party, be signed and issued by any member of the Commission or by the Secretary.

Subpoenas for the production of books, papers or documents (unless directed to issue by the Commission upon its own motion) will only be issued, in the discretion of a Commissioner, upon application in writing.

6. AMENDMENTS. The Commission may, in its discretion, allow any complaint, answer, petition or other paper to be amended or corrected or omission to be supplied therein.

7. ORDERS. All orders made by the Commission shall be filed in the office of the Commission and certified copies thereof shall be served upon the parties to be affected thereby.

Miscellaneous rulings shall be filed in the office of the

Commission, and copies thereof shall be served upon the parties affected thereby, so far as practicable.

8. INTERVENTION. In any formal proceeding, the Commission may permit any corporation, association, body politic or person, having an interest in the result of such proceedings, 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 petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision 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 corporation, unless the same be signed by the mayor or the president or chairman of the board of aldermen or a majority of the council, commission or other legislative body of any city, town, village or county, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers, or prospective consumers or purchasers, of such gas, electricity, water or telephone service.

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 Utah," shall bear a heading showing the name of the complainant and the name of the defendant and shall state:

(a) The full name and postoffice address of the complainant.

(b) The full name and postoffice 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 postoffice address of such attorney and shall be verified. Complaints by unincorporated associations may be verified by any officer or director thereof.

(b) No oral or unsigned complaint will be entertained or acted upon by the Commission. (For form of formal complaint, see page 24.)

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 UPON FILING OF COMPLAINT. Upon the filing of a formal complaint, the Commission shall immediately mail a copy thereof to each defendant. This copy shall be sent by way of information only, and each defendant shall be allowed five days within which to point out to the Commission in writing, such defects in the complaint as, in the opinion of the defendant, require amendment. The Commission will then give consideration to the defects, if any, so enumerated. Trivial defects shall be disregarded. Should the Commission, however, be of the opinion that the defects brought to its attention are so vital that the complaint should be amended, the Commission will require the complainants to amend the complaint.

Whenever the Commission is of the opinion that the complaint is sufficient, it shall formally serve a copy thereof upon each defendant, together with an order directly to each defendant, requiring that the matter complained of be satis-

fied, 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 file with the Commission, within the time allowed for the satisfaction or answer, a statement of the relief which he is willing to give. The Commission shall immediately forward a copy thereof to the complainant. If, in his opinion, the satisfaction meets the complaint, the complainant shall make written request to the Commission that the complaint be dismissed.

If the complainant is of the opinion that the satisfaction does not meet his complaint, he shall so notify the commission, whereupon the Commission shall notify the defendant that the latter must answer the complaint.

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.

Before the answer may be filed, it must be served by the defendant upon each complainant or his attorney and an acknowledgment or affidavit of such service must be attached to the answer.

The answer must contain a specific denial of such material allegations on the complaint as are 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 complaint, but a motion to dismiss may be made at the hearing.

The answer must be signed and verified by the defendant filing the same. The attorney, if any, shall also sign the answer and must state his address. If the defendant is a corporation or an association, the answer may be signed and verified by any officer or director thereof.

The original answer must be filed together with two copies thereof.

(For form of answer and verification, see page 26.)

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.

(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. Hearing shall be held in the office of the Commission, in Salt Lake City, Utah, 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 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. 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 verified, 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 hearing, 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, unjust or unreasonable. 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 14 or Article 5 of the Public Utilities Act.

Rule VII. Formal Applications.

1. CONTENTS OF APPLICATION. All formal applications must be by petition in writing. The petition must set forth the full name and postoffice address of the applicant, and must contain fully 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.

The application shall be signed by the applicant and the attorney, if any. Where an attorney signs the application, his address shall be given.

(For Form of Application, see page 24.)

2. VERIFICATION. Every application must be verified by each applicant. If the applicant is a corporation or association, any officer or director thereof may verify the application.

3. NUMBER OF COPIES. At the time the original application is filed, four additional copies must also be filed.

4. ARTICLES OF INCORPORATION. If the applicant is a corporation, a certified copy of its articles of incorporation shall be annexed to the application. If applicant's articles of incorporation have already been filed with the Commission in some prior proceeding, it shall be sufficient if this fact is stated in the application and reference is made to the title and number of the prior proceeding.

Rule VIII. Extension 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 the time specified, and for any reason is unable to do so within the time speci-

fied, 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 IX. Switch Connections and Spurs—Complaints For.

