Report of the
Public Utilities Commission
of Utah
to the Governor

December 1, 1920 to December 31, 1921

ARROW PRESS
Salt Lake City, Utah

COMMISSIONERS

December 1, 1920, to March 31, 1921

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

April 1, 1921, to December 30, 1921

A. R. HEYWOOD, President
JOSHUA GREENWOOD
WARREN STOUTNOUR
T. E. BANNING, Secretary

Office: State Capitol, Salt Lake City, Utah

To His Excellency, Charles R. Mabey,

Governor of the State of Utah.

Sir:

Pursuant to Section 4780, Compiled Laws of Utah, 1917, the Public Utilities Commission of Utah, herewith submits its Fourth Annual Report, covering the period December 1, 1920, to December 31, 1921, inclusive.

COURT PROCEEDINGS

During the period of December 1, 1920, to December 31, 1921, inclusive, decisions affecting the Commission were rendered by the Supreme Court of Utah in the following cases:

United States Smelting, Refining & Mng. Company,
Plaintiff,

vs.

Utah Power & Light Co., and
Public Utilities Commission of Utah.
Defendants.

Utah Copper Company
vs.
Same

United States Fuel Company
vs.
Same

Utah Copper Company
vs.
Same

Union Portland Cement Company
vs.
Same

Oregon Short Line R. R. Company
vs.
Same

Bamberger Electric R. R. Company
vs.
Same

Silver King Company
vs.
Same

Utah Metal & Tunnel Company
vs.
Same

Salt Lake Terminal Company
vs.
Same

Deseret News
vs.
Same

Standard Coal Company
vs.
Same

Ogden Portland Cement Company
vs.
Same

Utah-Idaho Central R. R. Company
vs.
Same

Utah Steel Corporation
vs.
Same

Judge Mining & Smelting Company
vs.
Same

Salt Lake & Utah Railroad Company
vs.
Same

Utah Hotel Company
vs.
Same

Salt Lake City, et al.,
vs.
Same

Copies of these decisions will be found under Appendix III.

PERSONNEL

Effective April 1, 1921, Hon. Abbot R. Heywood succeeded Hon. Henry H. Blood as a member of the Commission.

STATISTICS

The following is a summary of matters before the Commission during the period covered by this report:

	Filed	Closed	Pending
Formal Cases	118	83	35

At the beginning of the period there were 45 formal cases pending, 8 from the year 1919, and 37 from the year 1920. Ten cases were reopened during 1921.

Six of the cases pending from the year 1919 have been closed and 32 from the year 1920 have been closed, leaving 7 still pending.

In addition to the above there were 12 informal cases pending at the beginning of the period covered by this report. These cases have been closed.

Many matters have been called to the attention of the Commission which have been adjusted to the satisfaction of all concerned without the necessity of a formal hearing or an order being issued.

During the period covered by this report the Commission issued reports, orders and authorities as follows:

Ex Parte Orders	201
Special Dockets (Reparation)	9
Certificate of Convenience and Necessity	28
Grade Crossing Permits	8

A classification of these cases shows the following:

Steam Railroads	180
Electric Railroads	24
Electric Corporations	7
Telephone Corporations	1
Telegraph Corporations	1
Automobile Corporations	31
Gas Corporations	2

FINANCIAL

The following statement will show the finances of the Commission as of December 31, 1921.

Receipts.

Balance on hand December 1, 1920.	$ 7,989.72	
Receipts from sale of Orders, Transcripts, etc.	1,639.23	
Deficit authorized by Board of Examiners	2,299.58	
		$11,928.53

Disbursements

Dec. 1, 1920 to April 1, 1921

Salaries	$ 9,979.76	
Traveling Expenses	808.06	
Contingencies	787.54	
Total Expenditures	11,675.36	
Unexpended balance April 1, 1921.	353.17	
		$11,928.53

Receipts.

Appropriation by 1921 Legislature.	$50,000.00	
Receipts from Sale of Transcripts of Evidence, etc.	1,833.73	
		$51,833.73

Disbursements.

April 1, 1921, to December 31, 1921.

Salaries	$18,059.11	
Traveling Expenses	650.18	
Contingent	757.38	
Total Disbursements	19,466.67	
Unexpended balance Dec. 31, 1921.	32,367.06	
		$51,833.73

Respectfully submitted,

ABBOT R. HEYWOOD,
WARREN STOUTNER,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

APPENDIX I

PART I—Formal Cases.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to increase its freight and passenger rates. } CASE No. 97

Decided March 30, 1921.

SUPPLEMENTAL REPORT AND ORDER OF THE COMMISSION

By the Commission:

The original report and order in this case was issued December 31, 1919. The Commission at that time granted certain increases in freight rates, and charges for transporting milk and cream, but reserved for future consideration and determination the question of increasing passenger fares, as asked for in the petition.

The rates applied for would, if granted, effect increases as follows:

One-way fare from 2 3/4 cents per mile to 3 cents per mile.

Round-trip fare to 1.80 per cent of advanced one-way fare.

Commutation rates, 10 per cent increase.

1000-mile mileage rates from 2 cents per mile to 2 1/4 cents per mile.

500-mile mileage rates from 2 cents per mile to 2½ cents per mile.

Students' rates from 1 cent per mile to 1½ cents per mile.

The increases were requested in order to bring the passenger rates of the applicant to the same level as the rates on the connecting electric lines, the Utah-Idaho Central Railroad and the Salt Lake & Utah Railroad, except as to commutation rates, which still would be lower than like rates on the Salt Lake & Utah Railroad. No commutation rates are in effect on the Utah-Idaho Central Railroad.

Certain protestants from Davis County asked that commutation rates on the same per mile basis as now in

effect from Davis County points to Salt Lake City, be made effective between all stations on the petitioner's line, in order that discrimination against those who regularly travel between towns in Davis County should be removed. The Commission is not at this time in possession of sufficient data to enable it definitely to decide what, if any, extension of the commutation privilege should be granted. Commuters between Davis County points for the most part travel only short distances, and the volume of such traffic at this time is not large. Mileage books at a rate of 2 cents per mile are available for, and in constant use by, such patrons. If mileage rates were higher, there might be justification for local commutation rates. If this class of travel should materially increase, or if further investigation shows the necessity for a general application of the commutation rate schedule, the Commission will be ready to again take up the matter for final adjudication. Meantime, commutation rates and service as at present in effect will not be disturbed.

Protestants contended the proposed increases were not necessary in order to provide adequate revenue to the petitioner, and that it would be unjust, preferential and discriminatory to permit advances asked while the applicant maintained much lower per mile rates on traffic to and from Lagoon.

Since the issuance of the original report and order the petitioner has published and placed in effect a special round-trip excursion fare of thirty-five cents to Lagoon from all points on its line. This is an increase of ten cents per round trip. While this action meets, in some degree, the contention of protestants that Lagoon excursion fares were so low in comparison with other passenger fares as to constitute discrimination, it does not, of itself, warrant the granting of the proposed increases.

The Commission is of the opinion that the assumption that this petitioner should be granted the same scale of passenger fares that are in effect on connecting electric lines, in order to establish and maintain a parity of rates, is fundamentally wrong, in that it leaves out of consideration the important element of the cost of the service. This petitioner's line connects the two largest cities of the State, and traverses a territory with relatively dense population. Moreover, there is considerable interline traffic, and this petitioner being the middle, or connecting, link in the chain of electric roads that reaches from Payson, Utah, to Preston, Idaho, tapping and serving the rich

central valleys of Utah, necessarily profits by its advantageous location, because the other lines act as feeders and supply it with both freight and passenger traffic. The volume of traffic is, therefore, much heavier than is enjoyed by either of the connecting lines.

Under these conditions it would seem logical to consider rates for this railroad without reference to the rates found reasonable on the other lines.

The Commission has given full consideration to all facts that may or do have a bearing on the matter of passenger fares of this petitioner, and has reached the conclusion that in only two particulars should they be modified: (1) as to school fares; and (2) as to 1000-mile mileage rates.

The school rate of one cent per mile should be increased by 10 per cent, the present minimum fare of 5 cents for each ride to be protected where the per mile fare at the increased rate would amount to less than 5 cents.

The 1000-mile mileage books are used interchangeably on the three interurban electric lines, and thus are a convenience to patrons who regularly or frequently travel on more than one line. This book sells at a different rate on each road, with petitioner's rate the lowest. Petitioner, therefore, asked that this rate be increased from 2 cents per mile to 2 1/4 cents per mile, and expressed willingness, if this modification is allowed, to leave the 500-mile mileage rate as it is, 2 cents per mile. It was stated the change was desired, not on account of increased revenue, which would be negligible, but to remove interline auditing difficulties. The Commission is of the opinion that this request should be granted.

One-way and round-trip fares, 500-mile mileage rates and commutation rates at present in effect are hereby found to be just and reasonable, and will not, on the showing made, be increased.

An appropriate order will be issued.

(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 30th day of March, A. D., 1921.

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to increase its freight and passenger rates. } CASE No. 97

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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of the Bamberger Electric Railroad Company for permission to increase one-way and round-trip fares, 500-mile mileage rates and commutation rates, be, and it is hereby, denied.

ORDERED FURTHER, That applicant be permitted to increase the rate for 1000-mile mileage books to 2 1/4 cents per mile, such mileage books being interchangeable with the Utah-Idaho Central and the Salt Lake & Utah Railroads.

ORDERED FURTHER, That applicant be permitted to increase the present student ticket rate of one cent per mile to 1.1 cents per mile, observing the minimum of 5 cents per ride where the per mile fare amounts to less than 5 cents.

ORDERED FURTHER, That such increased fares may be made effective upon ten days' notice to the public and to the Commission.

ORDERED FURTHER, That tariffs naming such increased fares shall bear upon the title page the following notation:

> "Issued upon less than statutory notice, under authority of Public Utilities Commission of Utah order in Case No. 97, dated March 30, 1921."

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of A. L. INGLESBY, for permission to transfer Certificate of Convenience and Necessity No. 44 to the Bingham Stage Lines Company.	CASE No. 132

Submitted March 2, 1921. Decided March 8, 1921.

Dan B. Shields for petitioner.
Herbert Van Dam, Jr., for protestants.

REPORT OF THE COMMISSION

By the Commission:

This matter came on for hearing before the Commission, February 21, 1921, upon the application and the affidavit of Dr. A. L. Inglesby, in which it is set out that he received a certificate of convenience and necessity from the Commission on the 13th day of May, 1919, and has operated a stage line between Salt Lake City and Bingham in pursuance of said certificate; that at the time of the application for said certificate it was his intention to incorporate a company known as the "Bingham Stage Lines Company," that on the 21st day of November, 1919, a corporation known as the "Bingham Stage Lines Company" was formed, and that certain property and holdings of the petitioner were transferred to such corporation, except the certificate of convenience and necessity, and that it is the desire of said A. L. Inglesby to make transfer of said certificate to such corporation, for the reason that through the corporation it would be easier to secure the needed funds to broaden the scope of the company and more readily give the required service to the public.

There appeared in opposition to the application, Louis Panas, Parley L. Jones and J. E. Berger, who based their objections on the ground that if such certificate was transferred to a corporation it would interfere greatly with their rights of operating as heretofore. They objected to turning their cars into the corporation, because it would result in the corporation owning their cars without their power to say whether or not they would be allowed to take part in giving the service.

Testimony was taken and a recess was allowed for the purpose of adjusting their difference, and after sometime,

and on the 2nd day of March, 1921, protestants voluntarily withdrew their protest and objections heretofore made, for the reason that matters had been amicably arranged between themselves and Mr. Inglesby.

At the time the certificate of convenience and necessity was issued to A. L. Inglesby, the question of the necessity of incorporating the service was gone into, and it was suggested by the Commission that Dr. Inglesby organize a company which would undertake the transportation business between Salt Lake City and Bingham Canyon. The Commission, as heretofore indicated, is of the opinion that the service can more efficiently be governed, controlled and directed through a responsible corporation, rather than by a number of individuals operating without recognized control, as has been the case in the past.

After a careful consideration of the matters presented to the Commission, and with full knowledge of the history of stage line operation in the Salt Lake-Bingham district, and in view of the withdrawal of the parties objecting and opposing the transfer of the said certificate as requested, the Commission is of the opinion that the application to transfer the certificate of convenience and necessity should be granted.

The business of operating said stage line, in all particulars, shall, in future, be transacted in the name of the Bingham Stage Lines Company.

An appropriate order will be issued.

(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 8th day of March, A. D., 1921.

In the Matter of the Application of A. L. INGLESBY, for permission to transfer Certificate of Convenience and Necessity No. 44 to the Bingham Stage Lines Company.	CASE No. 132

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, that the application be, and it is hereby, granted, and applicant, A. L. INGLESBY, be permitted to transfer Certificate of Convenience and Necessity No. 44, to the Bingham Stage Lines Company.

ORDERED FURTHER, That said Bingham Stage Lines Company shall immediately file with the Commission a schedule naming all rates, fares and charges, which schedule shall not exceed that previously in effect under the operation of A. L. Inglesby; together with a schedule showing leaving and arriving time at each station on the route.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

W. P. EPPERSON, et al.,
Complainants,
vs.
BAMBERGER ELECTRIC RAILROAD CO.,
Defendant.
} CASE No. 173

Decided December 16, 1920.

REPORT OF THE COMMISSION

By the Commission:

In a complaint filed May 5, 1919, W. P. Epperson and other residents of Kaysville, Utah, seek an order from the Public Utilities Commission of Utah requiring the Bamberger Electric Railroad Company to construct and maintain a depot at Kaysville, suitable for the needs and requirements of that community.

The case was heard at Kaysville, Utah, after due notice, July 10, 1919, at which time defendant company signified its willingness to satisfy the complaint, and outlined certain conditions which it desired overcome before proceeding to construct the desired building.

On November 13, 1920, complainant, by W. P. Epperson, filed a motion to dismiss the complaint, without prejudice, satisfactory action having been taken by defendant company. The complaint should, therefore, be dismissed without prejudice.

An appropriate order will be issued.

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

(SEAL)

(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 16th day of December, A. D., 1920.

W. P. EPPERSON, et al.,
Complainants,
vs.
BAMBERGER ELECTRIC RAILROAD CO.,
Defendant.
CASE No. 173

This case being at issue upon complaint and answer on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the complaint herein be, and it is hereby, dismissed without prejudice.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the DESERET IRRIGATION COMPANY and the MELVILLE IRRIGATION COMPANY, for a certificate of convenience and necessity authorizing the construction, operation and maintenance of electrical power plants and lines.	CASE No. 187

Submitted December 11, 1920. Decided January 5, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed May 19, 1919, the Deseret Irrigation Company and the Melville Irrigation Company, corporations of the State of Utah, represent that franchises have been granted by the Board of County Commissioners of Millard County and the Town Board of Delta, to the respective petitioners, authorizing them to construct, operate and maintain electric transmission and distribution lines for the purpose of supplying electric energy to the inhabitants of Delta and Millard County; that application for a similar franchise from the Town of Hinckley had been made to the proper authorities, which franchise had not been granted.

Copies of the articles of incorporation and of the franchises granted by Millard County and the Town of Delta, were attached to and made part of the application, which asks permission of the Commission to exercise the rights and privileges granted by such franchises. Applicants were requested to secure the necessary franchise from the Town of Hinckley, which was secured, and filed with the Commission December 11, 1920.

After investigation the Commission finds:

1. That public convenience and necessity require and will continue to require the construction, operation and maintenance of an electrical generating, transmission and distributing system in Millard County, and in the Town of Delta and the Town of Hinckley, and that the application should be granted.

2. That applicants, the Deseret Irrigation Company and the Melville Irrigation Company, should construct and maintain its electric transmission and distribution lines to conform to the standards prescribed by the Public Utilities Commission of Utah.

3. That applicants should file with the Commission a schedule naming all rates, rules and regulations governing its electric service.

An appropriate order will be issued.

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 97.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 5th day of January, A. D., 1921.

In the Matter of the Application of the DESERET IRRIGATION COMPANY and the MELVILLE IRRIGATION COMPANY, for a certificate of convenience and necessity authorizing the construction, operation and maintenance of electrical power plants and lines.	CASE No. 187

This case being at issue upon petition on file, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicants, DESERET IRRIGATION COMPANY and MELVILLE IRRIGATION COMPANY, be, and they are hereby granted a certificate of convenience and necessity, and are authorized to construct, operate and maintain an electrical generating, transmission and distributing system in Millard County, and in the Towns of Delta and Hinckley, Utah.

ORDERED FURTHER, That applicants shall construct said transmission and distribution lines to conform to the standards prescribed by the Public Utilities Commission of Utah.

ORDERED FURTHER, That applicants shall file with the Commission a schedule naming all rates, rules and regulations governing its electric service.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to continue in effect the service connection charges, exchange and toll rates, and rules and regulations instituted by Postmaster General Burleson. } CASE No. 206

Submitted Oct. 19, 1920. Decided March 29, 1921.

Appearances:

For applicant:

Milton Smith.
Van Cott, Riter & Farnsworth.

For Protestants:

W. H. Folland for Salt Lake City.
Richard Hartley for Salt Lake County.
J. H. Manderfield for Salt Lake Union Stock Yards.
E. B. Allison for Salt Lake Live Stock Commission Co.
George Prentice for Idaho Live Stock Commission Co.
F. Bryne for Cudahy Packing Company.
J. B. Bean for Bamberger Electric Railway Co.
C. A. Faus for Smith-Faus Drug Company.

On behalf of themselves and others:

D. A. Skeen.
C. D. Kipp.
Robert L. Judd.
E. A. Walton.
F. J. Gustin.
J. N. Hinckley.
William Melloy.
Joseph F. Merrill.
W. J. Bardsley.

REPORT OF THE COMMISSION

By the Commission:

This is an application by the Mountain States Telephone & Telegraph Company for authority to continue in force and effect within the State of Utah, the service connection

charges, exchange and toll rates, and the rules and regulations under which its telephone properties within the State of Utah were being operated as of July 31, 1919, and to substitute and file such documents, tariff sheets, exchange and toll rate schedules as may be necessary to effectuate the same.

The United States Government, at midnight, on July 31, 1918, took over the possession, control and operation of all properties of every kind and character of the Mountain States Telephone & Telegraph Company (hereinafter called the Company) located within the State of Utah, and continued such possession, control and operation until midnight, July 31, 1919, at which time, in accordance with an Act of Congress, approved by the President of the United States, July 11, 1919, the properties were returned to the Company, and the rates, charges, tolls, rules and regulations applicable to telephone service rendered by the said Mountain States Telephone & Telegraph Company on the 31st day of July, 1919, were continued in force and effect for a period of four months from the said 31st day of July, 1919.

Previous to Government control, the Company had filed with the Commission a complete tariff containing schedules of exchange and toll rates and rules and regulations, in accordance with which, service was being rendered.

During the period of Government control, the Postmaster General, representing the United States Government, inaugurated a system of service connection charges, and from time to time made changes in the schedules of exchange and toll rates in accordance with the powers vested in him by Act of Congress. At the time of the instituting of the service connection charge, and at the time changes were made in the rates, charges, rules, regulations and practices during Government control, tariff sheets, schedules, charts, etc., showing such changes, were furnished the Commission for its information.

On July 22, 1919, the Company filed with the Commission an application, alleging that it would be impossible for it to render adequate service with less net revenue than was then being received, and that it was imperative and of the utmost importance to the Company and to the public, and in the interest of good service, to continue in effect, after the return of the properties to Company control, the rates and charges as amended and changed by the action of the Postmaster General, and asked that the same be approved and continued in effect pending a thorough investigation into the investment, revenues and expenses, and affairs of

the Company, and after such investigation was had, the present charges and rates heretofore mentioned, be approved and continued in effect permanently.

It appeared to the Commission that an investigation of each and every rate or charge made by the Company within the State of Utah, and of all the rules, regulations and practices of the Company should be had; that the Commission, in order to determine the proper rates to be charged and the rules, regulations and practices to be adopted by the Company, should conduct a general investigation into the affairs of the Company. Accordingly, on the 30th day of July, 1919, the Commission issued its order, directing that such an investigation be had, and ordering the Company to make a complete inventory and appraisal of all of its property, used and useful in the giving of telephone service within the State of Utah, and to submit the same to the Commission for its consideration, said inventory to be made as of date of August 31, 1919, and to reflect, as nearly as may be, the actual investment in the property now used and useful in the giving of service.

The Commission further required the Company to submit all records pertaining to the business of the Company within the State of Utah, insofar as may be necessary for ascertaining its financial affairs and operations, and particularly its fixed charges and capital accounts; also the general books and records of the Company and all other accounts of whatsoever kind and nature, pertaining to the Company, that would show the valuation of the property used and useful in the giving of service within this State.

The case came on for hearing, November 24, 1919, at which time the Company appeared, but was unable to submit the full data required by the Commission's order of July 30, 1919, and submitted proof that, although it was exercising due and reasonable diligence in its efforts to prepare such data, it had been unable to complete the work.

After the introduction of some evidence, the hearing was adjourned, and the Commission issued its order, under date of November 26, 1919, continuing the hearing until January 6, 1920. Meanwhile, the rates, rules and regulations under which the Company was operating, were continued in effect, until such time as the Commission should have completed its investigation and issued its opinion and finding. The Commission further ordered that the rates, rules and regulations prescribed by the Commission upon the completion of the hearing, should be effective as of December 1, 1919. On January 6, 1920, the hearing was re-

sumed, at which time the Company filed its inventory and appraisal.

Applicant filed exhibits to the number of thirteen, comprising approximately seventy volumes, setting forth in detail the physical count and cost of its property, its book value, financial history and revenues. Witnesses also presented sworn statements, particularly with reference to the following matters:

Investment, Revenues and Expenses.
Relationship between the American Telephone & Telegraph Co. and the Mountain States Telephone & Telegraph Co.
Unexpired Patents owned or controlled by the American Telephone & Telegraph Co.
Statement concerning Toll Rates.
Explanation of present system of Toll Rates.
Service Value of Property.
Period of Reproduction of Property, Cost of Establishing Business; Basis for Interest during Construction.
Value of Physical Property.
Working Capital.
Book Values of Working Capital.
Promoter's Remuneration and Cost of Money.
Annual Requirement for Depreciation Reserve and the Reserve for Accrued Depreciation.
Contract Relations with Western Electric.
Capital Requirements of Mountain States Telephone & Telegraph Co.
Revenues of Mountain States Telephone & Telegraph Company.
Plan for Employees' Pensions, Disability Benefits and Death Benefits.
Discussion of Service Connection Charge Practice.

Also miscellaneous papers were submitted to the Commission, among them being:

Value of American Telephone & Telegraph Company's Transmitters, Receivers and Induction Coils in Utah, August 15, 1919.
Financial History of Rocky Mountain Bell Telephone Company.
Utah's proportion of the Reserve for Accrued Depreciation and Deficiency in the same.
Sketch showing Western Division Plant Wage Scales.

Protestants generally questioned the reasonableness of the so-called Burleson rates, particularly the measured service in Salt Lake City and the service connection charge. Certain industries engaged in business in North Salt Lake, Davis County, Utah, alleged that the charges and rates for service rendered to them, were approximately double the amount as compared with those in Salt Lake City for the same service, and were greatly in excess of the rates and charges prevailing elsewhere under similar conditions. There were also protests as to the quality of service now being rendered on the Salt Lake exchange, particularly as to the methods of handling long distance calls.

The hearing continued, uninterruptedly, until January 17, 1920, during which time testimony was offered covering practically every phase of the Company's business that could have any bearing upon the application.

The Commission has carefully checked portions of the property, so as to satisfy itself as to the methods and accuracy of making the physical appraisal, while its accountant has made an examination of certain of the Company's books and of its methods of accounting.

Oral arguments were had July 21, 22 and 23, 1920. Briefs were filed on behalf of the City and County of Salt Lake, October 19, 1920, and the case was submitted.

HISTORICAL

Prior to 1883, various comparatively small companies were constructed for the purpose of giving telephone service to this section of the intermountain country. The service was generally local in character and served a limited area, only, and the need was felt for a more connected, unified service. Accordingly, the Rocky Mountain Bell Telephone Company, predecessor of the present Mountain States Telephone & Telegraph Company, was incorporated, February 26, 1883. Properties of the Ogden Telephone Exchange Company, Idaho Telephone & Telegraph Company and the Montana Telephone Company, formed the nucleus of the new Company. It was organized to do business in the States of Utah, Idaho, Montana and Wyoming. In 1883 there were also added the City Telephone Company of Park City, the Wyoming Telephone & Telegraph Company, and the Utah Telephone Company. In 1900, the Deseret Telegraph Company was purchased, and in July, 1911, the Utah Independent Telephone Company was acquired, thus more nearly unifying the telephone situation in Utah. At the same time was

purchased the Independent Long Distance Telephone Company of Idaho, and at various times were added small properties in the other states, by purchase. There was also a steady growth of new lines and exchanges constructed as necessity required.

In the latter part of July, 1911, the consolidation of the Colorado Telephone Company and the Tri-State Telephone & Telegraph Company was effected, and a new company was incorporated under the name of the Mountain States Telephone & Telegraph Company. The property of the Rocky Mountain Bell Telephone Company was also added, through purchase, and what is now known as the Western Division of the Mountain States Telephone & Telegraph Company was formed, comprising the States of Idaho, Utah, and a section of Wyoming.

The Mountain States Telephone & Telegraph Company serves by far the greater portion of this State. There are a number of smaller independently owned companies, practically all of which are connected with the Mountain States System, thus giving service in connection with the general system serving the State. A few additional properties have since been added, from time to time, to the Mountain States Telephone System. In August, 1912, were added the Davis County Telephone Company, the Newton Telephone Company and the Alpine Telephone Company. These with the extensions constructed, less property removed or abandoned, comprise the system under consideration.

NECESSITY FOR PHYSICAL VALUATION

The history of applicant's property shows that it has been constructed by various corporations at intervals extending over a long period of years. It is difficult, if not impossible, to ascertain from the various corporation records the actual cost of the property, for the reason that the accounts of the earlier companies were not usually kept so as to clearly reflect costs, and even if these costs were available, it would be impossible to say at this late date whether or not the money had been prudently spent and that no extravagance or waste had entered into the construction of the property. Also, much property must have been replaced, superseded, rebuilt or abandoned. In short, it would be impossible to determine if the money costs as reflected by the books, represents only property used, useful and necessary in rendering service to the public.

REPRODUCTION COST NEW

To obviate these difficulties the Commission has approved the reproduction cost new theory as a method of valuation to be given consideration. As pointed out in Case No. 44, (P. U. R. 1920-B) :

> "Reproduction cost, as used in this case, means the amount of cash or its equivalent that would be necessarily expended to acquire the right of way and the real estate used and useful, (not, however, exceeding the fair value of similar nearby real estate), and of reproducing the other physical property of the utility, used and useful, in the condition in which it existed when first put into the service of the public."

To the bare structural costs are added certain overhead costs not inhering in the structural costs for engineering, administration and legal expenses, interest during construction, actual cost of securing franchises, and other items, which, it must be conceded by all who are familiar with the construction of properties of like character, are expenses that must necessarily be incurred in the construction of such a property. In line with this general rule, the inventory of physical property within this State has been made.

METHOD OF MAKING APPRAISAL

The Interstate Commerce Commission has classified the accounts applicable to the various kinds of property constituting a telephone system, and in the compilation of units of property, this classification is used. A complete report of it is to be found in the files of this case; also the original field sheets upon which were recorded the items of property by the counting force as the count was made. Practically all of the exchange equipment was inventoried from the records of the plant department of the Company. No change in central exchange equipment is made without the approval of the engineering department, and the dimensions of the parts to be changed or replaced are determined from the plant records rather than from field measurements. For this reason, the plant records are always complete. The Commission's engineering department checked the inventory of some eight exchanges, including the largest, that of the Wasatch Exchange, Salt Lake City, and found the count to be accurate.

After the count of the physical property had been completed and compiled, unit costs were derived to be applied respectively to the various units of property contained in the inventory. In determining the cost of plant items, individual items were grouped together the same as they are associated in the plant, and the cost of the complete unit found. The claimed unit cost of such an item included, in addition to the cost of labor and material, incidental expense in connection with labor, supply expense, freight, cartage, plant supervision, tool expense and general expense.

In this case, two cost studies were made, one designated as the pre-war period, covering the period from January 1, 1913, to December 31, 1916, inclusive, and the second designated as a war level period, covering the period from January 1, 1917, to August 31, 1919. All of the work done in Utah during these respective periods was studied, for the purpose of determining what it actually cost the Company for labor, materials, supervision and other expenses. It is claimed that the unit costs for each of the studies, therefore, did not reflect either the maximum or the minimum costs, but rather an average of each of the periods. Applicant submitted two appraisals so as to reflect the valuation of the property based upon labor, material and other costs, prior to the great increase in costs of labor and equipment employed in telephone construction; also to reflect the valuation of the property based upon costs during the period after the increase in such costs had occurred.

It appeared from the evidence that, while there was a gradual increase in the cost of both labor and material for a number of years, the greatest increase began about January, 1917, and continued upward until the end of the war level period.

In line with the foregoing, the two appraisals submitted by applicant as of August 31, 1919, based on the average costs of these two periods, are as follows:

Account Number	Account	Pre-War 1913-1916	War Level 1917-1919
111-01	Misc. Investment Land		
111-02	Misc Investment Buildings		
207-01	Right of Way, Ex.	$ 40,600.17	$ 40,600.17
207-02	Right of Way, Toll	24,202.90	24,202.90
211	Land	92,284.43	116,073.10
212	Buildings	553,563.72	741,618.89
221	C. O. Telephone Equip.	732,128.47	1,061,765.58

222	Other Equip. of C. O....	50,925.08	50,925.08
231	Station Apparatus	291,109.91	364,531.38
232	Station Installations ...	154,054.79	203,407.38
233	Interior Block Wires ...	8,483.03	8,731.47
234	Private Branch Ex.....	94,886.90	126,288.29
235	Booths & Special Fit....	10,961.40	16,674.33
241	Exchange Pole Lines..	757,298.51	1,211,986.71
242	Exchange Aerial Cable.	750,291.07	866,075.67
243-03	Exchange Aerial Wire..	338,059.64	619,980.45
243-13	Exchange Drop Wires..	142,533.44	243,053.02
244	Exchange U. G. Conduit	481,888.82	617,204.05
245	Exchange U. G. Cable..	556,029.52	637,446.26
251	Toll Pole Lines.....	640,548.48	1,075,204.83
252	Toll Aerial Cable.....	938.91	1,076.08
253	Toll Aerial Wire.....	727,321.90	953,224.02
255	Toll U. G. Cable	4,122.18	4,616.83
261	Office Furn. & Fix. ...	56,235.53	56,235.53
264	General Stable & Garage Equipment	53,748.07	53,748.07
265	Gen. Tools & Imp.....	17,583.13	17,583.13
268	Int. during Const.....	459,174.09	642,640.29
	Cost of Est. Business...	1,354,424.98	1,354,424.98
	Working Capital	314,042.09	314,042.09
	Total	$8,707,441.16	$11,423.360.58

WEIGHT TO BE GIVEN PRESENT DAY COSTS

The Commission is here confronted with the duty of finding fair value of applicant's property within this State for rate-making purposes. This contemplates the selection of a cost period for reproduction to reflect that value. The finding of the present fair value during a time of economic overturn, is difficult, Various commissions have arrived at different conclusions, and much has been written in justification of this or that method to be used in arriving at a practical solution of this problem.

That the value of the property should be found as of the times when the property enters into consideration for rate-making purposes, has been held by the United States Supreme Court in Willcox vs. Consolidated Gas Company, (U. S. Reports, Volume 212, Page 52) ; and to the same effect is the case of Denver vs. Denver Union Water Company, (U. S. Reports, Volume 246, Page 191.)

The weight to be given present day costs in finding value, has been discussed by courts, particularly by the U. S.

District Court of Missouri, in the case of St. Joseph Railway, Light, Heat & Power Company vs. Public Service Commission of the State of Missouri, et al., (Federal Reporter, Volume 268, Page 269) ; also by the U. S. District Court of New York, in the case of the Consolidated Gas Company of New York vs. Newton, (Federal Reporter, Volume 267, Page 234).

This question also came before the New Jersey Supreme Court in Elizabethtown Gas Light Company vs. Board of Public Utility Commissioners, (Public Utilities Reports Annotated, Volume 1920-F, Page 1002).

It would seem that the weight of recent court authority is that present day costs may not be disregarded in the establishing of a rate base. That it cannot, however, be laid down as a rule without qualification, has been held by the Supreme Court of Illinois, in the State Public Utilities Commission, ex rel., City of Springfield vs. Springfield Gas & Electric Company, (P. U. R. 1920-C, Page 652). The Court discussed this question as follows:

> "It would be equally as unfair to the consumer to fix the rate at a figure which would produce a reasonable income on a value determined by the cost of reproduction new at a time when cost of construction was abnormally inflated, as it would be unfair to the public utility to compel it to serve the public for a rate that would produce a reasonable income on a value determined by cost of reproduction new at a time when the cost of construction was abnormally low. Therefore it cannot be laid down as a rule without qualifications that cost of reproduction new, less depreciation, is the only basis of valuation for rate-making purposes. It is equally true that the original cost of construction, less depreciation, cannot be held to be the only proper basis for determination of valuation for rate-making purposes. As we have pointed out heretofore in this opinion, the weight of authority is that every element having any bearing on the situation must be considered in the investigation, and then sound business judgment applied to the determination of a valuation that is fair and just to the consumer and the utility. Each case must be considered on its own merits, and such result of value arrived at as may be just and right in each case."

A value cannot be determined as of any given limit of time, but as of a general period for which a valuation is made and during which it is likely to be effective. When values are based upon periods of either extraordinarily high or low price levels, such factors must be given due consideration. Of course, we believe that they alone should not control when it appears that prices have very greatly increased due to such an extraordinary cause as the World War, and an effort should be made to determine how much of the said increase represents permanent enhancement in value or increased value that would be retained during the time rates would likely be in effect. For this purpose and as a guide, it may be well to study the history of prices under such similar conditions as has been found to have existed heretofore, and to also consider the permanent increase in the circulating medium for money in which terms prices are expressed, and to study past economic cycles, both as regards price level and increase in circulating medium, together with all such factors entering into the question.

The Commission recognizes that there has been a general upward trend of costs of labor and materials for a number of years past, and the evidence in this case discloses that so far as the cost of labor and materials entering into telephone service is concerned, the curve of prices inclined sharply upward beginning in 1917, and that the cost of labor and materials has risen much higher since that time, and that were the Commission to value the property of applicant at the present day costs of labor and material, the rate base would be higher than even the war level valuation claimed by the Company, because the war level valuation is based upon average prices from January 1, 1917, to August 31, 1919. The Commission likewise recognizes that the pre-war valuation does not properly reflect the reproduction cost new of the property as of December 31, 1916, because it represents the average value from January 1, 1913, to December 31, 1916.

The Company has not contended for its war level valuation, but has stated that it is entitled to a valuation higher than its pre-war valuation and somewhere between its pre-war and its war level valuation. The Commission is of the opinion that the contention of the Company is not unreasonable, and, in line with the various court decisions cited above, has concluded to allow a valuation somewhat higher than the pre-war valuation. However, the Commission recognizes that a great deal of the property in Utah was placed in the plant even prior to the beginning of the pre-war period, and that during the war level period not more than approxi-

mately one-eighth of the property was constructed. The costs may or may not decline sharply, but our belief is that there will shortly be some decline. The rate base to be fixed in the case is not fixed alone for the year, but for a longer period, and it would, therefore, appear, all things considered, that substantial justice will be done both to the utility and to the public, if the price period be extended so as to include the year 1917, and a reproduction cost upon that basis, as of August 31, 1919, found.

WESTERN ELECTRIC RELATIONSHIP

Evidence discloses that a supply contract exists between the Mountain States Telephone & Telegraph Company and the Western Electric Company. This relationship appears to be an important one in the conduct of the telephone business, as stated by Witness Peters: (Transcript Page 564)

> " * * * It is the manufacturing branch of the business; it is the purchasing department for many of the telephone companies; and it is the warehousing and supply organization for the storing and distribution of material and supplies used in the telephone industry.
>
> The supply contract between the Mountain States Company and the Western Electric Company permits the Telephone Company to specify of whom any purchases are to be made. The Telephone Company is not bound by this contract to buy anything at all from the Western Electric Company. The contract can be terminated by the Telephone Company at any time upon written notice of such termination one year in advance."

The evidence discloses that practically all of the material used by the Company is purchased either from or through the Western Electric Company, acting in its capacity as purchasing agent or storekeeper for the Telephone Company. The Western Electric Company maintains a warehouse in Salt Lake City, from which the materials, in most instances, are shipped directly to the job where the work is being done. The Company, however, does carry in its own small warehouses at each exchange, a certain quantity of supplies and materials necessary to do the usual routine work. These supplies are likewise purchased from the Western Electric Company. The bills for all of this work are checked by the

auditing department of the Mountain States Company, and, likewise, check is made of the bills of the Western Electric Company for the materials and plant equipment purchased by it and sold to the Mountain States Company.

The method of handling the business between these two companies was carefully investigated by a representative of the Commission and its engineering staff, particularly as to the effect of the contract between the applicant and the Western Electric Company as regards the handling of the plant equipment, materials and supplies.

The evidence discloses that the Western Electric Company carries large stocks of equipment and apparatus, which are available for immediate shipment when required by the Telephone Company; and, as to materials and supplies furnished, the Western Electric Company, under the contract, charges cost plus certain percentages as compensation for storing and shipping apparatus of the Western Electric Company's manufacture.

Should the Telephone Company terminate this contract, it would be obliged to maintain a purchasing department and build up and maintain an organization to perform the service now rendered by the Western Electric Company. It would further be obliged to carry a larger investment for materials and supplies, and to make an investment in land, buildings, warehouse fixtures, equipment, office furniture, etc., and this investment would carry interest and other fixed charges, and would, of course, be necessarily considered in fixing rates.

Testimony was to the effect that the Company has had experience in operating its own warehouses at El Paso, Texas, and Helena, Montana, and there was introduced as testimony a study based upon this experience, as to what would now be the cost of acting as its own purchasing agent and maintaining its own warehouses. The result showed there was an advantage in the Western Electric Company relationship. The evidence likewise disclosed that the prices charged by the Western Electric Company to the so-called independent telephone companies, were substantially higher than those charged the licensee companies, of which this Company is one, averaging from 15 per cent higher in 1914 to 35 per cent higher in 1919. From such investigation as the Commission has conducted, it appears that prices charged applicant by the Western Electric Company are less than the prices charged by other manufacturers of telephone apparatus to independent companies.

Taken as a whole, the present contract appears at this time to be beneficial to the utility.

LABOR AND MATERIAL UNIT COSTS

The applicant, since the present Company was formed, has carried on practically all of its construction work with the use of its own forces, and the method employed to arrive at the costs new to be applied to the units of the plant, was to study all of the work done by the Company over as long a period as possible that was representative of general conditions. This method was described in detail by Witness Peters. (Transcript Page 42).

Prices of the materials that enter largely into the construction of the plant have been determined by the trend price method. These materials are often subject to wide variations in price, and it would be misleading and unfair, particularly on account of the aggregate value of these articles in the property, to use average prices over a period of years. The trend price method is set forth in detail by Witness Peters. (Transcript, Page 51).

For other materials, average prices extending over the price period were developed. To the basis unit costs of material and labor are added, in cases where applicable, certain direct costs which it is claimed enter into the cost of such articles. These costs are supply expense, plant supervision, tool expense, general expense, incidental expense, freight and cartage.

Supply Expense.

Supply expense is defined by applicant as a clearing account, and the charges to it are also actual. Witness Peters, (Exhibit No. 1, Page 27) says of this account:

> "It cares for the expense including labor incurred directly in connection with the purchase, storage, handling and distribution of such materials and supplies as are kept on hand in the various exchange storehouses for the ordinary conduct of the day's work. The labor which appears in this account covers mainly the time of men engaged in the local storehouse rooms of the various exchanges."

It also includes a certain class of material known as exempt material, such as small nails, screws, fuses, etc., whose value per item is very small, which, if charged directly per unit, would result in charges of a fraction of a cent each, and would compel the listing of many such items daily.

Testimony was that actual costs of supply expense had been studied. The Commission feels that the result, show-

ing actual operating conditions, would unduly reflect piecemeal construction and replacement, and accordingly a reduction in the percentage claimed is made, from 10.73 per cent for the pre-war period, to 8.50 per cent.

Plant Supervision and Tool Expense.

Plant supervision and tool expense is an account associated with labor. The pay of workmen, foremen and general foremen, is charged directly to labor. This is not the case, however, with the distribution of pay and expenses of supervisory employees. These employees and officials, together with their force, plan, supervise and superintend the work of plant construction. Tool expense includes the cost of small hand tools, the cost of repairing tools, cost of tools lost and stolen, and depreciation on tools taken out of service because of deterioration or breakage. Applicant testified that its percentage is based upon the actual experience of the Company in doing construction work; that is, actual costs of supervision and tool expense have been pro-rated on a percentage basis of labor. The account appears reasonable, and is allowed. It must be remembered that each class of utility has its distinguishing features. Some utilities, like the Telephone Company, require more delicate equipment than some of the other classes of utility property. The cost of supervision of such a plant must necessarily be higher, on account of the delicate and complex apparatus, as well as of the highly trained technical supervision necessary, so that unit costs must be derived suitable and fitting to the kind of utility being valued.

General Expense.

General expense is composed of general office salaries other than that of the supervisory department, already included in the percentage allowed for plant supervision, and bears a direct relation to labor, and is, for this reason, expressed as a percent of direct labor and supervision. The percentage is actual, developed from the records of the Company covering construction work.

Incidental Expenses.

Direct expenses for board and lodging, livery, railroad fare and related expenses, are classified as incidental expenses, and they bear a direct relation to labor, because the workmen incur the expenditure. These costs are expressed in a per cent of labor. This percentage is developed through a study of actual costs of these items entering into

the completed work, and are, therefore, actual charges, and the Commission believes they would not be greatly different in a reproduction cost of the property than those developed upon the actual construction work that has been done by applicant.

Freight and Cartage.

Applicant has included in unit costs of materials, freight charges from source of supply to destination at which material is used. Certain classes of materials are passed through a central warehouse at Salt Lake City, while certain other classes are shipped direct from source of supply to point of use.

In its reproduction cost, the Company has assumed a central warehouse at Salt Lake City, and has divided that portion of the State covered by its investment into three rate groups, exclusive of Salt Lake City. Actual rates to various points in each group are associated with the investment at those points, and the composite rate thus found which closely follows the center of investment of each group and assigns to each group its weighted proportion of freight charges, is used. Upon this theory, local freight charges would be assessed upon certain classes of materials entering into the construction of the Ogden and Provo exchanges from Salt Lake City.

Ogden and Provo are Utah common points, and a more economical method would be to have materials for use in the areas contiguous to Ogden and Provo, shipped direct from source of supply, without passing these materials through the Salt Lake City warehouse, thus eliminating local freight, Salt Lake to Ogden, and Salt Lake to Provo. There would probably be some additional warehouse expense at these two points if this method were adopted, for the reason that if it passed through the Salt Lake City warehouse, this expense would be absorbed by the Western Electric Company, which Company maintains, by the terms of its contract, the warehouse at Salt Lake City. Making an allowance for some additional warehouse expense, the Commission believes a saving which is material would be effected by the adoption of the latter method. Accordingly, a reduction in freight charges has been made to conform therewith. The Commission believes this method of distribution would fit into the construction program of applicant without serious conflict.

Cartage from warehouse to depot and from depot to warehouse at destination, is also included in the shipping

cost of supplies. This cost is based upon the actual average cost to the Company covering a period of years. However, the Commission believes that, while based upon actual experience, the results would be misleading, for the reason that many minimum weight shipments must have been included in conducting operations that would not likely occur in a wholesale construction program such as we have under consideration. A reduction has been made, accordingly, in drayage cost.

CONTINGENCIES AND OMISSIONS

Applicant asks that a percentage of the bare structural costs of the property be added to the inventory to cover contingencies and omissions. Omissions are asked for upon the ground that it is not possible to make a count of the extraordinary number of parts which go to make up a telephone property without overlooking some of the parts; nor can it always be known what conditions have prevailed in the past during construction of certain parts of the plant materially increasing its cost, but of which nothing is known today. Applicant asked that 3 per cent be added to take care of these items.

Witness Peters, (Transcript, Page 72) sets forth some of the reasons why omissions and contingencies should be allowed.

While the Commission realizes that a vast number of articles must be counted in making an inventory and appraisal of any considerable property, it has consistently refused to make an allowance for an undercount upon visible and accessible items, as was stated in Case No. 44. We have, however, in other cases, made allowances for hidden or inaccessible work, where we have found the same to be reasonable, and will, in this case, make an allowance on certain items of the inventory where the work is concealed or inaccessible, and for which no correct records are available.

As regards contingencies entering into the cost of the property, the Commission has allowed in its inventory the actual unit labor costs as developed from actual costs of construction work performed by this Company during a past series of years, and the Commission believes these unit costs already include such contingencies as may be expected to occur in a reproduction of the property. This is particularly true of the example cited by Witness Peters relative to the digging of pole holes and trenches for under-

ground conduits. Neither do we think that contingencies should be allowed upon finished manufactured articles delivered to applicant, or upon buildings. Accordingly, an allowance for omissions and contingencies has been made only along the lines heretofore stated.

REAL ESTATE

The appraisal of lands was made for applicant by a committee, the members of which are known to be reputable, experienced and impartial men, and the composite value arrived at by this committee will be accepted.

A similar method was used in the appraisal of buildings. The Committee submitted itemized average costs of replacing these buildings as of the two periods under consideration, and their report is accepted as reasonable for replacement costs.

Testimony shows that all lands and buildings are used and useful in the giving of telephone service, except one lot and building in Park City, which is not now used and is rented. The value of this property, together with rents and expenses, has been excluded from the appraisal by the Commission. The Central heating plant at Salt Lake City appears to be somewhat overinstalled, as steam is being sold for the purpose of heating some nearby buildings. The value of the excess installation, together with the revenues and expenses, has also been excluded in the consideration of this case, for the reason that the rates charged for service may not at all times be fully compensatory, and thus may become a burden upon the telephone service.

RIGHT-OF-WAY

This account includes money actually spent in acquiring rights-of-way. Applicant states that rights-of-way have been largely required because of:

1. The abandonment of old roads on which lines are located and the building of new roads in some other location.

2. A great amount of tree trimming in some parts of the State, and the peculiar situation in Utah of city blocks without alleys, which forces the setting of distribution poles within the block on private right-of-way.

As heretofore stated, this account represents actual expenditures of money, and is allowed.

PROPERTY ASSIGNABLE TO THE COMPANY AS A WHOLE AND DIVISION OF PROPERTY ASSIGNABLE TO UTAH

Certain of the lands and buildings of the Telephone Company located in Colorado are used for the operation of the Company as a whole, and certain lands and buildings located in Utah are used for the Western Division as a whole.

As to the Colorado lands and buildings, that portion devoted to the operation of the Company as a whole is ascertained according to floor space, and costs are apportioned to Utah upon the basis of the number of stations in Utah as compared with the number of stations in the system.

As to the division buildings located in Salt Lake City, a determination was made as to the amount of floor space used by the division headquarters and the amount apportioned to Utah, Idaho and Wyoming, respectively, based upon the proportion of the number of stations which each state has to the number of stations in the entire Western Division. This resulted in apportioning to Utah the sum of $16,945.18 for buildings, and $2,450.66 for land, as its proportion of the land and main building in Denver used for general headquarters; and of apportioning to Utah $21,224 of the total appraised valuation of $35,000 of the land upon which the division building is located. To this was added that portion of the value of the Salt Lake buildings used exclusively for Utah business.

In line with the foregoing corrections, the Commission finds the specific construction cost of applicant's property as of August 31, 1919, to be as follows:

COMMISSION'S REPRODUCTION COST NEW SPECIFIC CONSTRUCTION ITEMS AS OF AUGUST 31, 1919

Account:	
Miscellaneous Investment Land	
Miscellaneous Investment Buildings	
Right of Way, Exchange	$ 40,600.17
Right of Way, Toll	24,202.90
Land	91,659.43
Buildings	587,034.45
Central Office Telephone Equipment ...	775,967.45
Other Equipment of Central Office	50,925.08
Station Apparatus	303,398.99
Station Installations	162,611.70

Interior Block Wires	8,526.00
Private Branch Exchanges	97,605.72
Booths and Special Fittings	11,785.91
Exchange Pole Lines	793,823.21
Exchange Aerial Cable	788,717.86
Exchange Aerial Wire	356,092.45
Exchange Drop Wires	150,889.69
Exchange Underground Conduit	524,416.38
Exchange Underground Cable	588,653.05
Toll Pole Lines	680,789.43
Toll Aerial Cable	995.24
Toll Aerial Wire	765,930.24
Toll Underground Cable	4,369.51
Office Furniture and Fixtures	56,235.53
General Stable and Garage Equipment	53,748.07
General Tools and Implements	17,583.13
Total	$6,936,561.59

INTEREST DURING CONSTRUCTION

The construction of a property such as this takes time and requires money. Money must be on hand to pay for labor and materials as the construction proceeds, and it must be granted that interest will accrue on the money so spent during the time of construction and before the operation of the property begins. Interest during construction is a part of the completed property and is so recognized in the accounting classification of the Interstate Commerce Commission, and this Commission and the commissions of other states have recognized the propriety of such an allowance. This principle is too well recognized to require an extended discussion at this time, and would only lengthen the opinion. It must also be granted that a considerable period of time, extending into a term of years, is necessary in order to properly reproduce the telephone system of applicant as it now exists.

In this case the Company claims as interest during construction, as applied to the pre-war appraisal, $459,174.09, and as applied to the war level appraisal, $642,640.29. These figures are based upon a five year period as being a proper period for the construction of the property. It is assumed that interest must begin from the time that the investments in materials and labor are made, and run until the work is completed; that expenditures to cover the actual physical structure begin in the first quarter of the second year, and that the constructed portions

of the property begin to go into use in the second quarter of the fourth year.

The rate of interest is six per cent per annum, which is shown to be the cost of money to applicant. Money is presumed to be available at the beginning of each six months period of construction for the expenditures of that period.

While this Commission recognizes that there is economy in having the work progress in a normal way, and having various portions of the plant go into service just at the proper time and in unison with the other portions of the plant, nevertheless, the Commission is of the opinion that a five year period for the construction of this property in the State of Utah is too long, and has accordingly shortened the construction period to four years, and has assumed money on hand at the beginning of each quarter for paying labor, and that money would be available during each quarter to meet material bills in accordance with the contract with the Western Electric Company, purchasing agent for applicant. This would permit of thirty to forty-five days' lapse after receipt of materials before payment.

Certain elements of the property which are usually placed in service only when the plant itself is ready for operation, have been deducted from the interest bearing parts of the property. This deduction amounts to $178,491.81. Simple interest on money would run to the end of the construction period. As the work of construction progresses and portions of the plant are placed in service and begin to accrue revenue, the interest on such portions ceases and a credit is applied for interest on the plant going into service. The result is that interest is only applied to that portion of the investment under construction and not in service and earning. The Commission has in general followed, in other respects, the construction program of Witness Bonny.

In line with the foregoing, the Commission finds the corrected amount of interest during construction to be $352,071.42.

GOING VALUE

We come now to the appraisal of that element which recognizes added value of a property when it has become a going concern. This is usually sought to be measured by appraising, in various ways, the costs that would be incurred in making a going concern of the property. The

appraisal of going value is not easy. Courts and commissions, including the court of highest jurisdiction, have held that an allowance for going value must be made, but no exact rule has been laid down.

The Supreme Court of the United States, in the Des Moines Gas Company vs. Des Moines, 238 U. S., at 153, said:

> " 'Going value', or 'going concern value', i. e., the value which inheres in a plant where its business is established, as distinguished from one which has yet to establish its business has been the subject of much discussion in rate-making cases before courts and commissions."

The same court, in Denver vs. Denver Union Water Company, 246 U. S., at 191, said:

> " * * * We adhere to what was said in Des Moines Gas Company vs. Des Moines, 238 U. S., 153-165: 'That there is an element of value in an assembled and established plant, doing business and earning money, over one not thus advanced, is self-evident. This element of value is a property right, and should be considered in determining the value of the property, upon which the owner has a right to make a fair return, and the same is privately owned, although dedicated to public use.'
>
> "As was then observed, each case must be controlled by its own circumstances. In the present case, the Master expressly declared that his detailed valuation of the physical property and water rights included no increment because the property constituted an assembled and established plant, doing business and earning money; and a careful examination of his very elaborate report convinces us that this is true. The amount allowed by him on this account is not open to serious question from the standpoint of appellants."

To the same effect is Omaha vs. Omaha Water Company, 218 U. S., 180.

In the case of Public Service Gas Company vs. Public Utility Board, 84 N. J. L., 463, the New Jersey Supreme Court upheld an allowance for going value, separately determined, of 30 per cent of the structural value of the plant.

The Michigan Supreme Court, in the Detroit Telephone case, reported in 177 N. W., 306, adopted the language of the Michigan Railroad Commission on this subject:

> "It might be said to represent the difference in value of a telephone exchange with each department supplied with efficient operatives at work; subscribers with telephones connected under contracts and receiving service; records of a going business being kept, and every department properly functioning with each other, in the conduct of the business of rendering service to the public; and the value of the same property without operatives, without contracts, without subscribers and without records of business—in fact, a quantity of property and material adapted to a specific use but unused." (P. U. R. 1918-C P. 81)

See also Pioneer Telephone & Telegraph Company vs. Westenhaver, 118 Pacific 354.

From the foregoing, it clearly appears that while it may be difficult to appraise going value, or, as it is sometimes called, the cost of establishing the business, nevertheless, such property right must be appraised, if there is evidence in the case requiring such finding. That there is evidence in the case under consideration, is undeniable. The measure of going value or cost of establishing the business used by the Telephone Company, includes the cost of developing its organization and the interest upon that cost of development, the excess of expenses over revenues during the period of construction of the property and the deficit sustained by the Company during the period of construction. In arriving at deficits, interest during construction and net income are deducted from the gross fair return for the period.

The Company attempts to arrive at these items from the actual experience of the Company, and has used the actual expenditures covering its operations within the State of Utah for the year 1916. This particular year was chosen, applicant states, because it was necessary to find a period as near as possible to the date of the appraisal, and at the same time a representative year, uninfluenced by the conditions brought about by the war. The study in evidence is a long one, not subject to review in a few words. In substance, however, the Company has attempted to appraise the cost of establishing the business the same

as it appraised the physical property, and, in so doing, arrived at the cost of creating its organization, based upon the actual experience of the Company as to expenditures of money in the year 1916, and applied to the period of five years assumed as being necessary for the development of the organization, the construction of the property and attaching the business.

In some cases regulatory bodies have allowed as the measure of going value, the cost of developing the organization and the deficits from the beginning of the existence of the corporation. In this case, applicant is asking that it be allowed to capitalize the deficits only during the period of developing the organization and constructing the property—that is, during the assumed five year period. Leaving out of consideration for the time being whether a five year period is a proper period for the construction of the property in Utah, it is apparent that by the method employed by the Company it does not seek to capitalize any deficit or any loss sustained by it after the organization and construction period. It merely asks to capitalize its expenditures made in developing an organization and to capitalize what it ought to have earned during that period of organization and construction; and, in so doing, it credits the revenues accruing to the portion of the plant going into service during the construction period. It, therefore, differs from the so-called Wisconsin or historical method, in that it does not capitalize losses in the ordinary course of business, nor does it penalize thrift, as is done where all deficits from the beginning of the Company to the date of regulation are capitalized.

The method of determining the cost of establishing the business it outlined by applicant as follows: (Transcript, Page 129)

> "1. Determine the period which would be required for the organization and development of the business, including the period occupied by the construction of the plant, and placing it in service as it existed August 31, 1919.
>
> "2. Describe, outline or chart the various organizations, and their development during that period.
>
> "3. Describe, outline or chart the various organizations, development and construction features in their logical sequence for the entire period with consequent costs applied.