When complaint is made for the installation of a switch connection or spur, under the provisions of Section 10 of Article 4 of the Public Utilities Act—

1. The complaint, in addition to the requirements 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 complaint shall be filed:

(a) Map of 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 X. 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 provided in 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 values.

Rule XI. Railroad and Street 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 Section 14, of Article 4, of the Public Utilities Act—

1. The petition, in addition to the requirements of Rule VII, 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 the 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 XII. 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 raiload, 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 VII, 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 of 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 of the vicinity, the proposed location of tower, if any, and the proposed location of all derails, switches, signal 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 XIII. New Constructions or Extensions—Application For.

When application is made by a street railroad corporation, gas corporation, electrical corporation, telephone corpo-

ration, water corporation. or heating company for a certificate that the present or future public convenience or necessity require, or will require a proposed new construction or an extension, as specified in the Public Utilities Act—

1. The petition, in addition to the requirements of Rule VII, must state:

(a) The proposed location, route or routes, the method of construction, and the names of all public utility corporations or persons with whom the proposed new construction or extension is likely to compete.

(b) The manner, in detail, in which it is proposed to finance the proposed new construction or extension.

2. With the petition shall be filed:

(a) Map to suitable scale, showing the location or route of the proposed new construction or extension with its relation to other public utilities with which the same is likely to compete, which map shall contain all data necessary for a complete understanding of the situation.

(b) When the consent, franchise or permit of a county, city, municipal or other public authority is necessary, a certified copy of the application therefor and of the ordinance or other documents granting such consent, franchise or permit. If it is impossible to file a copy of the application, the facts rendering such filing impossible shall be stated.

3. At the hearing, proof must be made that the proposed new construction or extension is or will be necessary or convenient for the public service, and proof must be made of the bona fides of the enterprise and of the financial ability of the applicant to build the new proposed construction or extension for which permission and approval are sought.

Rule XIV. Franchises and Permits—Applications for Permission to Exercise.

When application is made by a railroad corporation, street railroad corporation, gas corporation, electrical corporation, telephone corporation, water corporation or heating company for a certificate that public convenience and necessity require the exercise of a right or privilege under a fran-

chise or permit, in the cases specified in the Public Utilities Act—

1. The petition, in addition to the requirements of Rule VII, must state:

(a) The financial condition of the applicant.

(b) The facts showing the proceedings theretofore taken with reference to franchise or permit for which permission and approval are sought.

(c) If the application is for permission to exercise a right or privilege under any franchise or permit granted prior to March 8, 1917, but not theretofore exercised, or the exercise of which has been suspended for more than one year, the reason why such right or privilege has not been exercised or has not been suspended.

(d) The facts showing that the exercise of such right or privilege under such franchise or permit is required by the public convenience and necessity.

2. With the petition shall be filed:

(a) A certified copy of the written application to the proper county, city, municipal or other public authority for its consent, franchise or permit and of the ordinance or other document, if any has been secured, granting such consent, franchise or permit. If it is impossible to file a copy of the application, the facts rendering such filing impossible shall be stated.

(b) Map to suitable scale, showing the streets, avenues and all other places and property in or upon or along which it is proposed to exercise such franchise or permit.

3. If a public utility desires to exercise a right or privilege under a franchise or permit which it contemplates securing, but which has not as yet been granted to it, such public utility may apply to the Commission for an order preliminary to the issue of the certificate. The Commission will in its discretion, thereupon make an order declaring that it will thereafter, upon application, issue the desired certificate upon such terms and conditions as it may designate after the public utility has obtained the contemplated franchise or permit. Upon the presentation to the Commission of evidence satisfactory to it that such franchise or permit has been secured by such public utility, the Commission will thereupon issue such certificate.

Rule XV. Increase in Charges—Application for Permission to Make.

When application is made by any public utility to raise any rate, fare, toll, rental or charge or so 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 provision of the Public Utilities Act—

1. The petition, in addition tothe requirements of Rule VII, 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 reason 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 XVI. Excessive or Discriminatory Charges—Applications for Permission to Refund.

When application is made by any public utility to make a reparation to any shipper or consumer on account of the rates charged to said shipper or consumer being excessive or discriminatory—

1. The petition, in addition to the requirements of Rule VII, must state:

(a) Such facts in connection with the matter as

may be specified from time to time in the Commission's tariff circular or other applicable orders or instructions.