"4. Show what charges attached to these costs should rightfully be included in the capital charge covering the costs of establishing the business."

Service in accordance with this method of measuring going value begins before the property is completed. This is because every effort will be made to commence service as early as possible, in order to begin to earn revenue, but could not be commenced until the central office equipment was sufficiently far along in construction so that operators could be placed at the switchboards and efficiently take up the work. Further, operation could not commence until a sufficient number of telephones could be connected to furnish a service that would be of value to the subscribers.

Applicant's Exhibit No. 6, Table No. 1, details the organization and development costs and operating expenses for the State of Utah during the five year construction period as follows (summarized):

Organization	$ 208,979.61
Rent	28,701.12
Maintenance	205,991.62
Traffic	377,242.75
Commercial	320,036.44
Relief Department and Pensions	49,627.23
Insurance	9,397.16
Taxes	199,551.05
Depreciation	759,152.48
Interest	28,458.34
Total	$ 2,187,145.80

Applicant further shows cost forming basis for fair return, State of Utah, in Exhibit No. 6, Table No. 2 (summarized):

Organization, Development Costs, Operating Expenses as above	$2,187,145.80
Expenditures for Physical Property	7,007,425.78
Working Capital	314,042.09
Total	$9,508,613.67
Operating Expenses after beginning service	1,703,079.55
Total Expenditures less Operating Expenses	$7,805,534.12

This figure is used as a basis for computing a fair return, as follows, in Exhibit No. 6, Table No. 3 (summarized):

Capital Invested	$7,805,534.12
Expense less Revenues	308,989.54
Total Costs subject to Fair Return	$8,114,523.66

From this total a gross fair return for the total period of $1,316,973.36 is computed. From this sum is deducted:

Net Revenue during the Period, less Income Tax	$ 117,858.91
Interest during Development, as previously noted	28,458.34
Interest during Construction, as previously noted	457,043.10
Total Deductions from Gross Fair Return	$ 603,360.35

We, therefore, have:

Gross Fair Return, as heretofore stated	$1,316,973.36
Less Total Deductions	603,360.55
Net Fair Return	$ 713,612.81

Applicant then sets forth the total cost of establishing the business in Utah, (Transcript, Page 134) consisting of four main items, as follows:

"Organization and Development Expend.	$455,607.91	
Interest during Development	28,458.34	
Total Expenditures Prior to giving service		$ 484,066.25
Operating Expenses in Excess of Revenue		156,745.92
Net Fair Return During the Five Year Period		713,612.81
Total Cost of Establishing the Business		$1,354,424.98

Note: Net Fair Return is result of deducting Interest During Development, Interest During Con-

struction, and Net Income from the Gross Fair Return for the period, so that no duplication of these charges exists."

The Commission has analyzed these costs carefully and has made certain changes in addition to reducing the total construction period from five years to four years. Operation of a portion of the property will begin one year earlier than was contemplated in petitioner's exhibit. Cross-examination also developed clearly that maintenance expenses of a new property would be less than such expenses incurred in maintaining a property that had been in operation for years, notwithstanding that some additional "tuning up" of new apparatus would be necessary in order that it function properly.

Again, applicant computes taxes upon the basis of present taxes pro-rated over the construction period. We believe this is not in accord with taxing methods in this State. It is not customary to tax physical property under construction. Further, property is assessed in this State in January, taxes being paid the following November or December. There is, however, little question that taxes would accrue on real estate and right of way from the time of purchase.

The Commission has accordingly recalculated taxes as above outlined, upon land and right of way from time of purchase, and upon physical property in operation from January of each construction year. This has very materially reduced the amount claimed by applicant for taxes, but we believe it is consistent with taxing methods in Utah.

There is no question but that depreciation should be calculated upon depreciable physical property from the time it is constructed. However, the Commission has heretofore ruled that accruals to the depreciation reserve fund may be used temporarily in the property and should be treated, as regards return, the same as the balance of the property, earnings being credited to the fund. It must be assumed that the utility will continue to operate for a long series of years; or in other words, by reason of constant replacement and renewals the usefulness of the property will extend through several life cycles. Accordingly, depreciation has been calculated upon the sinking fund basis instead of the straight line method as presented by petitioner.

With the foregoing corrections, the Commission finds organization and development costs and operating expenses for the four year construction period to be as follows:

Organization	$ 162,325.27
Rent	25,189,34
Maintenance	151,428.22
Traffic	371,883.76
Commerical	320,036.44
Relief Department, Pensions	45,720.00
Insurance	7,896.92
Taxes	44,858.10
Depreciation	440,718.48
Interest	10,281.54
Total	$1,580,338.07
Organization, Development Costs, Operating Expenses } as above	$1,580,338.07
Expenditures for Physical Property	6,936,561.59
Working Capital	314,042.09
Total	$8,830,941.75
Operating Expenses after beginning service	1,348,692.64
Total Expenditures less Operating Expenses	$7,482,249.11
Capital Invested	$7,482,249.11
Expense less Revenues, (During deficit period)	141,624.09
Total Costs subject to Fair Return	$7,623,873.20

from which a total gross fair return for the total construction period of $1,072,730.02 is computed. From this is properly deducted:

Revenues in excess of operating expense	$ 197,640.99
Interest during Development as previously noted	10,281.54
Interest during Construction as previously noted	352,072.02
	$ 559,994.55

We have therefore:

Gross Fair Return, as heretofore stated	$1,072,730.02
Less Total Deductions	559,994.55
Net Fair Return	512,735.47

The total cost of establishing the business is summarized as follows:

Organization and Development Expenditures	221,363.89
Interest during Development	10,281.54
Total Expenditures Prior to giving service	231,645.43
Net Fair Return During the Five Year Period	512,735.47
Total Cost of Establishing the Business	$ 744,380.90

The Commission, in Case No. 44, (Utah Light & Traction Company case) wherein the applicant sought to capitalize deficits incurred upon its property during its entire existence, determined that while going value was a thing to be reckoned with, the question of deficit or supersession would be considered only during the period of present ownership of the said Utah Light & Traction Company. That Company had acquired the property in 1914, and the Commission considered the deficits incurred during three and one-half years as one measure of going value.

The evidence in this case shows that the Company acquired the property of the Rocky Mountain Bell Telephone Company in 1911. Applicant introduced a statement showing deficits for each of the years from 1913 to and including 1919, the deficits for 1911 and 1912 not being available. The total deficit is shown to be, in round numbers, more than $2,000,000. A comparison of the two methods leads to the adoption of applicant's first method as being more reasonable and logical, as it does not increase or decrease with time, as occurs when the period of present ownership method is employed.

Various other methods of measuring going value have been employed in cases before courts and commissions. We

believe an extended discussion of these various methods would only lengthen this report. The Commission has repeatedly held in other cases that while various methods of measuring going value have been devised, after all it cannot be a mere matter of formula, and no general rule can be laid down. Not being a mathematical product, it can be made only upon the best judgment of the Commission after consideration of all relevant facts. Among the elements necessarily considered, and to which the Commission in this case has given due weight and consideration, are physical and financial history of the utility, the history of its rates, the number and kind of its customers, competitive service, and, in general, all those matters which enter into the making a going concern of the property.

A full consideration of all elements convinces the Commission that an allowance of $744,380.90 is a proper allowance for the cost of establishing the business, in this case.

WORKING CAPITAL

Computation of working capital necessarily entered into the appraisal of going value, though no discussion for its necessity was had under that heading.

Applicant has submitted evidence to show that it is entitled to an allowance of $314,042.09 as working capital, and bases this claim upon what it terms the actual experience requirements of the Company for the year ending June 30, 1919.

The Company contends that working capital embraces that group of accounts usually designated as working asset accounts, namely, cash, employees' working funds, accounts receivable, material and supplies, and prepayments, from which should be deducted the accounts known as working liability accounts, such as audited vouchers, wages unpaid and other accounts payable.

The method employed in arriving at working capital is to study the amount actually employed for the Company as a whole. This can be determined through an analysis of the accounts involved. Applicant's study is built upon the records of the Company, and is based upon a full year's business. All revenue producing items were eliminated. By this method, the average figure for the year ending June 30, 1919, was found to be $307,210.06. This was equated, showing that the actual working capital necessary as of June 30, 1919, was $312,868.87; and as of January 1,

1921, $314,042.09, which latter figure is accepted by the Commission as fair and reasonable.

The evidence contains a detailed exhibit, including tables of a study of each of the accounts involved. The record shows that some of the bills are rendered on the first of the month for service to be rendered during the month; that at different periods during the month a percentage of the month's service is paid; but it also appears from the evidence that the bills are likewise being paid during all of the said period; that the amount of money which is received during the month is in excess of the balance at the end of the month; that the bills paid during the month are likewise greatly in excess of the cash balances at the end of the month. So, it is apparent that as the money is received, it is immediately paid out, and that the cash balances at the end of the month reflect the amount of cash requisite for the conduct of the business. Further, as to toll service, the bill on the first of January, for example, covers the toll service rendered November 21st to December 20th, and that which is rendered between December 21st and January 1st, is not billed until the first of February.

Cash is required by employees in various parts of the State. These advances, known as employes' working funds, are necessary to meet the routine business of the day in every exchange of the State. Cash in the hands of these employes is not reflected in the cash account. There is a continuing amount in the hands of the employes.

The Company contends that the amount of working capital asked for is necessary in the actual performance of its business, even though there is taken into consideration the fact that a portion of its charges are paid by its patrons during the current month, as above stated. It is also necessary for the Company in the conduct of its routine business, to have in each of the exchanges a certain amount of material and supplies to take care of ordinary repairs and emergencies and for the installation of telephones which would otherwise be delayed until material and supplies could be obtained in the central warehouse in Salt Lake City. These materials and supplies are paid for and are property of the Company, and are necessary in the usual conduct of the business.

An inventory of these supplies is taken once a year. In this case, the inventory was taken September 30, 1919. It is shown by the evidence that the amount of these supplies does not vary much from month to month, and the

amount of supplies in the exchanges as of September 30th is accepted as a part of the working capital.

The Commission is of the opinion that the sum asked for is a necessary and reasonable amount for the proper conduct of the business, and is allowed. This amount is in harmony with that found by other commissions in making rate studies of telephone companies in other states.

ADDITIONS TO PROPERTY SINCE DATE OF VALUATION

The Commission is making a present day valuation of the property used and useful in the service of the public. There has been constructed and placed in operation since August 31, 1919, and up to January 1, 1921, additions to the plant amounting to $315,111.11, which should be included.

The Commission, after giving full consideration to all the evidence submitted that may or does have any bearing upon the value of the Mountain States Telephone & Telegraph Company, used and useful in the giving of public service in the State of Utah, finds the fair value of the property to be, as of August 31, 1919, exclusive of depreciation, but including, however, a reasonable allowance for the general miscellaneous overheads heretofore discussed, and an adequate allowance for going value and working capital, as follows:

Structural Costs	$6,936,561.59
Interest during Construction	352,071.42
Going Value	744,380.90
Working Capital	314,042.09
Total	$8,347,056.00
Additions and Betterments, August 31, 1919 to Jan. 1, 1921	315,111.11
Undepreciated Value as of Jan. 1, 1921	$8,662,167.11

FINANCIAL HISTORY

The Rocky Mountain Bell Telephone Company was incorporated in 1883, with a capitalization of $600,000. This company purchased various telephone properties doing business in Utah, Idaho and Montana. During the same year its capital was increased to $800,000, and continued

at that figure until March, 1891, when it was reduced to $400,000, in order that there should be no stock issued or outstanding except that represented by cash or property. Later, the capital stock was increased to $500,000, and then to $1,000,000, and as extensions increased and the necessity of new financing became imperative, there was a further increase, in January, 1900, to $2,500,000.

In 1906, it was thought advisable to acquire by purchase the properties of the Utah Independent Telephone Company then operating in Utah, which would call for the sale or delivery of $1,500,000 of stock to meet the contingency of such proposed sale. The capital stock of the Rocky Mountain Bell Telephone Company was, therefore, increased to an authorized issue of $10,000,000. The purchase of the Utah Independent Telephone Company did not take place at that time, and as a consequence, the Rocky Mountain Bell Company had only issued, at the time of the sale of its properties to the Mountain States Company, $2,639,500 face value of stock.

At the time of the sale of the property to the Mountain States Company, the Rocky Mountain Bell Telephone Company was indebted in the American Telephone & Telegraph Company for money loaned in the sum of $8,302,507.80.

It will be seen from the foregoing that the only stock issued and outstanding at the time of purchase of the properties of the Rocky Mountain Bell Company by the Mountain States Telephone & Telegraph Company, was represented at par by cash or property, and that an equivalent amount of stock which had been issued for franchise rights had been recalled. From its organization until 1891, the Rocky Mountain Bell Company paid no dividends of any kind to the American Telephone & Telegraph Company or its predecessor, upon the stock belonging to or held for said companies. Upon the stock held by the general public, dividends were paid only a portion of the time —in 1883, at the rate of 4 per cent per annum; in 1884 and 1885 at the rate of 6 per cent per annum; in 1886 and 1887 at the rate of 4 per cent per annum; in 1888, at the rate of 2 per cent per annum. Dividends were suspended from October, 1889, until April, 1891, when they were resumed at $1.00 per share on the reduced capitalization of $400,000.

In the years 1891 to 1897, both inclusive, quarterly dividends were paid at the rate of 4 per cent per annum. During 1898 to 1906, both inclusive, regular quarterly dividends at the rate of 6 per cent per annum were paid.

Dividends were supended in the fall of 1907, and were never resumed by the Rocky Mountain Bell Company. Since the formation of the Mountain States Telephone & Telegraph Company, it has paid a dividend of 1-3/4 per cent quarterly upon the amount of the capital stock outstanding. It appears from the record that the equivalent of all the returns from the sale of capital stock, and all borrowed money, went into the property.

The financial history of the Colorado Telephone Company, one of the constituent companies merging into the Mountain States Telephone & Telegraph Company, in July, 1911, is very similar to that of the Rocky Mountain Bell Company, except that dividends averaging slightly over 6 per cent per annum upon its outstanding stock were paid during the life of that company.

The Tri-State Telephone & Telegraph Company had been incorporated for $1,000,000, and all of its stock was issued, for cash or property, at par. At the time, therefore, of the consolidation of these companies into the Mountain States Company, and the acquiring of the properties of the Rocky Mountain Bell Company, the testimony is that there was no stock of any of the three companies issued and outstanding that had not been paid for, in cash or property, at par. The Tri-State Telephone & Telegraph Company paid quarterly dividends at the rate of 7 per cent per annum during its life.

Upon merging into the Mountain States Telephone & Telegraph Company the properties of the Tri-State Company and the Rocky Mountain Bell Company, the capital obligations were decreased $1,429,056.43, and the reserves were increased $1,417,056.43. It was testified that from its organization to date, the Mountain States Telephone & Telegraph Company has issued capital stock only for property or cash, and at par. No stock has been sold at less than $100 per share net to the Company.

ANNUAL REQUIREMENT FOR DEPRECIATION

The different elements of telephone plant and equipment need replacement at different periods of time, varying from month to month, as required, and to care for these needs there must be a reserve. To accumulate this reserve requires the setting aside of funds for that purpose. Every telephone user should stand his proper proportion of this expense, and, therefore, it is desirable to spread the expense smoothly and evenly over the life of the plant. The purpose of the reserve is to keep the ser-

vice continuous in the interest of the public, by making replacements when and as required, and to guarantee the utility against loss of property it is employing in the public service. A telephone service is intended to continue for an indefinite period of time into the future, and on an ever-increasing scale.

Replacement of a plant may be necessitated by any one or more of several causes. The plant may be displaced and replaced because it is worn out from use or decay, or has become inadequate or obsolete, or has been damaged or destroyed by fire, storms, flood or other casualties, or by reason of civic requirements or public demand. The factors of age, use and decay, unite to shorten the life of the plant. The factors of casualty or accident tend to end immediately the life of portions or all of the plant involved. The factors of inadequacy and obsolescence are illustrated where newer and better apparatus has been invented, and must, in the interest of good service, replace the old, or where the business has outgrown its present facilities. Property retired to conform with public demand, is illustrated when change is made from the magneto to common battery service. Retirements or replacements on account of civic improvements, may be illustrated when overhead wires must be placed underground, or where cables and wires are changed in location to conform with civic progress.

The amount of replacement, and, consequently, the size of the reserve for a depreciation fund and the rate of the annual requirement, depends upon the character of the plant and equipment of the utility. Many elements of a telephone plant are of delicate mechanism, and must, from the nature of the use of them, be short lived and must quickly replaced. Much of the overhead construction of a telephone property is of comparatively short life, so that a higher rate of annual requirement for the depreciation reserve fund is necessary with this kind of a utility than in the case of some of the other utility properties, such as, for example, a water company or gas company.

The rate of annual requirement for the depreciation reserve fund has occupied the attention of many commissions, and very complete studies have been made. Applicent, in 1912, caused an investigation of this subject to be made throughout its entire territory, and other companies, both Bell and Independent, have made detailed studies of the subject. The result of the study of this Company and others is embodied in the evidence.

The Commission has given careful consideration to this phase of the case, and has investigated the amounts allowed by other commissions to telephone companies in their respective jurisdictions. The record shows that during the Federal control and operation the composite rate allowed for the annual requirement was 5.72 per cent. All things considered, the Commission believes that an allowance of 5.72 per cent upon the depreciable physical property is ample and reasonable.

Applicant claimed that during past years the Company has been unable to set aside, out of earnings, the amount claimed, and as a result the reserve of the Company is deficient. If future operating experience demonstrates that the Company's requirements will be less or more than 5.72 per cent, the Commission can quickly remedy the situation.

The Commission believes that earnings of the fund should be credited to the fund, in order to properly reflect the use of the fund on behalf of the public, and to insure this result, depreciation will be set up on the sinking fund instead of the straight line basis. It follows that funds so invested should not be deducted from "present value."

The Commission finds the annual requirement for depreciation reserve, based upon the depreciable physical property, set up on the sinking fund basis at 5 per cent interest, to be $251,909.15, as of August 31, 1919.

Investigation disclosed that the amount of the depreciation reserve fund for the entire Mountain States Company, as of December 31, 1920, is $6,512,613.09, of which amount 15.59 per cent, or $1,015,316.38, is claimed to be applicable to property within the State of Utah.

REVENUES AND EXPENSES

The Company, by reason of its being under control of the Interstate Commerce Commission, and by reason of the statutes of the states in which it operates, including those of Utah, has adopted an accounting system known as the Interstate Commerce Uniform System of Accounts.

The auditor of the Commission visited Denver, and thoroughly examined into the accounting system, and the accounts kept by the Company, both as to the Company as a whole, and particularly those that pertained to operations within the State of Utah. His check and report agreed with the evidence furnished to the Commission by the applicant. The books properly reflected the transactions of the Company.

The Company has introduced in evidence statements covering revenues and expenses of the Company for the years 1914 to 1919. The statements show a deficit for each of these years. In arriving at deficits, book values were used, and the Company claimed as its depreciation requirement, 6 per cent upon the depreciable physical property and 8 per cent upon the value of the property used in the giving of service, for the rate of return. Upon this basis, the deficits for these years are shown in the following table:

1914	$302,288.53
1915	303,553.60
1916	241,653.65
1917	281,034.82
1918	462,855.81
1919	289,429.10

The decrease in the deficit for the year 1919 from that of 1918, reflects the increase in toll and exchange rates put into effect by the Postmaster General, in January and May, respectively, of that year, which are the rates at present in force and effect in the State of Utah.

An analysis of petitioner's revenues and expenses for the State of Utah, in 1919 and 1920, is as follows:

REVENUES

Exchange Service Revenues	1919	1920
Subscriber's Stations	$1,399,409.89	$1,593,484.27
Public Pay Stations	69,168.68	88,823.86
Service Stations	3,407.85	3,491.31
Private Exchange Lines	3,171.45	1,893.14
Miner Rents of Ex. Plant	4,798.93	5,587.47
Total	$1,479,956.80	$1,693,290.05

Toll Service Revenues	1919	1920
Message Tolls	$ 564,958.71	$ 655,708.56
Leased Toll Lines	3,374.47	10,427.87
Telegraph Service on Toll Lines	50,707.27	32,438.91
Minor Rents of Toll Plants	767.83	640.04
Total	$ 619,808.28	$ 699,215.38

Miscellaneous Operating Revenues	1919	1920
Telegraph Commissions	$ 87.94	$ 77.86
Advertising and Directory	10,219.77	7,566.37
Rents from other Operating Property	278.18	271.18
Other Miscellaneous Revenue	1,277.16	907.70
Messenger Service		382.85
Total	$ 11,863.05	$ 9,205.96
Total Telephone Operating Revenues	$1,934,084.17	$2,194,313.21

EXPENSES

Maintenance Expense, (not including depreciation)	$ 297,768.01	$ 334,704.77
Traffic Expense	610,499.25	663,964.91
Commercial Expense	216,055.83	288,917.06
Insurance, Accidents, Damages, etc.	5,605.14	5,595.13
Telephone Franchise Requirements	246.40	490.00
General Expense, Benefit Fund, etc.	72,119.72	71,068.29
Uncollectible Operating Revenues	5,125.48	9,973.05
Taxes	163,058.47	207,253.25
Rent Deductions	10,999.73	11,750.85
Amortization of Intangible Capital and Right of Way	2,026.48	2,878.50
Total, (not including depreciation	$1,383,504.51	$1,536,595.79
License Payment	88,771.98	103,699.09
Total	$1,472,276.49	$1,640,294.88

On the above accounts the Commission is not inclined to allow amortization of intangible capital and right of way, for the reason that the actual cost of right of way has been included in determining value of petitioner's property for rate-making purposes, upon the theory that it is permanenty a part of the property, hence should not at the same time be amortized.

As regards allowance for amortization of intangible capital, the record does not appear sufficiently clear to enable the Commission to pass upon this question, and it will be held for further consideration. With this correction, the totals for the years 1919 and 1920 are shown to be as follows:

	1919	1920
Revenues	$1,934,084.17	$2,194,313.21
Expenses (corrected)	1,470,250.01	1,637,416.38
Net Income before deducting Depreciation	$ 463,834.16	$ 556,896.83
Depreciation Reserve	251,990.15	263,166.29
Net Available as return on Investment	$ 211,844.01	$ 293,730.54

There are two expense items of which special mention should be made. They are: The Employes' Pension Disability Benefit and Death Benefit Account, and Licensee Revenue Expense, covering what is known as the American Telephone & Telegraph Company relationship.

EMPLOYES' BENEFIT FUND

The Company, on January 1, 1913, in common with all other allied Bell Companies and the American Telephone & Telegraph Company, made effective an Employes' Benefit plan. The directors of the Company have set aside $175,000, placing it to the credit of what is known as the Employes' Benefit Fund, from which all benefit demands are paid during the year. At the end of each fiscal year it adds to the fund such amount as will restore it to the original total of $175,000, provided such addition in one year does not exceed 2 per cent of the Company's payroll. Should this fund not be sufficient to meet all demands upon it, by virtue of a contract with the American Company, that company supplies the difference, having set aside a general fund of $2,000,000 for such purpose in its own behalf, and in behalf of the Associated Bell Companies. No part of this fund comes from the wages of employes. It is an expense borne by the Company alone. This plan is so framed that it does not conflict with the Workmen's Compensation Laws adopted by the various States in which the Company operates. We believe the plan is compatible with the public good, and it is approved.

CONTRACT WITH AMERICAN TELEPHONE & TELEGRAPH COMPANY

The expense known as Licensee Demand grows out of the relationship of the American Telephone & Telegraph Company and the Mountain States Company. That relationship is the outgrowth of the business. When the telephone was first invented, there was no such thing as the science or art of telephony. The entire line of appliances and methods of conducting the business had to be developed.

The American Company, or its predecessor, first granted temporary licenses to individuals or corporations in various parts of the country who used the Bell instrument. Immediately all sorts of questions arose, and the Bell Company was sought for advise and instruction in the construction and operation of the various telephone properties. The result was the formation and development of what is known as the general staff of that Company.

This relationship is shown by a contract made in the year 1918, which is in evidence in this case. This contract puts into written form the substance and provisions of the original contracts and their modifications, and it is claimed the contract of today is simply a reiteration of what have been the developed relations during the previous series of years.

The American Company owns the transmitters, receivers and induction coils used by the Mountain States Company, the rental of which is included in the payment made by the Mountain States Company to the American Company. The entire licensee payment is 4½ per cent of revenue accounts, and it amounted in 1918 to $76,778.29; in 1919, to $88,771.98, and in 1920, to $103,699.09.

It was testified that the obligation of the American Company to the Mountain States Company is to give service as follows:

> Use of inventions and patents, and preliminary tests and experiments of a complete and extensive nature.
>
> Expert advice covering all functions, legal, financial, plant, traffic, commercial and accounting, enabling economies in operation and better and more uniform results.
>
> Laboratory and field tests of apparatus and material, thus establishing standards for greater efficency at less cost.

Engineering data and advice to Company at all times.

Frequent visits of experts and specialists in all departments.

Annual audit of accounts.

Blank forms and books, tending to standardization.

System of bulletins treating all branches of the business, many effecting savings in various departments.

Statistics and benefit of experience of other companies for local application.

Dealing with the United States Government and various state commissions on behalf of the Company.

Assistance to Employes' Benefit Fund.

Inspection and advice on building and development plans, etc.

The extent to which research and development is carried on is illustrated in the annual report of the American Telephone & Telegraph Company for the year ending December 31, 1920, at Page 22, where is described the activities along developmental and research lines of the American Telephone & Telegraph Company, as follows:

"The year just closed has been one of remarkable activity in the Department of Development and Research. In this department, including the laboratories at the Western Electric Company, 2,800 employees are engaged exclusively in research and the development and improvement of telephone and telegraph apparatus and materials and methods. Of these, 1,100 are engineers, chemists, physicits, and other scientists, among whom are graduates of more than 100 American colleges and universities. The remainder are laboratory assistants, draftmen, stenographers, clerks, model makers, and administrative personnel.

At the close of the year, upwards of 2,500 research and development projects were in hand, all these calculated to improve the service which the associated companies are rendering to the public or to make it more economical.

During the year, hundreds of new patents relating to the telephone and telegraph, issued in various countries, have been examined and studied; the latest discoveries in science have been followed

with care by our scientific staff; and over 1,000 United States patents relating to telephony and telegraphy have been applied for by, or issued to, or acquired for the use of this Company."

Numerous commissions and courts have had the question of this relationship before them. It has been the subject of investigation in contested litigation and in hearings before commissions. Extensive opinions have been written by courts and commissions. Among the many decisions may be cited the following:

Chesapeake & Potomac Telephone Case, Maryland Commission, P. U. R. 1916-C, Page 990; Bogart vs. Wisconsin Telephone Co., Wisconsin Commission, P. U. R. 1916-C, at 1020; Michigan State Telephone Co. Case, Michigan Commission, relating to Detroit rates, P. U. R. 1918-C, Page 81; City of Birmingham vs. Southwestern Telephone & Telegraph Co., Alabama Commission, P. U. R. 1919-B, Page 791; Rates and charges of telephone companies, Arizona Commission, P. U. R. 1920-B, Page 411; City of Detroit vs. Michigan Railroad Commission, and Michigan State Telephone Company, Supreme Court of Michigan, 177 N. W. 306.

Reference is also made to the following decisions:

District of Columbia Commission, P. U. R. 1920-D, 624; Indiana Commission, P. U. R. 1920-B, 842; Virginia Commission, P. U. R. 1920-F, 49; Ohio Commission, P. U. R. 1920-C, 534.

The Mountain States Company, in its contractural relationship, is furnished receivers, transmitters and induction coils by the American Telephone & Telegraph Company, the rental of these instruments being included in the 4½ per cent licensee fee. Testimony was introduced by applicant to show that if the Company owned its own receivers, transmitters and induction coils, it would require an additional investment, as of August 31, 1919, of $161,962.96. Obviously, if the parent company furnishes instruments to the Mountain States Company, and through it to the public, it should be paid the fair value of such rentals—what the public would have to pay if applicant furnished these instruments itself. The cost of maintenance of this equipment, together with other proper expenses, and including depreciation and interest on the investment, would amount to $37,251.48 per annum, according to testimony and documentary evidence presented.

The Mountain States Company is largely financed by the sale of stock. When a sale of stock is about to be made, offerings are made to the stockholders at par. The American Company, being the largest owner of stock of the Mountain States Company, always takes its pro-rata share, and in addition any other stock which is not taken by the other stockholders. The record (Exhibit 1, Page 54) shows that the American Company has financed the Mountain States Company on bills payable for the years 1913 to 1918, inclusive, as follows:

1913	$ 279,166.66
1914	274,133.33
1915	177,083.33
1916	466,666.66
1917	2,379,166.66
1918	634,783.33

The average amount for each year shown is based upon the amounts at the close of each month added together and divided by twelve. A constant rate of 6 per cent per annum has been paid throughout the period for money from the American Company, and that is the rate being paid at the present time. A saving in cost of financing due to the relationship existing with the American Company over what the Mountain States Company would have incurred had it been compelled to go upon the open market to sell its stock to raise funds necessary for capital expenditures during 1918, would have amounted, at going rates for acquiring money, to approximately $32,000.

In this case the Company has asked for no allowance for promoters' remuneration or cost of money, upon the assumption that the Commission would approve the relationship existing between it and the American Telephone & Telegraph Company, the theory being that the promotion is also attributable to the general staff of the American Company, and hence, any charges which the Mountain States Company might claim the right to impose upon its patrons for promoters' remuneration and cost of money, are covered by the payment made by the Mountain States Company to the American Company under the contract.

Under present economic conditions, considering, particularly, present costs of financing, the amount paid per year makes the contract favorable to telephone users. However, the Commission is not inclined at this time to approve the method by which licensee payments are computed. The Commission believes the principle which per-

mits the computation of licensee payments upon gross revenue, necessarily operates to increase operating expenses of the Company automatically with a rate increase, and is fundamentally wrong. The Commission is inclined to join with the Indiana Commission, (P. U. R. 1920-B, 844) and the District of Columbia Commission, (P. U. R. 1920-D, 624) in recommending that the licensee contract be submitted to a joint study by the National Association of Railway & Utilities Commissioners, acting for the various commissions of the country, and the American Telephone & Telegraph Company, with a view of arriving at some more logical basis of computing licensee costs that can be uniformly accepted.

SERVICE CONNECTION CHARGE

During the period of Government control, there was instituted a charge known as "Service Connection Charge", which charge is imposed upon a patron when he originally applies for service, or when a change is required, and is payable in advance of the rendition of service. It is intended to cover the special expense made necessary by the particular individual, and is designed to prevent discrimination against those who make no special demands and who use the service for a long period of time without change of location. The record shows that a large number of patrons use service for a period of only a few months, many patrons moving from one place to another. In order to install new telephones certain average expenditures for labor and materials are necessary. If such expenditures are to be covered in rates applicable to all subscribers, then the long-term subscribers will be discriminated against, and will be paying part of special expenditures made necessary by short-term users of service. The addition of new subscribers is an advantage to those already using service, in that it makes possible a more general use of the facility; but the cost of adding a new station to the system, or changing a station from one place to another, should not become an undue burden on subscribers already connected.

A study of costs of the service connection charge is in evidence in this case. In view of the average cost which is shown to be involved in rendering this service, and in view of the general financial condition of the utility, it does not appear that a reduction in this charge can be made at this time.

MEASURED SERVICE

The Company filed with the Commission complete schedules of exchange and toll rates charged within the State of Utah, and modifications thereof made from time to time, and a complete tariff setting forth in detail the rules, regulations and practices of the Company. In its application the Company asked that the rates now being charged, as shown by the schedules on file, for toll, exchange, and general service, be approved.

The Commission has made a detailed, careful study of these tariffs, and it appears clearly, in view of the financial condition of applicant, that no reduction in monthly charges can be made at this time. Investigation convinces the Commission, however, that some modification in the volume of measured service permitted under the schedules, should justly and reasonably be made.

The only reason for the eixstence of a telephone company is to render service. To be of value the service must at least be sufficient to answer the minimum needs of subscribers. The Commission concludes, after full consideration of the matter, that the present allowance of outgoing calls under the monthly rental charge is insufficient to answer the minimum needs of a subscriber. The present practice results in denying a needed service to the community. The number of calls provided for is arbitrary, unreasonable, unduly prejudicial, and discriminatory. On the other hand, unlimited party line service, in exchanges the size of those in Salt Lake City and Ogden, results in such a saturation of the line as to interfere unduly with the individual service. The Commission concludes that sixty calls per month is the irreducible minimum, below which patrons should not be asked to confine themselves. Accordingly, the tariffs should be modified to provide that sixty outgoing calls per month for four-party line service be allowed for the base monthly charge, with extra charge for outgoing calls in excess of that number; and to provide for corresponding increased number of calls for other classes of measured service.

The Commission reached the conclusion to thus modify the measured service schedules of the Company, with the purpose in mind of increasing the availability to the public of a facility that has become, in the development of our complex social and business life, a household necessity, and of removing restrictions that have unduly and unnecessarily curtailed its use and its value, to the detriment and in-

convenience of subscribers. Consideration of service, and not of revenue, have been controlling in this matter.

The new schedules proposed, and hereby found to be, at this time and under present conditions, just and reasonable, are as follows:

Measured Service Charges

Salt Lake City.

Class of Service	Annual Message Allowance	Annual Rate	Rate per Excess Message
Individual Business Line	1,440	$48.00	3c
Individual Residence Line	960	33.00	3c
Two-Party Residence Line	810	27.00	4c
Four-Party Residence Line	720	24.00	5c
Ogden.			
Four-Party Residence Line	720	21.00	5c

The charge assessed for any one month's measured residence service shall in no case exceed the monthly rental charge for individual unlimited residence service.

On the occasion of the hearing on this petition, on November 4, 1919, the Company was unable to submit full data as to its physical valuation, and asked for, and was granted, a continuance until January 6, 1920. Counsel for the Company asked that the Commission permit the Burleson rates, rules and regulations to be continued in effect pending final decision by the Commission, instead of having them terminate November 30, 1919. Counsel agreed that if this request was granted, the decision of the Commission, when rendered, should be made effective as of December 1, 1919. Discussion of this question was as follows: (Transcript, Page 10 and 11.)

> "Commissioner Greenwood: * * * This other matter in regard to the order, it is possible we will talk that over and you will know in the morning, possibly tonight, what the decision of the Commission is with reference to the continuing of the rates until such date or until the final hearing. * * * Of course, you understand this order, if we do make it, will date back, as you suggest, to the first of December. I understand that is agreeable."

"Mr. Smith (Counsel for Telephone Company): absolutely."

"Commissioner Blood: You have already made it clear, Mr. Smith, that the Accounting Department will have no difficulty in making any reports that might be necessary or any change in the rates."

"Mr. Smith: It will be the easiest thing in the world to do, if we have to do it, that is to make that, because we know exactly what we get from anybody, and we know exactly what it ought to be."

With this understanding, the Commission, in its order granting a continuance, stated:

> IT IS FURTHER ORDERED, That rates, rules and regulations prescribed by the Commission upon completion of the hearing on the above entitled matter, shall be made effective as of December 1, 1919."

In line with this understanding, the Company will be expected to recalculate monthly bills and promptly make the necessary adjustments and refunds of overcharges against measured service users, in order to make the net amount paid by such users each month, and for the total period since December 1, 1919, the same that would have been assessed and collected had this order been in effect from and after December 1, 1919.

The Commission, therefore, finds:

1. That the value of applicant's property, used and useful in giving telephone service within the State of Utah as of January 1, 1921, is $8,662,167.11.

2. That the rates, rules and regulations authorized by Postmaster General Burleson, except as to measured service, are just and reasonable.

3. That the rates for measured service should be modified as hereinbefore set forth.

4. That applicant should recalculate the bills rendered users of measured service since December 1, 1919, and refund all charges in excess of those which would accrue under the schedule herein authorized.

5. That applicant should publish and file with the Commission, within ten days, schedules making effective the modifications herein provided.

An appropriate order will be issued.

(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 March, A. D., 1921.

In the Matter of the Application of the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to continue in effect the service connection charges, exchange and toll rates, and rules and regulations instituted by Postmaster General Burleson. } CASE No. 206

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, Mountain States Telephone & Telegraph Company, be, and it is hereby, authorized and permitted to retain the rates, rules and regulations applying to telephone service within the State of Utah at present in effect, except as to measured service.

ORDERED FURTHER, That applicant shall modify its rates for measured service as set forth in the accompanying report.

ORDERED FURTHER, That applicant shall, at as early a date as possible, recalculate the bills rendered users of measured service since December 1, 1919, and refund all charges in excess of those which would accrue under the schedule herein authorized.

ORDERED FURTHER, That applicant shall publish and file with the Commission, within ten days, schedules making effective the modifications herein provided.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

BEFORE THE PUBLIUC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to continue in effect the service connection charge, exchange and toll rates, and rules and regulations instituted by Postmaster General Burleson.	CASE No. 206

ORDER

Application having been made by the Mountain States Telephone & Telegraph Company for modification of the Commission's order issued March 29th, 1921, prescribing certain rates, rules and regulations governing measured service, to permit applicant 20 days from date of order, in which to file such schedules;

And it appearing, from petition and affidavit on file with the Commission, that ten days time allowed petitioner in which to file such schedules, as provided by the Commission's report and order, dated March 29th, is insufficient to permit petitioner to properly prepare and file its schedules, and limits petitioner as to the time in which an application for rehearing may be filed to an extent which denies petitioner certain rights and privileges;

IT IS ORDERED, That the application be granted and the Commission's order in Case 206, dated March 29, be so modified as to permit petitioner, the Mountain States Telephone & Telegraph Company, 20 days from date of said order to file its schedule naming the rates, rules and regulations for measured service set forth therein.

Dated at Salt Lake City, Utah, this 1st day of April, 1921.

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to continue in effect the service connection charges, exchange and toll rates, and rules and regulations instituted by Postmaster General Burleson.	CASE No. 206

Decided August 18, 1921.

Appearances:

For Applicant:

Milton Smith.
L. J. Williams.

For Protestants:

Willey & Willey, and Nelson, for Salt Lake County Farm Bureau.

John Pixton, D. W. Moffat an John F. Bowman, for Salt Lake County City Improvement Association.

John E. Pixton, for Murray City.

REPORT OF THE COMMISSION UPON REHEARING

By the Commission:

In Case No. 206, an application of the Mountain States Telephone & Telegraph Company, for permission to continue in effect the service connection charge, exchange and toll rates, rules and regulations instituted by Postmaster Burleson, decided March 29, 1921, the Commission prescribed, among other things, certain rates, rules and regulations governing measured service in Salt Lake City and Ogden, and prescribed the annual requirement for depreciation and the method of computing the same.

Thereupon, the applicant, on March 31, 1921, filed with the Commission a petition, stating that it intended, within ten or twelve days from date of the order made in this case, to file a petition for a rehearing upon the question of measured rates mentioned in said order, and upon the

question of the annual requirement for depreciation and the method of computing the same; that it was impossible physically to prepare said petition and have a hearing thereon within the ten days prescribed by the Commission in said order (Case No. 206); and that for the order to become effective prior to the hearing, would result in considerable expense and great annoyance, both to the Company and to its patrons, and asked that the Commission make an order modifying the last paragraph of said order, making the effective date of said order, as to publishing and filing of schedule, twenty days instead of ten days, as stated therein.

It further appearing from the petition and affidavits filed with the Commission that the ten days' time allowed petitioner, in which to file said schedules as provided by the Commission's Report and Order dated March 29, 1921, was insufficient to permit petitioner to properly prepare and file its schedule, the Commission modified its previous order in this case, permitting the petitioner twenty days from date of said order to file its schedule naming rates, rules and regulations for measured service, as set forth therein.

On April 8, 1921, applicant filed its petition for rehearing, alleging that the opinion, findings and order relating to measured service and the charges therefor, and the refund of excess charges collected from measured service, should be modified and changed so that the present charges for measured service in Salt Lake City and Ogden, Utah, be approved, and provisions for refund of certain charges entirely eliminated, for the reason, it is alleged, that neither the Company nor the Commission introduced any evidence as to the charges for the different classes of service rendered in either Salt Lake City or Ogden, and that no investigation was had as to the proper charge for any particular class of service rendered in any exchange, nor the number of calls for any particular class of exchange for measured service, and that the Commission, in Case No. 206, had found the valuation of applicant's property in the State of Utah, had investigated its revenues and expenses, and, therefore, there should be no order made in this case as to measured service, except to approve, until further investigation, the measured service charges now being made by the Company in the State of Utah.

It was further alleged that the increased number of calls for the respective classes would require a very considerable additional investment in the cities of Salt Lake and Ogden, is order to give said measured service with the

number of calls in said order and an increase in fixed charges, by the reason of making said investment, in interest, depreciation, taxes, etc.,, and additional operating expenses, due to said increase in the number of calls ordered by the Commission. Further, that the revenue, by reason of said increase in the number of calls so ordered by the Commission, will decrease by not less than $76,000 per annum.

It was further alleged by the applicant that to enforce the order as to measured service and the charges therefor, with the number of calls to be given by the Commission, will result in confiscation of the Company's property; and it was further alleged that the evidence in the case and the findings of the Commission show a deficit in the revenues of the Company for meeting its requirements in the State of Utah for each and every year since 1914 to date, and that the Commission erred in increasing the monthly calls.

It was further alleged that the Commission erred in its finding "the charge assessed for any one month's measured residence service shall in no case exceed the monthly rental charge for individual unlimited residence service", for the reason that it destroys the value of a rate schedule, deteriorates the character of service, and decreases the revenues and increases the expense. Further, that the Commission erred in its finding and order that the Company shall recalculate the bills to the users of measured service since December 1, 1919, and refund all charges in excess of those which would accrue in said order authorized, for the reason that the schedule of measured rates is erroneous; that under a proper rate schedule there would be nothing to refund, because the present charges for Utah are inadequate and insufficient to produce proper revenue.

Applicant further alleges that the opinion and finding of the Commission should be modified and changed, so as to eliminate therefrom all reference to sinking fund basis, so as to apply the percentage of 5.72 to the depreciable property, in the method required by the Interstate Commerce system of accounting, and so as to eliminate from said opinion and finding, the language in reference to the proportional amount of the depreciation reserve fund of the Company allocated to the State of Utah.

It was further alleged that the Commission erred in calculating the annual requirement for the year 1919 to be $251,990.15, and for the year 1920, $263,166.29, because the same, in effect, in figuring annual requirement at the rate

of 3.71% upon the depreciable physical property of the Company, and not at the rate of 5.72%, as found reasonable by the Commission.

The Company asks that pending the determination by the Commission of this application for a rehearing, and pending the period of time which the proceedings on the rehearing consumed, the order of the Commission, as to measured rate schedule to become effective, should be suspended.

Thereupon, the Commission, on the 9th day of April, 1921, issued its notice that argument on the application of the Mountain States Telephone & Telegraph Company for a rehearing in the aforesaid case, would be heard on Wednesday, the 13th day of April, 1921.

Arguments on the application of the Mountain States Telephone & Telegraph Company for rehearing in its Case No. 206, having been heard, the Commission issued its order granting a rehearing upon the matter of rates charged for measured service, and provided that, in connection therewith, testimony on the cost of instituting and furnishing unlimited party line service should be heard. The order further provided that the Commission's order requiring applicant to file a modified schedule naming rates, charges and regulations for measured service should be modified to provide that these rules need not be published, pending the determination of this question upon rehearing, and that applicant would be heard on the above matters, Thursday, May 5, 1921.

On May 4, 1921, the Mountain States Telephone & Telegraph Company filed with this Commission a further application for a modification to the Commission's order dated April 14, 1921, asking that the application for a rehearing as to the annual requirement for depreciation, be heard as well as the rehearing as to the question of measured rates.

Upon motion of the applicant and by consent of the Commission, the hearing was postponed from May 5, 1921, to June 9, 1921.

On May 4, 1921, there was also filed with this Commission an application by the Mountain States Telephone & Telegraph Company, to change the toll, rural and certain exchange rates, and to restrict certain local service areas in the State of Utah, alleging that applicant's deficit for the year 1921 will be $398,000; that in order to serve the public interest and prevent the impairment of service to the public, and to meet the public demand for telephone

service, it is essential that relief be had by applicant from the foregoing situation; that to meet the requirements of giving adequate telephone service, make necessary extension improvements, new construction and retain competent employes, applicant should earn and receive the full return to which it is entitled. Further, that an increase be granted in toll rates, and that said proposed toll rates are the same as are now being charged by applicant in the States of Montana, Wyoming, Texas, Idaho and New Mexico, and for all interstate toll business of applicant, and that the above change is necessary to secure uniformity and economical administration in the toll rate schedule of applicant, and will produce for applicant an increased revenue.

Applicant also alleged that the present flat rural schedule is defective, in that it does not secure close adjustment of charges in relation to trend of cost of furnishing this class of service, and it is further defective in that it does not produce adequate revenue, and further, no increase for this class of service has been made for the past several years in such cost of furnishing service; that the proposed rates are necessary and proper to reduce the said deficits and enable applicant to give proper rural service, and alleges that the rates should be increased in proportion to the increase in distance, which is a measure of increase in cost.

It is further alleged by applicant that it is necessary and proper to restrict the present enlarged local service areas in Murray, Midvale and Holliday to proper local service areas.

It is proposed to eliminate said enlarged local service areas as they now exist, for the reason, it is alleged, that the giving of service under enlarged local service areas is an unwarranted discrimination against patrons not having use or demand for this extended service, and an unjust discrimination against localities similarly situated but not so favorably treated; that it is a further unjust discrimination against the general body of subscribers, in that such schedules do not produce adequate revenue and result in commuting toll schedules to flat rate charges; that applicant proposed to eliminate the present enlarged local service areas and confine the service areas of this exchange to their respective areas, the same as in other exchanges. It is also proposed to withdraw the schedules now on file and rates quoted for the community of Pleasant Green, for enlarged service rate areas, there being no subscribers at this rate.

It is further proposed to increase the enlarged main station rates in Salt Lake City, and change the present residence rates of Salt Lake City, by an elimination of the present message rate service and by an adjustment of the present flat rates. Such adjustment is alleged to be necessary to produce proper revenues. Certain changes are also proposed in Ogden, making certain increases in business and residence party line rates.

Applicant alleges that while the revenue to be derived from the proposed rates will not meet the estimated deficit for the year 1921, it will assist in reducing the amount thereof and enable the applicant to give the public adequate service.

This application was set for hearing and was heard in connection with the rehearing in Case No. 206.

In this opinion, the Commission will pass upon only the questions raised in applicant's petition for rehearing, namely, measured service in Salt Lake City and Ogden, and the annual requirement for depreciation.

The question of increased toll rates and rural rates, together with restriction of the present local service areas to Murray, Midvale and Holliday, together with the proposed rate for said exchanges and the propsed changes in rate for Salt Lake City and Ogden, will be held for further consideration and a report and finding thereon by the Commission.

DEPRECIATION

As regards the annual requirement for depreciation and the method of computing the same, the Commission has heretofore in this case, we believe, fully discussed this question, and we see no useful purpose to be serve in repeating it.

The Commission, in its report and finding in this case, adopted a slightly longer composite length of life for the property than that of applicant's expert witnesses. The composite length of life adopted by the Commission was an average for the entire United States. Testimony at the rehearing was to the effect that certain physical conditions obtain in the intermountain country, tending in a greater degree to shorten the life of some elements of the property than the average for the country. The Commission will accordingly adopt the composite length of life of the property as claimed by applicant, but sees no reason, after a full consideration of all the evidence regarding this

question, to further modify its original order relative to the annual requirement for depreciation or the method of computing the same.

MEASURED SERVICE

Much evidence was introduced relative to measured service, as regards the cost of additional equipment necessary to give an increased number of calls, and the value of the service offered. Witnesses also delineated the fundamental differences between business and residence telephone service. Business service being used as an instrumentality in the efficient and economical conduct of a business, its costs are part of the production costs of the commodity or service which is being produced and distributed for sale to others. Thus it has a value other and different from residence service value, not depending, to such a material extent, upon how much use for a certain fixed charge is allowed. Value of residence service is influenced more by the amount of use permitted under a fixed charge than business service, since residence service is one of social use, wherein the number of calls is the controlling factor. We believe that measured residence service in Salt Lake City was originally adopted with a very few number of calls, more or less as an emergency measure, growing out of war conditions.

As we took occasion to say in our previous report and finding in this case, to be of value, service must, at least, be sufficient to answer the minimum needs of the subscriber, and the Commission is still of the opinion that the number of outgoing calls provided for in the present schedule of applicant for residence service, is not sufficient to meet reasonably the purposes and object of telephone use, and that sixty outgoing calls per month, which approximates two calls per day, is the irreducable minimum below which patrons taking residence service should not be asked to confine themselves for the minimum base rate, and does not approach the condition where all of the use of service reasonably necessary is covered by allowance.

The Commission does not believe that the value of service is to be ascertained by the least amount of service that patrons will be willing to receive and still pay for service; but rather, the service should be sufficient to make available to the public the facility that has become a household necessity, the use of which has unduly and unnecessarily been curtailed by restrictions, to the detri-

ment and inconvenience of subscribers. Recognizing the fundamental difference in value between business and residence service, the Commission will permit the present business schedule now in force to remain for the time being, unmodified.

After eliminating from its former order the clause governing unlimited service beyond a certain message use, the Commission finds, after a full consideration of all material facts that may or do have any bearing upon this question, the following measured residence service rates and charges for Salt Lake City and Ogden to be just and reasonable, and shall be substituted in lieu of present schedules:

Salt Lake City.

Class of Service	Annual Message Allowance	Annual Rate	Rate per excess Message
Individual Residence Line....	900	$33.00	3c
Two-Party Residence Line...	780	27.00	4c
Four-Party Residence Line...	720	24.00	5c

Ogden.

Four-Party Residence Line...	720	$21.00	5c

The Company will recalculate monthly bills upon the basis of this schedule, and, in line with our past order, within a reasonable time, make necessary adjustment and refund of overcharges to measured service users, in order to make the net amount paid by such users each month and for the total period since December 1, 1919, the same as would have been assessed and collected had this order been in effect from and after December 1, 1919. Refund to customers continuing to take service may be made by crediting such consumers' monthly bills, said refund to be made within a six months' period.

An Appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER UPON REHEARING

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 18th day of August, A. D., 1921.

In the Matter of the Application of the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to continue in effect the service connection charges, exchange and toll rates, and rules and regulations instituted by Postmaster General Burleson.	CASE No. 206

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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, Mountain States Telephone & Telegraph Company, be, and it is hereby, authorized and permitted to retain the rates, rules and regulations applying to telephone service within the State of Utah, at present in effect, except as to measured service.

ORDERED FURTHER, That applicant, Mountain States Telephone & Telegraph Company, shall modify its rates for measured service to conform to those prescribed in the attached report.

ORDERED FURTHER, That applicant, Mountain States Telephone & Telegraph Company, shall, at as early a date as possible, recalculate all bills rendered users of measured residence service since December 1, 1919, and, within a reasonable time, refund all charges in excess of those which would accrue under the schedule herein authorized, provided that where such subscribers continue to use telephone service, such refund may, at the option of the applicant, be made by crediting the amount so due to such subscribers' monthly statements; the entire amount due

to be refunded within a period of six months from the date hereof.

ORDERED FURTHER, That applicant, Mountain States Telephone & Telegraph Company, shall publish and file with the Commission, within twenty days from date hereof, schedules making effective the modified rates herein provided.

ORDERED FURTHER, That applicant, Mountain States Telephone & Telegraph Company, shall observe the rules prescribed in the attached report in computing its annual depreciation requirements.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of the MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, to change toll, rural and certain exchange rates, and to restrict certain local service areas in the State of Utah.	CASE No. 206-A

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH VALLEY GAS & COKE COMPANY, for permission to increase its rates for gas. } CASE No. 222

Submitted February 4, 1921. Decided June 3, 1921.

Walter Adams, for Applicant.
Coleman and Straw, for Protestant, Springville City.

SUPPLEMENTAL REPORT OF THE COMMISSION

By the Commission:

In Case No. 222, decided December 15, 1919, the Commission found reasonable necessity existed, requiring a physical valuation for rate-making purposes of applicant's property, used and useful in the giving of service to the public, and ordered that petitioner make such valuation.

Applicant produced, at the time of the hearing, an exhibit (Petitioner's Exhibit No. 1) showing the plant property account as of June 30, 1919, as follows:

Purchase Price	$238,118.38
Additions and Improvements:	71,785.72
Real Estate	Utility Equipment
Buildings and Fixtures	Shop Equipment and Tools
Equipment and Holders	Furniture and Fixtures
Distribution System:	
Mains	19,937.77
Services	26,868.94
Meters and Regulators	22,604.52
Springville-Spanish Fork Extension	57,347.41
Engineering & Business Development	21,823.78
Total Cost Plant and Property to Date	$458,486.52
Allowance for Working Capital	30,000.00
	$488,486.52
Less Depreciation (as per ledger, including Bench Repair Reserve)	5,686.59
Value for Rate-Making Purposes	$482,799.93

In conformity with said order, applicant made such valuation, and a hearing was had, February 4, 1921, at Provo, Utah. At this hearing, applicant produced Exhibit "E" (Sheet 1), setting forth summary of plant and property account, as of November 30, 1920, as follows:

Classification Physical Property	Normal Reproduction Cost New	N. R. Cost Less Depreciation
Land	$ 3,809.41	$ 3,809.41
Buildings & Fixtures	15,835.71	15,360.64
Holder & Compression Tanks	24,158.63	22,950.70
Equipment	56,748.77	52,802.84
Distribution System:		
Mains	142,737.03	134,172.80
Services	45,138.74	42,430.42
Meters & Regulators	29,694.31	27,912.65
Commercial Arcs	2,402.45	1,921.96
Furniture & Fixtures	2,512.80	2,135.88
Utility Equipment	2,310.00	1,846.25
Shop Equipment & Tools	2,534.36	2,280.92
Total Specific Construction Cost	$327,882.21	$307,624.47
Overhead Allowances:	95,401.93	89,502.10
Comprising following Intangible Values:		
Organization & Legal Expenses		
Interest during Construction		
Engineering & Administration		
Taxes and Insurance		
Traveling Expenses		
Bond Discount, Incidentals, etc.		
Cost attaching Business	52,508.10	52,508.10
Working Capital	40,000.00	40,000.00
VALUE FOR RATE-MAKING PURPOSES	$515,792.24	$489,634.67

Book costs of the property as of November 30, 1920, as testified by Witness Adams (Transcript, Page 14), were $515,792.24. It will be noted this is the same figure as the value for rate-making purposes set down under the caption "Normal Reproduction Cost New". (Exhibit "E", Sheet 1.)

The method of making the inventory and appraisal of the property is explained by Witness Adams (Transcript, Page 19) as follows:

> "Now to get that figure we first disregarded the books and listed every bit of physical property used and useful, employed by the company in service to the public. We then took as units to calculate the cost of that property, or rather the value of that property to date. We took such figures as we had during our own administration of the business, and we took appraisal figures for such property as we paid in the original investment; and then making our extensions and additions we deducted such percentages arbitrarily as would cover depreciation for the time which each particular unit of property has been in use. Then we went to our books and took the figures which the books show from the time the present company began its operations and segregated from physical property charges, overhead charges, such as are listed here; and to those we added the amount of working capital which we are using on an average in the business all the time plus what we think we shall need in the future for a definite time. In that way we forced an agreement between the book figures and our appraisal. We have no segregation—no inventory of the make-up of the physical property purchased in 1915! but in order to have a comparative exhibit we forced that first showing and then used in our normal reproduction cost our appraisal figures."
>
> "Q. At that point you forced a balance?"
>
> "A. Yes."
>
> "Q. Where is that reflected on page one? That is you forced that balance by adding together * * * ".
>
> "A. We forced that in part with the working capital. For instance we ask that the item of working capital of $40,000 be taken into consideration. We don't have that in the business; but that figure will help us to make an agreement between the normal reproduction cost less depreciation and the original cost and book figures."

An analysis of Exhibit "E" shows that of various elements of the property, some were appraised at actual

costs at the time of erection, while other elements for which the original cost was not known, were appraised at 1920 prices, or the average of 1918-1919-1920 prices, with some allowance for depreciation, a percentage of which depreciation was determined by inspection. To illustrate: In Exhibit "E", Page 7, a detailed appraisal of buildings is shown. In this instance, the retort house, including condenser room and compressor room, two-thirds of which was erected in 1915 and one-third in 1917, was appraised, two-thirds upon the average of 1918-1919-1920 costs, and one-third at actual cost, while a coal shed, a wooden structure, with concrete floor, built in 1915, was appraised on the basis of 1920 prices. To the cost of both structures as thus found, 3 per cent allowance for depreciation is made, to determine the normal reproduction cost, less depreciation.

This method of making an inventory and appraisal is so at variance with the general method of making valuations heretofore outlined by the Commission, that, after further investigation was had, applicant was requested to make a new appraisal. It appearing that the plant was constructed during the years 1914-1915, with additions as required from time to time since, a price period was named covering the averages of prices from 1915 to 1917, both inclusive, and, in addition thereto, the actual cost of improvements and betterments since that year. In line with the above, the reproduction cost new of the physical property upon that basis, together with the claimed overhead allowances, is as follows:

Classification Physical Property	Normal Reproduction Cost New
Land	$ 3,809.41
Buildings & Fixtures	15,845.07
Holder & Compression Tanks	21,345.63
Equipment	50,568.79
Distribution System:	
Mains	142,737.03
Services	45,138.74
Meters & Regulators	27,216.48
Commercial Arcs	2,402.45
Furniture & Fixtures	2,512.80
Utility Equipment	2,310.00
Shop Equipment & Tools	2,534.36
Total Specific Construction Cost	$316,420.76

Overhead Allowances:

Comprising		
Organization & Legal Expenses..	8 %	
Interest	7 %	
Taxes and Insurance	2 %	
Traveling Expense	½%	
Bond Discount, Incidentals etc....	7½%	
Engineering and Administration.	5 %	
Total .....30 %		$ 94,926.23
Cost of Attaching Business, 1591 Consumers secured		52,508.10
Working Capital necessary to conduct of business		40,000.00
		$503,855.09

The Commission has heretofore in other cases outlined in detail its reasons for requiring a physical valuation upon this basis, and we will not lengthen the opinion by repeating them here. The total specific construction costs, upon the new basis, namely $316,420.76, will be accepted.

Applicant claimed for overhead allowances, 30 per cent. The Commission deems some of these items improper, while others are, in our opinion, excessive.

The Commission recognizes that an organization to administer, direct and finance the work as it progresses, is necessary. This would require the expenditure of money for administration, legal and engineering expenses, interest during construction and other items of like character, which everyone familiar with construction of such properties knows must be incurred as a part of the business.

The generating portions of the property, together with the supply line to the City, were constructed by others and purchased by applicant in 1915. Applicant has itself constructed the balance of the property. Mr. Adams stated at the subsequent investigation that the property could be reproduced in one year. This is the construction period accepted by the Commission as reasonable. He stated there had been no undue legal expenses incurred, in either the purchase or the organization of the Company; nor had there been any other overhead expense which might be considered as being unusual; that the cost of engineering during the years 1915 to 1919, both inclusive, had been 5 per cent of the actual cost of additions

The Commission has heretofore in other cases disallowed the claim in valuations for bond discount, and it was shown further in this case that an amortization account has been set up to take care of this. Based upon a one year period of construction, with a reasonable allowance for organization, legal expenses, interest, taxes, insurance, traveling and incidental expenses, engineering and administration, and other overheads, we find a reasonable overhead allowance for reproduction to be $41,200.

At the time of purchase, in 1915, by applicant of that portion of the property already constructed, it was not an operating property and had no customers, as is shown by the record. Since that time, 1591 customers have been secured. That an organization was required to secure the business, is evident, and an allowance should be made to the owners for any reasonable expense incurred in attaching the business and giving the property value as a going concern.

The appraisal of going value is not easy. Courts and commissions, including the United State Supreme Court, have held that an allowance for going value must be made, though no exact rule has been laid down. (Des Moines Gas Co. vs. Des Moines, 238 U. S. at 153; and Denver vs. Denver Union Water Co., 246 U S., at 191.)

We believe the amount claimed by applicant is too large, and that it cannot be made a mere matter of formula. The Commission sees no reason why the allowance should be more than has been shown generally to be reasonable in other cases, and furthermore, the property is comparatively new, and it is not claimed to have reached the point of development where the maximum of customers in relation to population has been secured. The amount claimed by applicant was stated to be that represented on its books as the cost incurred in attaching the business. At a subsequent investigation it developed that some of the charges were arbitrarily made, and the Commission has accordingly made a reduction to conform with what it finds to be a reasonable allowance.

Applicant has also claimed as working capital to conduct its business, $40,000. As has been said, working capital should, in general, bridge the gap between outlay and reimbursement, and should be a sum sufficient to conduct the business. While we find that working capital necessarily enters into the appraisal, we believe the amount claimed excessive. There should be sufficient funds available for prompt payment of operating expenses and to maintain the credit of the Company. It should include

such stock, materials and supplies as is necessary to enable the Company to make repairs and minor replacements chargeable to operation, without unreasonable delay or expense, and to meet oridnary operating contingencies. The stock of repair and renewal parts and supplies necessarily varies from time to time, depending upon current demands and upon the ability of the Company to replenish its stock before the same is exhausted, and, in this connection, geographical situation of the property with reference to available sources of the supplies, must be considered.

It was stated that many of the customers of the Gas Company are rural customers, and that it is necessary to carry some of this class of customers for a period of six months. The actual operating expenses of the utility are shown to approximate $2500 per month, while the amount of material and supplies on hand as of November 30, 1920, was $12,000 (Transcript, Page 24).

Under the circumstances, and after full consideration of all the evidence submitted, we find an allowance of $19,500 should, under all circumstances, be ample to conduct the business.

After full consideration of all material facts that may or do have any bearing upon the valuation of applicant's property for rate-making purposes, including due consideration of book cost, purchase price, reproduction cost and earning capacity, we find the undepreciated value for rate-making purposes to be $402,200, including reasonable allowance for general overheads, cost of attaching the business or going value and working capital.

(Signed) JOSHUA GREENWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

RESIDENTS OF OASIS AND DELTA, UTAH, *Complainants,* vs. PEOPLE'S TELEPHONE COMPANY, *Defendant.*	CASE No. 235

Decided December 18, 1920.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

In a complaint filed October 14, 1919, residents of Delta, Utah, and Oasis, Utah, alleged insufficient service on the part of defendant Company.

The case was heard at Delta, Utah, December 17, 1919, at which time defendant Company agreed to make certain changes and improvements in its method of rendering telephone service.

The Commission has watched developments and is convinced that an honest effort has been made, and that the matters complained of have been largely overcome, and that such matters as are still pending will be properly adjusted.

The case should, therefore, be dismissed, without prejudice.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,

We concur:

(Signed) HENRY H. BLOOD,
(Signed) WARREN STOUTNOUR,

(SEAL) Commissioners.

(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 18th day of December, A. D., 1920.

RESIDENTS OF OASIS AND DELTA, UTAH,
Complainants,
vs.
PEOPLE'S TELPHONE COMPANY,
Defendant.
} CASE No. 235

This case being at issue upon complaint and answer on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the complaint be, and same hereby is dismissed, without prejudice.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

TOWN OF REDMOND, UTAH,
Complainant,
vs.
SALINA TELEPHONE COMPANY,
Defendant.

CASE No. 236

Submitted November 14, 1920. Decided March 21, 1921.

REPORT OF THE COMMISSION

BLOOD, Commissioner:

This is a complaint against the service rendered by the Salina Telephone Company to residents of Redmond, Utah. Redmond is situated about three miles from the telephone central office, and there is but one circuit in operation to supply service to the community.

Several complaints have heretofore been made against this service, and the Commission requested the Company to make certain improvements, which, for a time, satisfied the customers. The case was closed in a decision dated December 27, 1919, but later, on complaint of some of the citizens of Redmond, was, on September 4, 1920, reopened for further hearing, at Salina, September 16, 1920.

At the hearing the difficulties were fully gone into and it was agreed by the parties to the proceeding that no final order should be issued at that time, but that the Company should be given time to secure such assistance as was necessary to place the central office equipment and the line serving the Town of Redmond, in better condition.

Subsequently, telephone experts were employed, and certain repairs and adjustments were made, which appeared to have improved the service. The principle complainant, in a letter addressed to the Commission dated November 14, 1920, expressed his willingness to have the complaint dismissed. The Commission has since made

further investigation, and is of the opinion that the complaint should, at this time, be dismissed without prejudice.

An appropriate order will be issued.

(Signed) HENRY H. BLOOD,
Commissioner.

We concur:

(Signed) JOSHUA GREENWOOD,
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 21st day of March, A. D., 1921.

TOWN OF REDMOND, UTAH,
Complainant,
vs.
SALINA TELEPHONE COMPANY,
Defendant.
CASE No. 236

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the complaint herein be, and it is hereby, dismissed without prejudice.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of G. D. DUNDAS and R. N. DUNDAS, doing business as DUNDAS BROS. CARTAGE COMPANY, for permission to operate an automobile truck line for the transportation of express between Salt Lake City and Payson, Utah, and intermediate points.	CASE No. 243

Decided February 8, 1921.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

Upon application of the protestants, the Salt Lake & Utah Railroad Company, arguments on a rehearing were held before the Commission, September 22, 1920.

The representative of the Salt Lake & Utah Railroad Company stated that the desire for rehearing was not with reference to findings of the Commission, but as to the grounds upon which the Commission based its order authorizing the operation of an automobile stage line between Salt Lake and Payson, Utah.

This was explained, and the application for rehearing should be denied.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) JOSHUA GREENWOOD,
HENRY H. BLOOD,
(SEAL) Commissioners.

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 8th day of February, A. D., 1921.

In the Matter of the Application of G. D. DUNDAS and R. N. DUNDAS, doing business as DUNDAS BROS. CARTAGE COMPANY, for permission to operate an automobile truck line for the transportation of express between Salt Lake City and Payson, Utah, and intermediate points.	CASE No. 243

This case being at issue upon petition for rehearing, and arguments on the same having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application for rehearing be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to increase its power rates.	CASE No. 248

Submitted Sept. 16, 1920. Decided March 8, 1921.

Appearances:

For Utah Power & Light Co.	J. F. MacLane and C. C. Parsons.

For Protestants:

U. S. Smelting Co., and U. S. Fuel Company.	Howatt, Marshall MacMillan & Crow
Utah Copper Company.	Dickson, Ellis & Lucas
Bingham Mines Company Utah Consolidated Mines Co., Silver King Cons. Mining Co., Silver King Coalition Mining Company, Judge Mining & Smelting Co., Daly-West Mining Co., Utah Apex Mining Co., Chief Consolidated Mining Co., Eagle & Blue Bell Mining Co., Bransford Apartments, May Day Mining & Milling Co., Tintic Standard Mining Co., Eureka Lilly Mining Company, Iron King Cons. Mining Co., Montana Bingham Cons. Mining Company,	Rawlins, Ray & Rawlins.
Purity Biscuit Co.	Lloyd Garrison.
Utah Manufacturers' Asso.,	T. L. Mitchell.
Logan Chamber of Commerce,	J. A. Hendrickson.
Utah Lake Irrigation Company,	A. J. Evans.
Holley Milling Company,	U. G. Holley.

Cache Junction-Bear River Irr. Company.,	W. R. Ballard.
Benson-Bear Lake Irr. Co.,	A. Jorgenson.
Ballard & Monk,	Mr. Allen.
A. Jorgenson,	
Abraham Smith,	
Olaf Cornquist,	
William Thayne,	
Reese Brothers,	
James Hill,	
Bullon Brothers,	
Mark Rogers,	
Jonathan Smith,	
Salt Lake Pressed Brick Co.,	James Ingebretsen
Progress Company,	
American Foundry & Machine Company and Utah Steel Corporation	B. L. Liberman
Walker Bros. Dry Goods Co.,	Frank B. Stephens
Salt Lake, Garfield & Western Ry. Co.,	L. Brandenburger
Independent Coal & Coke Co.,	
Independent Coal & Coke Co.,	M. L. Wilson
Utah Ice & Storage Company,	James F. Marshall
Standard Coal Company,	A. R. Barnes
Royal Baking Company,	
South Jordan Pumping & Pipe Line Co.,	J. M. Holt
Tintic Milling Company,	Chenay, Jensen & Holman
Spring Canyon Coal Co.,	
Provo City,	Mayor Leroy Dixon
Smithfield-West Bench Irrigation Co.	W. F. Winn
North Field Irrigation Co.,	J. B. Woodward
Clark Electric Power Company,	Pierce, Critchlow & Barrette
Ophir Hill Mining Company,	
Leishman-Darley Irrigation Co.,	John Leishman
Ontario Silver Mining Co.	W. D. Riter

REPORT OF THE COMMISSION

By the Commission:

This is an application for increased rates. In a petition filed December 4, 1919, and amendment thereto, the applicant asks the Commission, after hearing, to fix such rates and charges upon its business as will be just, reasonable and sufficient to defray cost of service, including fixed charges thereon, and to permit the filing of such new and increased rate schedules as may be found by the Commission to be reasonable and sufficient.

It is claimed in support of the petition that the Utah Power & Light Company (hereinafter called the Power Company) is a Maine Corporation, duly qualified to do, and doing, business in Utah; that approximately 80 per cent of the settled area, and of the population, of Utah is dependent upon the Power Company for service; that the so-called Utah Power System, owned and operated by the Power Company, consists of twenty-five hydro-electric stations in Utah and Idaho, of which the largest are the Bear River plants, consisting of a storage reservoir and four hydro-electric plants on the Bear River in Utah and Idaho, various plants in the State of Utah, and a steam plant in Salt Lake City, all of which plants are inter-connected; that the structural costs of its Utah Power System, as of January 1, 1919, represents a total capital expenditure of approximately $42,000,000, exclusive of overhead costs, water rights and intangible values; that the composite rate of depreciation upon the total investment is not less than 4 per cent, and that a reasonable return upon the basis of pre-war interest rates and carrying charges, is not less than 8 per cent; that the business has never yielded depreciation and a fair return upon the total investment in the Utah Power System; that in order to maintain its existing service and to take care of ordinary community growth, the Power Company should spend within the next twelve months a sum approximating $3,000,000, but that under present conditions, in view of its finances, it cannot obtain the money necessary to make such extensions; that it is confronted with the necessity of refinancing outstanding obligations; that it is imperative that if the Power Company's growth, integrity and capacity for service is to be maintained; its basic rates or charges for service must be increased; that said increase from its Utah Power System should approximate the 1919 deficit of $2,400,000.

THE RECORD

The case came on regularly for hearing before the Commission, on the 4th day of March, 1920, and continued, with some interruptions, for several months, during which time a large number of expert witnesses were heard. Practically every phase of the power business was presented that could have any bearing upon the situation.

The record in this case is very complete. The transcript, together with the testimony introduced in Case No. 230, which, by stipulation was made a part of, and should be considered so far as material, testimony in this case, comprises some 4,500 pages of testimony, while exhibits to the number of approximately 100 were introduced during the course of the hearing by either applicants or protestants. The accounts of applicant have been checked by this Commission's auditor, and an inspection of the property made by the Commission.

PROPOSED RATES

The Power Company has prepared new schedules, designated as Nos. 55, 56, 57 and 58, which it proposes to substitute in lieu of its existing power schedules and special contract rates for power, and asks this Commission, after hearing, to grant the proposed increases in rates, and, if the Commission should deem that any modification of the said schedules is proper, to direct what such modification shall be, and to permit and authorize the filing of such modified rate schedules.

Protestants generally questioned the reasonableness of the increases sought and the method of distributing the burden of increases as between different classes of customers, and contended that no increase in rates should be permitted until a physical valuation of the Power Company's property had been made.

QUESTION OF INTERSTATE COMMERCE

It is contended by some protestants that this Commission has no jurisdiction to fix rates in this case, for the reason that a large portion of the output of the Utah Power System is generated in Idaho and transmitted to Utah, and that such transmission across the state line constitutes interstate commerce, which is subject to national, not state, regulation.

We think the position of these protestants is not well taken. In support of our attitude, we cite the following cases: Trades and Labor Council of Uniontown, v. Fayette County Gas Company, P. U. R. 1918-B, 165; State, ex rel., Bristow v. Landon, 165 Pac. 1111; Re Appalachian Power Company, P. U. R. 1919-D, 286; Manufacturers' Light & Heat Company v. Ott, 215 Federal 940; Morgantown v. Hope Natural Gas Company, P. U. R. 1919-D, 252.

The weight of authorities is so pronounced that the Commission feels it unnecessary to discuss at greater length its reasons for holding that no question of interstate commerce is involved here, but that the jurisdiction to fix and regulate rates in this case lies with the Commission.

HISTORICAL

Prior to the year 1912, several electric public utility properties had been developed in Utah. These properties were designed and constructed to meet local needs and were generally operated, both technically and financially, as separate units.

None of the Utah plants had any seasonal storage, their effective output being limited to that during the minimum months of winter. At that time the Utah plants had very nearly reached their limit of development, and power sites in Idaho were being developed to supply additional power. Utah plants being generally in competition and operated as separate units, there arose a duplication of transmission lines and a general waste of energy. The economic need was apparent of consolidating these properties into one unified system, to obtain reduced power cost and improved service.

The Power Company was incorporated September 6, 1912, under the laws of the State of Maine, and later it qualified to do business in the State of Utah, Idaho and Colorado. Actual operations in Utah commenced January 1, 1913. It acquired, soon after its organization, many of the properties of various separate corporations, engaged in the generation and distribution of electricity in these three states, together with other forms of public utility service in Utah and Idaho, and these properties it proceeded to consolidate, operate and improve. Early in 1913, Colorado properties were segregated from Utah and Idaho properties. About January 1, 1915, the Power Company assumed the operation and control, under lease, of the properties, other than the street railway property, of

the Utah Light & Traction Company, of which company it owns all of the capital stock, except directors' qualifying shares.

The Power Company owns and operates the gas manufacturing and distributing system in Ogden, Utah, the water works system in St. Anthony, Idaho, and a central heating system in Salt Lake City, Utah. However, no consideration in this case is given to any properties other than those used and useful in the giving of electrical service in the State of Utah.

UTAH POWER SYSTEM

Applicant sets forth, in Supplement No. 2 to Exhibit No. 2, the claimed investment in its Utah Power System as a whole. This supplement shows a statement of capital expenditures on account of the various predecessor companies and of the Power Company, as abstracted from its books.

Supplement No. 2 to Exhibit No. 2 is shown herewith:

Statement of Property Expenditures Transcribed From Books of Utah Power & Light Company and Predecessor Companies.

The Telluride Power Co., as per books (exclusive of Colorado property)	$ 5,352,316.47
Knight Consolidated Power Co., as per books	1,562,348.36
Utah-Idaho Sugar Co. (Wheelon plant and distributing system) as per books	1,740,000.00
Davis and Weber Counties Canal Co. (Riverdale plant), as per books	428,204.53
Park City Light, Heat & Power Co. (estimated)	28,300.00
High Creek Electric Light & Power Co. (Amount included in Utah represents 50 per cent of lines only), as per books	47,653.10
Davis County Light & Power Co., purchase price	27,500.00
Eureka Electric Company, as per books	35,472.48
Electric Co. of Provo, as per books	77,536.22
Camp Floyd Electric Co., as per books	13,044.31
Utah Light & Power Co., plant acct. from predecessor Cos.	5,939,274.42
Additions and Improvements	418,833.59
Less gas property (est.)	500,000.00
	$ 5,858,108.01

Institute Electric Co., as per books	203,491.49
Homes Telephone & Electric Co. (est.)	45,663.00
Merchants Light & Power Co., as per books	148,387.39
Blacksmith Fork Light & Power Co., per contract to purchase	360,000.00
Willard Power Co., per contract to purchase	90,000.00
Utah Light & Railway Co., property charges in addition to those shown on books of Utah Light & Power Co. net power additions except Jordan Steam plant after deducting from total charges $712,194.24, being amount of jointly used property apportioned to St. Ry. System in U. L. & Tr. Street Railway valuation	3,316,636.30
Utah Light & Railway Co., Jordan Steam plant, as per books	991,870.03
Utah Hotel Co., electric property only	55,300.00
Working Capital	1,138,510.36
Additions to property, 1913	211,779.43
Additions to property, 1914	6,961,269.29
Total Expenditures to Jan. 1, 1915	$28,693,390.77
Additions to property, 1915	2,483,221.01
Total Expenditures to Jan. 1, 1916	$31,176,611.78
Additions to property, 1916	2,884,193.27
Total Expenditures to Jan. 1, 1917	$34,060,805.05
Additions to property, 1917	5,392,827.29
Total Expenditures to Jan. 1, 1918	$39,453,632.34
Additions to property, 1918	1,527,220.47
Total Expenditures to Jan. 1, 1919	$40,980,852.81
Additions to property, 1919	319,721.34
Total electric expenditures to Jan. 1, 1920	$41,300,574.15

BEAR RIVER SYSTEM

After showing in Supplement No. 2 to Exhibit No. 2 the claimed investment in the property as a whole, Witness Thomas, in Supplement No. 3 to Exhibit No. 2, sets forth the construction costs of the principle power producing system, which has been called for convenience the Bear

River System, consisting of the Bear Lake reservoir, the Bear River power plants, with main transmission lines to Salt Lake City, the Terminal Substation near Salt Lake City, and the Jordan Steam plant. This system was entirely constructed, with exceptions noted, by the Power Company and its predecessor, the Telluride Power Company. A large part of it is recent construction by the Power Company. Witnesses testified that the construction costs of this property are, therefore, accurately and definitely known and can be specifically identified.

It is claimed that costs given in Supplement No. 3 for the Bear River System are physical construction costs, without financial overheads or any claim for water rights or intangible values, other than the actual cost of water right filings and expenditures in perfecting the same.

The detail of Supplement No. 3 to Exhibit No. 2 follows:

Analysis of Investment Costs of the Bear River Power System Transferred From Books of the Utah Power & Light Company and Predecessor Companies.

Description	Amount	Total
Bear Lake Development:		
Expenditures from books of the Telluride Power Co..	$ 342,997.64	
Expenditures from books of the Utah Power & Light Company	$2,777,312.69	
Total		$ 3,120,310.33
Cove Development:		
Expenditures from books of the Utah Power & Light Company		$ 1,327,266.18
Grace Development:		
Expenditures from books of the Telluride Power Co..	$1,316,201.95	
Expenditures from books of the Utah Power & Light Company	3,016,338.32	
Total		4,332,540.27

Description	Amount	Total
Oneida Development:		
Expenditures from books of the Telluride Power Co..	$ 111,507.10	
Expenditures from books of the Utah Power & Light Company	2,465,583.37	
Total		2,577,090.47
Wheelon Development:		
Expenditures from books of the Utah Idaho Sugar Company	1,610,766.54	
Expenditures from books of the Utah Power & Light Company	279,621.25	
Total		1,890,387.79
Grace Terminal 130 K. V. Steel Tower Line Expenditures from books of the Utah Power & Light Company		1,835,264.18
Grace Terminal 130 K. V. Wood Pole Line Expenditures from books of the Utah Power & Light Company		1,207,205.94
Terminal Substation: Expenditures from books of the Utah Power & Light Company		1,199,115.05
Jordan Steam Plant: Expenditures from books of the Utah Power & Light Company, and Utah Light & Traction Company		974,831.76
Jordon Terminal Line: Pro-rated Costs		57,400.00
Total		$18,521,411.97

GENERAL DESCRIPTION OF BEAR RIVER SYSTEM

The Bear River rises on the north slope of the Uintah Mountains, in Utah, flows into Wyoming, makes a detour into Utah and again into Wyoming, and then flows northwesterly through the northern end of Bear Lake Valley in Idaho, turns southward in the vicinity of Soda Springs, Idaho, again enters Utah, and discharges into Great Salt Lake.

Bear Lake is situated in Bear Lake Valley, lies in both Utah and Idaho, and has an area of approximately 110 square miles. Bear River does not flow through Bear Lake, but flows past it, near its northern extremity. At the point where Bear River enters Bear Lake Valley, the river is above the lake in elevation; thus it is possible to divert the flow from the river into the lake, and to store, for later release, flood waters of the river, thereby providing seasonal storage of these waters. Flood waters are diverted into the lake by means of a concrete-steel dam in the river and a diversion canal 4 1/4 miles long. The water is held in the lake by means of dikes and control gates. The water is released into an outlet canal about 16 miles long, and thus finds its way back into Bear River.

The topographical limitations are such that it is possible to store only approximately five feet of water in Bear Lake over and above the normal run-off level of the lake. When the lake is at such stage as to be five feet below its high-water level, and it is desired to augment the water supply to maintain the average water flow, it is necessary to resort to pumping. At the northern end of the lake is constructed a modern pumping plant, consisting of five pumping units, each driven by one 750-H. P. motor. To supply this plant with electrical energy, a 44,000 volt transmission line, some sixty miles in length, has been constructed from the Grace plant.

Bear River, after passing Bear Lake, flows generally northwesterly through a long, level stretch of country, and at a point about 60 miles below Bear Lake flows through a section of the country where the fall is much greater. Here is situated the Grace plant, with a head of 525 feet and an installed capacity of 33,000 K. W. Immediately below the Grace plant is the Cove plant, with an installed capacity of 7,500 K. W. and a head of 95 feet. Farther down the river at Oneida Narrows is the Oneida plant, with an installed capacity of 20,000 K. W. and a head of 145 feet; and again still farther down the river in Bear River Canyon is the Wheelon plant, with a head of 110 feet and installed capacity of 7,125 K. W. The Grace and Cove plants are supplied from a very small pondage immediately at their intakes. They are essentially base load plants, while at the Oneida plant the topographical conditions are such that a large peak load storage is available, and, for this reason, the installed capacity in this plant is greater in proportion to the average power available from stream-flow than in the other plants, and this plant has been called the peak-puller of the system. The energy

from these plants is transmitted to a substation at a terminal west of Salt Lake City by means of three circuits at 130,000 volts, 133 miles long. Two of these circuits are on a line of heavy steel towers while the third circuit is on double wood pole construction.

Operating Data of Bear River System.

Witness Cheever, in Exhibit No. 6, sets forth the available annual output from the developments on Bear River as of January 1, 1920, if the flow of Bear River is equalized by control of Bear Lake reserve.

The detail of the available annual output is as follows:

Average load that can be carried throughout the year over a number of years:

Grace	24,400 K. W.
Cove	5,500 K. W.
Oneida	9,500 K. W.
Wheelon	4,000 K. W.
Total	43,400 K. W.

Annual K. W. H. that can be generated	380,184,000
Annual K. W. H. Station use, outages, Bear Lake pumping, etc., 10 per cent	38,018,400
Total station output, K. W. H.	342,165,600
Annual K. W. H. losses (conversion losses stepping up to 130 K. V., 130 K. V. line losses and conversion losses stepping down to 44 K V. at Terminal, 10 %	34,216,560
Annual K. W. H. available for sale at Terminal at 44,000 volts	307,949,040
Annual K. W. H. losses (line loss 44 K. V. lines) 5%	15,397,452
Annual K. W. H. available for sale from 44 K. V. system	292,551,588
Installed capacity above plants and peak load that can be carried K. W.	67,625
Station use, outages, Bear Lake pumps, etc, 10%	6,763
Peak Load station output	60,862

Conversion and line loss to Terminal, 10%...	6,086
Peak load available for sale at Terminal.....	54,776
Loss in 44 K. V. system, 5% K. W.	2,739
Peak load available for sale from 44 K. V. System	52,037
Load factor of Bear River system, per cent..	64

LIMITATION OF AVAILABLE POWER

The above exhibit shows in detail the operating data from which the total investment costs heretofore shown for the Bear River System can be translated into terms of unit costs of output. However, as will be seen, deductions have been made for certain known and determinable losses incurred in the regulation of water, in station uses and outages, and in the transmission of power from generating plant to Terminal and from Terminal to the termini of 44 K. V. lines.

Regulation Losses, Station Uses and Outages.

The Bear River System, as above outlined, is designed to utilize exactly the average regulated flow of Bear River. The average natural flow of the river has been determined by very accurate series of measurements, extending over a long term of years, while the regulated flow of the river is accomplished through the utilization of Bear Lake as a reservoir.

Exhibit 6 shows the average load that can be carried throughout the year over a number of years. This average, applicant states, is based upon actual stream flow records, the amount of water in the river absolutely averaged and applied through the various plants, just as they are constructed, under the efficiencies which have been determined, by actual tests. It is claimed by applicant to be the ultimate limit of average power that can be generated from existing plants.

The peak load shown is that peak which is limited by the installed capacity of the plant, while the average load, as heretofore stated, is that load which can be carried throughout the year over a number of years, if the entire water supply is utilized at maximum efficiency. The total annual output at this average load cannot be realized commercially, applicant contends, for the reason that certain of the output must be taken for station use and Bear Lake

pumping; that machine outage decreases output and a further decrease of output is due to inability to absolutely regulate the flow of Bear River at the plants so as to utilize all water with maximum efficiency; i. e., without waste. This deduction from the total annual K. W. H. output is claimed by applicant to be approximately 10%. Some protestants represented that an allowance of 10% is unreasonable; that no allowance should be made for stream regulation, and that Bear Lake pumping per year should be very much less than the seven or eight million K. W. H., claimed by applicant, and that it probably would not be necessary to pump on an average more than one season in three consecutive years.

The amount of energy required for station use is very small in comparison to the total output, and need not be discussed in detail.

Losses due to machine or plant outage are important. It is impossible, economically, to install sufficient reserve capacity in the stations to take care of every operating contingency which causes outage and consequent decreased output. The actual records of decreased output due to machine outage seem to show that machine outage alone will account for a very considerable portion of the 10 per cent decreased output claimed by applicant. The average limitation upon output for the past two years, according to actual records of outages, is claimed to be over 20,000,000 K. W. H. per annum.

The general togographical limitation surrounding the storage of waters in Bear Lake have been heretofore outlined. Installation to provide for and control stored waters in this lake has been designed only after a careful study of very complete stream flow records covering approximately thirteen years, with partial records extending back another thirteen years.

Witness Cheever testified (Transcript, Page 139) that in arriving at pumping consumption, he had assumed the present load as if it had existed for the past thirteen years, over which period the Power Company had actual stream flow records, and had thus determined how it would be necessary to regulate stream flow, and when it would be necessary to resort to pumping. He testified that all water could be stored during two wet years for a succeeding three dry years; and that at the end of the third dry year the lake level might be a little below what it should be on the average; but in the usual course of events, wet and dry years succeeding each other, it had

sufficient storage capacity properly to equalize stream flow. He further testified that with the succession of several wet years, it is possible that no pumping would be required. On the other hand, with several dry years, the pumping demand would be considerably in excess of this estimated figure. He testified that under this assumed condition of several dry years, pumping requirements might go as high as ten or twelve million K. W. H.; also that the variation of the lake level caused by equalization of stream flow for any one year probably would not exceed four feet.

The pumping plant was finished in 1917. As a matter of actual record, during 1918, no pumping was required. In 1919, pumping started July 18th, and was discontinued March 4, 1920. The total energy consumption measured at low tension approximated 5,157,000 K. W. H. Witness Cheever testified that if to this is added conversion and transmission losses, the energy measured at Grace and used for pumping purposes at the Bear Lake pumping plant, would approximate 6,000,000 K. W. H.

Bearing in mind the fact that water requirements for power have been applied by expert engineers to run-off and storage capacity over a comparatively long series of years, the Commission sees no reason why an average amount of power should not be assumed and allowed for pumping purposes annually.

Testimony is that after water is released from the Bear Lake storage, one to six days is required for the water to reach the Grace station. The interval of time depends largely upon climatic conditions. Hence, it may or may not be the condition that water to carry the load as of a given time would be available at that time. It means that if water is not available at exactly the proper time, the absolute average as set forth in Exhibit 6 cannot be realized. This is largely due to the fact that sufficient pondage is not available at the Grace generating station, so that water can always be simultaneously available with demand upon the plant. The absolute average output is predicated upon no waste of water. Hence, with a variation of time of one to six days for water in arriving at the plant, it is well within reason to say that a limitation will be placed upon the plant, so that the absolute average cannot be obtained. Just exactly how much this limitation upon output is, this Commission will not attempt to say. However, all things considered, station use, machine and plant outage, pumping and limitation due to inability

to absolutely regulate arrival of exact quantity of water at Grace, the Commission believes that the total of these different items will place a limitation of 10 per cent upon the absolute average output which, as has heretofore been stated time and again, is predicated upon the use of all water at maximum efficiency without waste.

Again, the total annual K. W. H. output of the Bear River plants for the years 1917, 1918 and 1919 has been submitted to the Commission. A study of these results in the light of actual operating conditions, supports the opinion that the available annual K. W. H. station output as set forth by applicant in Exhibit No. 6, is reasonable and may properly be taken into consideration in fixing rates in this case.

Conversion and Transmission Losses.

Applicant states that it sustains annual losses of 10 per cent on account of conversion and transmission of energy from station to Terminal. It is claimed losses are incurred in stepping up from 6600 to 130,000 volts at station, in transmission to Terminal, and in stepping down from 130,000 to 44,000 volts, together with condenser losses, at Terminal.

Witness Cheever testified that these losses between station and Terminal were known, for the reason that the power losses on the main transmission lines from Grace to Terminal had been measured and the general result of measurements checked by very exact computation. Further inquiry and check by the Commission shows that the transformer and condenser losses sustained in connection, have been carefully obtained by test. The Commission will allow a full 10 per cent loss, as set forth in Exhibit No. 6, which sets forth the peak capacity and K. W. H. available for various load factors at Terminal.

Losses on 44 K. V. Lines.

The Power Company claims allowance for line losses of 5 per cent from Terminal to the delivery end of K. V. lines. This amount of line loss has been criticized, but no direct testimony was offered to show that average losses on lines of this kind and character are generally less than that claimed. General average losses of this kind are fairly well known on lines competently designed, and the claimed loss will be accepted as not unreasonable, pending further investigation by this Commission to determine actual average losses as applied to this property.

Net Power Available.

After deductions have been made in conformity with the foregoing allowances for losses, the peak load and K. W. H. from the Bear River System available at Terminal, and the peak load and K. W. H. available for sale from the 44 K. V. system for various load factors will be as follows:

Load Factor %	At Terminal Peak Load K. W.	At Terminal Annual K. W. H.	From 44 K. V. System. Peak Load K. W.	From 44 K. V. System. Annual K. W. H.
10	54,776	48,000,000	52,037	45,600,000
20	54,776	96,000,000	52,037	91,200,000
30	54,776	144,000,000	52,037	136,800,000
40	54,776	192,000,000	52,037	182,400,000
50	54,776	240,000,000	52,037	228,000,000
60	54,776	288,000,000	52,037	273,600,000
64	54,776	307,949,040	52,037	292,551,588
67	52,470	307,949,040	49,847	292,551,588
70	50,000	307,949,040	47,600	292,551,588
80	44,000	307,949,040	41,800	292,551,588
90	39,000	307,949,040	37,000	292,551,588
100	35,000	307,949,040	33,400	292,551,588

The following tabulation gives the peak load and Kilowatt hours available for sale from the 44 K. V. system for various load factors from Utah-Idaho interconnected system, to which may be applied corrected system operating expenses, which for 1919, excluding Federal income tax, amounted to $836,411.96, to obtain unit operating costs:

Load Factor %	Peak Load K. W.	Annual K. W. H.
10	60,833	53,300,000
20	60,833	106,600,000
30	60,833	159,900,000
40	60,833	213,200,000
50	60,833	266,500,000
60	60,833	319,800,000
64	60,833	341,030,000
67	60,833	357,310,264
70	60,833	373,100,000
80	60,833	426,400,000
90	54,000	426,400,000
100	48,500	426,400,000

RATE BASE

Effort was made to show that the investment figures of system as a whole, shown in Supplement No. 2 to Exhibit No. 2, is heretofore set forth, were unreliable and could not be taken as evidence of value for the purpose of establishing a rate base; that some of the smaller plants had either been removed or had not been operated for some time; that book costs were unreliable and inaccurate, and, since these book costs should not be taken to represent value, no increase should be allowed, pending a technical physical valuation of the entire property.

The theory of the applicant's case is that its financial condition is such that immediate relief is necessary to enable it adequately to maintain its property, and particularly to provide for accruing depreciation in the property and to establish its credit, so as to enable it properly to care for financial obligations in large amounts, and to obtain the capital necessary for immediate extensions and improvements in its service; that the need for relief is urgent, and that its ability to maintain itself would be seriously threatened if relief were delayed until after a physical valuation had been made.

While, as heretofore stated, an estimate of the total physical investment in the utility's property has been made by the Power Company, and checked by the Commission's accountant, yet this estimate is claimed by the Power Company to be inadequate and not to reflect the full investment costs. The accuracy of the accounting methods were challenged by protestants. The Power Company's case, however, does not rest upon this claimed total investment, but upon the need for relief pending the time of a valuation, and upon the cost of generating and delivering power from the Power Company's Bear River System, which testimony shows to be the principal source of power, approximately two-thirds of its supply coming from that source.

It is claimed the investment costs of the Bear River system are definitely known, and they have been shown in detail through exhibits entered in this case. It was testified by the Power Company's engineers, and apparently conceded by all the protestants in this case (at least, there was no attempt to contradict the testimony of the Power Company's witnesses on this point) that the Bear River System is not only the principal source of power supply, but that also it is the cheapest and most efficient source of supply and that the cost of power cal-

culated upon the basis of this investment would be less than the cost of power calculated upon the entire system. The Power Company's claim, therefore, is that calculated upon this rate base, so far as investment charges are concerned, and upon the Company's actual operating expenses as shown by its books, the present schedule rates for power are insufficient to yield the cost of the service.

While it is generally conceded that the ultimate rate base must be the value of the utility's property devoted to public service as established by inventory and valuation, yet it is recognized by commissions and courts generally that relief in the way of increased rates cannot always be delayed until after such valuation has been made.

The weight of authority of courts, as well as Commissions, would seem to clearly indicate that an advance in rates may be authorized before a physical valuation has been made, provided the showing is such that the utility is in present need of, and requires, more revenue, in order to maintain its property in a condition to furnish reasonably adequate service. This Commission so held in the Utah Gas & Coke Company case (Case No. 34), also in the Utah Light & Traction Company case (Case No. 6), the latter having been confirmed by the Supreme Court of this State, 73 Pac. 556, P. U. R. 1919-F, 337.

We, therefore, conclude that the Commission would be justified, and it is its duty upon a sufficient showing made, to grant such partial, or it may be called "emergency relief", as may be necessary pending a valuation and further examination of the utility's rate structure. Such showing was made in the hearing.

As heretofore stated, the cost of the so-called Bear River System of the Power Company has been segregated, and the Commission is of the opinion that this segregated investment represents a rate base upon which costs may be properly calculated at this time.

The investment costs have been supported by the Power Company's accountants and by the engineers who had direct charge of this work, and carefully checked by the Accounting Department of the Commission.

There was a protest against the inclusion of the Jordan Steam Plant in the total investment of the Bear River System, it being contended that the steam plant was a reserve for the entire hydro-electric system.

The Commission believes that the protest is well taken, and that the Jordan Steam Plant is, and properly should be, considererd a reserve unit for the entire hydro-electric system, of which the Bear River System, so-called,

forms a major portion. Since the Bear River System generates approximately two-thirds of the system output of electricity, the Commission will allocate to the Bear River Systm two-thirds of the cost of the Jordan Steam Plant. With this correction, the investment in the Bear River System which the Commission will adopt as a rate base in this case, is $18,177,334.72, at Terminal, near Salt Lake City.

COST OF 44 K. V. TRANSMISSION LINES

Applicant testified that the principal centers of power use are Magna, Bingham, Eureka, Helper, Park City and Salt Lake City. The load in these six centers of use during December, 1919, for power purposes only, was 30,800 K. W. average, which was nearly equal to the amount available from the Bear River System. Previously, in 1918, the load had been even greater, and, for this reason, applicant contended, it may reasonbaly be assumed that, if it were physically possible to dedicate all Bear River System power to those six centers of use, it could all be absorbed for power purposes.

Witness Cheever testified that seven circuits would be required to transmit the power to the six centers named; that the hypothetical system as outlined contained only 290 miles, as against an actual mileage of 924 miles in the system. Therefore, there is actually in the system about three and one-half times the number of miles outlined above. The average length of the seven circuits would be approximately 41-1/2 miles each. He further testified that the known costs of this type of construction at pre-war prices, would be $5,000 per mile.

The hypothetical system was submitted for the reason that applicant had no technical physical valuation of the actual existing lines. The evidence shows that the expenditures by the applicant itself for 44 K. V. lines actually constructed by it, or by the Phoenix Construction Company for it, in the past seven years, has been in excess of the amount claimed by it for this purpose, and, in addition, there is a large net work of K. V. lines constructed by predecessor companies used by the applicant, which represents a substantial additional investment. Therefore, the investment figure claimed by the applicant will be accepted as the minimum that can be required for this purpose. If, then, we assume seven 44 K. V. circuits, each 41½ miles in length, or 290½ miles of line at $5,000 per mile, there will be added $1,452,500 to the $18,177,334.72, already

found as construction costs of the Bear River System, making a total value of property used and useful in giving 44 K. V. service from the Bear River System, $19,629,834.72.

UNIFORMITY OF RATES

The Utah Copper Company claimed that it should not be charged with its full proportion of the cost of this 44 K. V. system, on the ground that it used a large block of power much nearer the terminal station than the average distance of transmission in the 44 K. V. system, as calculated by the applicant.

The service of this utility is a community service, almost statewide in its extent. To attempt to build power rates for different localities, based upon particular investment, would entirely destroy the uniformity of rate structure, and, furthermore, would give the particular consumer all the benefits of connection to the general interconnected system so advantageous in rendering efficient service, without charging it with its proportion of the burden. Furthermore, the rate structure prescribed by the Commission in this case is based on a study of only a part, and that admittedly the most efficient and least expensive part per unit of the applicant's system, and, as applied to the service of the Utah Copper Company or any other consumer, affords, in our judgment, a reasonable rate for the service upon any composite theory that can be devised.

We feel, therefore, that pending full valuation and further analysis, the rates prescribed for like service should be uniform and universal in their application.

DEPRECIATION

The Commission has heretofore in other cases discussed the various phases of depreciation, and the discussion will not be repeated here. Reference is made to the Brigham City case (No. 137), and to the Utah Light & Traction case (No. 44).

Applicant presented an exhibit showing the composite annual weighted percentage of depreciation for the Bear River System to be 3.6 per cent figured on a straight line basis. This percentage was not seriously attacked by any of the expert witnesses at the disposal of the protestants, and it will, with minor corrections, be accepted by the Commission as the straight line annual weighted percent-

age of depreciation for this system. Calculation will be made on a sinking fund basis at 5 per cent. Depreciation upon two-thirds of the value of the Jordan Steam Plant will be included. Upon this basis, the annual depreciation to be considered in arriving at the cost of power at Terminal for the Bear River System is $311,544.43, and, including 44 K. V. lines, $343,894.32, the additional amount being computed upon the accepted rate of depreciation for transmission lines.

FINANCIAL REQUIREMENTS

Public utility regulation contemplates that the earnings of a company shall be reasonably remunerative but not excessive. They shall be such as to cover costs of service, including a fair return on the value of the property employed in the service of the public. (Smyth v. Ames, 169 U. S. 416). This limitation of earnings makes it necessary that the utility make additions and betterments to its property out of new capital. It must, therefore, compete in the market for money at going rates of interest. Current rates of interest for money are well known and have been testified to before this Commission. Unless the property which capital represents is permitted to earn at a rate that will pay interest on the investment properly made, new money cannot be obtained. Inability to borrow money means the stoppage of growth. In a growing community such as this, it means decreased service generally.

There is also another element peculiar to this industry which requires the borrowing of money. As is well known, the art has advanced with great rapidity during the past years, and much electrical property has had to be retired, and newer, more efficient, up-to-date equipment installed.

The testimony of the Company shows that several million dollars per annum will be required to take care of necessary additions and betterments. This does not take into account amounts needed for refinancing outstanding obligations, which will require additional large sums of money during 1921 and 1922.

RATE OF RETURN

In attempting to construct rate schedules which will produce a fair rate of return on the total value of the property of the Power Company, and which will be equitable and just as between all classes of consumers, and reasonable and fair to the utility and the public, the Com-

mission is face to face with many elements that inject uncertainties into the equation. One of these elements is the somewhat precarious business situation now confronting industry in general, which may, and probably will, curtail power use. The mining interests, which conceivably may be forced for reasons extraneous to this case, to effect radical reduction of operations; in the past have been consumers of heavy blocks of power. Another element is the probability that many low voltage users will find it profitable to change to the use of medium voltage power. Indeed, it may be said in brief that rates based upon experience of the past period of business inflation will be subject, so far as the return they will yield, to such diverse influences and uncertainties, that only the actual results following their adoption can determine the rate of return they will produce.

The Commission has given careful consideration to the business done by the Power Company in the past, and the rate schedules hereinafter found reasonable and just are such as, in the opinion of the Commission, should produce revenues sufficient to pay operating costs, fixed charges, interest and a rate of return on the investment commensurate with the known value of money at the present time. To fix rates lower than those proposed might, under adverse conditions of power demand, be stiffling to the utility, and rates materially higher might, in some instances be burdensome to industries that are dependent on electric power.

The study the Commission has given this matter has served to indicate that it would be somewhat uncertain, if not dangerous, to take the operations of any one fiscal year of the last several years, and predicate a judgment as to the proper rate structure upon the results of that year. Mr. Justice Moody, in Knoxville v. Knoxville Water Company, (212 U. S. 1, 15) said, as to basing judgment on results during abnormal years;

> "The operations of the preceding year, or of any other past fiscal year, were valueless if the year was abnormal."

Admittedly, the recent past has been a time of abnormal business conditions. During the war, there was unusual demand for power, so that the years during which there was acual fighting were anything but normal. The fiscal year 1919 was subject to reconstruction uncertainties, and these, as stated hereinbefore, will almost certainly continue; so that, any calculations of the Commission from

data in hand must reflect abnormal conditions, and thus be more or less indefinite. The best that can be, or ought to be, done at this time is to find reasonable rate schedules for power and put such in effect, in order to give them the determinative test of actual experience.

The rate schedules hereinafter fixed are materially lower than those proposed by the Power Company, but the Commission feels that they are, in the light of the showing made, fair and reasonable, and as high as are justified at this time.

The Commission has carefully considered the testimony concerning the Power Company's investment, and has arrived at the cost of the principal power generating system with its necessary transmission lines, terminal facilities and equipment, and primary distribution arrangements. There has in this way been found a basis for future calculation of actual operating results, after a period of time has elapsed sufficient to show with reasonable accuracy the experience of the Power Company under the new rates. If at that time it appears the rates need adjustment in order to do justice either to the utility or to the public, the Commission, charged with regulatory powers, will not hesitate to make such adjustments, upward or downward, as the conditions demand.

RATE STRUCTURE

In the last analysis a rate cannot be simply a mathematical product. The Commission can determine average costs and fair average rates to properly reflect those costs, but, when that has been done, the balancing of the rate between different classes of consumers is a matter of business judgment, considering the nature and conditions of use and value of service as reflected in competitive costs of giving that service. In other words, so many elements must necessarily enter into the making of a rate structure, that there can be no precise mathematical rule of ratemaking laid down.

Before a proper rate structure can be devised and prescribed, consideration must be given to the effect on the price to be charged, of such elements as load factor, diversity factor, competitive cost of service, power factor, method of measuring maximum demand, etc. all of which elements have a bearing upon the rate.

Load Factor and Diversity Factor.

The annual system load factor for the year 1919 was 67 per cent, which is but slightly above the ideal load factor for the Bear River System for 64 per cent.

In rendering service, an electric power and light company must be prepared to meet simultaneously the demands of all of its customers. This exaction makes it imperative that generating stations, transmission and distribution systems be of such capacity as will meet this requirement. Facilities to serve must be kept available at all times.

The demand charge in a properly devised rate structure should, therefore, reflect the investment necessary to render service, while operating expenses should be reflected in the energy charge.

It follows from the foregoing that fixed charges must play a relatively large part in determining the cost of service rendered to a consumer who makes a relatively small use of the facilities that must be kept available for his use. and who must pay proportionately highter rates than if more use of the facilities kept at his disposal is made.

If the output of the plant except as reflected by diversity, is divided among a number of customers, only those whose use of their demand is the same as the system use of demand established by all customers are entitled to receive their service at system load factor cost. On the other hand, consumers in a class making more use of their demand than that of the system use of demand, are ordinarily entitled to receive service at a lower cost because of the decreased effect of the fixed charges.

In discussing costs and rates, it must be borne in mind that the Commission has before it the task of fixing rates upon a specific hydro-electric system, subject to the limitation of available water. The total deliverable kilowatt hours are a function of available water. The maximum K. W. H. output from the Utah-Idaho inter-connected power system available from 44 K. V. system is shown to be 426,400,000 K. W. H., with a maximum peak of 60,833 K. W. This is at 80 per cent system load factor. Due to limitation of water, higher load factors result in reduction of peak. The theory is advanced in evidence by applicant that the operation of consumers' plants at load factors in excess of 80 per cent, necessarily operates to reduce the peak which may be carried on the system.

Hence, such customer is using the full available output of his demand, and, from this point of view, no diversity of use in a commercial sense, is possible at these high load factors.

However, it may be said if a particular consumer among many operates above the ideal load factor, such consumer is not making use of his portion of peak capacity in relation to the total water he is using, because he is taking relatively less installed capacity than is the case at ideal load factor, and, if operating at less than the ideal load factor, such consumer is using relatively more than his portion of peak capacity in relation to the total water he is using. However, as an abstract proposition, very high load factors may or may not allow of diversity in a commercial sense. It depends upon the form of load curve and method of measurement and duration of peak.

Again, at lower load factors, a corrective factor for diversity of use is allowed, for the reason that consumers at these lower load factors do not, as a matter of fact, establish their maximum demands simultaneously. Hence, the sum of all maximum demands establised by different customers, will be greater than the simultaneous demand that the utility must meet. The plant capacity may, therefore, be less than the sum of all individual maximum demands. The consumer should, therefore, benefit by a reduction from the fixed costs found applicable to system costs at low load factors.

Testimony discloses that specific data as to the diversity existing among consumers of a class, or among different classes of consumers, is not at this time available. Testimony was to the effect that the system diversity factor ranged between 1.10 and 1.19. The Commission will, in the present instance, make an allowance for diversity ranging upward to 2.0, depending upon load factor.

Pending a physical valuation, applicant will make such study of diversity as will place before the Commission specific data as regards diversity applicable to various classes of consumers.

Competitive Cost of Service.

Certain protestants introduced testimony to show the cost of service to them from private steam plants would be materially less than the present or the proposed schedule of the applicant. Many exhibits were introduced and much interesting and instructive testimony was offered by experts in steam generation, including investment and fuel

costs, B. T. U. content of coal, fusibility of ash, plant location and general station performances, including turbine outages, and, after giving protestants every advantage that their particular physical location accords them, the Commission is of the opinion that a sustained, dependable net output cannot be realized under steam generation at less than rates fixed hereinafter.

Power Factor.

In filing new tariffs for power delivery, applicant has asked that the penalty for power factor be included when the actual power factor is 85 per cent, or less. Some evidence was introduced at the hearing on power factor in general. It appears, however, that definite information as to power factor applicable to customers taking power from this system, is not clearly shown, and until such time as proper investigation and determination of the entire question of power factor is made, the penalty clause will be omitted.

Method of Measuring Maximum Demand.

Applicant asked that maximum demand for all service rendered be determined on the basis of a five-minute average peak. There was some objection to this method of measurement. The Power Company, at subsequent investigations, supported the claim that investment is provided for peaks of such short duration as five minutes, and inasmuch as the custom of measuring peaks on this basis has hitherto obtained quite generally in the Power Company's dealings with its customers, the Commission will not, at this time, except as hereinafter noted, change the method of determining peak.

APPLICATION OF RATES

The Commission has attempted to devise rate schedules and rules that will be just, fair and reasonable to all users. In general, the schedules and rules hereinafter prescribed would seem to be applicable to all but a limited number of users, but there seem to be reasons for certain modifications, pending further investigation, in the case of mine hoists, electric railways having intermittent moving loads, milling industries operating under present Schedule No. 44, and irrigation projects and other users of seasonal service. The considerations leading to these conclusions are set out in succeeding paragraphs. If and

when it is shown, after further investigation, that any or all of the foregoing classes of consumers should be placed on standard schedule, or their rates otherwise modified, the Commission will not hesitate to act accordingly. On the other hand, if it is shown that other classes of users besides those mentioned should be given special consideration, the way is open for the presentation of such facts to the Commission.

Mine Hoists.

Protest was made against the addition of the motor rating to the established demand in determining the maximum demand for mine hoists, upon the ground that it was arbitrary and unscientific, and did not reflect the true costs of service. No specific evidence was introduced by protestants to show what would be a reasonable method of computing demand for mine hoists different to testimony by the Company.

Applicant will promptly gather such data as will reflect the conditions of this service, and submit the same to the Commission for its further consideration, and, in the event the Commission finds and adopts a different method of computing demand, application of which will result in lower net billing than that computed on the basis of present method of billing, applicant will refund to the consumers affected the difference thus overpaid, from and after the effective date of this order.

Electric Railways.

Testimony was introduced by protestants representing electric railways, to support the claim that a five-minute average peak is not applicable to intermittent moving loads, such as constitute interurban and electric railway service generally. It was urged that it is unnecessary to provide investment to take care of peaks of such short duration as five minutes, and because of the greater diversity incident to the rendering of this type of service. It was asked that an hourly peak be instituted.

The applicant was unable to offer any specific data as regards diversity applicable to this kind of service. Further investigation supports the contention that for electric interurban and street railway service, a five minute average peak is inapplicable. In many cases the intermittent moving load traverses several sections, each fed from a separate point of delivery, though perhaps supplied

from the same primary lines, thus establishing a separate peak in each section, though no additional peak is established on the system. Inasmuch as power bills are rendered separately for each point of delivery, it follows that a load moving from section to section will materially increase billing over that of a stationary load where the demand is reflected but once in the billing. This kind of intermittent loads also introduce additional diversity over that occasioned by ordinary power loads, and some factor effecting a percentage reduction of the five minute peak should be applied. No evidence has been introduced by applicants or protestants to show exactly what such factor should be, and it is difficult to appraise exactly the value which should be assigned to this peculiar element in a rate structure. However, a study of the past operating experience of these utilities, and careful consideration of all factors involved, convinces the Commission that the factor of 70 per cent is reasonable, pending further operating experience. Accordingly, the high voltage schedule should contain a clause, applicable to electric interurban and street railway service, to the effect that demand charge should be based on 70 per cent of the five minute average peak load established monthly.

Milling Companies.

Power is supplied to flour milling companies under Schedule 44. Investigation shows that mills in Idaho in active competition with the Utah mills, are supplied with power by various utilities under schedules, some higher and some lower than the present schedule of applicant.

The Public Utilities Commission of Idaho, on June 2, 1920, granted the Idaho Power Company permission to advance its flour mill schedule, identical with applicant's present schedule, ten per cent. Rates of the other power companies have not been advanced, so far as we are advised. Flour mills in this section are highly competitive, and a material advance in Utah power rates under these conditions would adversely affect mills in Utah.