2. With the petition shall be filed:

(a) Such admissions, undertakings or statements on the part of the applicant as the Commission's tariff circulars or other applicable orders or instructions may, from time to time, specify.

3. If the Commission is satisfied with the showing 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 XVII. 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 XVIII. 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 XIX. Orders Upon Stipulation.

No orders or decisions, upon stipulation or by agreement, shall be made or entered unless such stipulation or agreement is in writing, signed by the attorneys of record for the respective parties, and filed with the Secretary of the Commission; provided that such stipulation may be made orally in such hearing and taken down by the stenographer and shall be by him written out and filed with the Secretary.

Rule XX. Postponement and Delays.

It shall be the policy and effort of the Commission to hear and determine all matters pending, as soon as possible, and to discourage continuances and postponements which

have no merit in them but for delay, and to that end the Commission will insist upon a hearing or disposition of cases in which issue is joined, at a reasonable time thereafter. No continuances of any hearing can be had after it has been set down by agreement of the parties interested, without the consent of the Commission, and no continuances for filing of papers or the hearing of cases or other requirements under the rules and practice will be granted without good and sufficient showing therefor.

Rule XXI. 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. Answer to Formal Complaint.
4. Order to Satisfy or Answer a Complaint.
5. Notice of Hearing on Complaint.
6. Published Notice of Hearing on Application.
7. Acknowledgment by a Company of Receipt of an order of the Commission.

No. 1.

FORM OF FORMAL COMPLAINT.

Before the Public Utilities Commission of Utah.

(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 postoffice address of complainant.)

2. That (here insert full name, occupation and postoffice 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 ask (here state specifically the relief to which complainant believes he is entitled.)

Dated at....., Utah, this .....day of.....19.....

.....
Complainant's name.

.....
(Name and address of attorney, if any.)

State of Utah,
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....., 19.....

.....

.....

No. 2.

FORM OF FORMAL APPLICATION.

Before the Public Utilities Commission of Utah.

In the Matter of the Application of (here insert name of applicant) for (here insert desired order, authorization, permission or certificate, thus: "order authorizing construction of spur track.")

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 Utah (here state specifically the action which the applicant desires the Public Utilities Commission to take.)

Dated at....., Utah, this .....day of.....19.....

.....

(Petitioner's name.)

.....

(Name and address of attorney, if any.)

State of Utah,
County of..... } ss.

Subscribed and sworn to before me, this.....

day of....., 19.....

.....

.....

No 3.

FORM OF ANSWER TO FORMAL COMPLAINT.

Before the Public Utilities Commission of Utah.

(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 details 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 apropriate prayer).

.....
Name of defendant.

State of Utah,
County of..... } ss.

Subscribed and sworn to before me this.....
....., 19.....

.....

.....

No 4.

FORM OF ORDER TO SATISFY OR ANSWER A COMPLAINT.

Before the Public Utilities Commission of Utah.

(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 Commission.

Dated at Salt Lake City, Utah, this.....day of ......, 191.....

.....
Secretary.

(Seal of Commission.)

No. 5.

FORM OF NOTICE OF HEARING ON COMPLAINT.

Before the Public Utilities Commission of Utah.

(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 name of all parties):

You, and each of you, are hereby notified that the Public Utilities Commission of Utah, has set the above entitled case for hearing before (insert name of Commissioner, or the Commission) on (day of week) the (day of month) day of (name of month), 19....., at.....o'clock .....M., Salt Lake City, Utah (or other place if not at Salt Lake City), at which time and place you will be given an opportunity to be heard.

By order of the Commission.

Dated at Salt Lake City, Utah, this.....

day of....., 191.....

.....
Secretary.

(Seal of Commission.)

No. 6.

FORM OF PUBLISHED NOTICE OF HEARING ON APPLICATION.

Before the Public Utilities Commission of Utah.

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 Utah to (here state nature of consent asked) will be heard before (insert name of the Commissioner, or the Commission) at the office of the Commission, Salt Lake City, Utah (or other place if not at Salt Lake City), on (day of week) the (day of month) day of (name of month), 19....., at.....o'clock.....M.

By order of the Commission.

Dated at Salt Lake City, Utah, this.....day of ......, 191.....

.....
Secretary

(Seal of Commission.)

No. 7.

FORM OF ACKNOWLEDGEMENT BY A COMPANY OF RECEIPT OF AN ORDER OF THE COMMISSION, AS REQUIRED BY SECTION 2, ARTICLE V, OF THE PUBLIC UTILITIES ACT.