However, the Power Company's need for additional revenue is recognized, and, pending further investigation as to the seriousness of the effect if the general power rates were applied to this industry in Utah under present competitive conditions, the Commission will continue in effect the Power Company's Schedule No. 44, increased. as to the monthly bills only, by ten per cent.

Seasonal Service.

A number of protestants appeared during the hearing of this case in behalf of irrigation projects in various parts of the State. Testimony was that at this time those depending on electric power for irrigation purposes could not afford to pay in excess of present power rates. The Commission is impressed with the plea that power should be furnished such projects, whether private of corporate, at the lowest possible rate consistent with cost, to the end that irrigated agriculture may be fostered and increased in all districts where pumping is an essential operation. In line with this thought, the Commission will modify applicant's seasonal demand guarantee so as to reflect as nearly as possible the minimum necessary increase based upon cost of service. While these guarantees are substantially lower than the Power Company asked for, the Commission believes they are consistent with the showing made. Seasonal service schedules will be found following each regular rate schedule.

HIGH VOLTAGE SCHEDULE

After full consideration of all elements heretofore discussed, the Commission finds, pending a physical valuation, the following schedule to be reasonable and applicable to all consumers, for alternating current, three phase service, supplied at voltages in excess of 15,000 volts, for power purposes only, and effective in all territory served by the applicant. This schedule is applicable to all service now being rendered at voltages in excess of 15,000 volts, under schedules Nos. 43, 46, 47 and 54.

GENERAL POWER METER RATE

Charges.

(a) DEMAND: Two Dollars ($2.00) net per month per contract H. P., which charge entitles consumer to use free during such month 100 K. W. H. for each H. P. of contract power.

(b) ENERGY: 1c net per K W. H. for the next 100,000 K. W. H. of monthly consumption.

.85c net per K. W. H. for the next 10,000,000 K W. H. of monthly consumption.

.8c net per K. W. H. for all excess monthly consumption.

Discounts.

(a) LOAD FACTOR: 15 per cent of monthly bill if consumer guarantees or establishes during any month, a monthly load factor of 50 per cent and less than 60 per cent of the contract H. P.

16 per cent of monthly bill if consumer guarantees or establishes during any month, a monthly load factor of 60 per cent and less than 70 per cent of the contract H. P.

17 per cent of monthly bill if consumer guarantees or establishes during any month, a monthly load factor of 70 per cent and less than 80 per cent of the contract H. P.

17½ per cent of monthly bill if consumer guarantees or establishes during any month, a monthly load factor of 80 per cent and less than 90 per cent of the contract H. P.

18 per cent of monthly bill if consumer guarantees or establishes during any month, a monthly load factor of 90 per cent and less than 100 per cent of the contract H. P.

(b) TERM: 5 per cent for contract of not less than five years.

10 per cent for contract of not less than ten years.

Seasonal Service.

When contract is for seasonal service (i. e., irrigation, refrigeration, beet dumps, canneries, pea viners, etc.) net minimum monthly payments per Contract H. P., for at least three (3) months, shall be guaranteed as follows:

$4.00 net per Contract H. P. per month for three (3) months service or less.

3.75 net per Contract H. P. per month for more than three (3) months service, but not exceeding four (4).

3.25 net per Contract H. P. per month for more than four (4) months service, but not exceeding five (5).

3.00 net per Contract H. P. per month for more than five (5) months service, but not exceeding six (6).

2.75 net per Contract H. P. per month for more than six (6) months service, but not exceeding seven (7).

2.50 net per Contract H. P. per month for more than seven (7) months service, but not exceeding eight (8).
2.35 net per Contract H. P. per month for more than eight (8) months service, but not exceeding nine (9).
2.20 net per Contract H. P. per month for more than nine (9) months service, but not exceeding ten (10).
2.10 net per Contract H. P. per month for more than ten (10) months service but not exceeding eleven (11).

If service should be disconnected for any reason before the expiration of the period mentioned in the application for service, consumer will be deemed to have taken service only for the period dating from the date service was begun to the date of disconnection, and upon disconnection the final bill shall be adjusted to the minimum guaranty for that period, but in no case less than three (3) months.

MEDIUM VOLTAGE SCHEDULE

This schedule is for alternating, three phase service supplied at voltages between 2,300 and 15,000 volts, inclusive, for power purposes only. This schedule is applicable to all service formerly rendered at like voltages to consumers under Schedules 42, 45, 46, 47 and 54.

Medium voltage costs are determined by super-imposing upon the primary voltage rate the additional investment and operating costs of substation and medium voltage lines necessary to serve this class of consumers. There is also added a portion of the general expense incident to rendering this service.

The Commission has carefully considered the assumptions made by applicant in arriving at costs for this service, and with some modification they will be accepted. Depreciation has been set up on the sinking fund basis instead of straight line basis, while items for general expenses have been modified by the elimination of the Federal income tax. Transformer losses have been somewhat reduced.

There are certain customers now receiving medium voltage service having demands in excess of 500 H. P., who would, if offered high voltage service, undoubtedly

select the same because of the advantages of high voltage service as applied to loads of this magnitude. The present equipment, however, is for medium voltage service, and to change such equipment will require considerable time. The schedules are purposely designed with a view of making it to the interest of the larger customers of 500 H. P. or over to take the high voltage service and thus relieve the general investment made to serve the public.

The Power Company is expected to co-operate with such customers in arranging an equitable basis for making the change from medium to high voltage delivery, and any of the parties affected may apply to the Commission for an adjustment of those matters, in the event the parties fail to reach an agreement. Furthermore, the Commission reserves jurisdiction to disapprove of any agreement the making or carrying out of which would result in discrimination or preferential treatment. Of course, any of these customers may, at their option, elect to take service under the medium voltage schedule.

With proper allowance for diversity, the Commission finds the following medium voltage schedule to be reasonable, and same may be filed by applicant:

CHARGES

(a) DEMAND: $2.25 net per month per contract H. P. which charge entitles consumer to use during such month 80 K. W. H. for each H. P. of contract power.

(b) ENERGY: 2c net per K. W. H. for the next 5000 K. W. H. of monthly consumption.

1½c net per K. W. H. for the next 10,000 K. W. H. of monthly consumption.

1c net per K. W. H. for all excess monthly consumption.

Discounts.

LOAD FACTOR: 10 per cent of monthly bill if consumer guarantees or establishes during any month a monthly load factor of 50 per cent or over.

TERM: 5 per cent for a contract of not less than five years.

10 per cent for a contract of not less than ten years.

Seasonal Service.

When contract is for seasonal service (i. e., irrigation, refrigeration, beet dumps, canneries, pea viners, etc.) net minimum monthly payments per contract H. P. for at least three (3) months shall be guaranteed as follows:

$4.25 net per contract H. P. per month for three (3) months service or less.

4.00 net per contract H. P. per month for more than three (3) months service, but not exceeding four (4).

3.50 net per contract H. P. per month for more than four (4) months service, but not exceeding five (5).

3.25 net per contract H. P. per month for more than five (5) months service, but not exceeding six (6).

3.00 net per contract H. P. per month for more than six (6) months service, but not exceeding seven (7).

2.75 net per contract H. P. per month for more than seven (7) months service, but not exceeding eight (8).

2.60 net per contract H. P. per month for more than eight (8) months service, but not exceeding nine (9).

2.45 net per contract H. P. per month for more than nine (9) months service, but not exceeding ten (10).

2.35 net per contract H. P. per month for more than ten (10) months service, but not exceeding eleven (11).

If service should be disconnected for any reason before the expiration of the period mentioned in the application for service, consumer will be deemed to have taken service only for the period dating from the date service was begun to the date of disconnection, and upon disconnection the final bill shall be adjusted to the minimum guaranty for that period, but in no case less than three (3) months.

LOW VOLTAGE SCHEDULES

The following schedules are for alternating, three phase service supplied at 110, 220, or 440 volts, for power purposes only, and are applicable to all service now being rendered at like voltages to consumers under Schedules Nos. 37, 38, 39, 40, 41, 46, 47 and 54, and are hereby found to be reasonable and just as to each of said consumers.

Applicant has been unable to segregate costs for low voltage A. C. and D. C. power service based upon known investment. The increases sought on low voltage service are substantial increases over present schedules. While the Commission realizes the necessity that additional revenues should be provided for the continuing service of this utility, it does not believe a greater proportion of the total cost of giving the service should be placed upon low voltage consumers than has been found, on the whole, to be reasonable upon high and medium voltage users.

It is thought that there are users of service supplied at voltages embraced in this schedule, who will find it more economical to take power under medium voltage schedules. Applicant will be expected to co-operate with its patrons to the end that power may be supplied at the voltages most economical to the consumers.

The applicant will be permitted to file and put in effect the following schedules:

1.—Low Voltage-50 H. P. and Over.

CHARGES

(a) DEMAND: $2.50 per month per Contract H. P., which charge entitles Consumer to use during such month 35 K. W. H. for each H. P. of Contract power.

(b) ENERGY:

7 cents per K. W. H. for the next 50 K. W. H. of monthly consumption.

5 cents per K W. H. for the next 250 K. W. H. of monthly consumption.

3 cents per K. W. H. for the next 750 K. W. H. of monthly consumption.

1 cent per K W. H. for all excess monthly consumption.

Discounts.

Term:

5 per cent for a contract of not less than five years.
10 per cent for a contract of not less than ten years.

Prompt Payment: 5 per cent if paid within discount period.

2.—Low Voltage—1 H. P. to 50 H. P.

CHARGES

(a) DEMAND: $2.50 per month per Contract H. P., which charge entitles Consumer to use during such month 30 K. W. H. for each H. P. of Contract power.

(b) ENERGY:

7.5 cents per K. W. H. for the next 50 K. W. H. of monthly consumption.
5.5c per K. W. H. for the next 250 K. W. H. of monthly consumption.
3.5 cents per K. W. H. for the next 750 K. W. H. of monthly consumption.
1.2 cents per K. W. H. for all excess monthly consumption.

Discounts.

Term:

5 per cent for a contract of not less than five years.
10 per cent for a contract of not less than ten years.

Prompt Payment: 5 per cent if paid within the discount period.

SEASONAL SERVICE

Applies to Low Voltage Schedules 1 and 2.

When contract is for seasonal service (i. e., irrigation, refrigeration, beet dumps, canneries, pea viners, etc.) net minimum monthly payments per contract H. P. for at least three (3) months shall be guaranteed as follows:

$4.25 net per contract H. P. per month for three (3) months service or less.

4.00 net per contract H. P. per month for more than three (3) months service, but not exceeding four (4).

3.50 net per contract H. P. per month for more than four (4) months service, but not exceeding five (5).

3.25 net per contract H. P. per month for more than five (5) months service, but not exceeding six (6).

3.00 net per contract H. P. for month for more than six (6) months service, but not exceeding seven (7).

2.75 net per contract H. P. per month for more than seven (7) months service, but not exceeding eight (8).

2.60 net per contract H. P. per month for more than eight (8) months service, but not exceeding nine (9).

2.45 net per contract H. P. per month for more than nine (9) months service but not exceeding ten (10).

2.35 net per contract H. P. per month for more than ten (10) months service, but not exceeding eleven (11).

If service should be disconnected for any reason before the expiration of the period mentioned in the application for service, consumer will be deemed to have taken service only for the period dating from the date service was begun to the date of disconnection, and upon disconnection the final bill shall be adjusted to the minimum guaranty for that period, but in no case less than three (3) months.

DIRECT CURRENT POWER

This schedule is for direct current power service from existing circuits at 220 and 440 volts, for passenger elevators only, and is applicable to all service formerly rendered to consumers under Schedule No. 36, and said schedule is hereby found to be reasonable and just as to each of said consumers.

CHARGES

(a) DEMAND: $3.00 per month per contract H. P., which charge entitles consumer to use during said month, 40 K. W. H. for each H. P. of contract power.

(b) ENERGY: 7c per K. W. H. for the next 50 K. W. H. for monthly consumption.

5.5c per K. W. H. for the next 250 K. W. H. of monthly consumption.

3.5c per K. W. H. for the next 750 K. W. H. of monthly consumption.

1.5c per K. W. H. for all excess monthly consumption.

Discounts.

Term:

5 per cent for a contract of not less than five years.
10 per cent for a contract of not less than ten years.

Prompt Payment: 5 per cent if paid within discount period.

RELATIONSHIP TO CASE NO. 230

The relationship between this case and Case No. 230 has been discussed heretofore. In Case No. 230 the Commission found that the special contracts held by certain customers of the Power Company were discriminatory and preferential in favor of said customers, and, to the extent that they were below standard schedules, were a burden upon the power consuming public in general, and the said special contracts were ordered modified as to the rates, rules and regulations specified therein, and were placed upon standard schedules of the Power Company which were open to the public generally.

If these special contracts had been continued in effect, it would have been necessary, in order to provide the Power Company with revenues shown to be needed to enable it to continue giving adequate service to the public generally, that power consumers not enjoying special contract service pay very much higher rates than are herein found to be reasonable, thus placing the total burden of the increase upon the customers already paying

highest rates. The rates hereinbefore fixed for the various classes of power users are intended to be applied to all power users of the respective classes, including the special contract holders

It is not intended by this order to finally pass upon or dispose of the six special contracts held by the following companies and persons:

Deseret News
Hotal Utah
Judge Mining & Smelting Co.
Salt Lake & Ogden Railroad Co.
Salt Lake Pressed Brick Co.
Progress Company.

Jurisdiction is retained by the Commission over the issues presented in the foregoing special contracts, for the purpose of further investigation, consideration and decision of the Commission, as indicated in Case No. 230.

FINDINGS

The Commission, therefore, finds the facts to be:

1. That the financial condition of the applicant, as shown at the hearing, is such as to require increased revenues from its operations in order that it may be enabled to set up an adequate depreciation reserve, maintain its credit, and to enable it to obtain the capital necessary to meet the needs of the public for service.

2. That the rates provided in the power schedules of the applicant, now on file with the Commission and in effect, and particularly in Schedules Nos. 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47 and 54, are, on the whole, unjust, unreasonable and insufficient to yield the cost of service, and do not provide reasonable and sufficient revenues for the service rendered to consumers under said schedules, which schedules will be cancelled and set aside, and superseded by the respective schedules heretofore in this order found to be reasonable.

3. That the time required for physical valuation of the property of the applicant, and the expense involved in such valuation, would be such that the granting of relief cannot be delayed pending such physical valuation, and the increased rates herein prescribed shall be effective until such valuation is made, unless otherwise ordered by the Commission.

4. That applicant should, at as early a date as practicable, make a physical valuation of all of its property, segregating physical values so as to reflect, as nearly as may be, the investment necessary to serve the various classes of consumers; and, pending a hearing and finding thereon, the said applicant shall be permitted to put into effect the rates and charges hereinbefore prescribed and set forth, for the respective services to which they are applicable, and to receive and collect for its services the revenues derived from the application of said rates and charges to the services rendered its various power users. Said rates and charges are hereby found to be supported by the evidence, and to be just and reasonable for the service rendered.

5. That as to service rendered to holders of special contracts covered by the final order of the Commission in Case No. 230 to which contracts the application of the schedules herein prescribed will result in any lower billing than the billing under the applicable standard schedules in force and effect at twelve o'clock noon, October 22, 1920, the Power Company shall recalculate bills for service from twelve o'clock noon, October 22, 1920, to the effective date of this order, and refund to the consumers any excess of billing charges or collected by the Power Company under said standard schedules over and above the amounts which would have been charged or collected had the schedules herein prescribed been in force and effect from and after twelve o'clock noon, October 22, 1920.

6. That the Power Company should set up a depreciation reserve fund on its total depreciable property, computed upon the basis of the Commission's finding herein of a proper allowance for depreciation on the Bear River System.

7. That the General Rules and Regulations of the Power Company on file with the Commission, amended as shown in applicant's Exhibit No. 22, and modified and changed as set out in applicant's Exhibit No. 23, and as further modified by proposed changes of rules and regulations shown in applicant's Exhibit No. 12, insofar as they are not inconsistent, or in conflict, with the provisions of this order, or with stipulations entered in this case, may be filed as rules and regulations governing applicant's power service from and after the effective date of this order.

8. That the schedules of rules and charges herein prescribed, and the rules and regulations, amended as hereinbefore provided, may be made effective on not less than ten day's notice to the public and to the Commission.

An appropriate order will be issued.

(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 8th day of March, 1921.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to increase its power rates. } CASE No. 248

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That the application of the Utah Power & Light Company, for permission to publish and put into effect Supplement No. 4, to its electric Tariff No. 1, be and it is hereby denied.

ORDERED FURTHER, That applicant, Utah Power & Light Company, be, and it is hereby, permitted to cancel its electric power Schedules Nos. 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47 and 54, and, in lieu thereof, to publish and put into effect increased rates and charges which shall not exceed those set forth in the foregoing report, and revised rules and regulations as set forth in said report.

ORDERED FURTHER, That applicant, the Utah Power & Light Company, be, and it is hereby, authorized and permitted, on and after the effective date of this order, to add 10 per cent to all monthly billing under present Schedule No. 44.

ORDERED FURTHER, That such increased schedules may be made effective upon ten days' notice to the public and the Commission.

ORDERED FURTHER, That applicant shall recalculate all bills rendered holders of special contracts since twelve o'clock noon, October 22, 1920, to the effective date of this order, and refund to such consumers any excess charges collected over and above the amounts which would

have been charged or collected had the schedules herein authorized been in force and effect from and after twelve o'clock noon, October 22, 1920.

ORDERED FURTHER, That applicant shall, at as early a date as practicable, make and submit to the Commission a physical valuation of all its property, segregating physical values so as to reflect as nearly as may be the investment necessary to serve the various classes of consumers.

ORDERED FURTHER, That applicant shall set up a depreciation reserve fund on its total depreciable property, computed upon the basis of the Commission's finding herein, of a proper allowance for depreciation on the Bear River System.

IT IS FURTHER ORDERED, That schedules naming such increased rates shall show upon the title page the following notation:

> "Issued on less than statutory notice, under authority of Public Utilities Commission of Utah order, Case No. 248, dated March 8, 1921."

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SALT LAKE & DENVER RAILROAD COMPANY, for a certificate of convenience and necessity authorizing the construction of a line of railroad.	CASE No. 253

Submitted Feb. 25, 1921. Decided Feb. 25, 1921.

J. H. DeVine for petitioner.

REPORT OF THE COMMISSION

By the Commission:

This is an application for an extension of time in which to begin construction of the Salt Lake & Denver Railroad from Provo, Utah, into and through the Uintah Basin to the Colorado-Utah State line, a distance of approximately 185 miles.

The Commission, on February 25, 1920, made and filed a report and entered its order, granting a certificate of convenience and necessity for the construction, operation and maintenance of a standard gauge railroad over said route, and specifically provided in said order that the applicant should begin construction within one year from the date of said order, and should complete the construction, within the State of Utah, within five years thereafter.

Notices of the hearing in the present case were sent to the commercial organizations of Roosevelt, Myton, Duchesne and Vernal, all in Uintah Basin. The Vernal Commercial Club in responding, by wire, urged that the extension granted be not to exceed six months. The Roosevelt Commercial Club, in a letter addressed to the Commission expressed the opinion that eight months extension of time would be sufficient. The Duchesne County Club, in a letter, stated that it would make no protest to the granting of the additional time asked. No response was made by the Commercial Club of Myton.

The case was heard February 25, 1921. Representation was made that economic conditions since the date of the Commission's order have been such that it has not

been prudent or possible to begin actual construction work. It was stated, however, that approximately $20,000 has been expended by the Railroad Company up to this time, largely in securing rights of way, making surveys, etc., and that the Company's president is now in eastern financial centers in the interest of the project, and that he has every encouragement to hope for successful financing of the undertaking.

The granting of six months or eight months extension of time to begin construction would mean that the time would expire in the late summer or early fall of the present year. In view of the general financial depression at the present time, it would appear that this would scarcely give time enough to accomplish the work necessary to be done preliminary to the actual launching of a construction program of the magnitude herein contemplated. It is not at all certain that labor conditions and the industrial situation will have adjusted themselves within that period of time.

After full consideration of the matter, the conclusion is that the application for an extension of time should be granted for the period of one year from February 25, 1921.

No extension of time was asked, and none will at this time be granted, for the completion of the construction of the said railroad, which remains at five years from this date.

An appropriate order will be issued.

(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 25th day of February, A. D., 1921.

In the Matter of the Application of the SALT LAKE & DENVER RAILROAD COMPANY, for a certificate of convenience and necessity authorizing the construction of a line of railroad. } CASE No. 253

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, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That applicant, Salt Lake & Denver Railroad Company, be, and it is hereby, granted an extension of time for the period of one year from February 25, 1921, in which to commence construction of its line of railroad.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the BEAR RIVER VALLEY TELEPHONE COMPANY, for permission to establish certain rates for installation of telephones for new subscribers.	CASE No. 264

Submitted May 21, 1921. Decided June 10, 1921.

Paul Heitz, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

In an application filed January 10, 1920, the Bear River Valley Telephone Company, a public utility corporation, organized and existing under and by virtue of the laws of the State of Utah, and having its principal place of business in Tremonton, Box Elder County, State of Utah, alleges that said corporation is engaged in the business of owning, managing and operating a telephone system within the County of Box Elder, and that said system has heretofore been under the direction and control of the Postmaster General of the United States, but has now been returned to the direction and control of the petitioner.

It is further alleged that while said system was under the control and direction of the Postmaster General of the United States, applicant was ordered and directed to charge the sum of $3.50 as an installation charge for telephones for new subscribers, and that petitioner, pursuant to said order, placed said rate into effect.

Applicant further alleges that the cost of installing a new telephone is in excess of $6.50 per telephone, and that the application is made pursuant to Section 3, Article 4, Chapter 477, Session Laws of Utah, 1917, and that unless said rate is ordered to remain in effect and full force, a wholly unjust and undue burden will be placed on the general subscribers for telephone service, in that they will be compelled to bear an unjust portion of the expense of installing telephones for new subscribers.

The case came on regularly for hearing at Tremonton, May 21, 1921, at which time Paul Heitz, Manager for applicant testified that this Company served various towns in Box Elder County, including Tremonton, Bear River, Fielding, Riverside, Beaver Dam, Garland, Honey-

ville, Corinne, Thatcher, Howell and Blue Creek, and territory contiguous to these towns. He testified further that the maximum distance it has been necessary to travel to install telephones for the Company, was approximately thirty miles, while the average distance of travel was about fifteen miles; that many of the occupants of the farms were renters, making a practice of moving from one district to another, necessitating numerous changes in telephone service, and that the average cost of such installation would be approximately $6.00 per telephone.

The service connection charge is a charge imposed upon the patron when he originally applies for service or when a change is required. It is intended to cover the special expense made necessary by particular individuals and is designed to prevent discrimination against those who make no special demands and who use service for a long period of time without change of location.

In order to install new telephone service, average expenditures for labor and materials are necessary. If such expenditures are to be covered in rates applicable to all subscribers, then the long term subscribers will be discriminated against, and will be paying part of the special expenditure made necessary by the short term users of service. The addition of new subscribers is an advantage to those already using service, in that it makes possible the more general use of service; but the cost of adding new stations to the system or changing stations from one place to another, should not become an undue burden on subscribers already connected.

The general average costs shown to be involved in rendering this service are in evidence in this case. In view of the costs shown to be necessary, and the general financial condition of the utility, it is the opinion of the Commission that the present service connection charge should be permitted to remain in force and effect.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 10th day of June, A. D., 1921.

In the Matter of the Application of the BEAR RIVER VALLEY TELEPHONE COMPANY, for permission to establish certain rates for installation of telephones for new subscribers.. } CASE No. 264

This case being at issue upon petition on file, and having been duly heard and submitted, and full investigaton 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, the Bear River Valley Telephone Company, be, and it is hereby, permitted to retain installation charge of $3.50 for all new telephones installed on its system.

ORDERED FURTHER, That the above charge may be made effective by publishing and filing with the Commission schedules naming such charge.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HOWARD HOUT, for a certificate of convenience and necessity to operate an automobile stage line between Salt Lake City and Park City, Utah.	CASE No. 265

ORDER

Application having been made, December 18, 1920, by Howard Hout, for permission to discontinue the operation of his stage line between Salt Lake City and Park City, on and after December 10, 1920;

And it appearing that during the winter months the road over which this stage line operates is impassable for automobiles;

And there appearing no reason why such application should not be granted;

IT IS ORDERED, That the application be, and it is hereby, granted, and said Howard Hout is hereby authorized to discontinue the operation of said stage line until road conditions between Park City and Salt Lake City warrant such operation.

By the Commission.

Dated at Salt Lake City, Utah, this 7th day of January, 1921.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

M. D. DURRANT,
Complainant.
vs.
UNION & JORDAN IRRIGATION CO.,
Defendant.
CASE No. 266

Submitted March 18, 1920. Decided Feb. 1, 1921.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner.

This is an application by M. D. Durrant, a resident of Union, Salt Lake County, Utah, to require the Union & Jordan Irrigation Company to extend its pipe line from the present terminus, near the Union Meeting House at 9th East Street and Union Avenue, in Union, easterly along Union Avenue, for the purpose of serving the residents in that vicinity.

This matter was first brought to the attention of the Commission informally, but without reaching a satisfactory conclusion, and later a formal application was filed January 16, 1920.

The case was heard the 18th day of March, 1920, at which time testimony was offered outlining the early history of this project, and the various steps taken in its development.

It appears from the testimony that some years ago the community contiguous to Union felt the necessity of securing a supply of culinary water, other than that then in existence; that in order to accomplish this result, numerous community meetings were held, wherein ways and means were discussed and devised to secure a water supply.

It was finally decided to set aside some water from the Irrigation Company supplying that section, sell a portion of it to secure funds with which to construct a water works, and use the remainder of the water thus set aside, for culinary purposes.

Various individuals living in Union and vicinity, promoted the project, of which the settlement called Old Fort, formed a part. It appears from the testimony that it was generally thought that the pipe line would extend along the highway contiguous to the Old Fort settlement, and thence westerly along Union Avenue. This was only natural, as a compact settlement existed at this point and would expect to be served. Some of these individuals owned shares of water in the Irrigation Company, and it appears agreed to the setting aside of a certain amount of water to the water Company, with the full expectancy that the main pipe line would pass through their settlement. The evidence does not show that any other route was at this early stage seriously considered.

After having decided to secure a water supply, an engineer was employed, a water system laid out, some of the water heretofore mentioned as having been set aside was sold to secure funds, and a water system was constructed. Testimony shows the engineer decided that a better location for the pipe line was along a road west of the Old Fort settlement, approximately one-half mile, and accordingly the pipe line was so constructed. Later a spur was constructed easterly along Union Avenue to the L. D. S. Meeting House, which is now the terminus of the pipe line nearest to the complainant.

Witnesses appearing for both complainant and defendant, offered testimony indicating that negotiations for the serving of these particular consumers had extended over practically the entire period since the Water Company was first promoted, and it was claimed that at one time almost enough money had been collected to secure a supply of water under the Company's extension rule, which provides that for a contemplated extension the consumers advance 60 per cent of the total cost of such extension, this sum to be later returned in water. It was claimed that $300 was the minimum that would be required for this purpose, using the 60 per cent basis.

Since that time, however, costs of labor and materials have greatly increased the cost over that necessary for the original extension. However, we feel that the promises originally made to the residents of this particular portion of the district when the line was first projected, and the support they gave to the promotion of the project, which helped to make the project feasible for all, carries with it some obligation on the part of the Water Company which

should still be weighed in favor of complainant, and our conclusion is that the pipe line should be extended by the Water Company, as far eastward as the Junction of the highway leading to the Old Fort, upon the advancing of $300 by the prospective customers to the Water Company, this amount to be returned to those advancing it, in accordance with the general extension rule of the Company.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) HENRY H. BLOOD,
JOSHUA GREENWOOD,
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 1st day of February, A. D., 1921.

M. D. DURRANT,
Complainant.
vs.
UNION & JORDAN IRRIGATION CO.,
Defendant.
CASE No. 266

This case being at issue upon complaint and answer on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That defendant, the Union & Jordan Irrigation Company, extend their present pipe line as far eastward as the junction of the highway leading to the Old Fort, upon receiving an advance of $300 from prospective customers of the Water Company.

ORDERED FURTHER, That the amount deposited by said customers be returned to the depositors in accordance with the general extension rule of the defendant Company.

ORDERED FURTHER, That such pipe line shall be constructed within sixty days from the date of receipt of the deposit of $300 by the defendant Company.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of A. M. NOLD and G. H. NOLD, co-partners, under the firm name of MIDLAND TRAIL GARAGE TRANSFER COMPANY, for permission to operate an automobile stage line between Soldier Summit and Scofield, via Colton, Utah.	CASE No. 273

ORDER

It appearing that on February 7, 1920, A. M. Nold and G. H. Nold, doing business under the firm name of "Midland Trail Garage Transfer Company", filed an application for a certificate that present and future convenience and necessity require and will continue to require the operation of an automobile stage line for the transportation of passengers between Soldier Summit and Scofield, Utah, via Colton, Utah;

And it further appearing that on March 9, 1920, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 76, authorizing said A. M. Nold and G. H. Nold to operate such a stage line; and information having been received by the Commission that said A. M. Nold and G. H. Nold have failed to render the service authorized by said Certificate of Convenience and Necessity No. 76;

Upon motion of the Commission, IT IS ORDERED, That said A. M. Nold and G. H. Nold, or either of them, appear before the Public Utilities Commission of Utah, at its office, 303 State Capitol, Salt Lake City, Utah, on Tuesday, the 19th day of April, 1921, at 10 A. M., then and there to show cause why the certificate issued in the above matter should not be revoked and set aside.

ORDERED FURTHER, That failure on the part of said A. M. Nold and G. H. Nold or either of them, to appear at the time and place before mentioned, will be deemed a forfeiture of all rights granted under and by virtue of the certificate heretofore issued.

By the Commission.

Dated at Salt Lake City, Utah, this 1st day of April, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of A. M. NOLD and G. H. NOLD, co-partners, under the firm name of MIDLAND TRAIL GARAGE TRANSFER COMPANY, for permission to operate an automobile stage line between Soldier Summit and Scofield, via Colton, Utah.	CASE No. 273

Decided April 23, 1921.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

On April 1, 1921, the Commission issued its order in the above entitled matter, requiring A. M. Nold and G. H. Nold, or either of them, to appear before the Commission, at its office, 303 State Capitol, Salt Lake City, Utah, on Tuesday, the 19th day of April, 1921, at ten o'clock A. M., to show cause why Certificate of Convenience and Necessity No. 76, issued in the above matter, should not be revoked and set aside. Said parties failed to appear or make answer in compliance with the notice or order issued in this case.

From the information obtained, and upon investigation, the Commission finds that said A. M. and G. H. Nold have failed to give the traveling public service between Soldier Summit and Scofield, via Colton, Utah, and have failed to operate an automobile stage line for the transportation of passengers, as authorized in Certificate of Convenience and Necessity No. 76.

IT IS THEREFORE ORDERED, That the right of A. M. Nold and G. H. Nold and permission to operate an automobile stage line, for the transportation of passengers between Soldier Summit and Scofield, Utah, via Colton, Utah, be, and is hereby, revoked and set aside.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

Attest:
(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the PERRY ELECTRIC LIGHT & POWER COMPANY, for permission to increase its rates.	CASE No. 281

Submitted Sept. 2, 1920. Decided Dec. 6, 1920.

LeRoy B. Young, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The hearing on the above application began March 19, 1920, at Perry, Utah. There were no protestants.

Testimony was taken in part, and, upon suggestion of the petitioner, the hearing was continued until September 2, 1920.

The petition sets forth that the applicant is a corporation, organized and existing under the laws of the State of Utah, engaged in supplying the inhabitants of Perry, Box Elder County, with electricity for light and power purposes; that the application for advanced rates is based upon the following facts:

That said applicant entered into a contract with Brigham City, whereby said Brigham City agreed to furnish electric energy to said applicant at a rate set forth in the contract entered into by the parties, and that in pursuance to the rates so charged, applicant's rates were established to the consumers within the Town of Perry; that the revenues derived therefrom were barely sufficient to pay the expenses of maintenance and interest on the amount of money expended for the construction of said plant; that the Town of Perry has a population of about three hundred, and has seventy subscribers; that said town is scattered over considerable territory, requiring several miles of distribution system; that the revenues received from the operation of said plant are not sufficient to pay for the cost of giving service; that on June 10, 1919, by order of the Public Utilities Commission of Utah, permission was granted to Brigham City to increase

its rates for electric energy; that on account of such advance in rates the petitioner is unable to furnish energy to the citizens of the Town of Perry at the present rate, without entailing a financial loss; that the petitioner's distribution system is in bad condition and requires replacements, and that it will require a rate of at least 10c per K. W. H. in order to meet the financial demands in the giving of the service; that the rate charged by the Brigham City Corporation was advanced to 7c per K. W. H., June 10, 1919.

The financial statement of the Perry Light & Power Company of June 1, 1920, shows the book value of materials used in the construction of its system to be $6,549.62, and an estimated cost of labor, which was apparently donated, to the amount of $3,000, making a total of $9,549.62. Revenues from June 1, 1918, to May 31, 1919, were $847.50, expenditures for power amounted to $284.36, and miscellaneous expenditures were $69.00. The income and expenditures from June 1, 1919, to May 31, 1920, were as follows: Revenue from service, $949.38; expenditures for power, $330.52; miscellaneous, $249.00; total expenditures $579.52.

No amount has been reserved for depreciation and replacement, yet, all poles have been replaced, and for that reason no claim was made for depreciation.

There has been received upon capital stock, $1,795.00, which was invested as capital. Up to June 1, 1920, there was borrowed from the banks and invested, $1200.00. This bears 8 per cent interest. The remainder of the invested capital has been provided from undivided profits of the corporation which have been left in the business.

It is claimed that the value of the physical plant is $9,549.62. The Company should set aside as depreciation reserve, 6 per cent of this amount annually. An allowance should be made for the payment of clerical expenses, for the want of which the Company has not been able to show a complete report of its operation for the past.

It is apparent from the best information obtainable, that the applicant is entitled to, and should be authorized to, advance its rates. It is true that the accounts kept and submitted to the Commission are not as comprehensive as they might be, and it further appears that the operation of the plant has not been technically looked after by way of replacements, and that in order to put the sys-

tem in a condition to give adequate service, considerable money will have to be expended.

The corporation appears to be owned by the people who are the consumers, and who voluntarily associated themselves together for the sole purpose of obtaining light for domestic purposes, and that money and labor was contributed by the members of the Company, for the purpose of building the system, and there appears to be no thought of investment for speculation, but in order to place the system upon a more businesslike and efficient basis, and to intelligently operate the service, it would require additional attention and expense on the part of the Company, and, in order to obtain such additional means, it is very apparent that the rates will have to be raised.

The Commission is of the opinion that the petition of the applicant should be allowed, and that the Perry Electric Light & Power Company should be authorized to charge and collect 10c per K. W. H. for electric energy.

The Company will be required to keep such accounts hereafter as will more clearly show the operations of its plant.

An appropriate order will be entered.

(Signed) JOSHUA GREENWOOD,

Commissioner.

We concur:

(Signed) HENRY H. BLOOD,

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 6th day of December, A. D., 1920.

In the Matter of the Application of the PERRY ELECTRIC LIGHT & POWER COMPANY, for permission to increase its rates. } CASE No. 281

This case being at issue upon petition 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant be, and it is hereby, permitted to publish and put into effect, rate for electric service, which shall not exceed 10 cents per K. W. H.

ORDERED FURTHER, That said rate may be made effective on five days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the TOWN OF WELLINGTON, UTAH, for the erection of a depot by the Denver & Rio Grande Railroad.	CASE No. 283

Submitted Oct. 18, 1920. Decided Feb. 4, 1921.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

The Town of Wellington, a municipal corporation situated in Carbon County, Utah, on the line of the Denver & Rio Grande Railroad, on February 26, 1920, filed an application with this Commission alleging that the people of Wellington require better service from the Denver & Rio Grande Railroad, as regards freight, express and passenger traffic; that the property of the said Railroad and its tracks extend through the limits of said Town; that the nearest depot to Wellington is the depot at Price, Utah, a distance of six miles; that due to the irregularity of train movement and the absence of a depot, merchandise and other commodities are exposed to the weather and danger of being damaged or lost; that it is impossible for one to ship freight from said Town except in carload lots, and that much difficulty is experienced in the settlement of claims for damaged goods or where there is a shortage; that on account of these inconveniences, the development of the Town of Wellington is hampered; and further, that Wellington is situated on the State Highway leading to the Uintah Basin, and that the present situation is that the residents of the Uintah Basin must travel through Wellington to the Town of Price, where freight is received, and thence return through Wellington and on to the Uintah Basin country.

Applicant alleges that if a depot were located at Wellington, large amounts of freight would be loaded and unloaded at this point, and thus save considerable time and money; and alleges that during the winter months, freighters to the Basin could save at least two day' travel; also there are points south of Wellington, such as Victor, Elmo and Cleveland, in Emery County, that would benefit

through the erection of a depot at Wellington. Applicant further alleges that patrons waiting for trains have no shelter, and that if a depot were erected at Wellington, general railroad traffic to and from said Town would be greatly increased.

In an answer filed with this Commission, March 16, 1920, the Denver & Rio Grande Railroad alleges that the total revenue received at Wellington by the Director General of Railroads, operating the Denver & Rio Grande Railroad during the year 1919, was only $1,180.39, or an average of $98.34 per month; that the cost of a depot would not be less than $5,000; that in order to render a depot of any value in the way of affording increased railroad service, it would be necessary to employ an agent, at a salary of not less than $150.00 per month, or a compensation of 50 per cent more than the gross revenue of the station of Wellington, based on 1919 figures, for one year. It is further alleged that less than four tons of freight was forwarded from Wellington station during the entire year of 1919, and that during ten months of the year no freight whatsoever was forwarded, and that the revenues derived from freight forwarded was only $51.47. Defendant further alleges that during four months of 1919, less than one ton per month of freight was received at said Wellington station, and that during three other months, less than two tons was received, the average yearly business being about thirteen tons.

Defendant further alleges that the total number of inbound and outbound passengers for Wellington for the year 1919, was 598, an average of 49 per month. The total receipts from inbound and outbound passenger service for Wellington during the year 1919, was $648.97. The average combined freight and passenger revenues per month would amount to less than $99.00.

Defendant admits that freight trains are irregular in arriving at Wellington, but alleges that freight trains wherever operated are irregular in arriving and departing, inasmuch as their movements are dependent on the amount of work to be done at the various stations.

Said defendant denies that it is impossible to ship freight from Wellington in less than carload lots, and denies that a station at Wellington would be of assistance to parties freighting to the Uintah Basin, and alleges that the allegation of Wellington Town relative to traffic in-

creasing if a depot were established at that place, is purely speculative.

The case came on regularly for hearing before the Commission, on the 7th day of April, 1920, at Price, Utah, at which hearing evidence was introduced by applicants tending to show the advantages that would accrue to the surrounding country and to the carrier if a depot were constructed at Wellington.

It was stated that Wellington is situated about six miles east of Price, on the Denver & Rio Grande Railroad, and on the highway leading to the Uintah Basin country. It developed that this highway is known as an all year highway, in that it may be used for freighting purposes during winter months, and receives a large amount of traffic during the winter when other highways leading to points in the Basin are closed on account of snow; and the theory was developed in the evidence, that if a depot were erected at Wellington, freighters would stop at Wellington instead of continuing on to Price, thereby saving the public from a general economic loss; that the farming in the vicinity of Wellington would be stimulated; that under present conditions shippers at Wellington are put to great inconvenience and some loss through the fact that there is no depot at Wellington, and no authorized agent to take care of shipments, and that further, there is no proper shelter for passengers desiring to board the train at this point.

Applicant testified that an exhibit entered by the carrier, setting forth in detail earnings at Wellington, for the year 1919, was incorrect, in that some twenty-five carloads of produce, mostly sugar beets, had been omitted from the statement, and it was contended that shipments of like kind would increase in the future.

The record shows that Price, Utah, is the principal forwarding point for general freight destined to points in the Uintah Basin, and numerous wholesale warehouses have been established there, as well as facilities for handling parcel post matter destined to the Uintah Basin. and representatives of wholesale houses testified that Wellington would not be used as a distributing point by them, for the reason that investment had already been made for warehouse facilities at Price; that the shorter distance to Wellington from the Basin would not be sufficient to cause a change of location.

The Commission has carefully investigated, since the hearing, the shipping possibilities of the country adjacent and tributary to Wellington, and has carefully noted the petitions which have been signed by the various residents of the Uintah Basin, stating that the erection of a depot at Wellington would be of assistance to them, and the Commission is of the opinion that while there probably would be some increase in freight tonnage handled to and from Wellington, if a depot were located at that place, there would not be such increase as would justify the Commission in issuing its order at this time that a depot and agent be maintained at this point.

The Commission is anxious to assist all communities in securing better service, when the same may reasonably be requred, but the record in this case precludes the Commission from issuing its order requiring the construction of a depot at this time. It will, however, continue jurisdiction in this case, for the purpose of making further investigation as occasion may arise.

The record also shows that the present shelter at Wellington is in the nature of a box car body, which has been placed on the ground at the station, and it was shown not to have been kept in a proper sanitary condition. The Railroad should, and will be required to, take steps, through its track force or other organization, to keep this shelter in a proper state of cleanliness. It is claimed by the Railroad that it is the duty of the Town authorities to police this structure. The Town authorities should, of course, co-operate with the Railroad, but the primary duty of attending to this depot rests upon the carrier. It was shown that train crews have not always been careful in handling package freight, and more care should be given to the loading and unloading of local freight at this point.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) JOSHUA GREENWOOD,
HENRY H. BLOOD,
(SEAL) Commissioners.

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 4th day of February, A. D., 1921.

In the Matter of the Application of the TOWN OF WELLINGTON, UTAH, for the erection of a depot by the Denver & Rio Grande Railroad. } CASE No. 283

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That the application of the Town of Wellington for the erection of a depot at that point by the Denver & Rio Grande Railroad, be, and it is hereby, denied, at this time.

ORDERED FURTHER, That the Denver & Rio Grande Railroad shall take such steps as are necessary to insure the present shelter at Wellington being kept in a proper state of cleanliness.

ORDERED FURTHER, That defendant, Denver & Rio Grande Railroad, shall take such steps as are necessary to insure the careful handling of package freight, loaded and unloaded at this point.

ORDERED FURTHER, That the Commission specifically retains jurisdiction herein.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the HYRUM CITY MUNICIPAL ELECTRIC PLANT, for permission to increase its rates. } CASE No. 299

Submitted Jan. 4, 1921. Decided Jan. 31, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled case came on for hearing, before the Commission, at Hyrum City, January 4, 1921, upon petition for rehearing, which was granted.

This case was heard before Special Investigator F. M. Abbott, June 8, 1920, and a report was submitted to the Commission and duly considered. Based upon the facts so submitted, the Commission issued its order, November 13, 1920. The applicant, being dissatisfied with the conclusions found in that order, desired a rehearing for the purpose of making a showing, upon which it is asking a modification of said order.

The testimony submitted at the rehearing was to the effect that the plant had not been able to generate more than 72 K. W.; that at the present time it was generating 45 K. W.

It was further contended by the City that the depreciation allowance of 5 per cent is not sufficient, for the reason that a close check on the requirements to reasonably meet current depreciation and deferred replacements, shows that a sum of at least $2,500 per annum will be required. This will be allowed as a lump sum rather than an amount to be set up on a percentage basis until deferred maintenance in the property has been taken care of. It would require a total of $9,040.40 to meet the expenses, which are itemized as follows:

Maintenance, Freight, office expense, etc.	$ 826.32
Depreciation	2,505.28
Cost of Power Purchased	1,908.00
Wages for Operators	2,445.80
Salaries, including Superintendent and additional help	1,355.00
Total	$9,040.40

The applicant estimates total revenues, under the increased rates asked for, as follows:

Est. Increase from Power rates	$ 315.99	
Est. Increase from Lighting rates	1,948.61	
Total Estimated Increase		$2,264.60
Revenues for the year 1919		7,469.95
Total Expected Revenue		9,734.55
Total Expenses, including depreciation, as shown above		9,040.40
Excess		$ 694.11

No allowance for contingencies or any other unforeseen expense in operation has been made in this case. While municipal plants may not be operated for profit, still the Commission cannot exactly fix rates so that revenues and expenses will exactly balance. There should be some allowance, we think, for contingencies to take care of, for example, accidents or damage not occuring in the ordinary course of the business, and for legal or other expense in connection with damage claims that may arise. However, the excess should not be permitted to become too large, but only of such proportions as will insure adequate, continuous operation of the plant without the city being required to meet a deficit at the end of the year on account of some unforseen expenses.

The applicant alleges that the amount allowed by the Commission in its order in this case, under date of November 13, 1920, will not yield sufficient revenue to furnish funds to meet the necessary outlay in the operation of the plant, and to make replacements and cover depreciation; that it would require an advance in the rate to 9 cents per K. W. H. for lighting purposes, and 4 cents per K. W. H. for general power.

Testimony further showed that the increase in expenses incurred in taking breakdown service from the Utah Power & Light Company amounted to $1,908, instead of $1,440; that power to the creamery and flour mills is furnished during the day-time when said current or energy is not demanded for lighting purposes; that there had been no complaints by the consumers or patrons within the city limits against the use made of the power by said creamery and flour mills; that flat rates under the service given have been replaced by meter rates.

There was no opposition to the application at the rehearing.

The matter of history and valuation of the property set out in the order issued November 13, 1920, was not changed, and need not be repeated in this order.

After a careful consideration of the testimony given, the Commission is of the opinion that in order to obtain sufficient revenue with which to furnish the service necessary, and to maintain the plant in a reasonable condition by necessary replacements, and to furnish a depreciation fund such as appears to be necessary, the Hyrum City Municipal Electric Plant should be authorized to charge and collect 9 cents per K. W. H. for lighting purposes, and 4 cents per K. W. H. for general power purposes; that the other schedules, rules and regulations now in effect shall remain without change or modification; and that a depreciation reserve should be set up approximately in the amount shown in the tabulation hereinbefore, or about $2,505.28, annually.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 31st day of January, A. D., 1921.

In the Matter of the Application of the HYRUM CITY MUNICIPAL ELECTRIC PLANT, for permission to increase its rates. } CASE No. 299

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That the application herein be, and it is hereby granted, and that applicant, Hyrum City Municipal Electric Plant, be permitted to publish and put into effect, on ten days' notice to the public and to the Commission, increased rates which shall not exceed the following:

Lighting .....9c per K. W. H.
General Power .....4c per K. W. H.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

OPHIR HILL CONSOLIDATED MINING COMPANY, and CLARK ELECTRIC POWER COMPANY, *Complainants.* vs. UTAH POWER & LIGHT COMPANY, *Defendants.*	CASE No. 312

ORDER

Upon motion of the complainants, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter, be, and it is hereby dismissed.

Dated at Salt Lake City, Utah, this 21st day of September, 1921.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

MURRAY CITY, a Municipal Corporation, *Complainant.* vs. LOS ANGELES & SALT LAKE RAILROAD CO., *Defendant.*	CASE No. 318

ORDER

Upon motion of the complainant, and by the consent of the Commission:

IT IS ORDERED, That the complaint in the above entitled matter be, and it is hereby, dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 21st day of December, A. D., 1920.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of BRUCE WEDGWOOD and FRED A. BOYD, for permission to operate an automobile freight line between Salt Lake City and Ogden, Utah. } CASE No. 321

Submitted Aug. 10, 1920. Decided April 6, 1921.

Thurman & Allen, for Petitioners.

D. L. Stine, for Protestants.

REPORT OF THE COMMISSION

By the Commission:

The application of the above named persons represents that they are residents of Salt Lake City, Utah, and are making formal application for permission to control, maintain and operate an automobile freight line between Salt Lake City and Ogden, Utah, a distance of approximately thirty-five miles, over the public highway; that the applicants are thoroughly familiar with the operation and maintenance of motor freight truck service, which service would be beneficial to the communities through which it operates; and that there is a need of such convenience.

Protests to the above application were filed by the Bamberger Electric Railroad Company and the Oregon Short Line Railroad Company.

The Bamberger Electric Railroad Company bases its objections upon the following grounds:

That it operates an electric railroad from Salt Lake City to Ogden; that said railroad parallels the State Highway, over which the applicant would operate in giving the proposed service; that said protestant reaches and serves, and will continue to serve, the same territory and people by a daily freight train being operated to each and all of the towns to which the applicant proposes to give service; that in the giving of said service, together with passenger service, the protestant has invested some $3,000,000; that a competitive service, such as is contemplated in the application under consideration, would tend to prejudice the inter-

ests of the protestant, as well as deprive the public of the service now being rendered; that there is and has been adequate service to take care of all the traffic on the line, and that the said Railroad Company holds itself ready to give increased service whenever the requirements demand same; that the motor service cannot be depended upon throughout the year, on account of the climatic conditions.

The Bamberger Electric Railroad Company further contends that it would be unfair to force it into competition with the applicant, for the reason that for many years it has given service and has spent large amounts for rights-of-way and for constructing its line and purchasing expensive equipment and rolling stock, and is required to pay high taxes, which are used in part to construct highways and maintain them, while the applicant would operate over the said highways without contributing anything to the construction or maintenance thereof.

The Oregon Short Line Railroad Company denies there is any necessity for the establishment of service applied for, but, on the contrary, contends that the carriers now operating between the points named in the petition have ample facilities to take care of all the service demanded and required by the public; that the various common carriers now operating have private rights-of-way and are required to pay large sums for the up-keep of their systems, as well as to contribute to the general good of the public by large sums of money; that it would be inequitable to allow petitioner to compete with the carriers, especially in view of the service that has been given for a long period of time, and is being given and will be given in the future.

The applicants gave evidence to the effect that they had interviewed many business houses in Salt Lake City and Ogden, and had learned from them that it was very desirable that an automobile freight line be established and operated between Salt Lake City, Ogden and intermediate points; that such a service would materially reduce the time now required for the transportation of such goods by the railroad carriers, and that additional convenience would be furnished by picking up the freight at the place of business of the shipper and delivering it directly to its final destination, thereby eliminating the necessity of an extra haul to the railroad stations, reducing the number of times in handling freight from four to two, thus in effect establishing a different and superior service to that of protestants.

The applicants, in support of their contention, filed with the Commission petitions signed by a number of business firms and persons of Salt Lake City and Ogden, and other points, setting forth that in their judgment the establishment of a motor truck service between Ogden, Salt Lake City and intermediate points, would be a great benefit to said localities and would improve the transportation traffic, by the maintenance of a quick delivery system between said points, and that business conditions would be very much improved, both by saving in time and convenience in handling merchandise.

It developed in the testimony that the parties applying had been, and were at the present time, giving to certain corporations and other parties, under special contracts, service from and to the points mentioned, but had not been carrying on a transportation service for the general public, as a common carrier; that said service had been satisfactory to the parties under the special contracts, some of whom have signed the petition referred to above; that they, the applicants, had sufficient equipment to reasonably take care of any and all freight offered for transportation, if a certificate is issued by this Commission, making said applicants common carriers; that they had furnished storage depots in Salt Lake City and Ogden, but none at intermediate points, but it is their intention to establish and maintain all necessary facilities for receiving, caring for and transporting such freight as will be offered, and that they will be responsible, and be able to furnish shippers satisfactory assurance for the care, protection and transportation of all freight handled.

The protestants testified that the service for the transportation of freight between and to the points in question had been, was at the present time, and would be in the future, taken care of adequately; that all the towns, cities and points through which and to which the applicants are asking to give service, are being thoroughly and adequately served by the railroads operating between Ogden and Salt Lake City; that such service is given daily and is such that it will take care of any and all tonnage offered by the public between and to the points named in said petition; that the railroads are sufficiently prepared to give such service for an enlarged tonnage, and an almost unlimited amount could be reasonably taken care of; that there is no necessity for additional or competitive service between or to the points in question; that the freight and express service has been furnished to the pub-

lic at an outlay of large sums of money, and it has taken years of experience and expenditures of means to build up the same; that such service is well established and in its nature dependable, and that it holds itself in readiness at all times to take care of all the express and freight, irrespective of the quantity or quality, while the applicants' service, by the very nature of things, could not be as dependable and as serviceable at all seasons of the year; that if such service is established and acknowledged by this Commission, it will tend to injure the service now being given, by decreasing the earnings of the carriers, which would have to be made up from increased rates; that a duplication of service would certainly result; that if the applicants' service be advanced to a common carrier, sums of money will be required for the building and construction of stations and warehouses, and the employment of agents, all of which would be an additional tax or expense upon the patrons of said service; that the proposed rates of the applicants are higher than those fixed by the Commission; that the service proposed to be given by applicants cannot and will not shorten the time for the transportation and delivery of freight between the points named, for the reason that the carriers now operating can deliver freight to the points in question as quickly as the applicants can.

A number of letters were introduced by the protestants, who were shippers on the Bamberger line from and to the points in question, setting forth that the service given by the Bamberger Electric Railroad Company between Salt Lake City and Ogden and intermediate points had been, and was, very satisfactory; that the time of making deliveries had been very good; and that the treatment received at the hands of the shipper had been such as to cause no complaints.

The question of giving motor service between the points named in the petition must necessarily be decided, under the law, upon the question as to whether such service is necessary and will furnish an additional convenience to the shipper or consumer. The petitioners seek to become common carriers of freight, and any such service will necessarily come in competition with the already existing and operating utilities namely, the Bamberger Electric Railroad, the Oregon Short Line Railroad, and the Denver & Rio Grande Railroad. If additional service is to be permitted, it must be on a showing that the transportation of freight between the points named, as well as to intermediate points, will be carried on more conveniently

with less expense, and with a saving of time, in comparison with present methods. The petition filed with the Commission clearly contends that the shipping of goods by motor truck would expedite and make more direct such shipping.

It is claimed this is a new and additional convenience, is different from rail service in many important particulars, and that, therefore, no question of duplication of service is involved.

In order to take care of all commodities shipped by motor truck, it will be necessary that the applicants furnish stations, warehouses and persons to take charge of and keep, with reasonable safety, the freight entrusted to their care. A person may become an agent in the shipping or hauling of goods for certain firms or individuals under special contracts, without preparing the conveniences above referred to, but in the event that the corporation or person becomes a utility under the law, or in this case, a common carrier, then the same conveniences for transacting business should be required as in the case of the steam or electric railroad carrier.

There must likewise be an assurance that the parties giving service will be able to furnish sufficient rolling stock to take care of the business and an adequate and sufficient means of transporting any and all commodities of freight offered to such company. If these applicants can and will furnish a more convenient and necessary means of carrying freight from point to point, it would seem the consignor and consignee would be relieved of handling this merchandise, that is, the goods or wares would be taken from the original place and delivered to destination by one handling, and such direct handling and hauling of freight would clearly indicate that the time would be materially cut down, and thereby a service would be rendered that would be more convenient and direct, and the time less, than is being given by the railroads.

The Commission should not attempt to bar progress. The power vested in the Commission is intended to be constructive, not repressive. The public is entitled to the best service possible to be given, and to the freest utilization of valuable new inventions. If the motor truck can demonstrate its superiority over the railroad for the transportation of short-haul freight, and if by its use economy of time or money is affected, public convenience and necessity will require its being brought into service, and ulti-

mately it will be used with or without sanction. Even now, trucks are carrying great quantities of freight over the route in question here. This is being done under private contract which places the service thus given outside the range of regulatory law. If this petition is granted, it is probable much of this traffic will come under control, and rates and service will be stabilized and made more satisfactory and dependable every way to the shipping public, than it now is under private contract operation.

It is not the purpose of the Commission in administering the law to prevent the establishment of an improved service, yet the common carriers giving service should not be prejudiced in their operation by the action of the Commission encouraging and allowing unnecessary, additional, competitive services.

However, we are of the opinion that the establishment of a service such as is contemplated by the petitioner would, to an extent, furnish additional service that is not at the present being furnished by the railroads; or such a service as could reasonably be given by said common carriers.

Therefore, it is the opinion of the Commission that a certificate of convenience and necessity should issue to the applicants, with the express understanding that if they shall operate under the same, conveniences must be furnished as above referred to, so that the people at large may be secure and satisfied in shipping their goods and wares with said motor truck company, and will be permitted to file a schedule of rates not higher than those proposed, which rates may be made effective on due notice to the Commission and the public.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
WARREN STOUTNOUR,

Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,

Secretary.

ORDER

Certificate of Convenience and Necessity No. 103.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of April, A. D., 1921.

In the Matter of the Application of BRUCE WEDGWOOD and FRED A. BOYD, for permission to operate an automobile freight line between Salt Lake City and Ogden, Utah. } CASE No. 321

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicants, BRUCE WEDGWOOD and FRED A. BOYD, be, and they are hereby, granted a certificate of convenience and necessity, and are authorized to operate an automobile freight line between Salt Lake City and Ogden, Utah.

ORDERED FURTHER, That applicants, before beginning operation, shall, as provided by law, file with the Commission and post at each station on their route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) 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 remove from that portion of 11th West St., between 8th South St. and Indiana Avenue, and from that portion of Indiana Avenue between 11th West and Cheyenne Streets, its rails, ties, poles, wires and all electrical and other equipment now by it installed thereon; and for a Certificate of Convenience and Necessity authorizing it to operate over and along 8th South Street from 11th West to Cheyenne Streets, Salt Lake City Utah.	CASE No. 326

ORDER

Upon stipulation between the Attorneys for applicant and the Attorney for Salt Lake City, and by consent of the Commission:

IT IS ORDERED, That the application herein be, and it is hereby, dismissed without prejudice.

By the Commission.

Dated at Salt Lake City, Utah, this 18th day of January, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

MURRAY CITY, a Municipal Corporation, *Complainant,* vs. OREGON SHORT LINE RAILROAD COMPANY, *Defendant.*	CASE No. 329

ORDER

Upon motion of the complainant, and by the consent of the Commission:

IT IS ORDERED, That the complaint in the above entitled matter be, and it is hereby, dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 21st day of December, A. D., 1920.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UINTAH TELEPHONE COMPANY for permission to increase its rates. } CASE No. 330

Submitted Oct. 8, 1920. Decided Jan. 18, 1921.

Don B. Colton for Petitioner.

Thos. J. Caldwell & Ashley Bartlett for Protestants.

REPORT OF THE COMMISSION

By the Commission:

In the petition filed June 14, 1920, the Uintah Telephone Company, a corporation of Utah, asks permission to make certain increases and other changes in its telephone charges.

Petitioner alleges that its capital stock is $75,000.00 of which $65,040.00 has been issued, and that the value of its plant and property, less indebtedness, is approximately $65,000.00; that it furnishes Vernal and vicinity with telephone service, having approximately 430 subscribers in and near Vernal, and twenty-eight subscribers at Jensen, an average distance of fifteen miles from the Vernal exchange.

Petitioner further alleges that owing to the nature of the country served, the cost of maintenance is greatly out of proportion to its revenues; that during the year 1919, it earned less than 4 per cent on its outstanding capital stock.

Petitioner asks that it be authorized to establish and put into effect the following rental charges:

First Zone: All territory lying within a radius of one mile from the central office of said exchange:

Business Telephones:

Individual lines	$4.25
Two-Party lines	3.75

Residence Telephones:

Individual lines	2.75
Two-Party lines	2.50
Four-Party lines	2.00

Second Zone: All territory lines more than one mile and not more than two and one-quarter miles from the central office.

Residence Telephones only:

Two-Party lines	$2.75
Four-party lines	2.50
Eight-party lines	2.00

Third Zone: All territory lying more than two and one-quarter miles and not more than four miles from the central office.

Residence Telephones only:

Four-party lines	$2.75
Eight-party lines	2.10

Fourth Zone: All territory lying more than four miles from the central office.

Residence Telephones only:

Four-party lines	$3.00
Eight-party lines	2.25
Rural lines	2.00

Petitioner also asks permission to establish a toll charge of 10 cents for each call between Jensen and Vernal, and to reduce the rental charge at Jensen from $2.00 to $1.50 per month; to increase the charge for business extension telephones from 75 cents to $1.00, and retain the installation charge of $3.50 and removal charge of $3.00, established while the line was under Federal control.

The case was heard at Vernal, Utah, August 4, 1920, after due notice to all subscribers. Notice of hearing was also published in the "Vernal Express," a proof of publication being submitted at the hearing.

Evidence was submitted to show the increased cost of operation and need of increased revenue to enable petitioner to make necessary repairs and replacements, and to

maintain the system in condition to render efficient telephone service.

The following statement submitted by petitioner sets forth the operating expenses and revenues for the year 1919:

Operating Revenues		$28,369.27
Operating Expenses	$23,619.25	
Taxes	1,142.68	
Interest	1,031.10	
Total Expenses		25,793.03
Net income		$ 2,576.24

The total investment was stated to be $85,598.37, hence the net income would give a rate of return of 3.01 per cent.

No funds have been set aside for depreciation, it appearing from the testimony of the petitioner that revenues in the past have not been sufficient to provide such funds. Petitioner states that the average life of a system, such as this, is from sixteen to twenty years, which will require an annual weighted depreciation fund of approximately six per cent of the value of the depreciable property to properly care for this item. Based on the value of the plant given by petitioner as $77,800, the sum of $4,668, would be the annual straight line depreciation to be set aside for this purpose. This will be set up on a sinking fund basis at 5 per cent. The annual sum to be set aside is then $3,104.22. The financial statement for the year 1919, indicates that the revenues for that year were insufficient to permit of this being done.

Dividends have been paid at a rate or 4 per cent semi-annually for some years, and surplus and other earnings have been devoted to additions and betterments. It does not appear from the record that any large sum from earnings has been reinvested in plant and property, as the financial statement shows that the maximum return in five years in 1915, when the net income yielded 9.42 per cent on the investment.

The only protests and opposition was by Mr. Ashley Bartlett of Vernal, and Mr. Thomas J. Caldwell of Jensen, who contended that the service was such that no increase should be granted. The protest of each of these gentlemen

appears to be due to difficulties encountered in securing efficient service, due to local conditions, which petitioner expressed a willingness to overcome, and which the commission expects will receive prompt attention.

The proposed schedule of charges is based on the zone system, the charge increasing with the distance from the exchange. The increase in the charge on account of distance is proposed to defray the additional investment necessary to render the service. The reduction in charges at Jensen and the establishing of a toll charge of 10 cents on all conversations between Jensen and Vernal, is expected to improve the service over that line by restricting the number of calls.

It is estimated that the proposed advance will result in an increase of approximately $3,000. per year, which, in addition to the present revenue, should enable petitioner to set aside a proper depreciation fund and meet other expenses.

From the evidence submitted it appears that relief should be granted petitioner, and the Commission therefore finds:

1. That petitioner should be permitted to publish and put into effect the rental charges above shown.

2. That petitioner should be permitted to reduce the rental charge at Jensen from $2.00 per month to $1.50 per month, and assess a toll charge of 10 cents for each conversation between Jensen and Vernal.

3. That petitioner should be permitted to increase its charge for business extension telephones from 75 cents to $1.00 per month.

4. That the charge desired for installation and removal should be held pending a general decision upon this question involving all telephone companies.

An appropriate order will be issued.

(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 18th day of January, A. D., 1921.

In the Matter of the Application of the UINTAH TELEPHONE COMPANY, for permission to increase its rates. } CASE No. 330

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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, Uintah Telephone Company, be, and it is hereby, permitted to publish and put into effect the rental charges named in the foregoing report.

ORDERED FURTHER, That applicant be, and it is hereby, permitted to assess a toll charge of 10 cents for each conversation between Jensen and Vernal, and to reduce the rental charge at Jensen from $2.00 to $1.50 per month.

ORDERED FURTHER, That applicant be, and it is hereby authorized to increase the charge for business extension telephones from 75 to $1.00 per month.

ORDERED FURTHER, that the application for permission to assess an installation and removal charge be, and it is herby denied, pending a general decision upon this question.

IT IS FURTHER ORDERED, That the above changes may be made effective February 1, 1921, upon five days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the AMERICAN RAILWAY EXPRESS COMPANY, for authority to increase express rates and to change its classification. } CASE No. 333

Submitted February 17, 1921. Decided March 31, 1921.

REPORT OF THE COMMISSION

By the Commission:

The application in the above entitled matter was filed June 21, 1920. The American Railway Express Company (hereinafter called the Company) asked this Commission to authorize it to file rates and charges applicable on intrastate traffic within the State of Utah increased to the same extent as the Interstate Commerce Commission had authorized increases in express rates and charges on interstate traffic, in a proceeding known as Interstate Commerce Commission Docket No. 11326. It was alleged that on August 11, 1920, the Interstate Commerce Commission issued its report and decision in said Docket No. 11326, authorizing the Company to increase its rates 12½ per cent, except on milk and cream.

The Company asked authority to cancel its special commodity rates for the transportation of live poultry within the State of Utah, as published and filed in Special Commodity Tariff I. C. C. 1042, P. U. C. U. No, 26, and to apply for the transportation of such traffic the second class rates provided in its tariffs and supplements on file with this Commission. It further asked authority to file the increased rates and charges in blanket supplement, if it finds this to be expedient, as it had been authorized to do by the Interstate Commerce Commission.

The hearing on the above matter came on before the Commission, September 7, 1920, at 10 A. M. There was offered in evidence by the Company a revised copy of the exhibits submitted in the proceedings had before the Interstate Commerce Commission, known as Docket No 11326. The decision of the Interstate Commerce Commission in Docket 11326 also was introduced, offered and received in evidence, together with an abstract of the evidence admitted in the proceedings before the Interstate Commerce Commission.

In support of the application to cancel the special commodity rates on live poultry within the State of Utah and thereafter to permit regular second class rates to apply, the Company submitted a statement showing the present live poultry rates in this State as compared with the proposed rates.

It was claimed on behalf of some shippers of express that the rates now in effect in the Intermountain Territory, known to the Company as Zone Four, are about 25 per cent higher than the rates contemporaneously in effect in Zone Three (east of the Rocky Mountains) and in Zone Five (the Pacific Coast) and that therefore no advance in rates in this territory should be granted.

While the case was pending before the Commission, a supplemental application was filed October 6, 1920, in which it was alleged that on September 21, 1920, the Interstate Commerce Commission issued a supplemental report and order, authorizing a further increase throughout the United States of 13½ per cent, on general express rates and 20 per cent on rates on milk and cream; that said increase was designed to provide sufficient additional funds to meet the advanced wages granted to certain classes of employes by the Railroad Labor Board.

The case was opened for further hearing on October 8, 1920, at which time additional testimony was introduced and documentary evidence submitted, particularly with reference to the effect on the revenues of the Company of the wage increase granted by the Labor Board.

It was testified that the Interstate Commerce Commission had authorized the applicant to further increase its rates 13½ per cent in addition to the 12½ per cent originally ordered, making a total increase of 26 per cent; that the increase was intended to apply upon the entire business of the Company, both intrastate and interstate, throughout the United States, and if not applied on intrastate traffic, would fail, to that extent, to meet the needs of the Company.

The Commission, during the hearing and since, requested the Company to furnish reports of operating revenues and expenses applying to traffic intrastate in Utah, together with such other data as would inform the Commission as to the Company's resquirements, but no such information has been furnished as would enable the Commission to know and properly determine whether or not the applicant is entitled to the requested relief. Under the law, it is required that before rate advances are made,

there shall be a showing before the Commission and a finding by the Commission that such increases are justified. There having been no showing other than that made before the Interstate Commerce Commission, which pertained to the express business in the entire United States, and which does not and cannot, without segregation, show the results of operations within this State, the Commission cannot lawfully act favorably on the petition. If the Commission should authorize the collection of the rates referred to, under such showing, it would be in conflict with the law of the State.

As showing the attitude of the Company with regard to supplying data necessary to enable the Commission to act intelligently and with the understanding of the needs of the Company, the following appears in the record: (Transcript of September hearing, Page 29.)

> "COMMISSIONER GREENWOOD: I take it you haven't anything here to submit showing the intrastate operations within this State?
>
> "MR. ROEHL (for applicant): No, we have made no segregation of the revenues or expenses of operation within any state or territory.
>
> "The applicant does not keep its accounts in that form. It has attempted to do so on one occasion, but the result of that attempt was not either satisfactory to the Company or to the Commission to which we submitted a segregation. That was done in 1914.
>
> "In this proceeding, in none of the states have we submitted any separate showing as to the approximation of what the revenues or expenses would be from intrastate express business, nor do we feel that it is possible to do so with any degree of accuracy."

Again, at the October hearing (Transcript, Page 23) N. K. Lockwood, the Company's Superintendent of Transportation and Traffic, testified as follows, in answer to questions by Commissioner Blood:

> "Q. Are there records kept by your Company that reflect the actual conditions in the State of Utah?
>
> "A. No, we don't make any segregation along that line.

"Q. Do you within the various zones, one to five?

"A. No, Sir.

"Q. So that it would be impossible either in this hearing or any other state hearing to get the actual facts with regard to any state?

"A. That is true.

"Q. Or of any zone?

"A. We would be unable to furnish that."

In view of the failure of the Company to furnish evidence as to its operating revenues within the State, or within the so-called Zone Four, embracing this State, the Commission, after full consideration of all matters that have a bearing on this question, and particularly having in mind the higher rates in effect in Zone Four as compared with Zones Three and Five, is of the opinion, and therefore, finds, that the rates now in effect within the State of Utah, in and of themselves, are just and reasonable, and being so are not and cannot be a burden on the general traffic of the Company, intrastate or interstate. Under the law and on the showing made, the application should be denied; and it is so ordered.

An appropriate order will be issued.

(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 31st day of March, A. D., 1921.

In the Matter of the Application of the AMERICAN RAILWAY EXPRESS COMPANY, for authority to increase express rates and to change its classification. } CASE No. 333

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

TOWN OF MILFORD, a Municipal Corporation,
Complainant,
vs.
TELLURIDE POWER COMPANY,
Defendant.

CASE No. 335

Submitted Oct. 13, 1920. Decided Dec. 6, 1920.

Russell E. Parsons for Complainant.
H. R. Waldo for Defendant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

In this case the Town of Milford alleges that the rates now sought to be enforced by the Telluride Power Company are excessive and unreasonable, and that the rates heretofore charged by the said Company are sufficient. The complainant in this action predicates the prayer of relief upon the grounds that the defendant has been furnishing power for a number of years to the complainant; that said power has been used for operating a pumping plant and also for lighting the Town; that the charge for furnishing power for the operation of the pumping plant has been $60.00 per month in the winter time and approximately $100.00 per month in the summer; that on the 20th of December, 1919, the complainant was advised by letter that the defendant, the Telluride Power Company, would advance its rates beginning January 1, 1920, and that said rates were advanced to the sum of $126.75 for a month, a sum almost twice as large as the service charge for that period of time theretofore; that if the complainant is required to pay such advanced rates for power used in its water service, it will be necessary to advance the water rates to the consuming public.

The defendant admits that for considerable time past it, as well as its predecessors in interest, has supplied the Town of Milford with electric power and energy for the operation of the complainant's equipment for pumping water for municipal purposes; that said rate was a flat rate amounting to about $60.00 a month for each month in the winter, and $100.00 a month for the rest of the year;

that said rates were made before the law creating the Public Utilities Commission of Utah was enacted and was not uniform with other rates defendant was charging for similar service. By reason of this, and in line with the purpose of the law creating such Public Utilities Commission, and to eliminate discrimination in its service the defendant did notify the Town of Milford that beginning with the year 1920 its rate for electrical energy would be advanced to the standard rate and that in pursuance of said notification, since January 1, 1920, it has billed said Town of Milford under Schedule No. 7, subject to its privilege to elect Schedule No. 8 if it so desired.

The defendant contends that the charges so made under Schedule 7 and Schedule 8, are not unreasonable or excessive, but on the contrary alleges that such rates are too low and do not afford defendant sufficient revenue to provide a reasonable return on its investment after allowing for its operating expenses and a reasonable allowance for depreciation and obsolescence.

The hearing was held October 13, 1920, at Milford. The complainant was represented by Russell E. Parsons, and the defendant by H. R. Waldo. It appeared from the testimony that the Power Company and its predecessors in interest had been furnishing the Town of Milford energy for pumping purposes; that said service had been rendered under contracts made at different times covering a period of two years each, and that the last contract ended December 31, 1919; that the rate to the Town of Milford was a flat rate wholly regardless of the amount of power used, and was, under the law, discriminatory in that it was different from the rate provided in published schedules covering similar service; that one purpose of advancing the rate was to relieve the condition of discrimination and to put the service to the Town of Milford on the same basis as other customers of the Company.

It was further testified to by the witnesses for the defendant that the rates were not excessive but that the revenue derived from such service was not sufficient to meet the expenses of giving service. The Power Company submitted to the Commission a statement from which the following figures are taken:

Amount invested	$1,000,000
Earnings for the year ended Sept. 30, 1920	$163,228.67
Expenses for the year ended Sept. 30, 1920	141,173.36
Net Earnings	$ 22,055.31

It is claimed by the Company that the value of this property is $1,350,000.00. This is a general statement which is made by the Company to meet the contention of the Town of Milford that the rate asked for is excessive. The rate charged the Town of Milford, beginning January 1, 1920, is based upon standard schedule on file with the Commission, and is the same as is collected from other consumers by the Power Company for like service.

It is not the purpose of this proceeding to go into the matter of scheduled rates of the Company. The purpose of the inquiry is as to whether or not the rates are discriminatory or illegal.

No testimony was submitted by the complainant tending to show that the rates are excessive. The testimony submitted by complainant was to the effect that the use of energy was necessary to furnishing the inhabitants of the Town with domestic water, and in fixing the rates to the consumers they had relied upon the rates paid to the Telluride Power Company for the energy used to pump the water; that the rates charged to the consumers of water were barely enough to pay for the running expenses of the water plant, together with the amount paid the Power Company for energy, and that if the rates were allowed to be raised, it would be necessary to raise the water rate to the consumer. No testimony was furnished or presented by the complainant touching the matter of excessive or unreasonable rates.

It would appear from the testimony and the showing made:

1. That the rates charged by the Power Company are in keeping with the published schedule of rates on file with the Commission.

2. That the rate so charged the Town of Milford, before 1920, would be discriminatory and preferential, and that the rates so advanced were legal and not excessive.

An appropriate order will be issued, dismissing the complaint.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) HENRY H. BLOOD,
(SEAL) Commissioners.

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 6th day of December, A. D., 1920.

TOWN OF MILFORD, a Municipal Corporation, *Complainant,* vs. TELLURIDE POWER COMPANY, *Defendant.*	CASE No. 335

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the complaint herein be, and it is hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to increase its milk and cream rates.	CASE No. 337

REPORT OF THE COMMISSION

By the Commission:

In an application filed January 28, 1920, the Bamberger Electric Railroad Company asks authority to increase the rates in effect covering the transportation of milk and cream 100 per cent. The case was regularly set for hearing on August 6, 1920, being continued until August 30, 1920. August 30th the case was again continued without date. Petitioner has been requested to advise if it desires to have this case decided and has requested that the matter be continued indefinitely.

It appearing that no action is desired, the case should be dismissed.

An appropriate order will be issued.

Dated at Salt Lake City, this 10th day of June, 1921.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 10th day of June, A. D., 1921.

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to increase its milk and cream rates. } CASE No. 337

This case being at issue upon petition on file, and the Commission having, on the date hereof, made and filed a report containing its findings, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to discontinue the operation between Salt Lake City, Utah, and Garfield, Utah, of trains Nos. 55, 56, 58 and 59.	CASE No. 338

Submitted Dec. 30, 1920. Decided Jan. 11, 1921.

Dana T. Smith, for Applicant.

REPORT OF THE COMMISSION

By the Commission:

In an application filed July 2, 1920, the Los Angeles & Salt Lake Railroad Company, a corporation of the State of Utah, asks permission to discontinue the operation of trains Nos. 55, 56, 58 and 59, between Salt Lake City and Garfield, Utah, alleging that traffic conditions do not warrant the continued operation of these trains.

The case was set for hearing, August 11, 1920, and continued, at the request of applicant, until August 19, 1920, and again, at request of applicant, continued until December 30, 1920, at which time the case was heard.

On December 24, 1920, an amendment to the original application was filed, asking permission to discontinue trains Nos 110 and 111, 109 and 112, between Salt Lake City and Bingham, and operate trains Nos. 109 and 112 in connection with Nos. 53 and 60.

A written protest to the original application was filed July 2, 1920, by F. C. Cohen and other residents of Garfield, and by Mr. C. E. Richards, of the American Smelting & Refining Company. No representation was made by the protestants at the hearing.

Subsequent to the hearing, the City Attorney of Bingham protested any change in the schedule of trains Nos. 109, 112, 110 and 111, until he might appear and present the City's views on the subject.

No action will be taken on the amended application until after further hearing and investigation.

Evidence submitted at the hearing was to the effect that at present there are seven passenger trains operated by applicant, each way, daily, between Salt Lake City and Garfield, on the following schedule:

No.	Leaving Salt Lake	Arriving Garfield (or Smelter)
51	7:30 A. M.	8:04 A. M.
53	6:45 A. M.	7:21 A. M.
55	11:40 A. M.	12:24 P. M.
57	2:45 P. M.	3:25 P. M.
59	3:35 P. M.	4:14 P. M.
61	7:00 P. M.	7:36 P. M.
63	10:45 P. M.	11:20 P. M.

No.	Leaving Smelter	Arriving Salt Lake
54	8:12 A. M.	8:45 A. M.
56	12:54 P. M.	1:30 P. M.
52	2:32 P. M.	3:15 P. M.
58	4:05 P. M.	4:40 P. M.
60	4:35 P. M.	5:15 P. M.
62	9:20 P. M.	9:55 P. M.
64	11:59 P. M.	12:35 P. M.

Testimony to the effect that other passenger service via the Salt Lake & Utah Railroad from Salt Lake City to Magna, thence by automobile stage to Garfield, was also introduced.

Evidence was submitted showing that the operations of all trains between Salt Lake City and Garfield resulted in an expense of $1.52664 per train mile, while the revenue was but $.83456 per train mile during the month of September, 1920. By discontinuing trains Nos. 55, 56 and 58, 59, a saving of $3,008.59 per month is anticipated.

As has frequently been pointed out, any public utility service which is furnished at less than cost, places an undue burden upon the public, as such losses must be borne by the general users of such service.

The present business conditions have tended to reduce travel, generally, and the Commission feels that to require applicants to continue a service which is not paying operating expenses will not reflect to the advantage of the public. The service which has been and will be given

by the remaining five trains each way, daily, appears at this time to meet the necessity and convenience of the traveling public.

The Commission, therefore, finds:

1. That applicant, the Los Angeles & Salt Lake Railroad Company, should be permitted to discontinue the operation of trains Nos. 55, 56 and 58, 59, between Salt Lake City and Garfield, Utah.

2. That pending further hearing and investigation, applicant should continue the operation of trains Nos. 109, 111 and 110, 112, between Salt Lake City and Bingham, Utah.

An appropriate order will be issued.

(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, on the 11th day of January, A. D., 1921.

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to discontinue the operation between Salt Lake City, Utah, and Garfield, Utah, of trains Nos. 55, 56, 58 and 59.	CASE No. 338

This case being at issue upon petition and protests on file, and having been duly heard and submitted, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed its report containing its findings, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, LOS ANGELES & SALT LAKE RAILROAD COMPANY, be, and is hereby, permitted to discontinue the operation of trains Nos. 55, 56, 58 and 59, between Salt Lake City and Garfield, Utah, effective January 15, 1921.

ORDERED FURTHER, That pending further hearing and investigation, the application to discontinue trains Nos. 109, 111, 110 and 112, between Salt Lake City and Bingham, Utah, be, and it is hereby denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to discontinue the operation between Salt Lake City, Utah, and Garfield, Utah, of trains Nos. 55, 56, 58 and 59.	CASE No. 338

Submitted Jan. 26, 1921. Decided Jan. 28, 1921.

Dana T. Smith for applicant:

SUPPLEMENTAL REPORT OF THE COMMISSION

By the Commission:

In an amendment to its application, filed December 24, 1920, the Los Angeles & Salt Lake Railroad Company asks permission to discontinue the operation of trains Nos. 109, 111, 110 and 112, between Salt Lake City and Garfield. Hearing was held on the amended application, January 26, 1921.

There were not protests.

The trains which it is desired to discontinue, operate on the following schedule:

No.	Leaving Salt Lake	Arriving Garfield	Arriving Bingham
109	6:55 A. M.	7:27 A. M.	8:25 A. M.
111	2:15 P. M.	2:45 P. M.	3:40 P. M.
	Leaving Bingham	Arriving Garfield	Arriving Salt Lake
110	8:45 A. M.	9:35 A. M.	10:05 A. M.
112	4:00 P. M.	4:57 P. M.	5:33 P. M.

Applicant represents that trains 109-112, between Bingham and Garfield, will be operated by the Bingham & Garfield Railway Company in connection with trains 53 and 60, between Salt Lake City and Garfield. Train No.

53 is scheduled to leave Salt Lake for Garfield at 6:45 A. M., and train No. 60 to arrive at Salt Lake from Garfield at 5:15 P. M.

A car for Bingham will be attached to train No. 53 at Salt Lake, and will be cut out at Garfield and picked up by a Bingham and Garfield train, and handled to Bingham. From Bingham the operation will be reversed. It is proposed to change the time of the operation of trains Nos 53 and 60 to meet the needs of the public.

Applicant alleges that the City of Bingham is served by the Denver & Rio Grande Railroad, which operates two trains each way between Salt Lake City and Bingham daily, and by an automobile stage line which, in connection with the service to be given by the Los Angeles & Salt Lake Railroad in connection with the Bingham & Garfield Railway, will amply care for the needs of the traveling public. This was not disputed.

After consideration of the evidence presented, the Commission finds:

1. That the application should be granted, and the Los Angeles & Salt Lake Railroad Company should be permitted to discontinue the operation of trains Nos. 110 and 111, between Salt Lake City and Bingham.

2. That applicant, the Los Angeles & Salt Lake Railroad Company, and the Bingham & Garfield Railway Company, should operate trains Nos. 53, 60, 109 and 112 in the manner hereinbefore provided.

An appropriate order will be issued.

(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 28th day of January, A. D., 1921.

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to discontinue the operation between Salt Lake City, Utah, and Garfield, Utah, of trains Nos. 55, 56, 58 and 59.	CASE No. 338

This case being at issue upon amendment to the petition on file, and having been duly heard and submitted, and full investigation of the matters and things involved having been had and the Commission having, on the date hereof, made and filed its report containing its findings, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, Los Angeles & Salt Lake Railroad Company, be, and it is hereby, permitted to discontinue the operation of trains Nos 110 and 111, between Salt Lake City and Bingham, Utah.

ORDERED FURTHER, That applicant, Los Angeles & Salt Lake Railroad Company, and the Bingham & Garfield Railway Company, shall operate trains Nos. 53, 60, 109 and 112, in the manner prescribed in the report attached hereto.

ORDERED FURTHER, That the above changes may be made effective February 1, 1921.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

HYRUM NEBEKER, et al.,
Complainants,
vs.
UTAH & WYOMING INDEPENDENT TELEPHONE COMPANY,
Defendant.
} CASE No. 339

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. DAVID LEIGH and EDWARD DAVIS, for permission to operate an automobile freight and express line between Lund and Parowan, Utah, and for permission to increase rates.
} CASE No. 340

Decided March 29, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed June 30, 1920, J. David Leigh and Edward Davis petition the Commission for authority to operate a truck line for the transportation of freight and express between Lund, Utah, and Parowan, Utah, and to increase the charges being made by J. David Leigh over his line between said points.

The case was heard at Cedar City, Utah, July 27, 1920, at which time petitioners asked that no action be taken pending further developments.

On January 27, 1921, petitioner Leigh advises that no action is desired, and requests the matter be held in abeyance. As it appears doubtful to the Commission when action will be desired, the application should be dismissed without prejudice.

An appropriate order will be issued.

(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 March, A. D., 1921.

In the Matter of the Application of J. DAVID LEIGH and EDWARD DAVIS, for permission to operate an automobile freight and express line between Lund and Parowan, Utah, and for permission to increase rates.	CASE No. 340

This case being at issue upon petition on file, and having been duly heard, and the Commission having, on the date hereof, made and filed a report containing its findings, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, dismissed without prejudice.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

O. A. SEAGER, et al.,
Complainants,
vs.
UTAH POWER & LIGHT COMPANY,
Defendant.

CASE No. 342

ORDER

Upon motion of the Complainants;

And it appearing that the complaint herein has been satisfied, and the desired service rendered;

IT IS ORDERED, That the complaint herein be, and it is hereby, dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 18th day of January, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of E. H. ABRAMS, for permission to operate an automobile freight line between Price and points in the Uintah Basin. } CASE No. 343

Decided April 8, 1921.

REPORT OF THE COMMISSION

By the Commission:

The hearing on the Commission's order requiring E. H. ABRAMS to appear and show cause why Certificate of Convenience and Necessity No. 91, authorizing said E. H. ABRAMS to operate a freight line between Price and points in the Uintah Basin, should not be revoked, was set for Tuesday the 29th day of March, 1921, at the office of the Commission, Room 303, State Capitol, Salt Lake City, Utah. Notice was served upon E. H. ABRAMS, by registered U. S. mail. Said E. H. ABRAMS failed to appear or make answer in compliance with the notice or order issued in this case. From the information obtained and upon investigation, the Commission finds that E. H. ABRAMS has failed to give the shipping public, service between Price and points in the Uintah Basin, and has failed to operate an automobile freight line, as authorized in Certificate of Convenience and Necessity No. 91.

IT IS THEREFORE ORDERED, That the right of E. H. ABRAMS and permission to operate an automobile freight line between Price and Points in the Uintah Basin, be, and is hereby, revoked and set aside.

By the Commission.

(Signed) A. R. HEYWOOD
WARREN STOUTNOUR
JOSHUA GREENWOOD
Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the WESTERN UNION TELEGRAPH COMPANY, for permission to increase rates.	CASE No. 346.

Submitted Sept. 16, 1920. Decided Feb. 1, 1921.

H. E. BOOTH, for Petitioner.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

In a petition filed July 28, 1920, the Western Union Telegraph Company, a corporation, organized under the laws of the State of New York and qualified to do business in the State of Utah and various other states in the Union, alleges that it is operating telegraph lines and plants in the State of Utah, with its principal place of business in the State of Utah at Salt Lake City; that on July 31, 1918, at midnight, the United States Government took over the possession, control and operation of all the property of applicant located in the State of Utah; that said control continued until July 31, 1919; that previous to governmental control, the Telegraph Company had filed with the Commission, a complete tariff showing the rates to and from all intrastate points, also books of rules and regulations under which the Company's business was conducted; that the Postmaster General, under whose direction the United States Government has operated the said telegraph lines and the property of the Company, increased certain intrastate rates 20 per cent, as defined in the order of the Postmaster General; that, except as to these changes, the rates, charges, rules and regulations theretofore in effect under Company management were continued as the rates, charges, rules and regulations under government control; that the increase in rates by the Postmaster General over those in effect prior to Government control, was due largely to the increased costs of labor, material, taxes and other items of expense; that on account of said increased costs, the net revenue produced was wholly inadequate to meet the requirements of the business.

Applicant further alleges that during the year 1919 there was a net loss in business, interstate and intrastate, chargeable to Utah, of $12,473.50; that the net loss was $4,792.00, on all intrastate business transacted by the Company for the year 1919 in Utah; that this Company was under the control and supervision of the Government from January 1, 1919, to July 31, 1919, and under the control and supervision of this Commission from August 1, 1919, to December 31, 1919, and, upon the return of the property to the Company, said Company was ordered to return to the former rates; that is to say, applicant Company's property was operated for a period of seven months during the year 1919 by the Government under increased rates, and was operated for a period of five months, under decreased rates, which showed a deficit as heretofore set forth, and that had the applicant operated its property and lines under decreased rates for the entire year 1919, the loss and deficit would have been greater.

Applicant contends that it will be impossible for the Company to render adequate service with less net revenue than that received by applicant while the said property of the Company was under Government control and supervision; that even with the increased rate of 20 per cent, as herein asked for, there would still be a deficit and loss to said Company in operating expenditures; that it is imperative and of the utmost importance to the Company and to the public, and in the interest of good service, to restore to this Company the 20 per cent increased rates charged by the Government while under Government control and supervision; that on account of the increased operating expenses, it would be impossible for this Company to operate its property and lines in the State of Utah without an increase in the present rate of said 20 per cent, without great loss to this Company in so doing. Wherefore, applicant asks that the rates in the State of Utah be increased 20 per cent, to restore the rates to those charged by the United States Government while the properties of said Company were under Government control and supervision.

The application came on regularly for hearing before the Commission on the 16th day of September, 1920. At the hearing, applicant's witnesses produced exhibits and testified as to revenues collected in Utah, as well as actual maintenance expenses chargeable to Utah in the proportion that the wire mileage in Utah bears to the wire mileage for the Mountain Division, of which Utah is a part,

as well as depreciation and the actual direct expenses of the traffic department and the actual direct expenses of the commercial department for independent and railroad offices in Utah; also that part of the supervising expense of the traffic and commercial departments chargeable to Utah in the proportion that the commercial telegraph tolls in Utah bear to the commercial telegraph tolls for the district and division respectively; also general expense, including division accounting expense and home office expense pro-rated on the basis of commercial telegraph tolls; also the amount of taxes actually paid in Utah for State, County and local purposes which are charged to intrastate revenues on a basis of message and wire mileage, which method reflects the use of plant for intrastate business.

Revenues in Utah are divided interstate and intrastate, and include such items as press, telegraph tolls, rents from leased wires, money transfer premiums, telephone transmission tolls and commercial tolls.

The average haul of interstate, intrastate and transtate messages has been determined by a study of a month's messages. This has been multiplied by the number of messages of each class, to determine the total inter-, intra-, and trans-state mileage. Out of 12,942 miles of wire in the State, 2237, or 17.3 per cent of the total are used for transmission of trans-state messages which are not physically handled within this State. Maintenance expenses have been determined on a basis of wire used. The average toll for an interstate message is shown to be $0.75, and for intrastate message, $0.38. All of the foregoing data is applied to the various expense accounts to reflect result of intrastate operations.

Applicant shows that deficit of earnings for the State for the year 1919, were $4,792.00, on intrastate business. The records show that applicant has been subject to the same general rise in prices of labor, materials, and taxes as have other industries.

The method of determining and allocating intrastate as well as interstate earnings and expenses to this State, is found to be reasonable. The business of applicant is conducted in many states, and the Commission is convinced by the showing in this State, that the expenses are not out of line with the expenses incurred elsewhere for this service, neither are they abnormal or unreasonable, and the Commission is of the opinion that a deficit from intrastate business will be shown upon any reasonable composite

theory of division of revenue and expense, interstate and intrastate, that can be devised.

The increase sought, while it will reduce such deficit, will not entirely eliminate it, and, after a full consideration of all material facts, the Commission finds that the rates sought to be re-established by petitioner should be authorized and allowed. This re-establishment of rates will make the general level conform to the interstate rates formerly granted and made effective by the Postmaster General, which rates are now effective on interstate business. The advanced rates may be made effective on ten days' notice to the public and the Commission.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,

We concur:

(Signed) JOSHUA GREENWOOD,
HENRY H. BLOOD,

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 1st day of February, A. D., 1921.

In the Matter of the Application of the WESTERN UNION TELEGRAPH COMPANY, for permission to increase rates. } CASE No. 346

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, granted, and applicant, Western Union Telegraph Company, be permitted to increase its present rates for telegraph messages applying wholly within the State of Utah, not to exceed twenty per cent.

ORDERED FURTHER, That such increased rates may be made effective upon ten days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of LORENZO R. THOMPSON and JOHN S. FORSGREN, doing business as Brigham City Motor Transfer Service, for permission to operate an automobile freight and express line between Brigham City and Ogden, and intermediate points.	CASE No. 349

ORDER

Upon motion of the applicants, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter be, and it is hereby, dismissed, without prejudice.

By the Commission.

Dated at Salt Lake City, Utah, this 12th day of April, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

DAVIS COUNTY, a Municipal Corporation,
Complainant,
vs.
OREGON SHORT LINE RAILROAD COMPANY, a corporation,
Defendant.

CASE No. 351

Submitted Dec. 16, 1920. Decided March 15, 1921.

L. I. Layton, for Complainant.
R. B. Porter, for Defendant.

REPORT OF THE COMMISSION

By the Commission:

In a petition filed August 11, 1920, complainant herein asks that the Commission investigate the matter of opening a highway crossing over and across the railroad tracks and right of way of the defendant, at or near a point in the center of Section 35, in Township 5 North, Range 2 West, Salt Lake Meridian, U. S. Survey.

It is alleged in the petition that land owners within the district had appealed to the Commissioners of Davis County, Utah, for the opening of a roadway commencing at the State highway at the north-east and south-east corners of the south-east and north-east quarter sections of said Section 35, and running thence west on the south side of the mid-section line to defendant's right of way, and thence continuing in a westerly direction through said Section 35; that the complainant, upon the filing of said application, decided that it was to the best interest of all concerned that said roadway should be opened; that thereupon request was made to the defendants for a highway over defendant's right of way; that thereafter said defendant, through its duly appointed officers, agreed to construct said crossing as soon as labor to do the work could be secured; that acting upon said agreement the complainant expended large sums of money in securing right of way and providing for the fencing of the same; that later, the defendant advised complainant that it did not intend to construct said crossing at grade, and inti-

mated that if it were done at all a viaduct would be necessary, and that the expense of constructing a viaduct was more than the defendant cared to carry; that conditions are such that in the opinion of complainant said roadway should be made available to the owners of property in said district who now are inconvenienced in getting to and from their farms and orchards.

Complainant asks, by inference, for the opening of a grade crossing at this point, and says it is able to and will make the excavation necessary to reach the level of the defendant's rails.

The defendant, answering the petition, admits that the Board of County Commissioners of Davis County, Utah, requested the opening of a public highway across said tracks, but denies that it ever agreed to construct said crossing, or any crossing, as alleged by complainant; but alleges the fact to be that it has at all times refused to construct or permit the construction of said crossing.

Defendant alleges that at the point where the proposed crossing is desired, the railroad runs through a deep cut, and in order to make a grade crossing, excavation for approaches on either side of defendant's tracks would be necessary, and such excavation would make it impossible for persons traveling on said highway to see a train approaching from either direction, and that it would likewise be impossible for any one operating a train to see travelers approaching upon the highway from either side of said tracks until the travelers were upon the tracks. Defendant, therefore, alleges that a grade crossing would be an exceedingly dangerous one, and should not be constructed.

As a further reason for objecting, defendant alleges that there is a public crossing one-half mile south of the point where this new crossing is proposed to be made, and another public crossing at a point one-half mile north thereof, and that these two crossings are sufficient to meet and satisfy the needs of the residents of the community surrounding the point in question.

Hearing was had upon this question at Farmington, Utah, September 28, 1920. Prior to the hearing the entire membership of the Commission visited the point at which the crossing is desired, and inspected the work already done and the preparations being made for the opening of the proposed highway through said Section 35. The physical conditions were found to be as indicated in the petition and answer filed herein. The highway

proposed to be constructed would run east and west through the middle of Section 35, providing convenient means of ingress and egress for residents and property owners of the district, many of whom are engaged in intensive horticultural and agricultural cultivation of the lands lying contiguous to the proposed highway. The highway, if constructed, would connect at the west side of Section 35 with a roadway already open and in use through Section 34, which lies further to the west, and would thereby provide an additional outlet for residents of the settlement known as West Point, which has a population of approximately 300 people. Information was to the effect that this highway would provide a necessary means of communication between West Point and the district surrounding it, and the State Highway, during the fall, winter and spring months, when the highways north and south thereof are frequently in bad condition. The new proposed highway could always be used, it was alleged, because it traverses a district where the soil is sandy.

At the hearing it was stipulated that the petition should show that there had once been a crossing over the railroad tracks and right of way of the defendant, at or near the point in question. This was prior to the changing of the railroad line through Section 35, which change resulted in a deepening of the cut.

Testimony was that the County Commissioners had decided, subject to the granting of this petition, to open a roadway on the half section line through Sections 35, 34, 33, 32 and 31, all in Township 5 North, Range 2 West, Salt Lake Meridian, and that the owners of property on each side of the proposed roadway had, for the most part, expressed willingness to give the necessary land for the purpose. The County had already furnished material for building fences on each side of the roadway. Some parts of the road had already been opened and were being used. The only obstruction to the plan appeared to be the attitude of the defendant in not wishing to grant a crossing over the right of way.

The completion of the plan laid out by the County Commissioners of Davis County would contemplate a crossing also over the Denver & Rio Grande Railroad tracks and right of way near the west side of Section 35. The conditions there are very similar to those at the crossing of the Oregon Short Line. The railroad cut is approximately the same depth. The question of crossing the Denver & Rio Grande tracks, however, is not at issue

in this proceeding, no petition having been filed with the Commission bearing upon that matter.

The Commission feels that the petition for the opening of a roadway at this point should be granted. It is influenced in reaching this conclusion partly by the fact that a crossing formerly existed at this point and was closed as an incident to the reconstruction of the defendant's tracks and the deepening of the cut. The public would seem to have had some right to expect that the facilities for crossing would remain after the change of roadway by the railroad. However, we have no criticism to offer that the crossing was not provided for at the time of the change of the track, because of the recognition by all parties of the danger that would attend the use of a grade crossing at this point after the deepening of the cut, which danger had not existed to such a degree while the track was in its original condition. The public, however, that had a right to use this crossing should not be deprived of that right, and since the request has now been made that the privilege be now accorded them, their rights should be given some consideration.

The Commission is impressed with the recent development of the district not only immediately surrounding the point of the proposed crossing, but to the west thereof, which the new roadway is intended to serve, and with the future possibilities of said district, and believes and finds that a crossing is a necessity and convenience that should be provided for the people residing in the vicinity.

But while the petition should be granted for the opening of a crossing, the Commission does not feel justified in ordering a grade crossing where the physical conditions would be so hazardous as in this instance. A viaduct should be provided in the interests of the public and the railroad. The hazard at the two grade crossings north and south of this point will thus be reduced, because certain traffic now using said grade crossings will be attracted to this overhead, and safety will be promoted to the advantage, it is believed, of all concerned.

The defendant has presented to the Commission an estimate of the cost of an overhead crossing with a viaduct constructed of wood. The figure submitted is $12,300. There was also an estimate of the cost of a grade crossing, which totaled $2,825. The complainant also submitted an estimate, prepared by an engineering firm, for an overhead crossing of wood construction, the estimated cost being $3,800. The two estimates are widely at variance. While

it is not necessary for the Commission to determine which estimate is correct, it appears likely that the actual construction can be done for a figure less than that presented by defendant. In this connection it is proper to note that there have been important reductions in the cost of material since the defendant's estimate was made.

On the showing made, and after full consideration of all of the facts in connection therewith, the conclusion is that the defendant should begin within a reasonable time, not to exceed ninety days from the date of this order, to construct an overhead crossing at the point designated in the petition, said crossing to be of wood construction of a design to be approved by the Commission, and as contemplated in defendant's estimate of cost submitted in this proceeding, with approaches not to exceed seven per cent grade, the cost of said overhead wood construction to be borne by the defendant, and the cost of the fill necessary to connect the roadway with the viaduct, and all grading work in connection therewith, to be borne by the complainant.

An appropriate order will be issued.

(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 15th day of March, A. D., 1921.

DAVIS COUNTY, a Municipal Corporation,
Complainant,
vs.
OREGON SHORT LINE RAILROAD COMPANY, a corporation,
Defendant.
CASE No. 351

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That defendant, Oregon Short Line Railroad Company, shall provide an overhead crossing at or near a point in the center of Section 35, Township 5 North, Range 2 West, Salt Lake Meridian, U. S. Survey.

ORDERED FURTHER, That such crossing shall be of wood construction, of a design as contemplated in defendant's estimate of cost, to be approved by this Commission; with approaches not to exceed seven per cent grade; the cost of said overhead wood construction to be borne by the defendant, and the cost of the fill necessary to connect the roadway with the viaduct, and all grading work in connection therewith, to be borne by the complainant.

ORDERED FURTHER, That defendant shall begin construction within ninety days from the date of this order.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

DAVIS COUNTY, a Municipal Corporation,
Complainant,
vs.
OREGON SHORT LINE RAILROAD COMPANY, a corporation,
Defendant.

CASE No. 351

Submitted June 17, 1921. Decided July 11, 1921.

Ezra Robinson,
L. I. Layton,
for Complainant.

R. B. Porter, for Defendant.

REPORT OF THE COMMISSION

By the Commission:

In a petition filed August 11, 1920, complainant herein asks that the Commission investigate the matter of opening a highway crossing over and across the railroad tracks and right of way of the defendant, at or near a point in the center of Section 35, in Township 5 North, Range 2 West, Salt Lake Meridian, U. S. Survey.

It is alleged in the petition that land owners within the district had appealed to the Commissioners of Davis County, Utah, for the opening of a roadway commencing at the State highway at the northeast and southeast corners of the southeast and northeast quarter sections of said Section 35, and running thence west on the south side of the mid-section line to defendant's right of way, and thence continuing in a westerly direction through said Section 35; that the complainant, upon the filing of said application, decided that it was to the best interest of all concerned that said roadway should be opened; that thereupon request was made to the defendant for a highway over defendant's right of way; that thereafter said defendant, through its duly appointed officers, agreed to construct said crossing as soon as labor to do the work could be secured; that acting upon said agreement, the complainant expended large sums of money in securing right of way and providing for the fencing of the

same; that later, the defendant advised complainant that it did not intend to construct said crossing at grade, and intimated that if it were done at all a viaduct would be necessary, and that the expense of constructing a viaduct was more than the defendant cared to carry; that conditions are such that in the opinion of complainant said roadway should be made available to the owners of property in said district who now are inconvenienced in getting to and from their farms and orchards.

Complainant asks, by inference, for the opening of a grade crossing at this point, and says it is able to and will make the excavation necessary to reach the level of the defendant's rails.

The defendant, answering the petition, admits that the Board of County Commissioners of Davis County, Utah, requested the opening of a public highway across said tracks, but denies that it ever agreed to construct said crossing, or any crossing, as alleged by complainant; but alleges the fact to be that it has at all times refused to construct or permit the construction of said crossing.

Defendant alleges that at the point where the proposed crossing is desired, the railroad runs through a deep cut, and in order to make a grade crossing, excavation for approaches on either side of defendant's tracks would be necessary, and such excavation would make it impossible for persons traveling on said highway to see a train approaching from either direction, and that it would likewise be impossible for any one operating a train to see travelers approaching upon the highway from either side of said tracks until the travelers were upon the tracks. Defendant, therefore, alleges that a grade crossing would be an exceedingly dangerous one, and should not be constructed.

As a further reason for objecting, defendant alleges that there is a public crossing one-half mile south of the point where this new crossing is proposed to be made, and another public crossing at a point one-half mile north thereof, and that these two crossings are sufficient to meet and satisfy the needs of the residents of the community surrounding the point in question.

Hearing was had upon this question at Farmington, Utah, September 28, 1920, and again on June 17, 1921. Prior to the hearing, the entire membership of the Commission visited the point at which the crossing is desired, and inspected the work already done and the preparations being made for the opening of the proposed highway

through said Section 35. The physical conditions were found to be as indicated in the petition and answer filed herein. The highway proposed to be constructed would run east and west through the middle of Section 35, providing convenient means of ingress and egress for residents and property owners of the district, many of whom are engaged in intensive horticultural and agricultural cultivation of the lands lying contiguous to the proposed highway. The highway, if constructed, would connect at the west side of Section 35 with a roadway already open and in use through Section 34, which lies further to the west, and would thereby provide an additional outlet for residents of the settlement known as West Point, which has a population of approximately 300 people. Information was to the effect that this highway would provide a necessary means of communication between West Point and the district surrounding it, and the State highway, during the fall, winter and spring months, when the highways north and south thereof are frequently in bad condition. The new proposed highway could be always used, it was alleged, because it traverses a district where the soil is sandy.

At the hearing it was stipulated that the petition should show that there had once been a crossing over the railroad tracks and right of way of the defendant, at or near the point in question. This was prior to the changing of the railroad line through Section 35, which change resulted in a deepening of the cut.

Testimony was that the County Commissioners had decided, subject to the granting of this petition, to open a roadway on the half section line through Sections 35, 34, 33, 32 and 31, all in Township 5 North, Range 2 West, Salt Lake Meridian, and that the owners of property on each side of the proposed roadway had, for the most part, expressed willingness to give the necessary land for the purpose. The County had already furnished material for building fences on each side of the roadway. Some parts of the road had already been opened an were being used. The only obstruction to the plan appeared to be the attitude of the defendant in not wishing to grant a crossing over the right of way.

The completion of the plan laid out by the County Commissioners of Davis County would contemplate a crossing also over the Denver & Rio Grande Railroad tracks and right of way near the west side of Section 35. The conditions there are very similar to those at the cros-

sing of the Oregon Short Line. The railroad cut is approximately the same depth. The question of crossing the Denver & Rio Grande tracks, however, is not at issue in this proceeding, no petition having been filed with the Commission bearing upon that matter.

The Commissions feels that the petition for the opening of a roadway at this point should be granted. It is influenced in reaching this conclusion partly by the fact that a crossing formerly existed at this point and was closed as an incident to the reconstruction of the defendant's tracks and the deepening of the cut. The public would seem to have had some right to expect that the facilities for crossing would remain after the change of roadway by the railroad. However, we have no criticism to offer that the crossing was not provided for at the time of the change of the track, because of the recognition by all parties of the danger that would attend the use of a grade crossing at this point after the deepening of the cut, which danger had not existed to such a degree while the track was in its original condition. The public, however, that had a right to use this crossing should not be deprived of that right, and since the request has now been made that the privilege be now accorded them, their rights should be given some consideration.

The Commission is impressed with the recent development of the district not only immediately surrounding the point of the proposed crossing, but to the west thereof, which the new roadway is intended to serve, and with the future possibilities of said district, and believes and finds that a crossing is a necessity and convenience that should be provided for the people residing in the vicinity.

But while the petition should be granted for the opening of a crossing, the Commission does not feel justified in ordering a grade crossing where the physical conditions would be so hazardous as in this instance. A viaduct should be provided in the interests of the public and the railroad. The hazard at the two grade crossings north and south of this point will thus be reduced, because certain of the traffic now using said grade crossings will be attracted to this overhead, and safety will be promoted to the advantage, it is believed, of all concerned.

The defendant has presented to the Commission an estimate of the cost of an overhead crossing constructed of wood. The figure submitted is $9,930.00, including grading of approaches. The complainant also submitted an estimate, prepared by an engineering firm, for an overhead crossing

of wood construction, the estimated cost being $3,800. The two estimates are widely at variance. While it is not necessary for the Commission to determine which estimate is correct, it appears likely that the actual construction can be done for a figure somewhat less than that presented by defendant.

On the showing made, and after full consideration of all of the facts in connection therewith, the conclusion is that the defendant should begin within a reasonable time, not to exceed sixty days from the date of this order, to construct an overhead crossing at the point designated in the petition, said crossing to be of wood construction of a design to be approved by the Commission, and as contemplated in defendant's estimate of cost submitted in this proceeding, with approaches not to exceed seven per cent grade, the cost of said overhead wood construction to be borne by the defendant, and the cost of the fill necessary to connect the roadway with the viaduct, and all grading work in connection therewith, to be borne by the complainant.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 11th day of July, A. D., 1921.

DAVIS COUNTY, a Municipal Corporation, *Complainant,* vs. OREGON SHORT LINE RAILROAD COMPANY, a corporation, *Defendant.*	CASE No. 351

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That defendant, Oregon Short Line Railroad Company, shall provide an overhead crossing at or near a point in the center of Section 35, Township 5 North, Range 2 West, Salt Lake Meridian, U. S. Survey.

ORDERED FURTHER, That such crossing shall be of wood construction, of a design as contemplated in defendant's estimate of cost, to be approved by this Commission; with approaches not to exceed seven per cent grade; the cost of said overhead wood construction to be borne by the defendant, and the cost of the fill necessary to connect the roadway with the viaduct, and all grading work in connection therewith, to be borne by the complainant.

ORDERED FURTHER, That defendant shall begin construction within sixty days from the date of this order.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

DAVIS COUNTY, a Municipal Corporation,
Complainant,
vs.
OREGON SHORT LINE RAILROAD COMPANY, a corporation,
Defendant.
CASE No. 351

Decided November 10, 1921.

REPORT OF THE COMMISSION ON PETITION FOR REHEARING

By the Commission:

The defendant, Oregon Short Line Railroad Company, on August 12, 1921, petitioned the Commission for a rehearing in the above entitled case.

Arguments on the petition were heard by the Commission September 26th, 1921.

After full consideration of the petition in question, and the argument of counsel, the Commission finds no grounds upon which a rehearing should be granted.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 10th day of November, 1921.

DAVIS COUNTY, a Municipal Corporation, *Complainant,* vs. OREGON SHORT LINE RAILROAD COMPANY, a corporation, *Defendant.*	CASE No. 351

This case being at issue upon petition for a rehearing, and the Commission having, on the date hereof, made and filed its report containing its findings, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application for a rehearing in the above entitled matter, be, and it is hereby denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Mattter of the Application of GEORGE M. CANNON, for permission to operate an automobile stage line for the transportation of passengers, freight and express between Salt Lake City, Utah, and Farmington, Utah.	CASE No. 354

Decided August 20, 1921.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

The above entitled application was filed with the Commission, August 13, 1920, to which objections were filed by the Oregon Short Line Railroad Company and the Bamberger Electric Railroad Company.

The setting of the case for hearing was withheld, upon the suggestion of the petitioner, George M. Cannon, who indicated that he did not desire the matter heard for the present. It further appeared that several communications were addressed to Mr. Cannon, requesting that he indicate his desire with reference to the matter, but no reply was received. Mr. Cannon visited the Commission on July 12th and indicated that he was not particular about a hearing.

WHEREFORE: Upon motion of the applicant;

IT IS ORDERED, That the application be dismissed, without prejudice.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

BAMBERGER ELECTRIC RAILROAD COMPANY, a corporation,
Complainant.

vs.

UTAH RAILWAY COMPANY, a corporation, A. R. BALDWIN, Receiver D. &. R. G. RR., LOS ANGELES & SALT LAKE RR. COMPANY,
Defendants.

CASE No. 355

Submitted December 21, 1920. Decided Sept. 27, 1921.

D. L. Stine, for Complainant.

Dana T. Smith, for Utah Railway, D. &. R. G. and L. A. & S. L. RR's.

REPORT OF THE COMMISSION

By the Commission:

In a complaint against the Utah Railway, filed August 21, 1920, the Bamberger Electric Railroad Company asks the Commission to require the Utah Railway Company to establish joint through rates on coal carloads from coal producing points located on the Utah Railway to Ogden, Utah, via complainant's line.

In its answer, defendant alleged it had no direct connection with the complainant's line, whereupon the complaint was amended to include the Los Angeles & Salt Lake Railroad Company and A. R. Baldwin, Receiver of the Denver & Rio Grande Railroad Company, as defendants.

The defendant companies having answered the complaint, and due notice having been given, the case was heard by the Commission on the 16th day of November, 1920. Subsequently, complainants verbally requested the Commission to withhold action pending negotiations between the respective parties. Complainants now advise that such negotiations have been fruitless.

The Commission will, therefore, issue its report at this time.

Defendant, Denver & Rio Grande Railroad, contends that it owns and operates a line of railroad between Provo, Utah, at which point it connects with the Utah Railway, and Ogden, Utah, and to require the establishment of through rates on coal from Utah Railway points to Ogden, via Denver & Rio Grande to Salt Lake, thence Bamberger Electric Railroad, would result in its being required to short haul itself for the benefit of a competing line.