Before the Public Utilities Commission of Utah.

(Insert name of complainant),
Complainant,
vs.
(Insert name of defendant),
Defendant.

No.....
(To be inserted by the Secretary of the Commission.)

Public Utilities Commission of Utah:

You are hereby notified that a certified copy of an order in the above entitled matter adopted by the Public Utilities Commission on (date), was received by the..... Company on the.....day of....., 19.....

Dated....., 19.....

Signed.) .....
Name of Title of Officer.

State of Utah,
County of..... } ss.

On this.....day of.....

19....., before me personally came.....
to me known, and known to me to be the (title of officer) of the .....Company, and the person who signed the foregoing notice, and he duly acknowledged to me that he signed the same.

.....

APPENDIX V.

Part 2.—Rules and Regulations Governing Automobile Stage Lines.

JURISDICTION.

Excerpts from Laws of Utah:

Chapter 47, Article 2, Section 1 (L. L.): The term "automobile corporation," when used in this Act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in, or transacting the business of, transporting passengers or freight, merchandise or other property for compensation, by means of automobiles or motor stages on public streets, roads or highways along established routes, within this State.

Chapter 47, Article 5, Section 21 (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 wilful, the court shall, in addition to the actual damages, award damages for the sake of example and by way of punishment. An action to recover for such loss, damage 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 a recovery by the State of the penalties in this Act, provided or the exercise by the commission of its power to punish for contempt.

ORDER.

At a general session of the Public Utilities Commission of Utah, held at its office in Salt Lake City, Utah, on the 7th day of December, A. D. 1917, the subject of uniform rules and regulations governing automobile stage lines being under consideration, and the Commission having caused investigation to be made, and being fully advised in the premises,

IT IS HEREBY ORDERED, That the following rules and

regulations be, and the same are hereby adopted and promulgated. These rules and regulations shall apply to all automobile corporations now doing business in the State of Utah, or hereafter organized for the purpose of doing business within the State of Utah.

I. **DEFINITION.** The term "motor vehicle," as used herein, includes any automobile, auto stage, motor bus, motor truck, or any other self-propelled vehicle owned or operated by an automobile corporation for use in the business or carrying either passengers or freight, or both, for compensation, over established routes, within this State.

II. **APPLICABILITY.** The rules herein promulgated shall apply so far as reasonably applicable in each instance, to all automobile corporations as above defined, and to persons, firms, or companies operating or causing same to be operated.

III. **LICENSES.** No motor vehicle operated by an automobile corporation, shall hereafter be operated in this State, until the owner or person lawfully in control thereof, shall first have applied for and received a license from the State of Utah, authorizing such use, as provided in Chapter 80, Laws of Utah, 1915; and until the owner or person lawfully in control thereof, shall have applied for and received such license or licenses as may be lawfully required under the ordinances of any county or city within this State, in which the said motor vehicle is to be operated.

IV. **CERTIFICATE.** No automobile corporation shall henceforth establish or begin the operation of a line or route, or any extension of an existing line or route, without first having obtained from the Commission, a certificate that the present or future public convenience or necessity require or will require the establishment and operation of such line or route. (Laws of Utah, 1917, Chapter 47, Article IV, Section 21 (a)).

V. **SCHEDULE OF RATES AND RULES.** (a) Each owner or operator of a motor vehicle, shall, within thirty days of the effective date of these rules and regulations, file with the Commission a schedule showing the rates or fares to be charged for transporting persons or property between points on his route or routes, freight, baggage, and express rates to

be stated separately from passenger fares, but all to be combined in one schedule.

(b) No change in existing rates, fares, tolls or charges for transportation of persons or property, shall be made except as provided in the Public Utilities Act of the State of Utah.

(c) Included in said schedule shall be any rules or regulations governing the transportation of either persons or property.

(d) Tariffs shall be published and filed in the form and manner prescribed by the Commission.

(e) Copy of said schedule of rates, rules and regulations, shall be kept open for public inspection by the owner or operator of a motor vehicle, at his principal office, and at each terminus of his route or routes, and at the principal station or stations thereon.

(f) All fares and rates provided for in said schedule shall be paid in cash.

(g) Bills of lading, forms for which shall be approved by the Commission, and which shall, as nearly as may be, conform to the standard forms provided for use by other common carriers, shall be issued for all shipments of freight or express, before such shipments are accepted for transportation.