Defendants, Los Angeles & Salt Lake, and the Oregon Short Line Railroads, contend that their corporate relations are such that in fact, if not in name, they constitute a through line from Provo, Utah, to Ogden, Utah, and thus are in the same relative position as the Denver & Rio Grande Railroad.

Since the case was submitted, the Union Pacific System has secured control and operation of the Los Angeles & Salt Lake Railroad through purchase, thereby making that line a part of its system, of which fact the Commission takes due notice.

The showing of the applicant as to the necessity and convenience of an additional route for the movement of coal to Ogden, does not appear sufficient to warrant the Commission to require the establishment of rates which will result in competing lines short hauling themselves to the advantage of a competitor.

The complaint should, therefore, be dismissed.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 27th day of September, 1921.

BAMBERGER ELECTRIC RAILROAD COMPANY, a corporation, *Complainant.* vs. UTAH RAILWAY COMPANY, a corporation, A. R. BALDWIN, Receiver D. &. R. G. RR., LOS ANGELES & SALT LAKE RR. COMPANY, *Defendants.*	CASE No. 355

This case being at issue upon complaint and answers on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the complaint be, and it is hereby, dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 27th day of September, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of GEORGE Q. RICH, for permission to operate a passenger, freight, and express automobile service between Logan, Utah and Bear Lake, Utah, via Logan Canyon. } CASE No. 359

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

FRANK QUIST, et al.,
Complainants,
vs.
UTAH LIGHT & TRACTION COMPANY,
Defendant. } CASE No. 360

Submitted Jan. 6, 1921. Decided March 31, 1921.

REPORT OF THE COMMISSION

By the Commission:

The above matter was heard by the Commission, on January 6, 1921.

It is claimed by the applicants that they are patrons of what is known as the Holliday car line, located southeast of Salt Lake City; that the rates collected from petitioners between Holliday and Salt Lake City are unfair and unreasonably high, that from Holliday to 39th South Street, a distance of 2.2 miles, they are compelled to pay one fare; that from 39th South Street to 27th South Street, a distance of 1.8 miles, they are compelled to pay another fare; that from 27th South Street to 2nd South and Main Streets, a distance of 5.3 miles, they pay an additional or third fare; that a round trip from Holliday to Main Street, Salt Lake City, costs them 37½ cents.

The Utah Light & Traction Company, the utilitiy giving the service complained of in this case, answered the complaint and denied that the rate or fare complained of

was either unjust or unfair, contending that the round trip referred to by the petitioner covers a distance of nineteen miles, for a charge of 37½ cents, or at a rate of 2 cents per mile; that such 2 cent per mile rate is lower than the rates exacted by railroads or interurban transportation corporations, in either the locality of the Company's operations or elsewhere; that the territory lying between Salt Lake City and Holliday is but sparsely populated and fails, at the rates now charged, to yield either an adequate or a fair return upon the investment made, and that a reduction of the fare for said service would be unjust and discriminatory as against users of the Company's service in Salt Lake City and elsewhere.

The testimony on behalf of the petitioners was to the effect that Holliday and intermediate points are comparatively new portions of the suburbs of Salt Lake City, but that the apparent unequal and excessive car fare now charged by the Utah Light & Traction Company has had the effect of preventing development by discouraging many people who would otherwise build homes in that section of the country; that the fares charged in the first and second zones, viz., from Holliday to 39th South Street, and from 39th South Street to 27th South Street, are discriminatory and preferential, when compared with the zone from 27th South to 2nd South and Main Streets, the two zones first named being shorter in distance than the third or city zone; that the extra fare charged students who have to attend school in Salt Lake City, is almost prohibitive, especially with families of limited means; that the same is true in its effects upon the children going to the High School located within the first two zones; that a reduction of the fare or a changing of the zones would result in an increase of population along the line of the carrier and would tend to discourage the use of automobiles, and, upon the whole, the Company would receive as much from the operation of the service under two zones as it now does under three zones.

The Utah Light & Traction Company, in its opposition, maintains that the reduction of rates asked for would result in a loss to the Company in its operation on the Holliday line, and presented a financial statement in support of its claim.

The case presents a prima facie discrimination as to distance, but the Company justifies such apparent discrimination upon the grounds that the traffic is so light as compared with the traffic in the third, or city zone,

that the zones as now maintained would seem to be the most equitable and just that could be fixed under the conditions.

It is true that density of traffic is an element in the fixing of rates, and yet we have here the question of the earnings of the system as a whole to take into consideration. It is claimed by the petitioners that the traffic will increase, and that the population in that section of the country will grow, and that the returns in earnings will be sufficient to make it remunerative for the Company. The petitioners further contended that in fixing the rates and dividing the system into zones, the earnings in the city zone should be taken into consideration in figuring the total earnings of the whole line, for the reason that the car riders in the other two zones are also car riders in the city zone.

The examination of some authorities would indicate that to segregate any particular portion of the system with a view of advancing the rate on account of the revenues being less than other zones of the system, would be unjust, especially where extensions of a municipal railway system have been made into nearby suburban districts.

The building of street and interurban railways into new districts has for its purpose the development of such districts. In some instances it has taken a considerable length of time before the dreams and hopes of traction companies so extending have been realized.

Salt Lake City is extending towards the east and the south, in the direction of Highland Park and Holliday, both of which sections are served by this line. It was claimed by those giving testimony in favor of the petitioners, that the reason Holliday and its surrounding territory had not been built up by homeseekers, was largely on account of the extra car fare which the Utah Light & Traction Company was charging.

A somewhat peculiar condition exists in the southeast section of the City, in that three street car lines reach or cross 33rd South Street—one on State Street; one on 7th East Street, about nine-tenths of a mile east of State Street; and the third (the Holliday line) on Highland Drive, a little more than a mile east of 7th East.

One fare only is charged on the line running on 7th East Street to 33rd South Street, and one fare only on the State Street line to 33rd South Street, while two fares are charged on the Holliday line from the same starting point to points between 27th South Street (the end of the

first fare zone) and 39th South Street (the end of the second fare zone), which, of course, includes 33rd South Street.

The Commission feels that inasmuch as two lines reach 33rd South Street with one fare, it will remove what appears to be discrimination if the Holliday line provides the same rate, thus more justly and reasonably serving the general traveling public, as well as school children who use the street car to reach High School.

The conclusion, therefore, is that the present zones on the Holliday line should be modified by reducing the number of zones from three to two, the division to be at 33rd South Street, and that one fare only should be charged and collected within each zone.

An appropriate order will be issued.

(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 31st day of March, A. D., 1921.

FRANK QUIST, et al.,
Complainants,
vs.
UTAH LIGHT & TRACTION COMPANY,
Defendant.
} CASE No. 360

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Frank Quist, et al., be, and it is hereby, granted, and defendant, Utah Light & Traction Company, be required to reduce the present number of zones on the Holliday line, to two in number.

ORDERED FURTHER, That the first zone shall extend to 33rd South Street, and the second zone from 33rd South Street to the end of the car line, and only one fare shall be collected within each zone.

ORDERED FURTHER, That defendant shall publish and put into effect the above fares, effective April 6, 1921.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

FRANK QUIST, et al.,
Complainants,
vs.
UTAH LIGHT & TRACTION COMPANY,
Defendant.
} CASE No. 360

Decided April 14, 1921.

REPORT OF THE COMMISSION

By the Commission:

Argument on the application of the Utah Light & Traction Company for rehearing in the above entitled case, was heard by the Commission, April 8, 1921.

After consideration of all matters presented, the Commission finds that the application for rehearing should be denied.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 14th day of April, A. D., 1921.

FRANK QUIST, et al.,
Complainants,
vs.
UTAH LIGHT & TRACTION COMPANY,
Defendant.
} CASE No. 360

This case being at issue upon petition for rehearing, and arguments on the same having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application for rehearing be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOSEPH F. HANSEN and B. W. DALTON, for permission to transfer to James H. Wade, interests in the automobile stage line between Price and Castle Gate, Utah.	CASE No. 361

Submitted Oct. 15, 1920. Decided Dec. 11, 1920.

O. C. Dalby, for Hansen and Wade

REPORT OF THE COMMISSION

By the Commission:

In an application filed September 8, 1920, B. W. Dalton and J. H. Wade ask permission of the Commission to transfer the interest of B. W. Dalton in the stage line operating between Price and Castle Gate, Utah, via Helper, and further ask that Certificate of Convenience and Necessity No. 34, issued to Joseph F. Hansen and B. W. Dalton, be transferred to J. H. Wade and J. F. Hansen, Mr. Wade appearing as owner of three-fourths interest in said stage line.

The case was set for hearing at Price, Utah, October 15, 1920, at which time F. M. Abbott, Special Investigator for the Commission, conducted an inquiry in the matter.

Joseph F. Hansen, on March 17, 1919, was granted authority to operate said stage line between Price and Castle Gate, Utah, via Helper. (Certificate of Convenience and Necessity No. 34) He later was authorized to transfer one-half interest in said stage line to B. W. Dalton, and still later transferred one-half of his remaining interest to J. H. Wade. Mr. Dalton now desires to transfer his interest to Mr. Wade, which, as above stated, will give Mr Wade three-fourths interest in the line, Mr. Hansen still retaining one-fourth interest.

Mr. Wade appears ready to give the operation of the stage line personal attention, and has already placed additional equipment in service.

Mr. Dalton desires to sever his connection with the stage line and to permit Hansen and Wade to carry on the operation.

After consideration of the facts developed at the investigation, the Commission finds:

That the application should be granted, and that J. H. Wade and J. F. Hansen should appear as the holders of Certificate of Convenience and Necessity No. 34, dated March 17, 1919.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
HENRY H. BLOOD,
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 11th day of December, A. D., 1920.

In the Matter of the Application of JOSEPH F. HANSEN and B. W. DALTON, for permission to transfer to James H. Wade, interests in the automobile stage line between Price and Castle Gate, Utah. } CASE No. 361

This case being at issue upon petitions 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 entered its report, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That Certificate of Convenience and Necessity No. 34, issued to J. F. Hansen and B. W. Dalton, appear upon the Commission's record as being in the name of J. H. Wade and Joseph F. Hansen.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of V. C. JONES and ARTHUR BAILEY, for transfer of the Certificate of Convenience and Necessity heretofore issued to Albert C. Pehrson, to operate an automobile stage line between Price and Wattis, Utah.	CASE No. 363

Submitted Oct. 15, 1920. Decided Dec. 16, 1920.

REPORT OF THE COMMISSION

By the Commission:

In an application filed September 13, 1920, V. C. Jones and Arthur Bailey, of Wattis, Utah ask permission to operate an automobile stage line for the transportation of passengers between Price, Utah, and Wattis, Utah, alleging that the former operator of this line has discontinued service and that the necessity for such a line still exists.

An investigation was conducted at Price, on October 15, 1920, by F. M. Abbott, representative of the Commission, after due notice had been given.

It developed that Albert Pehrson, who was granted Certificate of Convenience and Necessity No. 68, on January 7, 1920, (Case No. 241) had ceased operation and removed from Wattis. The necessity for transportation facilities for passengers by automobile stage between Price and Wattis, appears to be the same as when Certificate of Convenience and Necessity No. 68 was issued, and the Commission, therefore, finds:

1. That the application should be granted.

2. That before beginning operation, said V. C. Jones and Arthur Bailey should file with the Commission a printed or typewritten schedule showing charges assesssed for the transportation of passengers between Price and Wattis, Utah, as well as a schedule showing the leaving

time of their cars from each station on their route, and should at all times operate their stage line in conformity with the rules of the Public Utilities Commission of Utah governing such operation.

An appropriate order will be issued.

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience & Necessity.

No. 96.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 16th day of December, A .D., 1920.

In the Matter of the Application of V. C. JONES and ARTHUR BAILEY, for transfer of the Certificate of Convenience and Necessity heretofore issued to Albert C. Pehrson, to operate an automobile stage line between Price and Wattis, Utah.	CASE No. 363

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That applicants, V. C. JONES and ARTHUR BAILEY, be, and they are hereby, granted a certificate of convenience and necessity, and are authorized to operate an automobile stage line between Price and Wattis, Utah.

ORDERED FURTHER, That applicants, before beginning operation, shall, as provided by law, file with the Commission and post at each station on their route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH GAS & COKE COMPANY, for a revision of gas rates effective in the City of Salt Lake. } CASE No. 364

Decided June 16, 1921.

F. S. Richards, for Petitioner.

Wm. H. Folland, for Salt Lake City.

SUPPLEMENTAL REPORT OF THE COMMISSION

By the Commission:

In this case, in connection with the fixing of a higher valuation upon its property for rate-making purposes, the petitioner urged that the Commission also fix a rate of return on such enhanced valuation as would provide the full volume of increased revenues alleged to be required In granting the application for increased rates (Case No. 364, decided November 18, 1820), the Commission held for its further consideration the fixing of a reasonable rate of return upon petitioner's property.

In a supplemental opinion, decided December 14, 1920, the Commission fixed anew the valuation for rate-making purposes of petitioner's property used and useful in the giving of the public service, to be $2,337,680.30, as of January 21, 1921.

In attempting to construct rate schedules that will produce a fair rate of return on the total valuation of the property of applicant, and which will be equitable and just as between all classes of consumers, and reasonable and fair alike to the utility and to the public, the Commission is face to face with many uncertainties. Admittedly, the recent past has been a time of abnormal conditions. Both revenues and expenses are subject to such diverse influences and uncertainties that only the actual result following the adoption of particular rate schedules can determine the rate of return they will yield. The past year has been subject to reconstruction and uncertainties, and these will almost certainly continue. Costs entering into

the giving of this particular service may or may not decline sharply; but our belief is that there will shortly be some decline, and the best that can be or should be done at this time, is to find reasonable rate schedules and put such in effect, in order to give them the determinative effect of actual experience.

The Commission can determine average costs, and fair average rates to reflect those costs, but will not undertake to fix a precise mathematical rate of return to the utility. We believe this is impossible, not only on account of the uncertainty of the economic situation, but for the further reason that something should be left to the utility itself to do in a way of achieving and maintaining operating economy, in the giving of proper and efficient service to the public.

The Commission has given careful consideration to the business done by applicant in the past, particularly since present rates have been effective, and we believe the rate schedules found just and reasonable heretofore in Case No. 364 are such rates as will produce revenues sufficient to pay operating expenses and a fair rate of return on the fair value of applicant's property. We are therefore of the opinion that no further increase should be granted at this time.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,

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 16th day of June, A. D., 1921.

In the Matter of the Application of the UTAH GAS & COKE COMPANY, for a revision of gas rates effective in the City of Salt Lake. } CASE No. 364

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH GAS & COKE COMPANY, for a revision of its gas rates and revaluation of its property. } CASE No. 364

Decided April 14, 1921.

F. S. Richards, for Petitioner.

William H. Folland, for Salt Lake City.

SUPPLEMENTAL REPORT OF THE COMMISSION

By the Commission:

In the instant case, decided November 18, 1920, the Commission, in granting the application of petitioner to increase its rates for gas to the consuming public in Salt Lake City, held for further study and examination the fixing anew of the valuation of this petitioner's property and the fixing of a reasonable rate of return thereon.

It is interesting and instructive to note the development of the question of petitioner's valuation in the various applications heard by the Commission. This question first came before the Commission in Case No. 34, decided May 31, 1918, an application of the Utah Gas & Coke Company, for permission to increase its gas rates in Salt Lake City.

In this case, certain exhibits were offered in evidence by the petitioner with reference to the valuation of its property. The claimed book value of the property was $3,110,808.93. Exception was taken during the hearing to various items, totaling more than a half million dollars, as not being proper capital charges.

The Commission, without passing finally upon valuation, permitted certain increases on account of the abnormal and unprecedented increases in costs of materials, labor and general expenses.

On October 4th of the same year, in deciding Case No. 87, a petition of applicant to again increase its gas rates in Salt Lake City, the Commission found there was reasonable necessity for the making of a physical valua-

tion of the property of the petitioner, and, before finally passing upon the question of rate increases, the Commission ordered applicant to make an inventory and valuation of its physical property necessarily used and useful in the furnishing of gas service to its consumers.

The case came on regularly for hearing, the 30th day of January, 1919, at which time William J. Hagenah, expert witness on behalf of applicant, testified as to the method of making the inventory and valuation, and to the reasons for selecting the five-year period of 1913 to 1917, to reflect the average costs of labor and materials in determining value. Witness Hagenah (Transcript, Case No. 87, Page 11) outlined in detail his reasons for applying certain unit prices, as follows:

> "We were given instructions that the appraisal of the physical property was to be based on the average cost of labor and material during the five-year period from 1913 to 1917, and that we were to supplement these average costs and to give especial consideration to the invoice costs and the contract prices, which we secured from the company's records. In conversation with the Company's officials we expressed the opinion that because of the effect of the war on the prices of certain classes of material it would not be fair to give full weight to the prices effective during that time, and that we would prefer to exclude from the weighing of that average these prices which clearly showed that they were the result of foreign or extreme war pressure. As a result of a consideration of all these factors, our appraisal reflects in general the average prices which prevailed during that five-year period, modified by the exclusion of the items which were high because of extraordinary war conditions, and further modified by using wherever possible of the invoice and contract prices actually paid by the Company. These were weighted for the purpose of arriving at an appraisal which would conform to the instructions received originally that our appraisal should reflect the fair value of the property over this period of time for the purpose of rate making; and to that end we took into consideration these different bases, which we understand are the bases which the courts have laid down in rate proceedings which have developed through the war pressure of the last four or five years."

Applicant presented its appraised value, exclusive of cost of establishing the business and working capital of:

Reproduction cost new $2,358,000.00
Present value 2,051,000.00

In comparing book costs and appraised value, Witness Hagenah, for applicant, testified: (Transcript, Case No. 87, Page 19.)

> " * * * We find a physical plant cost according to the books of $2,222,000, and that compares with appraised value of $2,358,000 new, or a present value of $2,051,000. There is such a close check between the analysis of the book cost and the appraisal in this case that either one might be accepted with justice without doing violence to either the interest of the public or the owners of the company. The conclusion is inevitable that the construction account of the company, as analyzed after the elimination of these improper items, is a clean, accurate, thorough and true statement of the company's cash investment, and that is demonstrated by an appraisal of the property at the present time, which leaves the result on the basis of reproduction cost now of about $125,000 in excess of the book cost, and the depreciation value about $200,000 less than the book cost. It is as near an absolute check between an appraisal and the book cost as I have ever seen in any public utility investigation in my experience."

Again, Witness Hagenah stated, in substance, (Transcript, Case 87, Page 85) that the present value, on which the rate of return should be applied, is $2,051,000, which would be $170,000 less than the book value, because of the depreciation.

He again stated the same thought (Transcript, Case 87, Page 94):

> "Q. Your idea, however, is that the present value as you have given it in your report is the right value to be taken by the Commission as a basis for rate-making?"
>
> "A. That is the depreciated value, yes sir. The United States Supreme Court held that depreciation will have to be deducted for rate-making purposes."

The Commission, on April 18, 1919, issued a supplemental report on petitioner's valuation, at which time the Commission, after making certain deductions from applicant's appraisal, found the undepreciated value of applicant's property to be $2,544,560.73, and the present value, $2,243,067.86.

The Commission found the selection of the period 1913 to 1917, unduly reflected the rise in price of certain items, caused by the World War, and found the normal reproduction cost of such items to be somewhat less, due regard also being given to the conditions under which the property actually was constructed, and made certain reductions in specific construction costs, and also reduced certain of the overhead costs. The Commission set forth its reasons fully in its order.

Summarized, applicant's valuation compares with the valuation found to be reasonable by the Commission (Case No. 87) as follows:

	Cost New	Cost New Less Depreciation
Applicant's Valuation	$2,808,188.00	$2,501,746.00
Commission's Valuation	2,544,560.73	2,242,067.86

On October 2, 1919, applicant filed its petition in Case No. 233, seeking an increase in gas rates effective in Salt Lake City. The case came on for hearing, November 25, 1919.

The petitioner, as part of its case, presented a revaluation, based upon the inventory used in the valuation made in Case No. 87, but applying to that inventory different and higher unit costs based upon 1918 and 1919 prices, intended to reflect in the opinion of the petitioner more nearly the actual present values of the various items of the physical property. Petitioner claimed that the valuation should be obtained by the application of current prices for labor and material during the assumed construction period, 1918-1919.

A comparison of the claimed valuations submitted by the petitioner in Case 87 and Case 233, may be made by inspection of the following table: (The items covering the cost of establishing the business and working capital, are omitted from both tables, because these were not included in the revaluation report.)

	Original Valuation (Case No. 87) Prices of 1913-1917		Revaluation (Case No. 233) Prices of 1918-1919	
	Reproduction Cost New	Present or Depreciated Value	Reproduction Cost New	Present or Depreciated Value
Total Specific Construction Costs	$2,050,598	$1,784,127	$2,986,308	$2,589,323
Overhead Allowances, 15%	307,590	267,619	447,946	388,398
Total	$2,358,188	$2,051,746	$3,434,254	$2,977,721

In deciding this case, the Commission took occasion to say that:

> " * * * It is in full harmony with the well established and economically correct rule that public service corporations should be permitted to earn 'a fair return upon the reasonable value of the property at the time it is being used for the public'. What constitutes reasonable value at any specified time is, however, a matter to be given careful consideration. It is not necessarily the original cost or book value, nor the reproduction cost new, nor reproduction new less depreciation, nor is the earning power of the property necessarily controlling though each of these factors may and should be given weight in arriving at a conclusion. If a property has been constructed during a period of unusual prices whether above or below the normal, the actual or book cost would not necessarily govern. Likewise if reproduction cost new were based upon the prices obtaining during a period of unusual inflation or depression of values, it might not reflect actual present worth. For the same reason, reproduction cost new, less depreciation, would be open to criticism. The earning capacity of the property probably should be given weight, because if a valuation were fixed so high that a reasonable return could be realized only by the imposition of rates that would curtail the use of the product, the appraisal would result in a two-fold injury: the owners would be deprived of needed revenue, and the public of the use of a modern convenience."

After discussing in detail the well established principles of valuation as laid down by courts, reaching back to the case of Smyth vs. Ames, (169 U. S. 466), the Commission stated:

> "Having in mind the present tendency of the prevailing high prices to become fixed and permanent, the Commission will modify its former finding to the extent of allowing now the amount that was deducted from specific construction costs in Case No. 87, on account of the use in that appraisal of average prices 1913 to 1917, which at that time were considered as unduly reflecting war-time prices."

The Commission further stated its opinion to be that the average price level 1913-1917, which it then accepted, reflected the increment of value justly accruing to the property by reason of the upward trend of prices to present levels. In addition thereto, the Commission added the amount that had been actually expended for additions and betterments to the plant since the original inventory and appraisal was made, and then found the fair value of the property for rate-making purposes, used and useful in the giving of service to the public as of that date, to be $2,311,488.94.

In the instant case, the Commission found urgent necessity for financial relief to petitioner, permitted increases in its gas rates, and, as heretofore stated, held for further study the question of fixing a new valuation of petitioner's property.

At the hearing, applicant produced David K. Creighton, a gas engineer and employee of Hagenah & Erickson, of Chicago, who presented an inventory and appraisal of applicant's property, based upon higher and more recent levels of prices.

The various appraisals in this case were made in substantially the same way as those in previous cases, except that the average levels of material and labor prices were based upon different price periods. The periods selected were as follows: As of July 1, 1920, two year, three year, four year and five year periods, ending July 1, 1920.

Tabulated, the appraisals are as follows:

As of date July 1, 1920	$4,241,399.00
Two year period ending July 1, 1920	3,887,783.00
Three year period ending July 1, 1920	3,697,860.00
Four year period ending July 1, 1920	3,506,172.00
Five year period ending July 1, 1920	3,173,683.00

These appraisals were claimed to apply only to physical property, and did not include any going concern value or working capital. Petitioner's witness testified that these costs, less depreciation, represented the present value.

The Commission is here confronted with the question of finding the present value of petitioner's property for rate-making purposes. It would appear that petitioner places its main reliance in determining value upon cost of reproduction new based on prices obtaining during and since the war.

In discussing the elements to be considered in determining value, the United States Supreme Court in the case of Smyth vs. Ames, 169 U. S. 466, said:

> "And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property."

The original cost, or book cost, has been set forth in detail by petitioner's witness, and reproduction costs new upon seven different bases, have been submitted.

Inasmuch as the original appraisal was made as of January 1, 1919, after the Armistice had been signed, and when the peak of prices had been almost, although not quite, attained, and having in mind that Mr. Hagenah, with all the facts before him, chose as fair, not the price period 1913-1917, but a somewhat less average of prices, it must be presumed that the prices selected were high enough so that when applied to the physical inventory, the result would show the present value of the property as of January 1, 1919. That they were so considered, was made plain by the testimony of Mr. Hagenah, who stated very clearly in his testimony that the figure he presented was the correct figure to be acccepted as proper in finding value for rate-making purposes as of that date. It should

be borne in mind that the actual costs of additions to the plant since the date of appraisal have been allowed.

Further, by far the greater portion of this plant was built prior to the price period which the Commission, in its previous order, found to be a reasonable period upon which to base average prices, namely, 1913-1917. The record shows (Transcript, Case No. 87, Page 91) that at least a million and a half dollars had been expended for plant construction prior to 1913, and that approximately 75 per cent to 80 per cent of the plant was actually constructed during the period when prices were not so high as they were on the average during the five-year period selected, even with the modified unit costs.

Certain court decisions have been called to our attention as indicating that the present high level of prices must be considered in arriving at reproduction costs new to reflect value.

The Commission believes, and it has hitherto pointed out in another case, that the value of petitioner's property is not to be determined as of a given limit of time, but is to be determined as of a period of time during which the rates are likely to be in effect, and, in determining value, the Commission must arrive at a conclusion as to the amount the property has actually enhanced in value due to an upward rise in prices, and how much of such enhancement is likely to inhere in the property during the time rates would probably be effective. For this purpose, it may be well to study the history of prices during and after wars that have previously occurred, and the permanent increase in the circulating medium or money in which terms prices are expressed, and a study of past economic cycles, and the present tendency of prices to seek lower levels, and, in brief, a study of all those facts and conditions that surround this question The Commission is of the opinoin that no precise mathematical rule can be laid down for finding value.

In discussing the tendency of recent court decisions to give weight to present reproduction costs, the Indiana Commission, in the case of the Laporte Gas & Electric Company, approved December 22, 1920, (Case No. 5398, C. R., at Page 21) Commissioner Haynes said:

> "If it were not for the earnest insistence of petitioner that the present reproduction cost is the controlling factor, the point might be more briefly

disposed of. Inasmuch, however, as petitioner does seriously contend that this principle is correct, and has presented some aspects of the question which heretofore have not been passed upon by this Commission and has cited supporting authorities, it is necessary to consider the question somewhat in detail.

"Recent decisions of the courts indicate that they are being much impressed with similar contentions, and the tendency of the decisions is toward the position taken by petitioner.

"For example in the case of Elizabethtown Gas Light Company v. Board of Public Utility Commissions, 111 Atl., on August 7, 1920, the Supreme Court of New Jersey said:

'I think it entirely clear that the failure to allow for prices at the time to which the rates apply, July 1, 1919, was an error. * * *

'It would be manifestly unjust to apply to a gas company a standard of value different from that applied to others.'

"It will be noted that these two statements are identical in thought with the two propositions laid down by Elmes.

"The Commission regards this tendency with concern, because it believes that such a position is inconsistent, unsound, uneconomic and unequitable. It cannot refrain from restating its own position in the light of economic facts and principles, in the hope that to do so may have some slight effect on this tendency.

"The Commission does not presume to set up its judgment against that of the highest courts of the land. It believes, however, that the principles which are to control the rate making value of public service properties are not yet definitely formulated, and that the whole question has not yet been submitted to the comprehensive, analytical study which its importance seems to require. It has well been said that the problem of utility values is an economic problem; yet few decisions of the courts have considered the question with a full regard for its economic elements. It seems clear that any principle, rule or decision which disregards fundamental economic considerations, cannot rest on firm foundation, and ultimately must fall.

"Without pretending to make a full or elaborate analysis of this highly important question, the Commission is forced to a consideration of a few of these economic elements and their relation to certain constitutional, legal and equitable principles. Considering the present chaos and uncertainty of prices, the Commission believes that the apparent tendency of the courts to accept the present cost of reproduction as the controlling or important factor tends to subject the great agencies of public service to hazardous speculation, extreme financial uncertainty, an obvious inequities-inequities which bid fair to react in a manner fully as hurtful to the utilities themselves as to the public."

The Supreme Court of Illinois, in the State Public Utilities Commission, ex rel., City of Springfield vs. Springfield Gas & Electric Company, P. U. R. 1920-C, Page 652), in deciding this question, said:

"It would be equally as unfair to the consumer to fix the rate at a figure which would produce a reasonable income on a value determined by the cost of reproduction new at a time when cost of construction was abnormally inflated, as it would be unfair to the public utility to compel it to serve the public for a rate that would produce a reasonable income on a value determined by cost of reproduction new at a time when the cost of construction was abnormally low. Therefore it cannot be laid down as a rule without qualifications that cost of reproduction new, less depreciation, is the only basis of valuation for rate-making purposes. It is equally true that the original cost of construction, less depreciation, cannot be held to be the only proper basis for determination of valuation for rate-making purposes. As we have pointed out heretofore in this opinion, the weight of authority is that every element having any bearing on the situation must be considered in the investigation, and then sound business judgment applied to the determination of a valuation that is fair and just to the consumer and the utility. Each case must be considered on its own merits, and such result of value arrived at as may be just and right in each case."

If it be true that reproduction cost new is the controlling factor in determining value as of a given date, it may appear that the evidences of ownership, such as stocks, would advance in value in proportion with increased reproduction costs. No such phenomenon as this has occurred, and it was explained, upon cross-examination of petitioner's Witness Waring (Transcript, Case No. 364, Page 96) that this would have occurred, were rate-making machinery sufficiently elastic to meet increased costs with higher rates, but, due to the inability of commissions and city authorites, generally, to keep pace in granting increases, stocks had instead depreciated.

After full consideration of all material facts presented in connection with the present fair value of petitioner's property, the Commission concludes that the valuation heretofore found, together with the actual cost of improvements since the last valuation, is the fair value as of this date for rate-making purposes of petitioner's property. The Commission can arrive at no other conclusion than that the present price levels have been adequately considered in finding that value.

We, therefore, find that the fair value for rate-making purposes of the property of the petitioner, used and useful in the giving of service, is $2,337,680.30.

In reaching this decision, due consideration has been given to all matters that have any bearing on the present value, including the original book cost, cost of reproduction new, earning capacity, and operating efficiency of the plant. This sum is made up as follows:

Value as heretofore found in Case No. 233 as of Jan. 12, 1920	$2,311,488.94
Additions and Betterments	26,191.36
Total, January 1, 1921	$2,337,680.30

The question of return upon petitioner's property will be considered in a further supplemental finding in this case.

(Signed) JOSHUA GREENWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:
(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH GAS & COKE COMPANY, for a revision of gas rates effective in the City of Salt Lake.	CASE No. 364

PETITION FOR REHEARING

F. S. Richards, for Petitioner.

Wm. H. Folland, for Protestant.

ORDER

The petition for rehearing in the above entitled case came on before the Commission at its office in Salt Lake City, Utah, July 9, 1921, and was finally submitted to the Commission for its action.

After a full and careful consideration of the questions raised in the petition for rehearing, the Commission is of the opinion that a rehearing should not be granted, and the application, therefore, is denied.

Dated at Salt Lake City, Utah, this 19th day of July, A. D., 1921.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH-WYOMING INDEPENDENT TELEPHONE COMPANY, for permission to increase its rates.	CASE No. 365

Submitted June 28, 1921. Decided July 1, 1921.

Joseph Ranson, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

This application came on regularly for hearing at Laketown, Utah, June 28, 1921.

Testimony upon the part of the applicant shows that revenues were not sufficient to pay necessary operating expenses, including current depreciation, with the result that as regards some elements of the property, depreciation is nearly complete. No excess earnings have been realized during the operating history of the Company; so that no reserve could have accumulated.

Protestants contended that the service was inadequate and insufficient, and asked that an exchange be re-established at Laketown.

The Commission finds that an emergency exists and that applicant should have immediate relief in order that the telephone property may function, and will permit an increase of 25 cents per month per telephone, thereby making a rate of $2.00 per month, effective July 1, 1921.

The Commission will reserve its decision for the time being as regards the establishment of an exchange at Laketown, pending further efforts of the citizens to make satisfactory arrangements whereby necessary funds can be procured to operate and maintain the exchange.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 1st day of July, A. D., 1921.

In the Matter of the Application of the UTAH-WYOMING INDEPENDENT TELEPHONE COMPANY, for permission to increase its rates. } CASE No. 365

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and the petitioner, the Utah-Wyoming Independent Telephone Company, be authorized to increase its monthly rental charge from $1.75 to $2.00, effective July 1, 1921.

ORDERED FURTHER, That the Commission reserve its decision relative to the establishment of an exchange at Laketown, Utah, pending further investigation by the Commission.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOHN R. KIRKENDALL, for permission to change his schedule and to abolish round trip rates, between Mammoth and Eureka, Utah. } CASE No. 366

Submitted Oct. 21, 1920. Decided Dec. 17, 1920.

Baker & Baker, for petitioner.

REPORT OF THE COMMISSION

By the Commission:

In an application filed October 2, 1920, John R. Kirkendall, operating an automobile stage line between Mammoth and Eureka, Utah, asks permission to amend his schedule of leaving time, and to discontinue the sale of round trip tickets.

The present and proposed schedule follows:

Leave Mammoth		Leave Eureka	
Present	Proposed	Present	Proposed
9:00 A. M.	8:30 A. M.	10:00 A. M.	9:00 A. M.
11:00 A. M.	10:00 A. M.	12:00 A. M.	11:00 A. M.
1:00 P. M.	1:00 P. M.	2:00 P. M.	2:00 P. M.
3:00 P. M.	3:00 P. M.	4:00 P. M.	4:00 P. M.
5:00 P. M.	5:30 P. M.	6:00 P. M.	6:30 P. M.
7:00 P. M.		8:00 P. M.	

The proposed schedule is daily except Saturday and Sunday, when applicant proposes the following:

Leave Mammoth		Leave Eureka	
Saturday	Sunday	Saturday	Sunday
10:00 A. M.		11:00 A. M.	
1:00 P. M.	1:00 P. M.	2:00 P. M.	2:00 P. M.
3:00 P. M.		4:00 P. M.	
5:30 P. M.		6:30 P. M.	
7:00 P. M.	7:00 P. M.	8:00 P. M.	8:00 P. M.
9:00 P. M.		10:00 P. M.	

The present charge for the transportation of passengers between Mammoth and Eureka is 35 cents one way, and 65 cents round trip. Petitioner desires to discontinue round trip rates.

The case was heard by the Commission's representative, F. M. Abbott, at Mammoth, October 16, 1920.

There was no protest to granting the application.

From the information secured in this case it appears that the proposed change in the time of operation will meet all the requirements of the traveling public.

The proposed cancellation of round trip fares, while it will result in slightly increased revenues, seems justified by conditions under which the service is given.

The Commission, therefore, finds that applicant should be permitted to make the proposed change in schedule and fares upon five days' notice to the public and to the Commission.

An appropriate order will be issued.

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

(SEAL)

(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 17th day of December, A. D., 1920.

In the Matter of the Application of JOHN R. KIRKENDALL, for permission to change his schedule and to abolish round trip rates, between Mammoth and Eureka, Utah. } CASE No. 366

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, JOHN R. KIRKENDALL, be, and he is hereby, authorized to publish and put into effect the schedule set forth in the report attached hereto.

ORDERED FURTHER, That the applicant be, and hereby is, permitted to discontinue the round trip rates between Mammoth and Eureka, Utah.

ORDERED FURTHER, That the changes herein authorized be made effective upon five days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to cancel Class "D" rate upon household goods, carloads, within the State of Utah.	CASE No. 367

ORDER

Upon motion of the petitioner, and by the consent of the Commission:

IT IS ORDERED, That the application herein be, and it is hereby, dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 17th day of December, 1920.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to publish and make effective, rules for determining value on ore, as provided in Tariff No. 111-D. } CASE No. 368

Submitted Jan. 5, 1921. Decided Feb. 16, 1921.

REPORT OF THE COMMISSION

By the Commission:

The case came on for hearing before the Commission, January 5, 1921, after due notice.

In this application, the Los Angeles & Salt Lake Railroad Company requested permission to amend its tariff applying on ore from Bingham to Garfield, Midvale and Murray to provide that charges will be based upon the actual value. The rates were formerly based upon the value declared by the shipper at the time of shipment.

The carrier contends that the proposed change in the wording of the tariff does not effect an increase in the rates charged, as no change is contemplated in the rate; that the rates which will be applied under the proposed rule on ore not exceeding $25.00 per ton in value, will be the same as has been applied in the past. The tariff which it is proposed to change now provides rates on ore as follows:

Value not exceeding $15.00 per ton.....	$ .50 per ton
Declared value not exceeding $25.00 per ton..	.90 per ton
Declared value in excess of $25.00 per ton and not exceeding $100 per ton	1.60 per ton

No rates are provided on ore exceeding $100.00 in value.

The application was protested by the Utah-Apex Mining Company, a heavy shipper of low grade ore from Bingham. The protestant claims it will be seriously in-

jured by an increase of at least 70 cents per ton, with the prospects of adding $1.50 per ton for smelting; that there has been but $2.00 net profit per ton in the mining, shipping and smelting of its ores, and that any rule or modification of rules that would result in collecting an advanced rate, would be prejudicial to the operation of the mine, and would result in closing down its operations.

The carriers claimed that the question of distance in shipping ore had not been a necessary element in making up rates, for the reason that, upon the whole, it would tend to retard the mining and shipping of low grade ores in different parts of the State, and thereby decrease the volume of tonnage, the density of traffic being one necessary element in the building of the carrier's rates.

Carrier further contends that it is the practice to publish exceptionally low rates on the low grade ore in order to encourage the development of mining property; that if carriers established a rate applying on ore of all values, which would be remunerative, it would be impossible for the mining companies to ship their low grade ores, and for this reason development of mining property would be handicapped and retarded; that the present practice permits shipping of low grade ore, and allows the burden to fall upon ore of high value.

Protestants contend that it is unjust to apply the rates now published on ore of $100 value per ton, to ore which would carry a value of $30.00 per ton, and that it is impossible for the mine owner to know the actual value of his ore until after smelter returns are received, and that under the proposed schedule the shipper might conscientiously declare the value of the ore not to exceed $25 per ton, and the smelter returns might show the value to be slightly in excess of this amount, and the shipper thereby be penalized. For example, a shipment of ore, the value of which does not exceed $25 per ton, would be assessed a rate of 90 cents per ton, but if the value as shown by the smelter returns should be $25.50 per ton, the rate would be $1.60 per ton, or 70 cents additional for the extra 50 cents value per ton. This the shippers contend is unjust and should be overcome by establishing rates applying on various values up to $100 per ton.

Protestant offered in evidence exhibit showing the different percentages applied to various values, using the rate applying on $15 ore for a basis, from various points in Utah, Nevada, Idaho, Montana and Oregon, and con-

tended that the average of these percentages should be applied to the different values of ore moving from Bingham to Garfield, Midvale and Murray, under the proposed tariff.

This would result in establishing the following rates from Bingham to Garfield, Midvale and Murray:

$ 15 value	$ .50	per ton
20 value	.56½	per ton
25 value	.63	per ton
30 value	.69½	per ton
35 value	.76	per ton
40 value	.82½	per ton
50 value	.95½	per ton
60 value	1.08½	per ton
70 value	1.21½	per ton
80 value	1.34½	per ton
90 value	1.47½	per ton
100 value	1.60	per ton

It will be noted that protestant offers no objection to the present rates on ore, value $15.00, and ore, value not exceeding $100.00, as maximum rates for these grades of ore.

In many instances the carriers provide the same rate for all ore valued over $20 and not over $50. It is also found that in many instances, ore valued over $50 are assessed the same rate as ore of $100 valuation.

The method of determining rates on ore moving within the State of Utah is not uniform. In some cases, rates are based upon the value of the ore as declared by shipper, at time and place of shipment. In other cases the actual value as shown by smelter returns is used. The latter method is most frequently employed, and is, we think, more just and equitable.

The Commission will, therefore, authorize the carrier to so modify its present tariff as to provide for this method of determining rates in the present case.

The contention of protestant that the spread between $25 and $100 ore is too great, appears to be well founded, and the Commission is of the opinion that the carriers should establish rates on ore valued over $25 and not exceeding $50 per ton, which will not exceed 75 per cent of the present rate upon ore valued $100, and upon ores

valued over $50 per ton and not exceeding $75 per ton, which will not exceed 87½ per cent of the present rate applying upon ore valued $100 per ton. This will establish the following basis of rates on ore from Bingham to Garfield, Murray and Midvale:

Value not exceeding $15.00 per ton.....	$ .50	per ton
Value over $15.00 and not exceeding $25.00.	.90	per ton
Value over 25.00 and not exceeding 50.00..	1.20	per ton
Value over 50.00 and not exceeding 75.00..	1.40	per ton
Value over 75.00 and not exceeding 100.00..	1.60	per ton

An appropriate order will be issued.

(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 16th day of February, A. D., 1921.

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to publish and make effective, rules for determining value on ore, as provided in Tariff No. 111-D. } CASE No. 368

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be. and it is hereby, granted, and the Los Angeles & Salt Lake Railroad Company be permitted to publish and put into effect rules providing for the determination of rates on ore based on the actual value as shown by smelter returns.

ORDERED FURTHER, That applicant, Los Angeles & Salt Lake Railroad Company, shall provide rates on ore from Bingham to Murray, Midvale and Garfield, which shall not exceed the following:

Value not exceeding $15.00 per ton	$ .50 per ton
Value over $15.00 and not exceeding $ 25.00..	.90 per ton
Value over 25.00 and not exceeding 50.00..	1.20 per ton
Value over 50.00 and not exceeding 75.00..	1.40 per ton
Value over 75.00 and not exceeding 100.00..	1.60 per ton

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to publish and make effective, rules for determining value on ore, as provided in Tariff No. 111-D.	CASE No. 368

ORDER

It appearing that the Commission, under date of February 16, 1921, issued its order in Case No. 368, prescribing certain rates on ore moving from Bingham to Garfield, Midvale and Murray, Utah;

And it further appearing that the items which applicant sought to modify names rates on ore and concentrates;

IT IS ORDERED, That the order heretofore issued in the above entitled matter be, and it is hereby, modified to apply upon ore and concentrates.

By the Commission.

Dated at Salt Lake City, Utah, this 21st day of February, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to abolish the Callahan Crossing. } CASE No. 370

Submitted Jan. 11, 1921. Decided Jan. 20, 1921.

Roscoe C. Gwilliam, for petitioner.

John A. Bourne, for protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on for investigation upon the application of the Bamberger Electric Railroad Company, together with the protest of the officials of Farmington City, January 11, 1921, at Farmington, Utah.

From the evidence given, together with the files in the case, it would appear that the grade crossing in question is one that has been and still is considered one of the most dangerous grade crossings between Ogden and Salt Lake City. For sometime this crossing has been the subject of discussion and consideration on the part of the State, County, City, the Bamberger Electric Railroad Company and this Commission, as to what method should be invoked to avoid and eliminate said grade crossing. It was finally determined to construct a viaduct for the passage of vehicles and other traffic.

Plans were submitted, accepted and approved, and the viaduct was recently completed for use, at a cost of about $65,000, half of which was to be paid by the Railway Company, and appears to be a substantial structure, and sufficient for the ordinary travel, and certainly avoids the danger of the grade crossing, which was the purpose of building the viaduct.

Protestant, Farmington City, by its officials, urged that the necessity of keeping the grade crossing open was in order to avoid the blocking of the travel during certain seasons of the year when many cattle and sheep were driven over the highways; that the viaduct was not wide enough for the purposes of all kinds of travel during certain times of the year, and that in their minds there would

be more danger in using the viaduct alone than in using the grade crossing in connection therewith, and that the construction of the approach to the viaduct had very greatly inconvenienced the traffic on what is called Burke's Lane, leading to the west of the viaduct.

An examination of the viaduct and approach, as now constructed and in use, would seem to indicate that it is sufficient to take care of all ordinary travel without using the old grade crossing. It is true, as contended by the protestants, that conditions might arise in the event of driving large herds of sheep and cattle when it would require some time to clear the viaduct for passage of vehicles. However, these conditions necessarily obtain at times and under certain conditions on many highways elsewhere in the State.

The approach to the viaduct from the Burke Lane may not seem to be wide enough for conveniently driving herds of cattle, or to permit the passing of loaded teams, and it would be much more convenient if a fence were built, and the road widened. That, however, is a matter that belongs to the State and County.

That it was necessary and important to build such viaduct is without question. The purpose of building the viaduct was to close up and shut out any traffic over the grade crossing, and to leave the crossing open would, in a large degree, defeat the purposes for which the viaduct was built, and would defeat the purpose of the large expenditure.

The Commission is of the opinion that the traffic will be reasonably and properly cared for, and that safety and security will be provided by closing up the grade crossing in question, and, therefore, concludes that the petition should be granted.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 20th day of January, A. D., 1921.

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to abolish the Callahan Crossing.	CASE No. 370

This case being at issue upon petition and protest on file, and having been duly heard and submitted by the parties, and full invesigation 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, BAMBERGER ELECTRIC RAILROAD COMPANY, be, and it is hereby, authorized and permitted to abolish the grade crossing known as Callahan Crossing in north Farmington, Utah, and to divert all traffic over the viaduct which has been constructed for that purpose.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HAROLD BAXTER, for permission to operate an automobile stage line between Helper and Vernal, via Duchesne, Utah. } CASE No. 371

Submitted Dec. 7, 1920. Decided Jan. 31, 1921.

Dan B. Shields, for Applicant.

LeRoy A. McGee, for Protestants.

REPORT OF THE COMMISSION

BLOOD, Commissioner:

The applicant herein asks that an order be entered granting to him the right to operate a stage line between Helper, Duchesne, Roosevelt, Myton and Vernal, Utah, as successor to James S. Frontjes, who held a certificate of convenience and necessity from the Commission.

The case was heard at Price, Utah, December 7, 1920. No protest had been filed, but Chris Anderson and S. H. Bottom were present at the hearing to protest the issuance of a certificate to Mr. Baxter. After hearing applicant's testimony, however, the protest was withdrawn.

Testimony was that the applicant had taken over the operation of the stage line from Mr. Frontjes prior to the death of the latter, and that in taking it over he had assumed the liabilities of the Duchesne Transportation Company, formerly owned by Mr. Frontjes, and had attempted, in good faith, to discharge the obligations and to conduct the operations of the line. He had met with financial reverses, however, which for a time interfered with regularity of service, but more recently new equipment had been provided so that at the time of the hearing the applicant testified he had available two 7-passenger Studebaker automobiles, one 12-passenger White, and one 7-passenger National. All of the cars were claimed to be in first class condition. Applicant testified that he was able to and would, if necessity arose, supply additional equipment to adequately care for the traffic.

The necessity for the operation of a stage line over the route designated and covered by the certificate formerly issued to James S. Frontjes, is well known and recognized. The conclusion, therefore, is that inasmuch as Mr. Frontjes disposed of his equipment to the applicant herein, and surrendered all rights and interest in the line prior to his death, and inasmuch as the applicant has, since taking over the business, attempted to give the traveling public the required service, he should be granted a certificate of convenience and necessity entitling him to operate a stage line over the route designated.

An appropriate order will be issued.

(Signed) HENRY H. BLOOD,

Commissioner.

We concur:

(Signed) JOSHUA GREENWOOD,
WARREN STOUTNOUR,

Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,

Secretary.

ORDER

Certificate of Convenience and Necessity No. 101.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 31st day of January, A. D., 1921.

In the Matter of the Application of HAROLD BAXTER, for permission to operate an automobile stage line between Helper and Vernal, via Duchesne, Utah. } CASE No. 371

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, HAROLD BAXTER, be, and is hereby, granted a certificate of convenience and necessity, and is authorized to operate an automobile stage line between Helper and Vernal, via Duchesne, Utah.

ORDERED FURTHER, That applicant shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SALT LAKE & UTAH RAILROAD COMPANY, for permission to increase its passenger rates, fares and charges. } CASE No. 372

Submitted Jan. 12, 1921. Decided March 17, 1921.

W. D. Riter, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

This is an application for increased passenger fares and baggage charges. The petition was filed November 24, 1920. The case came on for hearing December 21, 1920. Testimony was introduced, exhibits were submitted, and the case was continued for further hearing to January 10, 1921, when additional testimony was given and documentary evidence introduced, and the case finally was argued and submitted Janaury 12, 1921.

Proofs were filed showing publication of notice of hearing in papers having general circulation in the territory served by the petitioner.

No protestants appeared and no written protests against the granting of the petition were filed with the Commission.

The petitioner alleges in its application that it owns and operates a line of electric railway extending from Salt Lake City to Payson, Utah, with a branch line extending from Granger, Utah, to Magna, Utah; that the revenues derived from its operation of said line are not sufficient to produce a fair or adequate return on the investment; that competing steam lines are now charging and collecting rates, fares and charges in excess of those in effect over petitioner's line; that the increases sought will, if allowed, minimize but not entirely remove the discrepancy; that the increased rates, fares and charges petitioned for will, if allowed, return to applicant something less than it claims as a fair return upon its property employed in the public service; that the passenger traffic of the petitioner is not bearing its fair proportion of the cost of service; that the proposed increase in passenger rates, fares and charges is necessary in order that petitioner have and re-

ceive a fair, reasonable and just compensation for such service, and receive more nearly a fair, reasonable and just return upon its investment.

BOOK VALUES OF PROPERTY

In support of the application, petitioner filed numerous exhibits, and presented testimony intended to show the book cost of its property now employed in the service of the public, and also to show the present value of the property. No physical count or inventory of the petitioner's property has been made.

Exhibit No. 25, which purports to develop the petitioner's valuation of its property based upon book costs, shows that it is claimed the cost up to December 31, 1917, was $4,297,292.41, and that during the years 1918 and 1919 there was added property to the value of $199,065.54. During the period from January 1st to November 1st, 1920, the additions shown were $326,738.15. Thus, according to the testimony and documentary evidence, the book value up to November 1, 1920, was $4,823,096.10.

Petitioner, however, asserted the right to capitalize what it claimed was an appreciation in value resulting from the advance in the costs of material and labor due to war conditions, this appreciation being applied only to the costs as shown up to December 31, 1917. The percentages of increase varied with the several items, and ranged from 15 per cent on interest during construction, to 200 per cent on stationery and printing. The weighted average percentage applied to the total book cost of $4,297,292.41, was approximately 75 per cent and amounted to $3,239,675.34, which added to the $4,823,096.10, book value, gave a total claimed value of the physical property and franchises, of $8,062,771.44. It was testified that this amount was exclusive of developmental cost, for which it was claimed $1,300,864 should be added. Thus the petitioner built up a total value of its property by applying the present level of prices, and including intangibles, to the amount of $9,363,635.44. Whether or not this figure would be supported if a physical inventory and valuation were made, manifestly cannot be determined upon the record. Nor does it seem necessary for our present purpose to ascertain precisely the present value of the property. If such effort were made it would require considerable length of time for its accomplishment, and a large outlay by the petitioner and by the Commission for doing the work.

It may be proper to say here that the Commission is not inclined to accept in full a valuation based upon the maximum of war prices applied to property that was constructed and placed in operation before the war prices took effect. This is not intended to exclude consideration of such prices; on the contrary present reproduction cost undoubtedly is one element entering into the present fair value of property, but it is only one element, and is not necessarily controlling.

Nor does the Commission, in passing upon the question here involved, accept at his time as final, the statement of book values presented by the petitioner and hereinbefore referred to. Such reference to the figures as has been made is intended merely to indicate that the financial condition of the petitioner is such that under this petition, and for the purpose of passing upon the question herein involved, it is not necessary to enter minutely into a consideration of the construction costs. This will be made apparent by a consideration of the earnings of the petitioner during the years its road has been operated.

REVENUES

The petitioner in its Exhibit No. 27, showed earnings, after deduction of taxes, in the following amounts, for the years named:

1918	$150,880.60
1919	229,373.26
1920 (Months Nov and Dec. estimated)	245,951.11

The Transportation Act of 1920, fixed a return of 5½ per cent for railroads of the United States, and provided that another one-half of one per cent might be allowed for additions and betterments. The petitioner, however, claimed the right to earn 8 per cent on the value of its property used in the public service. The earnings for the last three years would yield the rates of return indicated below on the valuation shown:

Year	Return of 8 Per Cent On Valuation of:	Return of 6 Per Cent On Valuation of:	Return of 5½ Per Cent On Valuation of:
1918	$1,886,007	$2,514,676	$2,743,284
1919	2,867,162	3,822,888	4,170,423
1920	3,074,388	4,099,185	4,471,838

From what has been said hereinbefore it will be seen that any valuation likely to be found and fixed after an inventory and appraisal would probably exceed by a substantial sum the amount upon which, as shown in the foregoing tabulation, the earnings of 1920 would yield the rate of return provided in the Transportation Act. But even if 5½ per cent return were received on a fair valuation, this carrier would still be in financial straits. The record shows that some heavy refinancing problems must be met during this year. It is not to be expected, with the money market in its present condition, that capital can be secured on the basis of such an earning. It is apparent, therefore, that the petitioner must increase revenues or reduce expenses, or both, if it is to continue in sound financial condition.

The increase asked for is estimated by petitioner to give additional revenue to the amount of $91,000 per year, based upon the volume of business done in 1920. If, therefore, the petition were granted, and if no additional expenses were incurred, and this $91,000 were added to the 1920 income of $245,951.11, it would make a total of $336,951.11, which would be 8 per cent on a property value of $4,211,888; 6 per cent on $5,615,851, or 5½ per cent of $6,126,383. But if the traffic in either freight or passenger department, or both falls off, or if there are greater maintenance costs, increased taxes or other conditions that add to the cost of doing business, the revenues, and, consequently, the rate of return, will be reduced proportionately. This leads to consideration of an important item having to do with the revenues of this carrier, i. e. maintenance and depreciation.

MAINTENANCE AND DEPRECIATION

No general depreciation reserve fund has been built up. Testimony was that the net income had not been sufficient to provide for depreciation on all of the property. The only items of property that have been depreciated are rolling stock and shop equipment. The amounts that have been set up during the life of the property aggregated, at the end of 1920, $64,335.82. It requires no argument to show that other parts of the property have suffered depreciation, but this Commission will not undertake, at this time, to indicate what ought to be done in the matter of providing a depreciation reserve fund. This is a question that is now being given consideration with reference to all

railroads of the United States, and doubtless some action will be taken by the Interstate Commerce Commission that will later be a guide to this Commission. Meantime, and until the matter has been the subject of careful study, it would not be consistent for this Commission to assume to fix a rate of depreciation that should be set up on the property of this carrier as a whole.

In this connection it should be noted that maintenance costs of this petitioner's road have not up to this time been heavy. The road was constructed during the period from 1913 to 1917, so that its average age is now about five years. For this reason, the up-keep of ways and structures, equipment, and power substations and lines has been low. These costs, as might reasonably be expected, are steadily increasing, and will probably continue progressively upward for the next few years until normal maintenance demands have been reached. Testimony showed that the amounts that have been expended for this purpose during the years of operation are as follows:

1915	$ 54,115
1916	93,531
1917	111,773
1918	135,446
1919	175,551
*1920	208,705

*Last two months estimated by petitioner.