VI. **TIME TABLES.** (a) Each owner or operator of a motor vehicle, shall file with the Commission a time table showing the time of arrival and departure of his motor vehicle at each point on his route or routes, and the number of trips to be made daily. Copy of said time table must be posted at each station on his route or routes.

(b) When any change is to be made in said time table, a new time table must be filed with and approved by the Commission, cancelling the one previously in effect, and at least three copies posted at each station on his route or routes.

VII. **ESTABLISHED ROUTE.** Every automobile corporation shall file with the Commission, a schedule showing the number and make of the motor vehicle or vehicles, and the seating capacity thereof, that it is proposed to operate, for hire and compensation, over any particular route or routes, or between specified termini, and no such motor vehicle shall be operated for hire or compensation, over any other route, or between other termini, so as to interfere with its operation over

the regular route, without the express permission of the Commission, unless it happens that the established route of such motor vehicle is temporarily blocked or otherwise impassable.

VIII. **LOADING.** (a) No owner or operator of any motor vehicle, owned and operated by an automobile corporation, shall be permitted to carry thereon a number of passpassengers, shall not be greater than can be safely and conas defined by the manufacturer; and the quantity of freight, express or baggage, that may be carried in the vehicle with passengers, shall not be greater than can be safely and conveniently carried without causing discomfort to the passengers.

(b) The following inflammable and explosive articles shall not be transported by passenger-carrying automobile stages:

Liquid nitrogen, dynamite, nitrocellulose, fulminate of mercury in bulk, fireworks, firecrackers, torpedoes, high explosives, black, brown or smokeless powder, ammunition (other than small arm ammunition), explosive projectiles, blasting caps, detonating fuses, primers, percussion, time fuses, acid hydrochloric, gases compressed, gasoline, acid hydrofluoric, acid nitrating, acid sulphuric, liquefied petroleum gas, matches—strike anywhere, burnt cotton, calcium phosphide, carbon bisulphide, celluloid scrap, charcoal wood screenings, chloride of phosphorous, chloride of sulphur, distillate, naphtha, naptha distillate, oil gas, oil petroleum, phosphorous, petroleum crude, petroleum naphtha, phosphorous trichloride, picric acid, potassium, metallis, potassium sulphide, pyroxylin solution, sodium metallic, sodium peroxide, sodium sulphide, chloride of sulphur, tin bichloride—liquid (tetrachloride of), trinitrotoluol.

(c) Not more than one person in addition to the driver shall be permitted to occupy the front seat of any motor vehicle, unless the rated seating capacity provides for additional number.

(d) No passenger shall be permitted to ride upon the steps, hood, or running board of any motor vehicle.

IX. **DRIVERS.** (a) No person shall be employed as a driver of a motor vehicle, as herein defined, unless he shall

have had three (3) years experience as a driver of a motor-propelled vehicle, or unless it shall otherwise appear to the satisfaction of the Commission, that he is a safe and prudent driver. Any and all such drivers are expected to be civil, polite and of good character and reputation. No person shall be allowed to operate a motor vehicle while under the influence of liquor.

(b) Every chauffeur or operator of a motor vehicle shall wear, while thus engaged, a badge or some insignia, to be prescribed by the Commission, which shall be an evidence of his right and license to act as such chauffeur or operator under the rules prescribed herein.

X. RECKLESS OR UNSAFE OPERATION. (a) No automobile corporation shall announce or maintain a time schedule that shall require unsafe, unreasonable or excessive speed in operating any motor vehicle owned or operated by it.

(b) No person driving or operating a motor vehicle shall drive or operate same in any other than a careful and prudent manner, having due regard to the traffic and use of the roadway by others, or so as to endanger the life or limb of any person, whether passenger, operator, or the public.

(c) Upon approaching any bridge, sharp curve, dugway, deep descent, or other dangerous place; or in traversing such bridge, curve, dugway, descent or other dangerous place; or on passing or meeting other vehicles or persons, the operator of a motor vehicle shall slow down, and have the vehicle under immediate control.

(d) Duly prescribed traffic regulations, and established road rules, shall be strictly observed by all drivers.

XI. **EQUIPMENT AND PHYSICAL CONDITION.** (a) Every automobile corporation "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 be in all respects adequate, efficient, just and reasonable." (Laws of Utah, 1917, Chapter 47, Article III, Section I (b)).