Consideration of one item of maintenance cost will serve to illustrate why increases may be expected: Railroad ties have an average life of about eight years. During the first five years, tie renewals will be small, but each year the expenditure will increase until the maximum annual expected outlay is reached about the eighth year, after which there should be a gradual decline to a normal replacement demand. Testimony was that up to this time it has been necessary to replace only 13079 ties, and these practically all in 1919 and 1920, but that 30,000 should be replaced during 1921, and that the maximum would be reached in 1923 or 1924, when 40,000 to 45,000 would need replacement. Thereafter normal demand should be expected, with about 33,000 ties to be replaced each year.

Similar conditions prevail as to increasing costs for replacements of other wooden or partly wooden structures, such as culverts, fences, bridges, trestles, etc. Witness R. K. Brown, the petitioner's superintendent and chief engineer, testified that the petitioner faces maintenance costs

amounting to $134,000 per annum in excess of the 1920 outlay of $208,705. This condition will not be reached during 1921, but it is fair to assume that there will be a substantial increase in these costs each year until the maximum is attained.

Thus the petitioner is confronted with steadily mounting expenses that must be met. Even if the actual work of replacing ties and renewing other worn-out property is deferred for a time, it but postpones the evil day. The decaying and wearing out processes go on silently but inevitably. Provision must be made to meet the condition, and in the absence of a depreciation reserve fund, which, as hereinbefore shown, petitioner has been unable to set up out of current revenues it must be met from current income.

RATES, FARES AND CHARGES

The petitioner asks to be permitted to increase its one-way tickets, round trip tickets, 1000-mile mileage books, 500-mile mileage books, commutation books, school tickets and baggage charges, uniformly 20 per cent.

Analysis of passenger and baggage revenue for the twelve months period ending September 30, 1920, shows that the total revenue received was $447,340.93. This was derived as follows:

	Amount	Per cent of Total
One-way tickets	$169,896.31	37.97
Round-trip tickets	221,926.53	49.61
1000-mile books	34,472.31	7.71
500-mile books	2,618.51	.59
Commutation books	10,329.55	2.31
School Tickets	6,980.15	1.56
Baggage Revenue	1,117.57	.25

However reluctant the Commission may be to permit the imposition of greater than present burdens of cost upon the traveling public, there exists no other method of providing revenue absolutely required if this carrier is to pay its operating expenses and maintain its credit. The cost of giving service must be borne by those who use the service. That cost includes a reasonable rate of return on the investment. The Commission has devoted much time and study to this carrier's problems in the past, and in former cases has made findings, the effect of which was to hold down the rates, fares and charges below those

asked for by the petitioner. This has been done in the hope that operating expenses would decline materially, before the time when the maximum maintenance costs should be reached; but a time has come when income will not balance outlay, and the Commission now faces the duty of allowing increases that will augment the carrier's net earnings. This duty is made clear in the light of actual operating results within recent months. The decline in all transportation business that set in late in 1920 is seriously affecting the gross revenues of this carrier, as well as others. Operating expenses are not declining proportionately with revenues, and the result is reflected in very greatly reduced net earnings.

Statements submitted to the Commission comparing earnings of January and February, 1920, with the same months of 1921, show the following results:

	Jan. 1920	Jan. 1921	Feb. 1920	Feb. 1921
Gross Earn.	$60,740.43	$54,571.17	$52,859.70	$46,800.00
Operating Ex.	36,997.37	45,058.61	32,551.27	43,400.00
Net	23,743.06	9,512.66	20,308.43	3,400.00
Taxes	3,600.00	4,500.00	3,500.00	4,500.00
Net after Taxes	20,143.06	5,012.56	16,808.43	*1,100.00
Int. on Bonds	6,750.50	6,750.50	6,750.50	6,750.50
Other Int.	4,193.86	5,503.81	4,175.22	5,500.00
Bal. after Int.	9,198.70	*7,241.75	5,882.71	*13,350.50
Amortization of Dis.	1,519.58	1,519.58	1,519.58	1,519.58
Depreciation	1,121.73	1,469.07	1,121.73	1,500.00
Bal. before Div.	6,557.39	*10,230.40	3,241.40	*16,370.08

*Deficit

The figures for February, 1921, are estimated, but are thought to be fairly accurate.

The progressive downward trend of net income shown so far this year must be a matter of grave concern to the carrier, as it is to the Commission. The carrier will be expected to make every reasonable effort to check the decline by the adoption of such methods of economy as may be consistent with the maintenance of good service. Whether the rate increase herein granted will yield results expected by the management, or whether there will be a falling off in volume of traffic and consequently in revenues, can only be known by the test of operating experience.

After full consideration of the testimony and examination of documentary evidence filed in this case, it appears to the Commission that additional revenues should be provided by an increase of passenger fares and baggage charges as hereinafter set forth. Based upon operating results of 1920, the increases granted should yield additional revenue to the amount of about $6,000 per month, which is approximately 20 per cent less than petitioner asked for.

1. *One-Way Fares.* As has been shown hereinbefore, one-way fares produce 37.97 per cent of the total passenger and baggage revenue of the petitioner. The increase sought should be granted as to this class of fares; provided, the present minimum one-way fare shall be continued in effect.

2. *Round-Trip Fares.* The basis of round-trip fares was permitted to be increased by the order in Case No. 161, from 1.80 per cent to 1.90 per cent of the one-way fare. The Commission feels that the basis should now be made 1.80 per cent of the one-way fare, which will make it the same as to precent that now is effective on the other electric interurban lines in the State. With this modification, the twenty per cent increase asked on round-trip fares should be granted; that is to say, the round trip fare of the petitioner may be increased not to exceed 1.80 per cent of the increased one-way fare herein granted; provided, the present minimum round-trip fare should be continued in effect. Round-trip fares represented 49.61 per cent of the total passenger and baggage revenue.

3. *Mileage Books.* The 1000-mile book is used interchangeably on all electric interurban lines in the State, while the 500-mile book is good only on this carrier's line. The rates at present are 2 1/4 cents per mile for 1000-mile books, and 2¼ cents per mile for 500-mile books. The 1000-mile book rate may be increased to 2½ cents per mile, but no increase will be allowed in the 500-mile book. It is thought the added convenience of interchangeable use on all electric lines will compensate for the extra investment required when a 1000-mile book is purchased.

4. *Commutation Rates.* Commutation rates on this line are at present 2.2 cents per mile. Having in mind that this class of ticket is intended to be used regularly, and believing that the constant rider, as a regular and dependable patron of the carrier, should be given due con-

sideration, it would seem proper to deny the application as to such tickets.

5. *School Fares.* The Commission has heretofore expressed its views in relation to school tickets, not only as to this carrier but in cases that have been brought by other carriers. It has been uniformly held that school fares should be kept on as low a basis as possible, consistent with the cost of the service. The total business done in school fares represents only 1.56 per cent of the total passenger business. The conclusion is, therefore, that school rates and fares should remain as they are.

6. *Excess Baggage Charges.* The charges for transporting excess baggage are based on the one-way fares, and may be increased 20 per cent.

An appropriate order will be issued.

(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 17th day of March, A. D., 1921.

In the Matter of the Application of the SALT LAKE & UTAH RAILROAD COMPANY, for permission to increase its passenger rates, fares and charges.	CASE No. 372

This case being at issue upon petition 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, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That applicant, Salt Lake & Utah Railroad Company, be, and it is hereby, permitted to increase its present one-way passenger fares not to exceed 20 per cent.

ORDERED FURTHER, That applicant be, and it is hereby, permitted to advance its round-trip fares to the basis of 1.80 per cent of the one-way fares as increased by this order.

ORDERED FURTHER, That applicant be, and it is hereby, permitted to increase its rates for 1000-mile mileage books to the basis of 2½ cents per mile.

ORDERED FURTHER, That applicant be, and it is hereby, permitted to increase the charge for transportation of excess baggage not to exceed 20 per cent.

ORDERED FURTHER, That the application for permission to increase the present rates for commutation tickets, 500-mile mileage books and school fares, be, and it is hereby, denied.

IT IS FURTHER ORDERED, That the increased fares herein provided may be made effective upon five days' notice to the public and to the Commission.

ORDERED FURTHER, That tariffs naming such increased rate shall bear upon the title page the following notation:

> "Issued on less than statutory notice under authority of Public Utilities Commission of Utah order in Case No. 372, dated March 17, 1921."

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

G. B. MORRISON PIE COMPANY,
Complainant,
vs.
UTAH POWER & LIGHT COMPANY,
Defendant.

CASE No. 373

Submitted February 5, 1921. Decided March 31, 1921.

REPORT OF THE COMMISSION

By the Commission:

The above matter was brought to the attention of the Commission by a communication from the G. B. Morrison Pie Company, alleging that the Utah Power & Light Company had notified said Morrison Pie Company that they intended to disconnect and refuse to give service until such time as said Morrison Pie Company should enclose service wires in metal conduit and install a standard metal switch box to enclose the meters used in registering the energy or power furnished it by the said Power Company.

It appeared, upon investigation, that such requirement had been made for the reason that the inspector of the said Power Company found a piece of hat pin inserted into the meter used by the said Morrison Pie Company, in such a way as to prevent the same from properly registering the current consumed; that said device apparently was used for the purpose of preventing the meter from registering all of the energy that was being drawn by the said Morrison Pie Company.

The Morrison Pie Company denied having interfered with the electric current or the meter, and asked that the Power Company be not allowed to disconnect the service.

The matter was set down for hearing for January 20, 1921. There were present at the hearing the attorney for the Utah Power & Light Company, and G. B. Morrison, representing the Morrison Pie Company.

Testimony introduced by the Utah Power & Light Company was to the effect that they had been furnishing power and light to said Morrison Pie Company for some time; that on account of the variation of the meter readings, they felt called upon to make an investigation of the meter used by the said Morrison Pie Company; that on

April 10, 1919, their agent found in the fuel meter a wire or hat pin; that the matter was taken up with the said Morrison Pie Company, and notice was given that if the act of putting wire into either of the meters used by the Morrison Pie Company was repeated, service would be discontinued; that on December 13, 1919, there appeared to be a fluctuation in the reading of the light meter, and, upon investigation, a similar instrument or wire pin was found in the light meter.

Mr. Morrison, for his company, stated that he did not know how the instrument came to be in the meters, and denied personal responsibility for the same.

The Power Company asked that before they should be required to furnish power and light to the said Morrison Pie Company, the said Company be required to comply with the request for protective devices, which can be sealed, and that the same be installed at the expense of the said Pie Company.

In passing upon this controversy, it clearly appears that the allegations and charges of the Power Company were sustained; in fact, there was no denial made, with the exception that Mr. Morrison stated that he was not responsible for the same, and it was clearly shown that the wires or instruments were placed in the meters for the purpose of preventing them from properly registering the amount of current used. While Mr. Morrison contends that he knew nothing of it himself, yet the Company that he represents must be held liable for the act of placing the wires in the meters.

Under the showing, we are of the opinion that the request of the Power & Light Company should be upheld, and that the Morrison Pie Company should be required to install such metal conduit and standard metal switch box as will be necessary to prevent future interference with the meters, said installation to be made to the acceptance of this Commission. If glass meters are installed, the expense thereof should be borne by the Utah Power & Light Company.

An appropriate order will be issued.

(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 31st day of March, A. D., 1921.

G. B. MORRISON PIE COMPANY,
Complainant,
vs.
UTAH POWER & LIGHT COMPANY,
Defendant.
CASE No. 373

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the defendant, the Utah Power & Light Company, be permitted to require complainant, the G. B. Morrison Pie Company, to install such necessary conduit and standard metal switch box as will be necessary to prevent interference with meters, the cost of making such installation to be borne by complainant.

ORDERED FURTHER, That glass meters may be installed in complainant's place of business, the expense thereof to be borne by the Utah Power & Light Company.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES TURLOUPIS, for permission to operate an automobile stage line between Eureka and Dividend (Tintic Standard Mine), Utah.	CASE No. 374

Submitted Jan. 13, 1921. Decided Feb. 2, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on for hearing at Eureka, January 13, 1921, upon the petition of the applicant, together with the appearance of the attorney for Harold Morgan, who had made simliar application, which was set down for hearing at the same time.

The applicant represented and testified that he had been engaged in the stage line business for five years; that he was qualified to operate cars, and was acquainted with the road between Eureka anl Dividend, the points in question; that he had operated over this route since August 15, 1920, maintaining a daily service, not on scheduled time, but had made about two trips each day; that at such time, there was no other stage line operating; that after consultation with the Superintendent of the Tintic Standard Mine, he had made preparations to install a service which appeared to be a necessity for the traveling public; that soon after he had begun operations, Mr. Morgan also began operating a stage between Eureka and Dividend; that applicant was the owner of a Buick car, and had made arrangements to secure another car, in order that the service would be taken care of; that the fare to be charged would be $1.00 each way, for a distance of four miles, with the exception of certain times in the year, when it would become necessary to travel about seven and a half miles; that there is no railroad service whatever, and the only means of travel is by automobile or other vehicle; and that the road is considered steep, being up hill all the way from Eureka to Dividend, and requires careful driving.

It developed in the testimony that Mr. Turloupis had made application for a certificate of convenience and

necessity to operate a stage line between Provo and Heber, but failed to give such service, claiming, however, that the road up Provo Canyon was being repaired to the extent that it was almost impracticable to operate up the canyon.

Other testimony was submitted to the effect that many of the residents of Dividend were in favor of instituting a service and desired same to be operated by Mr. Turloupis. This was manifested by a petition signed by about 190 residents of Dividend, stating that Mr. Turloupis had operated a dependable and satisfactory service between the points in question for several months; that the car equipment and management was good; that the charges were reasonable, and that the treatment to passengers was fair and courteous.

It was further testified that petitioner was the first to give anything that might be considered as a regular service; that the signers of the petition accompanying the application were at least 60 per cent of the traveling public.

In opposing the granting of the application of James Turloupis, Harold Morgan, the applicant in Case 381, claimed that he had been in the business in connection with his father for some time, had made runs to Dividend and Eureka, and had control of three cars; that they owned a garage and did considerable special service from Eureka to different parts of the Tintic District, as well as points outside.

Other evidence was introduced, showing that Mr. Morgan was a careful driver and was capable of giving service. A petition, signed by a number of business men in Eureka, was to the effect that both of the parties applying had been operating a service on the route; that the service given by Harold Morgan had been satisfactory, and that the petition of Mr. Morgan should be granted by the Commission.

In this matter we are confronted with the selection of one or the other of the applicants, as it was claimed that there was not sufficient travel to justify the operation of two stage lines, or to withhold issuing a certificate to either.

After a careful consideration of the conditions presented at the hearing, and until it shall further appear that there is a more urgent necessity for a controlled service to be established from Eureka to Dividend, in order to meet the demands of the traveling public, not now being reasonably taken care of by the taxicab and

garage service, both of which have been and are being used, it appears to the Commission that there is no pressing necessity for the establishment of such service, and the Commission so finds.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 2nd day of February, A. D., 1921.

In the Matter of the Application of JAMES TURLOUPIS, for permission to operate an automobile stage line between Eureka and Dividend (Tintic Standard Mine), Utah.	CASE No. 374

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of C. G. PARRY, for permission to operate an automobile stage line between Lund and Zion National Park, Grand Canyon National Park (North Rim), Bryce Canyon and Cedar Breaks.	CASE No. 375

Submitted Feb. 25, 1921. Decided March 17, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled case came on for hearing at Cedar City, Friday, the 21st day of January, 1921. There appeared in protest to the application, W. W. Wylie, President of the National Park Transportation & Camping Company, Benjamin Knell, Farnsworth and Marshall, and Enos E. Winder.

The objection of the above named, with the exception of W. W. Wylie, was predicated on that part of the petition which asked for the privilege of transporting passengers from Lund to intermediate points between Zion Canyon and Lund. They also objected to the carrying of passengers between any of the intermediate points, but indicated they would have no objection to the petition if the traffic should be restricted from Lund to Zion Canyon. Thereupon, the applicant asked permission to amend Section 11 of the petition to read as follows:

> "Wherefore, petitioner asks that the Public Utilities Commission of Utah grant him a certificate of convenience and necessity authorizing the operation of an automobile stage line between Lund, Zion National Park, Grand Canyon (North Rim), Bryce Canyon and Cedar Breaks."

Upon the amendment being made, the aforesaid protestants, with the exception of Mr. W. W. Wylie, withdrew any objections or protests.

Testimony was to the effect that the applicant was engaged in an automobile passenger and garage business, and had been operating an automobile stage line from Lund via Cedar City to Zion National Park, Grand Canyon National Park, Arizona, (North Rim), and Bryce Canyon, Utah; that such service was being given until

1917, at which time the applicant, together with his brother, enlisted in the service of the United States Army, and discontinued the stage line service; that said service was in part resumed in the year 1920; that public convenience and necessity require and will require the operation of such automobile stage line between the points mentioned, as is contemplated in the application; that he is financially able and willing to provide sufficient equipment to properly handle the traveling public over the proposed lines; that the service by the applicant will include the co-operation of the railroad camp and hotel owners.

Some testimony was given by Mr. Wylie in support of his grounds for opposition; but, in view of such protest and application being withdrawn by Mr. Wylie, and in favor of the applicant, it is unnecessary to recite said testimony in this order.

After careful consideration of the testimony given in the showing, it would appear that public convenience and necessity require the establishment of a service such as is contemplated in the petition of the applicant, and there appearing no reason why such certificate should not be issued in favor of the applicant, the Commission concludes:

1. That there is a public necessity for such service.
2. That the applicant appears to be able to give adequate and sufficient service over the route.
3. That he is hereby authorized to operate an automobile stage line between Lund, Zion National Park, Grand Canyon National Park (North Rim), as far as the point marking the line between Arizona and Utah, to Bryce Canyon and Cedar Breaks, and return.
4. That before giving such service, it will be necessary for the applicant to file his schedule of time and rates.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 106.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 17th day of March, A. D., 1921.

In the Matter of the Application of C. G. PARRY, for permission to operate an automobile stage line between Lund and Zion National Park, Grand Canyon National Park (North Rim), Bryce Canyon and Cedar Breaks.	CASE No. 375

This case being at issue upon petition 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, C. G. PARRY, be, and he is hereby, granted a certificate of convenience and necessity, and is authorized to operate an automobile stage line between Lund and Zion National Park, Grand Canyon National Park (North Rim), Bryce Canyon and Cedar Breaks, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on its route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the H. M. & H. STAGE LINE, for permission to operate an automobile stage line for the transportation of passengers, between Salt Lake City and Payson, Utah..	CASE No. 376

Decided March 31, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed December 17, 1920, Ernest Martin, J. R. Hinckley and Wm. Hines, doing business under the firm name of H. M. & H. Stage Line, request authority to operate an automobile stage line for the transportation of passengers between Payson and Salt Lake City, Utah.

The case was set for hearing January 14, 1921, at 10 o'clock A. M., and upon motion of the applicants was continued until 11 o'clock A. M., March 25, 1921, at which time the said applicants failed to appear in person or otherwise, to show why said application should be granted. The case should, therefore, be dismissed.

An appropriate order will be issued.

(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 31st day of March, A. D., 1921.

In the Matter of the Application of the H. M. & H. STAGE LINE, for permission to operate an automobile stage line for the transportation of passengers, between Salt Lake City and Payson, Utah.	CASE No. 376

This case being at issue upon petition on file, and the Commission having, on the date hereof, made and filed a report containing its findings, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by Tooele County, Utah.	CASE No. 377

Decided January 14, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed November 15, 1920, the Utah Power & Light Company, a corporation of the State of Maine, represents it has secured from the Board of County Commissioners of Tooele County, an ordinance authorizing it to construct, operate and maintain electric light and power lines, together with all the necessary or desirable appurtenances, for the purpose of supplying electricity to certain portions of said County, the inhabitants thereof, and persons and corporations beyond limits thereof, for light, heat, power and other purposes; and petitions the Commission for authority to exercise the rights and privileges granted by said franchise, copy of which is attached to, and made a part of, the application.

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

1. That public convenience and necessity require and will continue to require the construction, operation and maintenance of such electric lines.

2. That in the construction of such electric lines, applicant, the Utah Power & Light Company, should conform to the rules and regulations issued by the Public Utilities Commission of Utah, governing construction of electric light and power lines.

An appropriate order will be issued.

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 98.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 14th day of January, A. D., 1921.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by Tooele County, Utah. } CASE No. 377

This case being at issue upon petition on file, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, UTAH POWER & LIGHT COMPANY, be, and is hereby, granted a certificate of convenience and necessity, and is authorized to construct, operate and maintain electric light and power lines as permitted in the franchise issued by Tooele County, Utah.

ORDERED FURTHER, That the light and power lines, and all appurtenances, be constructed in conformity to and in compliance with the rules and regulations heretofore adopted by the Commission governing such construction.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

GUS PAULOS and CHARLES PAULOS,
Complainants.
vs.
A. J. RADEBAUGH,
Defendant.
} CASE No. 378

Submitted January 17, 1921. Decided May 20, 1921.

L. E. Tripp, for Complainants.

E. F. Allen, for Defendant.

REPORT OF THE COMMISSION

By the Commission:

The above entitled matter came on for hearing before the Commission, upon the complaint of the plaintiffs and the answer of the defendant, January 17, 1921.

The complainants allege that they are the owners of, and are operating, an automobile truck line between Salt Lake City and Magna, Utah, for the purpose of carrying freight for the general public between the two said points, and that they have so operated since 1914; that after the Public Utilities Commission was created, said complainants filed with the Commission their schedule of rates, fares and charges and classifications, according to the statute of the State of Utah; that, notwithstanding said service was being given by the complainants, the defendant, since about September, 1920 has maintained and operated an automobile truck freight line between Salt Lake City and Magna, and has, in a general way engaged in the transportation of merchandise between said points. Complainants further allege that they are able at all times to maintain sufficient and adequate service for the benefit of the general public in the transportation of freight; and therefore ask that an order issue from the Commission, restraining said defendant from so operating between Salt Lake City and Magna.

The defendant, in answering the complaint, denies that he is now, or at any time has been, engaged in the transportation of freight for the general public, or that he has ever at any time or place held himself out to be en-

gaged in such occupation; but alleges the fact to be that for some time he has hauled freight for individuals under and by virtue of contracts entered into by and between certain individuals and himself. He denies that he has violated the law in such work, and asks that the complaint be dismissed.

The contention of the complainants, and to which they testified, was that they had been operating a stage line between Magna, Garfield and Salt Lake City since 1914; and, since the creation of the Public Utilities Commission, had complied with the law with reference to the giving of the service; that the defendant, A. J. Radebaugh, started about last September to deliver oil for the Continental Oil Company, and that the said defendant began to pick up and haul freight for other people along the same route as the complainants had been serving.

The defendant testified that he had taken a contract with the Continental Oil Company to distribute oil in that section of the country, and which did not take up all of his time; that individuals had come to him and asked him to haul their goods, and that he made a verbal contract with some of them to haul their freight, and a written contract with others; but that he did not advertise or hold himself out as a common carrier, to haul freight and express for the general public, and had not solicited any business. Others testified that they had called Mr. Radebaugh and asked him to haul their goods. The defendant further testified he had not under the law been operating as a common carrier, as he understood it; but, in connection with the business of delivering the oil, had hauled for others under contract.

In this case there is presented a question as to whether or not the acts of the defendant in hauling and delivering freight constitute a common carrier, or a public utility. Under the Act, a public utility includes every common carrier or automobile corporation, where the service is performed for, or a commodity delivered to, the public or any portion thereof, and the term "public or portion thereof", as defined by our law, means the public generally or any limited portion of the public, including a person, private corporation, municipality or other subdivision of the State to which the service is performed, or to which the commodity is delivered; and whenever a common carrier or automobile corporation performs a service or delivers a commodity to the public, for which any compensation or payment whatsoever is received, such corporation is declared to be a public utility and subject to the

jurisdiction and regulation of the Commission. An automobile corporation includes every corporation or person engaged in or transacting the business of transporting passengers, freight, merchandise or other property, for compensation, by means of automobiles, motor trucks or motor stages, on the public streets, roads or highways along established routes within this State.

There is no question but that the defendant was unauthorized to transact business as a common carrier, and, if he were engaged in hauling freight, merchandise or other property, as above defined, for compensation along the route in question, and such service so performed was for the public or any portion thereof as herein defined, he was violating the law.

The term "public or any portion thereof" would seem to mean the public generally or any limited portion thereof, including a person, private corporation, municipality or other political subdivision of the State. The above definition may not be clear, and, in interpreting the same, we are forced to take into consideration the spirit and meaning of the law. The Commission has taken the attitude that it does not contemplate the interfering with a person to have or make private contracts, or to prevent a person from entering into such contracts for the transportation of his goods from one point to another; and still, it is possible that a corporation or carrier might be able to contract for all the freight into a certain point, and thereby avoid the control of a commission in the performance of such service. The law contemplates further that a common carrier or utility as herein defined, shall be subject to a governing or controlling commission; first, for the purpose of preventing common carriers and utilities from imposing upon the general public by way of excessive rates or inadequate service; second, to protect an operating common carrier or utility in the giving of service along an established route.

The Commission could not comply with the prayer of the complainant in issuing a restraining order. That is a matter that belongs to the courts of justice, and to which this Commission has gone in enforcing the provisions of the Public Utilities Act.

The Commission is of the opinion that the defendant has technically violated the law, and that he would be subject to prosecution, if he persists in such acts. It is the duty of the Commission, inasmuch as it requires the operating corporation to transact and perform the busi-

ness of transporting freight and express along a certain route, to protect such corporation from the unnecessary competition of other carriers or service corporations.

After a careful consideration of the testimony given in this case, we are of the opinion that the defendant would not be warranted in a continuation of a part of the service that he was rendering the public, and that it was in opposition and interfered with the regularly established route operated by the complainants, and that the defendant should be so notified that if he persists in such action as would constitute a violation of the law as explained herein, further proceedings would be instituted in the courts, for the purpose of enjoining and restraining him from the doing of such things.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,

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 20th day of May, A. D., 1921.

GUS PAULOS and CHARLES PAULOS,
Complainants.
vs.
A. J. RADEBAUGH,
Defendant.
CASE No. 378

This case being at issue upon complaint and answer on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That A. J. Radebaugh be, and he is hereby, required to cease and desist from anywise interfering with the operation of complainants, Gus Paulos and Charles Paulos.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for a Certificate of Convenience and Necessity to exercise the rights and privileges conferred by franchise granted by the Town of Trenton, Utah.	CASE No. 379

Decided January 22, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed December 3, 1920, the Utah Power and Light Company, a corporation of the State of Maine, represents it has secured from the Board of Trustees of the Town of Trenton, Cache County, Utah, an ordinance authorizing it to construct, operate and maintain electric light and power lines, together with all necessary or desirable appurtenances, for the purpose of supplying electricity to said Town of Trenton, Utah, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes; and petitions the Commission for authority to exercise the rights and privileges granted by said franchise, copy of which is attached to, and made a part of the application.

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

1. That public convenience and necessity require, and will continue to require, the construction, operation and maintenance of electric transmission and distribution lines in the Town of Trenton, Cache County, Utah.

2. That in the construction of such electric lines, applicant, the Utah Power & Light Company, should conform to the rules and regulations issued by the Public Utilities Commission of Utah governing the construction of electric light and power lines.

An appropriate order will be issued.

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 99.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 22nd day of January, A. D., 1921.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for a Certificate of Convenience and Necessity to exercise the rights and privileges conferred by franchise granted by the Town of Trenton, Utah.	CASE No. 379

This case being at issue upon petition on file, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, UTAH POWER & LIGHT COMPANY, be, and is hereby, granted a certificate of convenience and necessity, and is authorized to construct, operate and maintain electric transmission and distribution lines in the Town of Trenton, Cache County, Utah.

ORDERED FURTHER, That in the construction of such electric lines, applicant shall conform to the rules and regulations issued by the Commission governing the construction of electric light and power lines.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by the Town of Orem, Utah.	CASE No. 380

Decided January 24, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed December 18, 1920, the Utah Power & Light Company, a corporation of the State of Maine, represents it has secured from the Board of Trustees of the Town of Orem, Utah County, Utah, an ordinance authorizing it to construct, operate and maintain electric light and power lines, together with all the necessary or desirable appurtenances, for the purpose of supplying electricity to said Town of Orem, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes; and petitions the Commission for authority to exercise the rights and privileges granted by said franchise, copy of which is attached to and made a part of the application.

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

1. That public convenience and necessity require, and will continue to require, the construction, operation and maintenance of electric transmission and distribution lines in the Town of Orem, Utah County, Utah.

2. That in the construction of such electric lines, applicant, the Utah Power & Light Company, should conform to the rules and regulations issued by the Public Utilities Commission of Utah governing the construction of electric light and power lines.

An appropriate order will be issued.

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No 100.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 24th day of January, A. D., 1921.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by the Town of Orem, Utah. } CASE No. 380

This case being at issue upon petition on file, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, UTAH POWER & LIGHT COMPANY, be, and is hereby, granted a certificate of convenience and necessity, and is authorized to construct, operate and maintain electric transmission and distribution lines in the Town of Orem, Utah County, Utah.

ORDERED FURTHER, That in the construction of such electric lines, applicant shall conform to the rules and regulations issued by the Commission governing the construction of electric light and power lines.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HAROLD MORGAN, for permission to operate an automobile stage line between Eureka City and Dividend (Tintic Standard Mining Co.), Utah, and intermediate points.	CASE No. 381

Submitted Jan. 13, 1921. Decided Feb. 7, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above application was heard, at Eureka, January 13, 1921, in connection with the application of James Turloupis (Case No. 374) for the same service.

The application of James Turloupis was denied by the Commisison upon the ground that public convenience and necessity did not at this time require the operation or and establishing of a stage line between the points in question.

The testimony submitted in this case was largely along the same lines and for the same reasons as given and considered in Case No. 374, and after a careful consideration of the testimony, the Commission reaches the conclusion that there does not exist a necessity for such service as contemplated in the application, and that the petition should be denied.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 7th day of February, A. D., 1921.

In the Matter of the Application of HAROLD MORGAN, for permission to operate an automobile stage line between Eureka City and Dividend (Tintic Standard Mining Co.), Utah, and intermediate points.	CASE No. 381

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of FOREST B. RADEBAUGH, for permission to operate an automobile freight line between Salt Lake City and Magna and Garfield, Utah.	CASE No. 382

Submitted March 17, 1921. Decided March 30, 1921.

E. T. Allen for Petitioner.

L. E. Tripp for Paulos Truck Company.

Dana T. Smith for Los Angeles & Salt Lake RR. Co.

Van Cott, Riter & Farnsworth for Salt Lake & Utah RR. Company.

REPORT OF THE COMMISSION

By the Commission:

The application of Forest B. Radebaugh, for a certificate of convenience and necessity to haul freight by means of an automobile truck line, between Salt Lake City and Magna, Utah, and Garfield, Utah, came on for hearing before the Commission, January 17, 1921. There appeared at the hearing, in protest to issuing the certificate, the Salt Lake & Utah Railroad Company, Los Angeles & Salt Lake Railroad Company, and Gus Paulos and Charles Paulos, operating a freight and express stage line between Salt Lake City and Garfield and Magna, Utah.

The Salt Lake & Utah Railroad Company and the Los Angeles & Salt Lake Railroad Company protested against the issuance of said certificate, for the reason that the said communities are already furnished adequate service by steam and electric lines of railroad, having large investments in rights-of-way, tracks and equipment, and paying large sums in taxes; that the competition of such automobile truck line will cause great injury and damage to said protestants and prejudice the rights and interests of the protestants herein, and that such competition is but a duplication of the service already being given.

The protestants, Paulos Truck Company, protested against the issuing of said certificate upon the following grounds:

1. That they are the owners of and operate an automobile truck line between the points named in the application.

2. That the auto truck line so operated is adequate and sufficient to carry all the tonnage offered for transportation between said points.

3. That in case of an increase of transportation by auto truck line, said Gus Paulos and Charles Paulos are able to and will furnish adequate and sufficient equipment to take care of such increased business.

The testimony of the petitioner was that he had carried freight between Salt Lake City and Magna and Garfield for some time; that in doing so he had entered into contracts with various parties for the carrying of such freight and express; that he was employed in the transportation of oil for the Continental Oil Company, and desired to extend his operations into the general freight and express business.

The testimony of the steam and electric railway companies was to the effect that they operated trains between the points in question; that the Salt Lake & Utah Railroad, operating to Magna, runs trains daily between those points, and the Los Angeles & Salt Lake Railroad operates trains to Garfield daily, and were taking care of all the freight and express offered for transportation.

The protestants, Gus Paulos and Charles Paulos, testified that they were operating an auto truck freight and express service between Salt Lake City and Magna and Garfield, under the regulation and authority of the Commission; that they were equipped to care for and transport any and all freight and express offered to them for transportation, and that they had so operated ever since they had filed their rates and schedules with the Commission. They further testified that they had expended sums of money to purchase automobiles and to establish themselves in business; that they expected to continue in the business of transportation, and were able and willing to give, and were giving, adequate, efficient and sufficient service to the public; that the operations of another service company as prayed for in the petition would be a duplication of the service and would have the

result of damaging them in their present service; that there is not sufficient tonnage to justify the establishing of an additional service at the present time, and if there should be any amount of additional tonnage, they are financially able to increase their capacity and take care of any and all service.

Before the case was decided and an order issued, the petitioner asked that a further hearing be granted. The motion to reopen the case was allowed, and March 17, 1921, was fixed for hearing further testimony. On said date, the petitioner offered testimony with a view of showing that the Paulos Truck & Express Company had charged rates in excess of those published, and that the so-called Paulos Truck & Express Company was owned and controlled by Gust Makos. Bills-of-lading were introduced, issued by the Truck Company. The protestant, Paulos Truck & Express Company, was called upon to explain the said bills-of-lading.

While it appeared that there were some irregularities, the proof was not sufficient to make out a case against the Company for wilfully charging rates in excess of those published and filed with this Commission. Some testimony was also introduced for the purpose of showing that the Paulos Company had not collected and paid to shippers of Salt Lake City certain amounts. The matter of proof in this charge was not clear, and if there were any differences between the shippers and the carrier, they should have been settled by the parties themselves. There had been no complaints made to the Commission on account of such alleged irregularity.

The showing was clearly to the effect that there was not sufficient tonnage for shipment by automobiles from Salt Lake City to Magna and Garfield to demand further and additional service than that given by the Paulos Truck Company; that the tonnage was less than it had been, and that before the application was granted it would be necessary to revoke the certificate heretofore issued to the Paulos Company. Such act on the part of the Commission would not be warranted under the showing made.

After a careful consideration of the testimony and an examination of the schedules and rates applying between the points in qeustion, the Commission is of the opinion, and, therefore, finds that there does not exist such necessity as would warrant the issuing of a certificate of con-

venience and necessity to the petitioner, and that, therefore, the petition should be denied.

An appropriate order will be issued.

(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 30th day of March, A. D., 1921.

In the Matter of the Application of FOREST B. RADEBAUGH, for permission to operate an automobile freight line between Salt Lake City and Magna and Garfield, Utah. } CASE No. 382

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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HOWARD HOUT, for permission to operate an automobile stage line between Salt Lake City and Garfield, Utah. } CASE No. 383

Submitted Feb. 1, 1921. Decided Feb. 7, 1921.

Appearances:
Dan B. Shields, for Applicant,
Dana T. Smith, for Los Angeles & Salt Lake Railroad Co.,
McCarty & McCarty for J. C. Denton,
W. D. Riter, for Salt Lake & Utah Railroad Company,
Morgan & Huffaker, for Axel F. Jones.

REPORT OF THE COMMISSION

By the Commission:

A hearing was had February 1, 1921, upon the petition of the applicant, and upon protest by the Salt Lake & Utah Railroad Company, the Los Angeles & Salt Lake Railroad Company, and J. C. Denton, who operates an automobile service between Magna and Garfield.

The applicant asked to amend the petition so as to request permission to give service between Salt Lake City and Garfield, and intermediate points, including Magna.

It was contended by the applicant that there is necessity for additional service to that now being given between the points in question, in order to accommodate the traveling public, and he filed in support thereof, a petition in his favor, signed by a number of people; that the present service is not sufficient and is not given as such times that all of the public can make use of it in going to and from Salt Lake City, Garfield and Magna, and especially that the present service does not meet the convenience of those who desire to come into Salt Lake in the evenings, to attend lodges, parties and theatres, and to return home to Magna and Garfield.

The protestant, Denton, contended that the proposed new service would very much interfere with the patronage and service that he was giving under the jurisdiction of

the Commission, and that there was no need of additional service. He filed with the Commission a number of liberally signed petitions to the effect that the service furnished at present was adequate and satisfactory to the public.

The railroads presented to the Commission the daily schedule from Salt Lake City to Magna and Garfield, claiming that such service was sufficient to fill all reasonable requirements of the traveling public.

The necessity for additional late evening service claimed by Witness Williams, was not established clearly enough to warrant the granting of the petition. Such travel would be uncertain and irregular, and upon the present showing no change of schedule is deemed justified.

The Commission is of the opinion, in the light of all the testimony, and after full consideration of the circumstances and conditions attending the giving of transportation service in this section, that the proposed new stage line would provide a duplication and a competition not necessary for the convenience of the public. The application should be denied.

An appropriate order will be issued.

(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 7th day of February, A. D., 1921.

In the Matter of the Application of HOWARD HOUT, for permission to operate an automobile stage line between Salt Lake City and Garfield, Utah.	CASE No. 383

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HARRY DRAGATIS, for permission to operate an automobile stage line for the transportation of passengers and express between Price and Emery, Utah.	CASE No. 384

Submitted Feb. 8, 1921. Decided Feb. 21, 1921.

O. C. Dalby, for Petitioner.

REPORT OF THE COMMISSION

BLOOD, Commissioner:

This case was heard at Price, Utah, February 8, 1921.

The applicant asks the Commission for permission to continue the operation of a stage line between Price, Carbon County, Utah, and Huntington, Castle Dale, Orangeville, Clawson, Ferron, Rochester and Emery, in Emery County, Utah, which line has been heretofore operated by H. G. Mills and Son as the Price-Emery Stage Line.

Testimony was that the applicant has purchased the equipment used on this line, and H. G. Mills was present at the hearing and testified that his Company desired to relinquish the right to operate the line in favor of the applicant.

The Price-Emery Line is an important route, because it reaches a territory that is not provided with any other means of regular transportation. The distance covered between termini at Price and Emery is 67 miles. The applicant proposes to make regular trips daily between the points, except that if no passengers are carried out of Price for Rochester or Emery, and if no passengers at the latter towns desire to go to Price on any trip, it is the desire of the applicant to not run further than Ferron, which is 47½ miles from Price. It was stated that arrangements will be made to take care of any passengers desiring to leave Emery or Rochester, and that passengers from Price will be carried through to Emery.

It is proposed to continue the same rates that have been in effect, a schedule of which rates was placed in evidence.

Investigation convinces the Commission that the applicant is an experienced stage driver; that he is acquainted with the route over which he has to operate, having been employed in carrying mail over this line for nearly five years. He owns two 7-passenger Buick cars, well equipped, and claimed to be prepared to render first-class service, and to add to his equipment as necessary.

On the showing made, the conclusion is that the applicant should be granted the permission asked.

An appropriate order will be issued.

(Signed) HENRY H. BLOOD,
Commissioner.

We concur:
(Signed) JOSHUA GREENWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 104.
At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 21st day of February, A. D., 1921.

In the Matter of the Application of HARRY DRAGATIS, for permission to operate an automobile stage line for the transportation of passengers and express between Price and Emery, Utah.	CASE No. 384

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, HARRY DRAGATIS, be, and he is hereby, granted a certificate of convenience and necessity, and is authorized to operate an automobile stage line for the transportation of passengers and express, between Price and Emery, Utah, and intermediate points.

ORDERED FURTHER, That applicant, before beginning operation, shall file with the Commission a schedule of rates and charges, which rates and charges shall not exceed those formerly in effect on this line; and shall also file a schedule showing arriving and leaving time at each station on the route.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WILLIAM A. LAIRD, for permission to operate an automobile stage line between Provo and Heber, Utah. } CASE No. 385

Submitted Feb. 2, 1921. Decided Feb. 5, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above matter came on for hearing before the Commission, February 2, 1921. Notices of the same had been given to all parties concerned. There were no contests, protests or objections filed or made.

Testimony taken at the hearing disclosed the fact that automobile service between Provo and Heber had been given in the past; that a certificate had been issued to one James Turloupis, in 1920; but, on account of the conditions of the road which was under construction and repairs, the service was not given; that petitioner is prepared, both by experience and with necessary rolling stock, to take care of the traveling public who may desire to travel said route by automobile; that Provo Canyon is a summer resort where many people travel during the summer season; that the proposed stage service will connect with a service operating between Heber and Park City, as well as between Heber and Duchesne; and that there is a necessity for such service which will afford a convenience for part, at least, of the traveling public.

According to testimony, the equipment of the applicant at the present time consists of a five-passenger, D-45 Buick and an Oldsmobile, 8-Cylinder, B-45, 1920 model, seven passenger, which will reasonably take care of the traffic, and, if not, the applicant said he is prepared to put on additional and sufficient rolling stock.

The applicant proposes a schedule, to leave Provo daily about 9 A. M. for Heber, and to leave Heber for Provo about 4 o'clock P. M. The distance between Provo

and Heber is approximately thirty miles, and is a winding canyon road, with ascending and descending grades, requiring extraordinary operating care and caution. Applicant asserts that a fair and reasonable charge for such service would be $2.50, one way, proportionate rates to be charged for intermediate points.

After careful consideration of the showing made, the Commission finds:

1. That public convenience and necessity require the establishment of an automobile route between Provo and Heber City, and to intermediate points, through what is called "Provo Canyon."

2. That applicant is reasonably eqiupped to take care of the required service.

3. That applicant should be granted a certificate of convenience and necessity, as prayed for in his petition.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 102.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 5th day of February, A. D., 1921.

In the Matter of the Application of WILLIAM A. LAIRD, for permission to operate an automobile stage line between Provo and Heber, Utah. } CASE No. 385

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, WILLIAM A. LAIRD, be, and he is hereby, granted a certificate of convenience and necessity, and is authorized to operate an automobile stage line between Provo and Heber, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH VALLEY GAS & COKE COMPANY, for a revision of its rates and charges for gas. } CASE No. 386

Submitted February 4, 1921. Decided June 3, 1921.

Walter Adams, for Petitioner.

Coleman & Straw, for Protestants.

REPORT OF THE COMMISSION

By the Commission:

In an application filed January 3, 1921, the Utah Valley Gas & Coke Company, a corporation, organized and existing under and by virtue of the laws of the State of Utah, with its principal place of business in Provo, Utah, and operating a public utility, manufacturing and delivering gas to the public of Provo, Springville and Spanish Fork, in Utah County, Utah, alleged that the revenues accruing from increased rates granted by the Commission (in Case No. 222), effective December, 1919, to meet advancing costs of operation, had been inadequate.

Applicant further alleged that during the past twelve months, the cost of production and distribution of gas, together with fixed charges and the interest on the floating debt, had increased the unit cost per 1000 cu. ft. of gas sold to $1.43; that this cost does not include any element to meet normal and necessary replacements and renewals of the physical property, and that if a reasonable allowance for replacements and renewals be added, the net unit cost for gas would be increased to $1.62, and that the actual average cost realized during the past twelve months was $1.51 per 1000 Cu. ft.

Petitioner further alleged that, estimating gas sales for the ensuing year upon the basis of thirty-five million to thirty-seven million cubic feet, in connection with a valuation of approximately $490,000 for the property, it should be authorized to charge an average net rate of

$1.98 per 1,000 cubic feet of gas, and asked that the following schedule be made effective, to-wit:

Per 100 Cu. Ft. per Month		Gross	Discount	Net
First	300 cubic feet.....	$ .26	$ .010	$. 25
Next	1700 cubic feet.....	.195	.010	.185
Next	3000 cubic feet.....	.175	.010	.165
Next	10000 cubic feet.....	.165	.010	.155
All over	15000 cubic feet.....	.155	.010	.145

In connection with the proposed schedule, applicant asked to use a 100 cubic foot unit rather than the 1000 cubic foot unit, for the reason that the meter unit is 100 feet, and applicant stated that it would be better to establish in gas terminology the unit actually employed in the gas business.

Applicant further alleged that the proposed schedule would permit petitioner, by reason of the rate on the first 300 feet of gas used each month by each customer, to legitimately cover, over and above the actual amount of gas consumed, the element of interest on the equipment ready to serve each patron and to reasonably utilize this element in a legitimate charge.

A hearing was had, February 4, 1921, at Provo, at which time testimony regarding the value of applicant's property was heard, as well as the application for increased rates. Messrs. Coleman and Straw, appearing on behalf of Springville City, protested that the granting of any increase would violate the provisions of the franchise with said City, fixing specific rates for gas.

Applicant produced Exhibit "E", Page 2, showing revenues and net income for the year 1919 and for the eleven months ending December 31, 1920, as follows:

REVENUES

	1919	1920 11 Months
Gas Sales	$34,842.91	$43,549.60
Residuals:		
Coke	11,078.04	13,223.90
Tar	2,143.21	2,417.29
Total Operating Revenue	48.064.16	59,190.79
Non-Operating Revenue	None	None
Total Gross Revenues	$48,064.16	$59,190.79

INCOME

	1919	1920 11 Months
Operating Revenues	$48,064.16	$59,190.72
Operating Expenses	30,808.95	36,017.01
Operating Profit	$17,255.21	$23,173.78
Non-Operating Revenues	None	None
Total Gross Income	$17,255.21	$23,173.78
Less Deductions from Gross Income: Interest on Bonds	9,135.00	11,446.00
Net Income	$ 8,120.21	$11,727.78
Less Dividends Accrued on Preferred Stock	2,870.00	2,630.83
	$ 5,250.21	$ 9,096.95
Less Interest on Floating Debt	5,966.89	6,670.85
Balance Available for Improvements, Extensions, Depreciations, etc.	$* 716.68	$ 2,426.10

*Deficit.

Applicant itemized, on Page 3 of Exhibit "E", its operating expenses for the same period, as follows:

MANUFACTURING EXPENSES

	1919	1920 11 Months
Coal Carbonized	$13,103.57	$15,442.75
Bench Fuel	6,330.24	7,656.64
Boiler Fuel	1,712.89	2,091.46
Production Expense, Oxide and Bench Repairs	1,071.00	974.36
Works Maintenance & Repairs	256.53	165.75
Production Labor	4,500.71	5,549.16
Total Manufacturing Expense	$26,974.94	$31,880.12
Less Residuals	13,221.25	15,641.19
Cost in Holder	$13,753.69	$16,238.93

DISTRIBUTION EXPENSES

General Distribution Expense, including Mains & Service	1919	1920 11 Months
Maintenance	$ 610.74	$ 592.77
Arc Expense	420.00	385.00
Total Distribution Expense	$ 1,030.74	$ 977.77

GENERAL EXPENSES

Executive and Clerical Salaries and Expense	$ 621.00	$ 701.00
Reading Meters, Indexing & Collecting Bills	445.90	386.60
General Office Expense, including Rent & Insurance	364.46	363.72
Taxes	1,251.85	1,597.80
Uncollected Gas Bills	120.00	110.00
Total General Expense	$ 2,803.21	$ 3,159.12

SUMMARY OPERATING EXPENSES

Cost in Holder	$13,753.69	$16,238.93
Distribution Expense	1,030.74	977.77
General Expense	2,803.21	3,159.12
Total Operating Expense	$17,587.64	$20,375.82

Applicant further, on Page 4 of Exhibit "E", shows its unit costs and returns per 1,000 cu. ft. for the eleven months ending November 30, 1920, as follows:

Manufacturing Expense, per 1000 cu. ft.	$1.1092
Value of Residuals per 1000 cu. ft.	.5442
Cost in Holder	.5650
Distribution Expense	.0340
General Expense	.1099
Cost at Burner	.7089
Bond Interest	.3982
Interest (7%) on Floating Debt	.2321
Dividend on Preferred Stock 7%	.0915
Total Unit Cost	1.4307
Average Rate Realized	1.51

Petitioner bases its claim for increased rates upon its inability under the present rates to make renewals and replacements, when and as required, and to provide such return upon its property as will estabish its credit, thereby permitting it to make necessary extensions to its property.

In connection with the protest of Springville City, the Commission has heretofore, in Case No. 6, given consideration to franchise agreements between a municipality and a public utility corporation, and held that it had authority to modify or change the rates fixed by franchise contract. This decision of the Commission was sustained by the Supreme Court of Utah. (Salt Lake City vs. Utah Light & Traction Company.) We feel that any further discussion of this phase of the case, would only tend to lengthen the opinion.

The Commission, in Case No. 222, found the value, as of November 30, 1920, of petitioner's property for rate-making purposes to be $402,200, while expenses have been itemized as heretofore indicated.

The Gas Company was constructed in the year 1914. The original promoters were unable to complete the property after it had been practically constructed, and the property later passed, through purchase. to the present owners. This property is a coal gas plant, with the necessary mains and services serving the towns of Provo, Springville and Spanish Fork.

The Commission, in Case No. 222, permitted increases in the rates charged for gas, to meet the greatly increased costs of material and labor and general expenses, and it appears from the results of operation since that time that applicant should have some further relief, to take care of depreciation accruing in the property, and to establish its credit. The record shows that applicant has been unable to set aside any depreciation reserve fund out of earnings. That it should be permitted to do so, is evident. Petitioner should be permitted to create such fund as will keep the service continuous in the interest of the public, by making replacements, when and as required, and to guarantee the utility against the loss of property it is employing in the public service. A gas service is intended to continue for an indefinite period of time into the future, on an every-increasing scale.

Replacement of plant may be necessitated by any one or more of several causes: Because it is worn out from use or decay, or has become inadequate or obsolete, or has

been damaged or destroyed by natural causes, or has been retired or replaced by reason of civic requirement or public demand. Different elements of gas property have different lengths of life and need replacement at different periods of time, as circumstances require. To care for these needs there must be a reserve fund. Every gas consumer should bear his proper proportion of this expense, as nearly as can be determined, and, in order that future consumers may not be required to assume the burden of replacement and renewals, a sum should be set aside annually for this purpose.

The amount of replacement, and consequently the size of the reserve for the depreciation fund and the rate of the annual requirement, depends upon the character of the plant and equipment of the utility. The rate of the annual requirement for the depreciation reserve fund for gas companies, is relatively low in comparison with some other kind of utility property, where many of the elements are of delicate mechanism and must, from the nature of their use, be short lived. After giving careful consideration to this phase of the case, the Commission will allow 2 per cent of the depreciable physical property to be set aside annually as the composite rate for the annual requirements of the depreciation reserve fund.

When not actually needed for renewal and replacement purposes, the funds of the reserve may be used temporarily in the conduct of the business. The Commission believes that earnings of the fund thus used should be credited to the fund, in order to properly reflect the use of such fund on behalf of the public, and to insure this result, depreciation will be set up on the sinking fund instead of the straight line basis. It follows that funds so invested should not be deducted from the present value. The allowance which will be set up annually upon this basis at 5 per cent interest, or in other words, the annual requirement for the depreciation reserve fund, is $1493.00.

Public utility regulation contemplates that the earnings of a utility shall be such as to cover the costs of service and a fair return on the value of the property employed in the service of the pubilc. (Smythe vs. Ames, 169 U. S. 416.) This limitation upon earnings makes it necessary that the utility secure new capital for additions and betterments to its property. It must compete in the market for money at going rates of interest. Current rates of interest for money are well known and are on

record before this Commission. It is obvious that unless the property which capital represents, is permitted to earn at a rate that will pay the interest on investment made, new money cannot be obtained. In a growing community, this means decreased service generally.

The Commission has given careful consideration to the volume of business of applicant in the past, and the rates scheduled hereinafter found to be reasonable and just, are such as, in the opinion of the Commission, should produce revenues sufficient to pay operating expenses, including depreciation and a rate of return on the investment commensurate with the known value of money at the present time. The rate schedules heretofore fixed are lower than those proposed by applicant; but the Commission feels that they are, in the light of the showing made, fair and reasonable to the utility and the public. In the last analysis, a rate cannot be a mathematical product. The Commission can determine the average costs and average rates to properly reflect costs, when that has been done; the balancing of rates between the different classes of consumers is a matter of judgment, considering the nature and conditions of use. In other words, so many elements necessarily enter into the making of a rate structure, that no precise mathematical rule for rate-making can be laid down.

The Commission finds the facts to be:

1. That the financial condition of applicant as shown at the hearing is such to require some increased revenue from its operations, in order that it may be able to set up an adequate depreciation reserve, maintain its credit, and to enable it to obtain the necessary capital to meet the needs of the public for service.

2. That the rates provided for in the schedules now on file with the Commission do not provide reasonable and sufficient revenue for the service rendered to consumers under such schedules, which schedules will be cancelled and set aside and superseded by the following schedule, found by the Commission to be reasonable:

Per 100 Cu. Ft. Per Month		Gross	Discount	Net
First	300 Cu. Ft.	$ .21	$ .01	$ .20
Next	1700 Cu. Ft.	.18½	.01	.17½
Next	3000 Cu. Ft.	.16½	.01	.15½
Next	10000 Cu. Ft.	.15½	.01	.14½
All over	15000 Cu. Ft.	.14½	.01	.13½

3. That applicant shall set up a depreciation reserve fund on its total depreciable property computed upon the Commission's findings heretofore made.

4. That the schedule of rates and charges herein prescribed may be made effective on not less than ten days' notice to the public and to the Commission.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,

Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

ORDER

At a Session ofthe PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 3rd day of June, A. D., 1921.

In the Matter of the Application of the UTAH VALLEY GAS & COKE COMPANY, for a revision of its rates and charges for gas. } CASE No. 386

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, Utah Valley Gas & Coke Company, be, and is hereby, authorized to publish and put into effect, increased rates for gas service, which rates will not exceed the following schedule:

Per 100 Cu. Ft. Per Month		Gross	Discount	Net
First	300 Cu. Ft.	$ .21	$ .01	$ .20
Next	1700 Cu. Ft.	.18½	.01	.17½
Next	3000 Cu. Ft.	.16½	.01	.15½
Next	10000 Cu. Ft.	.15½	.01	.14½
All over	15000 Cu. Ft.	.14½	.01	.13½

IT IS ORDERED, That applicant shall set up a depreciation reserve fund on its total depreciable property computed upon the Commission's findings heretofore made.

IT IS FURTHER ORDERED, That the above rates may be made effective upon ten days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of AXEL F. JONES, for permission to operate an automobile stage line between Salt Lake City, Utah, and Garfield, Utah.	CASE No. 387

Submitted Feb. 1, 1921. Decided Feb. 7, 1921.

Morgan & Huffaker, for Petitioner,
Dan B. Shields, for Howard Hout,
Dana T. Smith, for Los Angeles & Salt Lake RR. Co.,
W. D. Riter, for Salt Lake & Utah R. R. Co.,
McCarty & McCarty, for J. C. Denton.

REPORT OF THE COMMISSION

By the Commission:

Hearing on the above matter was had before the Commission, at its office, Salt Lake City, Utah, on February 1, 1921, and was heard in connection with the application of Howard Hout (Case No. 383).

The application was opposed by J. C. Denton, operating a stage line between Magna and Garfield, Los Angeles & Salt Lake Railroad Company and the Salt Lake & Utah Railroad Company.

The testimony submitted was largely along the same lines and for the same reasons as given and considered in Case No. 383, above referred to, and which application was denied upon the grounds that there did not appear to be a necessity for further and additional service at the present time.

After considering the application in the light of the testimony given, the Commission is of the opinion that the application should be denied.

An appropriate order will be issued.

(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 7th day of February, A. D., 1921.

In the Matter of the Application of AXEL F. JONES, for permission to operate an automobile stage line between Salt Lake City, Utah, and Garfield, Utah.	CASE No. 387

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SPRING CANYON STAGE COMPANY, for permission to operate its automobile stage line between Helper and Price, Utah.	CASE No. 388

Submitted Feb. 10, 1921. Decided Feb. 21, 1921.

Henry Ruggeri, for Petitioner,
O. C. Dalby, for Star Line, Protestants.
Geo. M. Miller, Carl R. Marcusen and A. R. Gibson, representing Price Chamber of Commerce.