(b) Sufficient reserve equipment shall be maintained by the owners of all motor vehicles to insure reasonable regularity of service; and the necessary tools, supplies and extra parts to make usual and ordinary repairs while on the road, shall be carried by all motor vehicles on each and every trip.

(c) Non-skid chains must be provided during rainy weather, or upon slippery roads.

(d) Every motor vehicle shall be equipped with a mirror or other device to enable the driver thereof to have such a clear and unobstructed view of the rear as will enable him to obey the "rule of the road" when overtaken by any other vehicle.

(e) Each motor vehicle shall have firmly and permanently attached to the front thereof, a sign, with letters and figures not less than four (4) inches in height, designating the route over which said motor vehicle is being operated.

(f) Every motor vehicle shall be provided with at least two white front lights, of standard power and construction, as provided in Laws of Utah, 1917, Chapter 91, Section 7, and one red light on the rear, visible in the reverse direction to which said vehicle is proceeding. No such vehicle shall leave its terminus on any trip requiring traveling after one hour after sunset, or before one hour before sunrise, without its lighting system is in proper condition, and the lights shall be kept burning on all trips during the time from one hour after sunset, until one hour before sunrise. Should the lighting system become defective or out of order, the vehicle shall be brought to a stop at a point off the line of travel on the roadway, and shall not proceed until the defect is remedied. Every motor vehicle shall be provided with a lighting device, which shall be kept burning at night in the tonneau while the top of the vehicle is up.

(g) All motor vehicles, and all equipment used in connection therewith, shall at all times be kept in proper physical operating condition to render safe, adequate and proper service, and so as not to be a menace to the safety of passengers, operators or the general public, or to cause unnecessary delay.

(h) Every motor vehicle shall be provided with good and sufficient brakes, and with suitable bell, horn or other signal which shall be rung or blown as a signal or warning to any person, or whenever there is danger of collision or accident.

XII. **INTERRUPTION OF SERVICE.** (a) All interruptions of regular service of motor vehicles, where such interruptions are likely to continue for more than twenty-four hours, shall be promptly reported in writing to the Commission, and to the public along the route, with full statement

of the cause of such interruption, and its probable duration.

(b) Discontinuance of service for a period of five (5) consecutive days whether with or without notice to the Commission, shall be deemed a forfeiture of all rights secured under and by virtue of any order or permission to operate, issued by the Commission; provided, however, that the Commission may permit resumption of operation after such five-day discontinuance, on a proper showing that the carrier was not responsible for the failure to give service, and on a finding by the Commission that public convenience and necessity would require the resumption of service.

(c) No owner or operator of any motor vehicle shall discontinue the operation thereof, without first having given to the Commission and to the public at least ten days' notice in writing of his intention to discontinue such service.

XIII. **CROSSING RAILROADS.** Drivers of all motor vehicles carrying passengers for hire, on any of the public highways of his State, shall bring said vehicles to a full stop within fifty feet of any unguarded grade crossing of any railroad or interurban track before crossing the same.

XIV. **ACCIDENTS.** Immediate notice shall be given the Commission of all accidents in which motor vehicles are involved, where such accidents result in loss of life or injury to passengers, employees or other persons, or in property loss in excess of Fifty ($50.00) Dollars, said reports to be made on forms to be prescribed by the Commission; provided, that accidents resulting in serious personal injury or death, shall be reported to the Commission by telephone or telegraph immediately.

XV. **ANNUAL REPORT.** It shall be the duty of every automobile corporation to keep an accurate record of receipts from operation, and operating and other expenses, and file the same on or before June 30th of each year, on forms prescribed and furnished by the Commission. Such annual reports shall cover the period from January 1st to December 31st, inclusive.

XVI. **PENALTY.** Any automobile corporation violating any of the rules and regulations herein prescribed, or any of the rules and regulations prescribed by the laws of the State of Utah, shall be dealt with accordingly, and shall be sub-

ject to have any and all rights and privileges granted by this Commission, revoked, upon proper proof of such violation.

XVII. **EXCEPTION.** The Commission may waive the application of any of the rules and regulations provided herein, where public convenience and safety will not be injured thereby.

Effective January 1st, 1918. By the Commission.

Dated at Salt Lake City, Utah, this 7th day of December, A. D. 1917.

(Signed)

JOSHUA GREENWOOD,
HENRY H. BLOOD,
WARREN STOUTNOUR,
Commissioners.

(Seal)

Attest:

(Signed) T. E. BANNING,
Secretary.