REPORT OF THE COMMISSION

BLOOD, Commissioner:

This is an application for permission to operate a stage line between Helper, Utah, and Price, Utah. The case was heard at Price, February 9 and 10, 1921.

The applicant is now operating a stage line from Helper to Spring Canyon points as far as Rains, Utah. Applicant claims that the granting of this petition will afford an additional convenience to the public desiring to travel between Spring Canyon points and Price, because there will be no loss of time or change of cars at Helper.

The Star Line, which operates stages between Price and Helper, entered a protest against the granting of the petition, and also petitioned the Commission for permission to extend the operation of its line from Helper to all Spring Canyon points to and including Morton. This application is docketed as Case No. 391.

At the hearing, it was stipulated by applicants and protestants, that the testimony in Case No. 388 might be considered as testimony in Case No. 391, and that the petition in Case No. 388 might be considered as a protest in Case No. 391, also that the petition in Case No. 391 might be considered as protest in Case No. 388.

The issues herein have heretofore been given some consideration by the Commission in an informal investigation conducted at Price in December, 1920, when an effort

was made to secure better service between Price and Spring Canyon points by arranging closer stage line connections at Helper, by consolidating the two lines, or by joint operation, so that through service could be given. It was suggested to the interested parties at that time that they get together and formulate some plan that would improve traffic conditions between the points covered by these petitions. Negotiations between the parties, however, were apparently not successful, and the Commission later received the petitions from the two stage lines, each asking permission to operate over the route covered by the certificate issued to the other.

At the hearing it developed that owners of the stage lines did not favor consolidation, nor were they inclined to operate over the entire route alternately, it being the opinion that such alternating trips would lead to confusion and result in poorer service.

A suggestion was accepted, however, that the owners of the two stage lines, with their attorneys, get together and decide upon a schedule that would provide for close connections at Helper, so that passengers from either line would be turned over to the other at the meeting point with no other inconvenience than that occasioned by transferring from one automobile to another. The parties subsequently presented to the Commission a suggested schedule which, in addition to making close connections at Helper, adds one round trip to the service on each end of the line, which it is thought will be a convenience to the traveling public.

After full consideration of the matters, the conclusion is that the proposed new schedule should be adopted and put into effect not later than March 15, 1921. The schedule referred to is as follows:

FROM PRICE TO HELPER, RAINS AND CASTLE GATE

Leave Price		Arrive Helper	
8:00 A. M.	9:30 A. M.	8:40 A. M.	10:15 A. M.
1:00 P. M.	5:00 P. M.	1:45 P. M.	5:45 P M.
Leave Helper		**Arrive Rains**	
8:00 A. M.	10:15 A. M.	8:45 A. M.	11:00 A. M.
1:45 P. M.	5:45 P. M.	2:30 P. M.	6:30 P. M.
Leave Helper		**Arrive Castle Gate**	
8:40 A. M.		9:00 A. M.	
1:45 P. M.	5:45 P. M.	2:15 P. M.	6:10 P. M.

FROM CASTLE GATE, RAINS AND HELPER TO PRICE

Leave Castle Gate		Arrive Helper	
9:00 A. M.		9:30 A. M.	
2:45 P. M.	6:10 P. M.	3:15 P. M.	6:30 P. M.

Leave Rains		Arrive Helper	
8:45 A. M.	11:00 A. M.	9:30 A. M.	11:45 A. M.
2:30 P. M.	6:30 P. M.	3:15 P. M.	7:15 P. M.

Leave Helper		Arrive Price	
9:30 A. M.	11:45 A. M.	10:00 A. M.	12:15 P. M.
3:15 P. M.	6:30 P. M.	3:45 P. M.	7:00 P. M.

It having been decided to adopt for the present the schedule as set out hereinbefore, it follows that this application should be denied

An appropriate order will be issued.

(Signed) HENRY H. BLOOD,
Commissioner.

We concur:

(Signed) JOSHUA GREENWOOD,
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 21st day of February, A. D., 1921.

In the Matter of the Application of the SPRING CANYON STAGE COMPANY, for permission to operate its automobile stage line between Helper and Price, Utah.	CASE No. 388

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of the Spring Canyon Stage Company be, and it is hereby, denied.

ORDERED FURTHER, That the schedule set forth in the foregoing report, shall be adopted and put into effect not later than March 15, 1921.

ORDERED FURTHER, That the stage lines operating between Price and Helper and between Helper and Rains, shall file with the Commission a joint schedule of operations as above set forth.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOSEPH S. FIFE and GEORGE A. WOOD, for permission to operate a passenger and freight automobile stage line between Lund and Cedar Breaks and Navajo Lake, via Cedar City, Utah.	CASE No. 389

Submitted Jan. 21, 1921. Decided March 17, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled case came on for hearing at Cedar City, January 21, 1921, without notice, but with a waiver of the interested parties to appear voluntarily. There appeared in protest, C. G. Parry, who had made application for the service in Case No. 375.

The petitioners contended that they had been instrumental in working the road up the canyon to what is known as Cedar Breaks, and what is known as Cold Creek Canyon, about fifteen miles east of Cedar City; that said road is in course of construction, and it is expected that it will be completed in time for carrying tourists to that point during the next summer; that the people of Cedar City are entitled to some consideration on account of the local interest taken in the road which leads to the points named.

Mr. Parry stated that the plan of carrying tourists to the interesting points of Southern Utah, one being Cedar Breaks, would be very much broken into if the application were granted to Messrs, Fife and Wood; that Cedar Breaks is a point which forms a part of the loop or circle, and that it was intended to carry tourists visiting Bryce Canyon, Grand Canyon of Colorado, Zion Canyon and Cedar Breaks.

After consideration of the matter presented ln this case, and in view of the Commission having granted to Parry Brothers the right to operate a passenger stage line from

Lund to Cedar Breaks, Zion Canyon, Grand Canyon and Bryce Canyon, and return; and it appearing that the operation of a stage line by the applicants in this case would conflict with the service given by Parry Brothers; and it further appearing that additional service would not be necessary at the present time, the Commission finds and orders that the petition should not be granted.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 17th day of March, A. D., 1921.

In the Matter of the Application of JOSEPH S. FIFE and GEORGE A. WOOD, for permission to operate a passenger and freight automobile stage line between Lund and Cedar Breaks and Navajo Lake, via Cedar City, Utah.	CASE No. 389

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOHN W. BENSON, for permission to operate an automobile stage line between Parowan, Utah, and Cedar City, Utah.	CASE No. 390

Submitted Feb. 25, 1921. Decided March 4, 1921.

H. C. Parcells, for Petitioner,
Andrew Corry, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on for hearing at Parowan, on February 25, 1921, upon the application of petitioner and the answer of Andrew Corry, protestant.

In this case the applicant asks for a certificate of convenience and necessity to operate an automobile stage line between Parowan and Cedar City Utah, stating that his post office address is Parowan, Utah, and that he has been engaged in the automobile business for sometime past, and that if he be granted permission to make four trips per week it will be an additional convenience to the traveling public. At present the only line between said points is the stage operated by Andrew Corry, which does not make connection with the stage line from Parowan to Milford, Utah.

The petition was opposed by Andrew Corry, who states that he has for more than two and a half years been engaged in operating an automobile stage line, as well as carrying the U. S. mail between Paragoona, Utah, and Cedar City, Utah, via Parowan, Summit and Enoch, making the round trip each day, and connecting at Cedar City with the mail and passenger stage line from Lund to St. George, Utah, and that he has been so operating said line under permission granted by this Commission; that he is fully and amply equipped with automobiles of standard make to care for the transporting of passengers traveling between said points and to meet every ordinary convenience and necessity of the public; that he has not failed to meet such requirements since he began operation;

that there has been no complaint or dissatisfaction expressed of the service so rendered; that if additional service were allowed as contemplated by the application, it would work greatly to the damage and injury of the service now being given.

The testimony was to the effect that Mr. Corry had been operating under the Commission for some time, and had reasonably met all the requirements of the traveling public; that there were no substantial reasons why additional service should be authorized; and that there was not sufficient travel to warrant additional service.

The Commission finds, therefore, and concludes that the petition should be denied, for the reasons stated above.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 4th day of March, A. D., 1921.

In the Matter of the Application of JOHN W. BENSON, for permission to operate an automobile stage line between Parowan, Utah, and Cedar City, Utah. } CASE No. 390

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the petition herein, be and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. F. HANSEN and J. H. WADE, for permission to operate an automobile stage line between Price and Martin, Utah, via Helper. } CASE No. 391

Submitted Feb. 10, 1921. Decided Feb. 21, 1921.

O. C. Dalby, for Petitioners.
Henry Ruggeri, for Protestants, Spring Canyon Stage Line.
Geo. M. Miller, Carl R. Marcusen and A. E. Gibson, representing Price Chamber of Commerce.

REPORT OF THE COMMISSION

BLOOD, Commissioner:

This case was heard at Price, Utah, February 9 and 10, 1921.

The issues presented herein are discussed at length in Case No. 388, decided today. For the reasons therein stated, this application should be denied.

An appropriate order will be issued.

(Signed) HENRY H. BLOOD,
Commissioner.

We concur:

(Signed) JOSHUA GREENWOOD,
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 21st day of February, A. D., 1921.

In the Matter of the Application of J. F. HANSEN and J. H. WADE, for permission to operate an automobile stage line between Price and Martin, Utah, via Helper. } CASE No. 391

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the PAROWAN AUTO COMPANY, for permission to operate an automoblle stage line between Parowan, Utah, and the Cedar Breaks in Iron County, Utah.	CASE No. 392

Submitted Feb. 25, 1921. Decided March 4, 1921.

S. A. Halterman, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on for hearing before the Commission, at Parowan, Utah, on February 25, 1921.

There was no protest or contest entered.

Petitioner alleges that it is a corporation, with principal place of business at Parowan, Iron County, Utah, and engaged in the general business of operating a garage and special taxi service; that Cedar Breaks is one of the very interesting and attractive points of mountain scenery, located about sixteen miles south of Parowan, and is reached by travel from Parowan through what is known as Parowan Canyon; that a great many tourists and other people have indicated a desire to visit said Cedar Breaks during the summer months, and that at present there is no automobile stage line from Parowan to the scenic wonder; that if permission is granted, applicant will make three round trips per week during the months of June, July, August and September of each year, and such other trips as the traffic may demand; that the applicant is equipped with the necessary rolling stock to guarantee adequate service.

Under the showing made it would appear that there is a necessity and convenience for such service, and that the Commission would be warranted in issuing to applicant a certificate of convenience and necessity.

Before beginning operation it will be necessary for applicant to file a schedule of rates for the approval of the Commission.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

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

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 105.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 4th day of March, A. D., 1921.

In the Matter of the Application of the PAROWAN AUTO COMPANY, for permission to operate an automobile stage line between Parowan, Utah, and the Cedar Breaks in Iron County, Utah. } CASE No. 392

This case being at issue upon petition 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, PAROWAN AUTO COMPANY, be, and it is hereby, granted a certificate of convenience and necessity, and is authorized to operate an automobile stage line between Parowan, Utah and the Cedar Breaks, in Iron County, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on its route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. S. HANSEN and FRANCIS HANSEN, for permission to operate an automobile stage line between Colton, Scofield, Winter Quarters and Clear Creek, Utah. } CASE No. 393

Submitted Feb. 18, 1921. Decided March 31, 1921.

REPORT OF THE COMMISSION

BLOOD, Commissioner:

This is an application for permission to operate an automobile stage line between Colton, Utah, and Clear Creek, Utah, and intermediate points.

The case was heard at Price, Utah, February 18, 1921,

The applicants are residents of Price, and testimony was that both are experienced drivers of automobiles, with considerable experience in the operation of stages; that they are familiar with the district in which they desire to operate; that they are financially able to, and will, furnish all the equipment necessary to handle the traffic over the route in question; that they understand and will abide by all rules and regulations of the Commission applying to the operation and management of stage lines; that they will give the matter personal attention, and will conduct the stage line in a business-like manner, and in a way to secure the comfort and convenience of their patrons.

The applicants proposed to operate two round-trips daily over the route, leaving Colton at 9 A. M. and 2 P. M., each day, or at such other hours as will best accommodate the public.

Rates of fare were proposed as follows:

Between Colton and:	Miles	One-Way Fare
Scofield	20	$2.00
Winter Quarters	21	2.25
Utah Mine	22	2.25
Clear Creek	26	3.00

A base rate of 10 cents per mile to intermediate points is proposed. Rates named do not include war tax.

Jim Georgelas, a resident of Price, protested the granting of the applicant's petition, and was an applicant himself for a certificate covering the same route.

On the showing made, the conclusion is that the petition of applicants herein should be granted, with the understanding that operations be commenced as soon as road conditions will permit the giving of regular and continuous service. The applicants will be expected to file tariffs and schedules in accordance with the rules and regulations of the Commission.

An appropriate order will be issued.

(Signed) HENRY H. BLOOD,
Commissioner.

We concur:

(Signed) JOSHUA GREENWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

Certificate of Convenience and Necessity No. 107.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 31st day of March, A. D., 1921.

In the Matter of the Application of J. S. HANSEN and FRANCIS HANSEN, for permission to operate an automobile stage line between Colton, Scofield, Winter Quarters and Clear Creek, Utah.	CASE No. 393

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicants, J. S. HANSEN and FRANCIS HANSEN, be, and they are hereby, granted a certificate of convenience and necessity, and are authorized to operate an automobile stage line between Colton and Clear Creek, Utah, and intermediate points.

ORDERED FURTHER, That applicants, before beginning operation, shall, as provided by law, file with the Commission and post at each station on the route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JIM GEORGELAS, for permission to operate an automobile stage line between Colton, Scofield, Winter Quarters and Clear Creek, Utah.	CASE No. 394

Submitted Feb. 18, 1921. Decided March 31, 1921.

REPORT OF THE COMMISSION

BLOOD, Commissioner:

This is an application for permission to operate an automobile stage line between Colton and Scofield, Utah, and intermediate points.

Hearing was held at Price, Utah, February 18, 1921.

The Commission having on this date made and filed an order granting a certificate of convenience and necessity to operate a stage line over this route to J. S. Hansen and Francis Hansen, and it appearing that there is no need for service additional to that to be given by said J. S. Hansen and Francis Hansen, this application should be, and it is hereby, denied.

An appropriate order will be issued.

(Signed) HENRY H. BLOOD,
Commissioner.

We concur:

(Signed) JOSHUA GREENWOOD,
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 31st day of March, A. D., 1921.

In the Matter of the Application of JIM GEORGELAS, for permission to operate an automobile stage line between Colton, Scofield, Winter Quarters and Clear Creek, Utah. } CASE No. 394

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

EZRA C. BARTON,
Complainant,
vs.
UTAH TRANSPORTATION COMPANY,
Defendant.

CASE No. 395

Submitted Feb. 24, 1921. Decided March 4, 1921.

Sam Cline, for Complainant,
O. A. Murdock, for Defendant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above case was heard at Milford, February 24, 1921.

The complainant asks that the franchise heretofore granted to the defendant for transporting passengers between Beaver and Milford be revoked, for the reason that the defendant has been guilty of charging the general public a sum for transporting them in excess of the rates published and established by the Commission, and that the service has been unsatisfactory. It was alleged to be the desire of the residents of Beaver County that the defendant be compelled to withdraw from the business of transporting passengers between Beaver and Milford.

The defendant appeared and denied the charges of the complainant.

The evidence submitted by the complainant was that in some instances instead of charging a round trip fare amounting to $3.50, $4.00 had been charged and collected. A number of cases were given by witnesses, tending to support such allegation.

In explanation of the action complained of, the defendant maintained, and the testimony went to show, that cases where it had been claimed $4.00 was collected instead

of $3.50, it was on account of the passenger not asking, and not paying in advance, for a return trip ticket; that the management had allowed the parties referred to, to ride over the line without paying an advance, and at the time they went over the line, it was not known to the defendant whether they would use its stage line or not when returning. Failure of the passenger to pay in advance for the round trip was the reason $4.00 had been collected, or a charge of $2.00 each way.

It developed, however, that the defendant had been allowing the passengers to ride without collecting fares at the time, and had not given such notice as is required by the rules of the Commission with relation thereto. No tickets had been sold or offered for sale, and it is probable in some instances the passengers were led to believe that they could avail themselves of the return trip price without paying in advance.

After considering the showing made, and while it appears that the manner of conducting the sale of tickets is not what is should be, there does not seem to be sufficient evidence to warrant the revoking of the permission heretofore granted the defendant by the Commission.

The complaint is not sustained by the testimony, and should, therefore, be dismissed.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 4th day of March, A. D., 1921.

EZRA C. BARTON,
Complainant,
vs.
UTAH TRANSPORTATION COMPANY,
Defendant.

CASE No. 395

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the complaint herein be, and it is hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of EZRA C. BARTON, for permission to operate an automobile stage line for the transportation of passengers, between Milford, Utah, and Beaver, Utah.	CASE No. 396

Submitted Feb. 24, 1921. Decided March 4, 1921.

O. A. Murdock, for Protestant.
Sam Cline, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Milford, Utah, February 24, 1921, in connection with Case No. 395.

The applicant contends that he is entitled to a certificate of public convenience and necessity for the reason that the Utah Transportation Company, at present holding the franchise for such stage line, is charging a rate in excess of that established by the Commission; that the service is unsatisfactory to the public, and that it is the desire of the general public that applicant be awarded such certificate; that he is experienced in the business, and thoroughly conversant with the needs of the public in the operation of such stage line service.

At the hearing, the Utah Transportation Company, now operating between Milford and Beaver, protested against the issuing of said certificate to the applicant herein, stating that it had been operating and giving such service for a number of years under the direction of the Commission, and that the service had been satisfactory and the public treated in a proper manner.

This case and the giving of a certificate, depended upon the action of the Commission in Case No. 395, which has been decided by the Commission in favor of the Utah Transportation Company, and in which it was found that the charges set forth in Case No. 395 were not sustained.

For the reason that there is not sufficient traffic over said route for the installation of additional service, and that the said Utah Transportation Company has been giving a reasonably adequate service and taking care of the traveling public, the Commission is forced to the conclusion that the application should be denied, and it is so ordered.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 4th day of March, A. D., 1921.

In the Matter of the Application of EZRA C. BARTON, for permission to operate an automobile stage line for the transportation of passengers, between Milford, Utah, and Beaver, Utah.	CASE No. 396

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

WALTER H. BROWN,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS CO.,
Defendant.
CASE No. 397

Decided June 18, 1921.

REPORT OF THE COMMISSION

By the Commission:

In a complaint filed February 18, 1921, Walter H. Brown alleges that the free delivery limits of the American Railway Express Company are so restricted as to discriminate against shippers located south of 21st South Street, Salt Lake City, Utah.

The case came on for hearing, April 12, 1921, at which time the defendant expressed the belief that the complaint might be satisfied by conferring with the complainant.

The hearing then adjourned, and, on May 25, 1921, complainant advised the Commission that defendant had satisfied the complaint.

The case should, therefore, be dismissed.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 18th day of June, A. D., 1921.

WALTER H. BROWN,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS CO.,
Defendant.

CASE No. 397

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the complaint herein be, and it is hereby, dismissed without prejudice.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES NEILSON, for permission to operate an automobile stage line between Salt Lake City and Brighton, Utah. } CASE No. 398

Submitted April 14, 1921. Decided May 6, 1921.

H. H. Smith appeared for Applicant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled case came on for hearing March 22, 1921, and after taking testimony in part was continued until April 14, 1921, at which time further testimony was submitted upon the questions involved in the application. There were no protests or objections filed or appearances made, other than the representations made by the applicant.

It apppears from the testimony that the petitioner has for many years operated an automobile passenger service between Salt Lake City and Brighton, and has for the last four years conducted operations by permission and under the regulation of the Commission; that said petitioner has given general satisfaction to the public, which entitles him to the favorable consideration of the Commission in his application for a certificate of convenience and necessity authorizing him to continue such service.

Testimony showing financial results of operation was submitted in detail. The applicant contends that he is entitled to an advance in rates, and is, therefore, asking for permission to publish a rate of $4.50 for the round trip between Salt Lake City and Brighton; $3.00 for one-way fare from Salt Lake City to Brighton, the same as last year; and $2.00 from Brighton to Salt Lake, instead of $1.50; that such advance is necessary in order that the earnings would compensate petitioner for the investment, and pay a reasonable wage for the labor necessary to conduct said stage line; that the report first filed by the applicant of the receipts and disbursements of the operations does not include certain expenses, and that the valuation placed upon the property is much less than it should be, as well as the rate of return on investment being too low.

From the testimony, it appears that the investment in cars would be about $11,700, or more, as follows:

One White, 12 passenger car	$ 6,000
One Studebaker state, 14 passenger	3,000
One Oldsmobile, 12 passenger	1,700
Two 7 passenger cars ($500 each)	1,000
	$11,700

Interest on the above investment at 8 per cent as claimed would equal $936.00 and would change the item of interest in the statement submitted by applicant, from $160 to $936. No mention of the labor of applicant appears in the financial statement filed, while the testimony is to the effect that the applicant worked all the time, either as a driver, repairing cars, or directing the general business, for which labor the applicant claims he should have credit for $100. a month, or $1200, per year. Said item of $1200, added to the increased interest of $776. equals $1976.00, and, when added to the expense account as reported in the first statement, makes a total of $5,605.89 disbursements, as against receipts of $5,031.59, or a deficit of $574.30. The increase asked for would not, in any event, clear up the deficit as above calculated.

The applicant further contends that the road to Brighton is a moutain road and one that is difficult to travel, and the wear on the automobiles is excessive.

The rate per mile on the run does not appear to be in any way exorbitant particularly, when compared with the rate charged by other automobile stage lines conveying passengers on practically level roads. The showing made clearly indicates the justice of applicant's request to advance the rates, as above set forth, and the Commission is of the opinion that the rates as asked for should be allowed, and a certificate of convenience and necessity be issued to the applicant, granting him permission to continue to operate a stage line between Salt Lake City and Brighton.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,

We concur:

(Signed) A. R. HEYWOOD,

(SEAL) WARREN STOUTNOUR,

Commissioners.

Attest:

(Signed) T. E. BANNING,

Secretary.

ORDER

Certificate of Convenience and Necessity No. 109.
At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of May, A. D., 1921.

In the Matter of the Application of JAMES NEILSON, for permission to operate an automobile stage line between Salt Lake City and Brighton, Utah. } CASE No. 398

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted, and James Neilson be, and is hereby, authorized to operate an automobile stage line for the transportation of passengers between Salt Lake City and Brighton, Utah.

ORDERED FURTHER, That applicant be, and is hereby, authorized to assess and collect rates for transportation of passengers between Salt Lake City and Brighton, which shall not exceed:

For round trip between Salt Lake City and Brighton.$4.50
For One-way from Salt Lake City to Brighton..... 3.00
For One-way from Brighton to Salt Lake City..... 2.00

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

CEDAR FORT, UTAH,
Complainant,
vs.
MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY,
Defendant.

CASE No. 399

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

HYRUM DAVIS,
Complainant,
vs.
JOSEPH DEARDEN,
Defendant.

CASE No. 400

Submitted Feb. 24, 1921. Decided March 7, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on for hearing at Milford, Utah, February 24, 1921.

It appeared, however, that Mr. Dearden, the defendant herein, had not received official notice of the hearing. He was represented, however, by one Mr. Guy Richardson, who was present during the hearing, and who took part therein. From the testimony it would appear that Mr. Dearden, who operates the mail service as well as the stage line service from Newhouse to Burbank, had been carrying passengers past Newhouse to Milford. For such act the complainant, Hyrum Davis, takes exception, and brought this action for the purpose of investigating the conduct of Mr. Dearden.

The driver for Mr. Dearden claimed that in taking the passengers on to Milford he had done so for the reason that the mail, or the service of Hyrum Davis in transporting passengers, had left, and that the passengers were in route to Milford, many of them for the purpose of catching the train at such point for the north or the south, and

that if they were not taken on it would require their staying at Milford until the next day at 1:30 o'clock. Some claim was made by Mr. Davis that Mr. Dearden, or his driver, had gone on with the passengers to Milford or taken them into Milford when it was convenient for them to be turned over to his stage, all of which was denied.

There appears to be a very unsatisfactory connection at Newhouse with reference to the mail as well as to passengers. The schedule out of Newhouse to Milford would seem to be a number of hours before the time for the arrival of the passengers or the mail from the west, and it would be very unjust to hold passengers at Newhouse until the next day when they had an opportunity to ride to their destination at Milford by being driven directly through to Milford.

The complainant asks for an order and for a judgment against the defendant, and for damages in the sum of $300.00, and that the defendant be restrained from further interfering with the business of complainant.

The matter of damages is one that the Commission has no jurisdiction over, and the request to restrain the defendant from interfering with the business of the complainant by an order of this Commission, in the first place was not sustained, and second, it would be necessary to take the matter into the district court if the Commission finds that the complaint has been sustained.

The matter of interfering with the rights of the complainant was clearly defined to Mr. Dearden's driver, and he seemed to indicate a disposition not to interfere unless it was under the conditions and circumstances as above detailed.

After a careful consideration of all the matters submitted, the Commission is of the opinion that the complaint is not sustained, and should be dismissed.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) 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 7th day of March, A. D., 1921.

HYRUM DAVIS,
Complainant,
vs.
JOSEPH DEARDEN,
Defendant.
CASE No. 400

This case being at issue upon complaint 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the complaint herein be, and it is hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the Receiver of the DENVER & RIO GRANDE RAILROAD, for permission to discontinue passenger trains between Salt Lake City and Bingham, Utah. } CASE No. 401

Submitted April 2, 1921. Decided April 19, 1921.

Van Cott, Riter & Farnsworth, for Petitioner.

D. E. Adderly
H. M. Standish
E. C. Dudley,
J. A. Wright
A. C. Cole
Archie Stewart } for Protestant, Bingham.

A. P. Hemmingsen, for Protestant, Lark.

REPORT OF THE COMMISSION

By the Commission:

This case came on regularly for hearing, March 23, 1921, at which time there appeared in opposition to the granting of said petition, citizens of Lark, also a committee authorized by the residents of Bingham to represent the traveling public of that City.

Testimony was to the effect that applicant has for some time past operated passenger trains between Salt Lake City and Bingham upon the following schedule:

No. 204	Leaves Salt Lake City	8:00 A. M.
	Arrives Bingham	9:05 A. M.
No. 203	Leaves Bingham	9:20 A. M.
	Arrives Salt Lake City	10:30 A. M.
No. 206	Leaves Salt Lake City	1:55 P. M.
	Arrives Bingham	3:00 P. M.
No. 205	Leaves Bingham	3:15 P. M.
	Arrives Salt Lake City	4:25 P. M.

This schedule is now claimed by petitioner to be unnecessary; that the reasonable necessities of the public do not

require the maintenance of such service; that other available transportation service is open to the traveling public, the Bingham & Garfield Railway Company operating one passenger train each way daily between Salt Lake City and Bingham, and the Bingham Stage Line, which is an automobile stage service, maintaining the following schedule between Salt Lake City and Bingham:

Leaves Salt Lake City. 8:00 A. M. 9:00 A. M., 11:00 A. M. 1 P. M. 3:00 P. M., 5:00 P. M. and 9:00 P. M.

Leaves Bingham .. 9:00 A. M., 11:00 A. M., 1:00 P. M. 3:00 P. M. 5:00 P. M. 7:00 P. M. and 11 P. M.

Applicant further testified that during the three months, November, 1920, to January, 1921, both inclusive, the number of passengers per train, including Murray and Midvale, tabulated by months, were as follows:

November, 1920 ..... 4.5 tickets per train
December, 1920 ..... 5.3 tickets per train
January, 1921 ..... 4.1 tickets per train

Comparisons were made with traffic on other branch lines of applicant. It was shown that the average for the Salt Lake-Park City line was thirty-two passengers per train, while the average number of passengers carried upon the Heber City branch line was twenty-one passengers per train during the same period.

Applicant testified that the traffic of the Salt Lake to Bingham line has greatly decreased, and that train service at the present time cannot be given by the applicant between these points except at a direct operating loss of $75 to $100 per day.

Applicant further testified that the automobile service, which began in 1916, had gradually taken away the short-haul passenger traffic.

Protestants generally represented that the discontinuance of railroad service, as contemplated by petitioner, would inflict great hardship upon the residents of Lark and Bingham, for the reason that Lark and Bingham are mining camps and must secure their food and daily supplies from the outside, and it was claimed that the Bingham & Garfield Railway, which now operates one train daily, is not physically situated so as to serve the entire mining camp, and that certain sections of Bingham necessarily depend upon the service of the Denver & Rio Grande Railroad.

Protestants claimed that the Denver & Rio Grande Railroad had been operating to Bingham for a great many years, and that, while at present traffic is very much less, the condition is no doubt only temporary, and the Railroad Company ought to share some of the burdens of a condition brought about by the reduction in mining activity in Bingham; and that to discontinue all train service would not be reasonable, just or equitable to the people residing in Bingham and other points served by petitioner.

Bingham is an important mining camp in the State of Utah and has been such for many years. Its activities have increased or decreased from time to time, but, on the whole, from its record, it may be said to be a permanent mining camp and one that has given a very great amount of traffic to the carriers serving it.

It is true that at present petitioner is not receiving sufficient revenues to properly remunerate it for the service being given; but it does appear to the Commission that public necessity requires that the service should not be wholly discontinued. The Bingham line is a branch of the system operating in Colorado and Utah, and to invoke the rule that all passenger service should be discontinued because not remunerative, would be unwise, particularly when the history of this camp is noted. Great development has taken place in Bingham, which should not be entirely and absolutely ignored, and it would appear to be the part of justice and reason to continue for the present one train each way per day. We conclude this service can be rendered without placing an undue burden upon the general traffic of the carrier.

In line with the above, applicant will be permitted to reduce passenger train service to one train each way per day, and will arrange its schedule so as to best suit the needs of the traveling public.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
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 19th day of April, A. D., 1921.

In the Matter of the Application of the Receiver of the DENVER & RIO GRANDE RAILROAD, for permission to discontinue passenger trains between Salt Lake City and Bingham, Utah. } CASE No. 401

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of the Denver & Rio Grande Railroad, for permission to discontinue all passenger train service between Salt Lake City and Bingham, be, and is hereby, denied.

ORDERED FURTHER, That applicant, Denver & Rio Grande Railroad, be, and is hereby, permitted to discontinue the operation of one train daily between Salt Lake City and Bingham.

ORDERED FURTHER, That applicant, Denver & Rio Grande Railroad, continue to operate one train daily between Salt Lake City and Bingham upon a schedule arranged to best suit the needs of the traveling public.

ORDERED FURTHER, That this change in service may be made effective upon three days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of SAMUEL BAIRD, for permission to operate an automobile freight and express line between Salt Lake City and Bingham, Highland Boy and Copperfield, Utah. ORDER	CASE No. 402

Upon motion of the petitioner, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter be, and it is hereby, dismissed, without prejudice.

By the Commission.

Dated at Salt Lake City, Utah, this 16th day of April, A. D., 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SALT LAKE, GARFIELD & WESTERN RAILWAY COMPANY, for permission to increase its one-way excursion fares from Saltair to Salt Lake City, Utah.	CASE No. 403

Submitted May 7, 1921. Decided May 11, 1921.

Robert L. Judd, for Applicant.

REPORT OF THE COMMISSION

By the Commission:

On March 24, 1921, the Salt Lake, Garfield & Western Railway Company filed an application for authority to increase the one-way excursion fares from Saltair Beach to Salt Lake City, during Saltair season and for pre-season and post-season dances, from 25 cents to 35 cents, and the one-way half fare excursion from Saltair Beach to Salt Lake City from 15 cents to 20 cents.

The case was set for hearing, April 7, 1921, at 10 A. M., and, upon motion of the petitioners, was continued until May 7th, at which time it came on for hearing. Notice of the original hearing was published in the Salt Lake Tribune and the Deseret News. No protests were filed.

In a supplemental application filed May 6, 1921, petitioner asked to be allowed to amend its tariff, providing for the sale and use of commutation tickets, upon less than statutory notice, to permit the use of these tickets for pre-season and post-season dances.

At the hearing, testimony was introduced to the effect that prior to 1920, the regular round-trip excursion fare from Salt Lake City to Saltair Beach and return was 25c, no excursion fares being published from Saltair Beach to Salt Lake City, the tariff providing that the regular round-trip fare from Salt Lake City would be collected. When the round trip excursion fare from Salt

Lake City to Saltair Beach was increased to 35c, an item providing for a 25c excursion fare from Saltair Beach to Salt Lake City was published. This was for the purpose of permitting visitors who went to Saltair by automobile, to return by train, if they so desired. Provision for parking automobiles at the resort is made, no charge being assessed for this privilege. Testimony was to the effect that the Company had recently made an expenditure of $20,000 to improve this facility, which expenditure is relied upon by applicant to justify the increase sought.

No charge is made for admission to this resort, and any person visiting the resort is entitled to board the train at Saltair Beach and ride to Salt Lake City without presenting a ticket.

It is estimated that the increased revenues, which will result from the proposed increase, will approximate $6,000 for the season of 1921. The financial statement of applicant shows a deficit from the operations for the year 1920, amounting to approximately $37,000, and, even with increased rates and revenues derived therefrom, a deficit for the year 1921 is anticipated.

Commutation tickets at present are sold in books of thirty excursion tickets for $7.50, and books of one hundred for $20.00, limited to use between Decoration Day and Labor Day, inclusive. It is desired to extend the use of these books to cover pre-season and post-season dances.

Upon the showing made, and in view of the financial condition of applicant, the Commission finds:

1. That the application should be granted, and the increased rates be made effective upon one day's notice to the public and to the Commission.

2. That applicant should be permitted to amend its tariff governing the use of commutation excursion tickets, to include pre-season and post-season dance excursions.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 11th day of May, A. D., 1921.

In the Matter of the Application of the SALT LAKE, GARFIELD & WESTERN RAILWAY COMPANY, for permission to increase its one-way excursion fares from Saltair to Salt Lake City, Utah. } CASE No. 403

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and the increased fares sought be made effective upon one day's notice to the public and to the Commission.

ORDERED FURTHER, That applicant be permitted to amend its tariff governing the use of commutation excursion tickets, to include pre-season and post-season dance excursions, upon one day's notice to the public and to the Commission.

ORDERED FURTHER, That tariffs naming such changes shall bear upon the title page the following notation:

> "Issued on less than statutory notice under authority of Public Utilities Commission of Utah order in Case No. 403, dated May 11, 1921."

By the Commission.

(Signed) T. E. BANNING.

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WILLIAM MORRIS, of Newhouse, Beaver County, Utah, et al., for reinstatement of tri-weekly train service between Milford and Newhouse, Utah. } CASE No. 404

Submitted Feb. 24, 1921. Decided March 29, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

On December 1, 1920, the Los Angeles & Salt Lake Railroad Company asked permission to discontinue its trains between Frisco and Newhouse, Utah, on Wednesdays and Saturdays, alleging that the traffic to and from Newhouse did not warrant such service. The showing made by applicant appeared to be sufficient to justify the Commission in granting the application, and, accordingly, S. L. R. Order No. 58, dated January 3, 1921, was issued, permitting applicant to discontinue service to and from Newhouse on Wednesdays and Saturdays. William Morris, Manager of the Newhouse Mercantile Company, and other shippers protested this action.

The matter was investigated at Milford, Utah, on February 24, 1921.

It appears from the petition filed with the Commission that there is a tri-weekly train service between Milford and Frisco; but that such service is only extended to Newhouse once a week. It is claimed by the petitioners that they suffer great inconvenience in the restriction of the service to Newhouse as now operated; that Newhouse is a point at which a great many sheep men obtain their supplies, and that the once-a-week service greatly handicaps the trade, and especially will that be true during the moving of sheep at shearing time; that about 150,000 head of sheep are being handled in the neighborhood, and about 90,000 will be sheared at Newhouse.

It appeared from the investigation that Newhouse is a mining town which, years ago, presented signs of considerable activity; but for the past number of years the mining interests have ceased to operate, and the population has dwindled down to a very few, and that outside of the sheep industry there would be but little traffic. Newhouse is a town about eight miles west from Frisco, which was one of the very active mining camps of Utah, and for

which a railroad was constructed during the activities of the mines in that section; that Frisco, likewise, as a mining camp has been almost deserted, there being but few families left; so that the traffic, according to the records, has dwindled down to a very limited amount.

It was shown by the Railroad officials that there was a loss in the operation of the branch line from Milford, especially in the extended service to Newhouse, and that the trains were now operated at a loss; that the tonnage was very light, and, for those reasons, the Company felt that one train a week would be sufficient to take care of the ordinary traffic.

It was further claimed by the railroad that they had, when it was necessary, given extra service; that upon notice to the Company by any shipper, in case of emergency they were willing to extend the service to Newhouse on any of the three days of the week when the train is operated from Milford to Frisco, and that they expected to continue such rule.

It clearly appears from the testimony that the traffic on the branch line from Milford up to Newhouse and Frisco, is very much reduced, and that there is very little prospect of any increase; that a continuation of the services three times a week to Newhouse would result in loss to the Railroad Company. It would appear that the traffic can be reasonably taken care of under the present conditions of service, together with the additional service which the railroad is willing to render in case of necessity and emergency.

It seems clear from the showing that a further and additional service would not be required at the present, and that the Commission would not be warranted under the circumstances in requiring the Railroad Company to extend the service to Newhouse more than one regular run weekly. The offer to furnish such extra service when required in case of emergency or necessity, will be acceptable to the Commission, and should prove satisfactory to the public.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) HENRY H. BLOOD,
(SEAL) WARREN STOUTNOUR,
Commissioners.

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 March, A. D., 1921.

In the Matter of the Application of WILLIAM MORRIS, of Newhouse, Beaver County, Utah, et al., for reinstatement of tri-weekly train service between Milford and Newhouse, Utah.	CASE No. 404

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of the William Morris, et al., for regular train service in excess of one train per week between Milford and Newhouse, be, and it is hereby, denied.

ORDERED FURTHER, That the Los Angeles & Salt Lake Railroad Company, when emergency demands, shall furnish such service as may be required to properly care for such conditions.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the TRI-STATE MERCANTILE COMPANY (Garage Dept.), for permission to operate an automobile stage line between Wendover, Utah, and Gold Hill, Utah.	CASE No. 405

Submitted May 13, 1921. Decided June 3, 1921.

Joseph Conley, for Applicant.
Benjamin R. Howell, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

Testimony was submitted to the effect that Wendover is a station upon the Western Pacific Railroad; that it forms a junction of the Deep Creek Railroad and the Western Pacific Railroad; that the Deep Creek Railroad is operated between Wendover and Gold Hill, a distance of about fifty miles; that said railroad was constructed some years ago, for the purpose of meeting the demands of the Public for the transportation of freight and passengers, at which time mining and other activities were much greater than at present; that a daily service was given for some time, until the mining business began to shut down and the traffic was greately reduced.

On February 8, 1921, the Commission granted permission to the said Deep Creek Railroad Company to reduce its service to two days a week, for the reason that there was very little traffic, either freight or passengers, between Wendover and Gold Hill.

Applicant claimed that the service now being rendered by the railroad is not sufficient, and that there is a necessity for additional service. The files disclose the fact that the original application sets out as reasons for favorable action on the part of the Commission, that a discontinuance of the operation of the Deep Creek Railroad from Wendover to Gold Hill, is expected, and that the application is made in good faith, to hold propriety right in such event, and the amended application asks that they

be permitted to operate each Wednesday, on a regular schedule, and further, to operate on Mondays and Fridays, regularly, should train service fail to operate on the route.

The following are the proposed rates of the applicant as compared with the rates charged by the Deep Creek Railroad:

Applicant requests permission to operate its automobile service, *on call*, to all points from Wendover at 25 cents per mile;

From Wendover to Gold Hill, one-way fare...$ 6.00

From Wendover to Gold Hill, round trip.... 10.00
Children between 8 and 14 years, one-half fare.
Free baggage, 30 lbs., 1c per lb. in excess.

Fare charged by the railroad:

Between Wendover and Gold Hill, one-way fare, $3.78, (which does not include war tax)

Children over 5 and under 12 years of age, charge one-half of adult fare.

Baggage allowance: 150 lbs. for each adult ticket.
75 lbs. for each half fare ticket.

Besides carrying passengers and freight, the protestant carries the United States Mail for Gold Hill and the surrounding country, and represented that it was losing money in its present operation, which is two days per week; that should the traffic fall off, either by the operation of a competitive carrier or otherwise, it would be impossible to continue the service: that there is no immediate prospects for the necessity of further service, and, if it should so transpire, the Railroad Company would be pleased and willing to give additional service to that which is now being given.

In considering the application, the following questions are passed upon:

1. It could not be the policy of the Commission to grant any privilege upon the event of the Railroad discontinuing its service altogether.

2. To give any conditional service as a propriety right, would be unlawful.

3. The Commission could not issue a certificate permitting the service on call, as requested by the petitioner. Such service would not be classed under the head of a "public utility" or a "common carrier".

4. There does not appear to be any demand on the part of the public for the establishing of further and additional service at the present time.

5. That the Railroad is the only means of giving a dependable and reasonable service the year round, under the conditions of roads necessarily traversed by automobile.

After a careful consideration of the facts and conditions shown at the hearing, the Commission is of the opinion that the application should be denied, and it is so found and decided.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
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 3rd day of June, A. D., 1921.

In the Matter of the Application of the TRI-STATE MERCANTILE COMPANY (Garage Dept.), for permission to operate an automobile stage line between Wendover, Utah, and Gold Hill, Utah.	CASE No. 405

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HENRY GENTRY, for permission to operate an automobile stage line between Salt Lake City and Roosevelt, Utah, via Heber City, Utah.	CASE No. 406

Submitted April 27, 1921. Decided July 11, 1921.

Henry Gentry, Petitioner,
A. N. Alt, for Henry Bottom and Chris Anderson,
M. B. Pope, for Harold Baxter.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This case came on regularly for hearing at Myton, Utah, April 27, 1921, at which time and place Henry Gentry, applicant, testified that in making application for a certificate of convenience and necessity to establish a stage line via the above route, it was his understanding that no certificate existed since the death of Mr. Frontjes, and that he had been encouraged to file an application by Mr. Chris Anderson, who, through Attorney A. N. Alt, protested at the hearing that he, in connection with Henry Bottom, held a certificate from this Commission to operate over said route.

Elisha J. Duke, by written protest, objected to the granting of a certificate to Henry Gentry, for the reason that he is operating a stage line over part of the route, namely, Heber City to Park City; that he is handling, and is in a position to handle in the future, all of the traffic between said points.

Howard Hout protested the granting of the application to Henry Gentry, for the reason that he is the holder of a certificate of public convenience and necessity authorizing him to operate an automobile stage line between Park City and Salt Lake City; that if the Commission should grant petitioner the right to operate an automobile stage line between Salt Lake City and Roosevelt, via Heber City, passengers could be received at Salt Lake City and carried to Park City while trips were being made between

Salt Lake City and Roosevelt, and that protestant has all the necessary equipment to give service between Park City and Salt Lake City, and there exists no necessity for additional service between these two points.

Harold Baxter protested the granting of said application between Duchesne and Roosevelt, for the reason that the Commission had already issued a certificate of convenience and necessity to operate an automobile stage line between Helper and Vernal, via Duchesne and Roosevelt, and that the application of Henry Gentry is in conflict with protestant on that part of the route between Duchesne and Roosevelt, and that there is not sufficient traffic between said points to justify two stage lines, and asked that the application be denied insofar as the traffic between Duchesne and Roosevelt is concerned.

Mr. Gentry testified that he had sufficient cars and was in a position financially, in connection with others, to adequately serve the public over said route, and was ready and willing to give such service, and asked to operate as far as Roosevelt, but was willing to terminate his line at Duchesne, if a certificate were issued by the Commission.

There are at present authorized stage lines operating between Salt Lake City and Park City, Park City and Heber City, Salt Lake City and Heber City; also between Helper and Vernal.

After a full consideration of the conditions and circumstances attending the giving of service in this section, we are of the opinion that present authorized service is ample to care for the traveling public, and, accordingly, the petition will be denied.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
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 11th day of July, A. D., 1921.

In the Matter of the Application of HENRY GENTRY, for permission to operate an automobile stage line between Salt Lake City and Roosevelt, Utah, via Heber City, Utah. } CASE No. 406

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UINTAH POWER & LIGHT COMPANY, for permission to increase its rates for electric service.	CASE No. 407

Submitted April 27, 1921. Decided May 6, 1921.

Thomas W. O'Donnell, for Applicant.
Ernest H. Burgess, for Protestant.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This is an application of the Uintah Power & Light Company, for permission to increase its rates for electric service.

The petitioner, Uintah Power & Light Company, is a corporation, organized and existing under and by virtue of the laws of the State of Utah, duly qualified to and doing business as an electrical corporation, with its principal place of business at Myton, Utah. Applicant has been engaged in such business continuously since 1914, serving the towns of Myton, Roosevelt and Ft. Duchesne, and the territory contiguous thereto, in the Counties of Duchesne and Uintah, Utah.

Petitioner alleges that it owns and operates hydro-electric stations, transmission and distribution lines covering the territory above described, and that it has invested $250,000 in its physical plant, used and useful in rendering service to its consumers, upon which it has never yet earned a return or paid a dividend: that its electrical operation for the year ending December 31, 1920, resulted in a loss of $1183.26, which sum does not allow for depreciation or maintenance other than labor, and that increased revenues are necessary, in order to continue operation, and that the revenues expected to be derived from increases sought, are not intended to enable petitioner to pay dividends or to receive a return upon its investment; but to provide interest upon its present indebtedness of $150,000, and to enable it to establish credit for necessary future extensions.

A hearing was had, after due notice to the public, at Myton, Utah, the 27th day of April, 1921, at which time

there appeared E. H. Burgess, as attorney for protestants, P. B. Hansen, and others, protesting against the proposed increase in rates for lighting, contending that the rates now charged by petitioner were sufficiently high to pay the said Company a fair profit on its business, when economically conducted, and that the rates now charged by applicant were higher than the rates charged by other electric light and power companies throughout the State of Utah; and further, that the rates now charged are already sufficiently high for the kind and quality of service.

Mr. J. J. Johnson, General Manager of the Uintah Power & Light Company, testified that during 1919-1920, the plant was reconstructed, a generating station being constructed at a new site, with a considerably enlarged installed capacity. The present installed capacity is approximately 800 K. W. Operation at the old site has been abandoned. He testified further that the total investment in the two sites, together with the transmission and distribution lines and other property of the Company, represented an investment of approximately $339,000. After the elimination of property no longer used and useful in rendering service, the present investment is approximately $250,000.

Evidence was introduced to show the direct operating loss sustained during the years 1919 and 1920. The record shows that the direct expense of operation, taxes, insurance and maintenance, without any allowance for depreciation or any interest upon funded or unfunded debt or any return, exceeded the gross revenues as follows:

1919	$2,386.49
1920	1,183.26

Witness Johnson further testified that practically all available business had been attached to the plant, and that the increase in the minimum rate for lighting from $1.50 to $2.00 per month (including a 10 per cent discount for prompt payment) would affect about 50 per cent of the light consumers, and the total expected increase in revenue, including both light and power, if increased rates were allowed, would approximate $2500.00 per annum.

Mr. William H. Coltharp, President and Director of the Company, testified that no dividends whatever had been paid by the Company since its construction, a period of six to eight years; that no salaries have been paid to any officers of the Company, except to men actually en-

gaged in necessary work; no money had been paid by the Company for promotion in any manner, and no salary paid to the President or directors, and further, that they had never been able to set aside any fund for depreciation or a reserve of any kind. He stated further that the plant had been built with a view of serving a greatly increased population in the future.

The record shows that the Power Company serves a rather sparsely settled community; that there are approximately 2500 people in the district served by this utility; and that until further development of the country is had, applicant cannot expect to greatly increase the number of its consumers.

This utility has been operating for a series of years, and finds itself unable to pay the necessary operating expenses or interest charges, while it appears that the property is being economically operated. It must be evident that it cannot continue to operate indefinitely on such a basis. Replacements must be made when and as required, and other necessary expenses must be met in the conduct of the business.

It appears that the increase sought will add approximately $2500 per annum to the revenue of the applicant, which will probably permit it to meet operating expenses, with a small allowance for depreciation. The increase sought is not such as will require us, under the circumstances, to pass upon the value of applicant's property, and we believe the rates sought are not unreasonable or prejudicial to the community, nor are the lighting rates higher than are in effect in some other localities.

After full consideration of all material facts that may or do have any bearing upon this application, we conclude the increases sought should be granted.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
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 6th day of May, A. D., 1921.

In the Matter of the Application of the UINTAH POWER & LIGHT COMPANY, for permission to increase its rates for electric service. } CASE No. 407

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted, and the Uintah Power & Light Company be, and is hereby, permitted to publish and put into effect, upon ten days' notice to the public and to the Commission, increased rates for power lighting service which shall not exceed those set forth in its application.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of A. W. MORRISON and ERIK LARSON, for permission to operate an automobile stage line between Salt Lake City and Richfield, Utah, via Lehi, Provo, Springville, Nephi, Levan, Gunnison, Salina, and intermediate points, and branch lines.	CASE No. 408

Submitted May 17, 1921. Decided June 18, 1921.

A. W. Morrison and Erik Larson, Petitioners.
Benjamin R. Howell, for Denver & Rio Grande RR. and Los Angeles & Salt Lake RR. Co.
D. T. Lane, for Salt Lake & Utah RR Co.

REPORT OF THE COMMISSION

By the Commission:

The above matter came on regularly for hearing before the Commission, at Richfield, May 17, 1921, upon petition and protest of A. R. Baldwin, Receiver of the Denver & Rio Grande Railroad, the Salt Lake & Utah Railroad Company and the Los Angeles & Salt Lake Railroad Company.

The petitioners represented that there was only one daily passenger train giving service between Richfield and Salt Lake City, that there is no direct public transportation facilities between Richfield and many of the cities and towns along the proposed stage route referred to in the petition; that on account of such limited facilities which are available to the traveling public, the citizens are put to much expense, inconvenience and loss of time, which said proposed service would to a great degree obviate and provide relief therefrom, but which cannot be secured in any other way.

The Receiver of the Denver & Rio Grande Railroad, one of the protestants, contends that there is not any necessity for the service asked to be established by the petitioner; that it is engaged in the business of a common carrier for hire, transporting passengers and freight between

the points set out, and operates a line of railroad between Salt Lake City and Santaquin, Utah, via Lehi, American Fork, Provo, Springville, Spanish Fork, Payson and other intermediate points, and also operates a branch line of railroad between Nephi and Manti, Utah, via Fountain Green, Moroni, Chester and Ephraim, and other intermediate points; that the service so maintained is fully adequate for the traveling public, and is now and for some years past has been, equipped to meet all public demands; that other railroads, such as the Los Angeles & Salt Lake Railroad and the Salt Lake & Utah Railroad, operate along part of the route contemplated by the petitioner, and that by the operation of the three lines mentioned, complete and adequate transportation facilities are afforded; that there will be no public benefit by the operation of the proposed stage line, for the reason above stated; that service now being offered to the traveling public is full, ample, commodious and efficient, and that no need exists for any additional service in the territory covered by the said application.

The Salt Lake & Utah Railroad Company protests upon the grounds that it is the owner of an electric railroad operating between Salt Lake City and Payson, through the towns of Lehi, American Fork, Pleasant Grove, Provo, Springville, Spanish Fork, Salem and Payson; that the service which the applicant seeks to inaugurate parallels in a general way, the line of railroad above described and operated by the Salt Lake & Utah Railroad Company; that hourly trains are operated along the route of the Salt Lake & Utah Railroad and, which render to the public a service that is ample, commodious, convenient and efficient, and that no need exists for additional service, as proposed by the applicant.

The Los Angeles & Salt Lake Railroad Company sets out that it is a railroad corporation, organized under the Laws of the State of Utah, and is engaged in the business of common carrier of passengers and freight between Salt Lake City, Utah, and Los Angeles, California; that as a part of its said system, it operates a line of railroad between Salt Lake City and Nephi, in Juab County, via Provo and other intermediate points; that said service is rendered daily and is adequate for the needs of the traveling public; that other means of travel now afforded, together with the service now rendered by the protestant, furnishes a most complete, efficient, adequate and convenient service for all the traveling public and a great deal more; that said railroad com-

panies now operating would be subject to unjust and unreasonable competition, and that there is no necessity or demand on the part of the public for such additional service.

It was claimed by the applicants that the service rendered by the Denver & Rio Grande Railroad was, as to time, inconvenient; that the cars used for passenger service were old and obsolete, and, as to sanitation and cleanliness, were not up to the standard.

It was further shown that Richfield is a town about 170 miles south of Salt Lake City; that the proposed route runs practically parellel to the Denver & Rio Grande Railroad from Richfield to Gunnison, at which point it diverts and leaves the said railroad, passing north to Levan, which is located about three miles from the Los Angeles & Salt Lake Railroad; that the next stop on the route is Nephi, located upon a branch of the Denver & Rio Grande Railroad, as well as upon the Los Angeles & Salt Lake Railroad. Going north, the proposed route touches Levan, Santaquin, and Payson, the latter being the terminus of the Salt Lake & Utah Railroad; that from thereon, all of the towns and cities are located on one or more of the railroads engaged in conveying passengers to Salt Lake City and return.

It was further represented that the Denver & Rio Grande was furnishing sufficient accommodations for the traveling public; that at times there is not sufficient passenger traffic to remunerate the carrier for the service rendered; that the line from Richfield to Marysvale was a branch line of the Denver & Rio Grande and joined the main line at Thistle Station; that for a number of years the passenger service formed a part of the freight service, but that in later years the passenger train had been operated separate from the other service, and its schedule of time had been adjusted to the best possible convenience of the public; that passenger coaches are kept clean and wholesome, and are well heated and ventilated; that its schedule of time has been kept remarkably well, as is shown by the record introduced as testimony; that the road over which the line is proposed, at certain times of the year is almost impassable; that if such service were attempted to be given by the applicants, they could not hold out any reliable hope of continuance during the year; that there had been no complaints made to the Company with reference to the service, but that it was the intent and

purpose of the railroad to furnish adequate, commodious and attractive service to the traveling public; that a great deal of the passenger traffic had been diverted from the railroad on account of the use of automobiles of private individuals, and that the revenues of the railroad are thereby reduced; that if a competitive service were allowed by the Commission, it would further detract from the railroad patronage at certain times of the year, while at other times of the year the carriers now operating would be required to furnish additional facilities to take care of the traffic when the proposed service would not be able to operate; that the service now being given has been established by the expenditure of large sums of money, and that it requires large amounts to maintain such service; that it is required to pay heavy taxes for general Government purposes, as well as construct highways over which automobiles are operated; that it would be unjust and unfair to allow unnecessary competition, thereby working a hardship on the railroads now operating; that the common carriers have supplied the traveling public at a great expense a convenient service, which they can avail themselves of at any time of the year.

Testimony was given by the other railroads protesting along the line as above stated by the Denver & Rio Grande Railroad.

In reviewing the whole matter as presented, taking into consideration the services which are being rendered, there would seem to be very little, if any, necessity for the establishing of an operating utility, such as is contemplated, to give service to the general public as a common carrier over the proposed route, that it is no doubt reasonable to believe that at times when the roads are open and the weather is suitable, some traffic would be given to an automobile stage line between Richfield and Salt Lake City, but to operate as a common carrier, requiring the establishing at designated points of facilities and conveniences in order to meet the demands of the traveling public, appears to be impracticable and unnecessary under the showing for the authorization of such service.

Before the Commission would be authorized and warranted in granting permission for the operation of the passenger stage line service applied for, it must first find that the facilities now offered by the common carriers are not sufficient and cannot be made so as to meet the wants and demands of the traveling public, and to further find that the proposed service would furnish a convenience and necessity that has not been reached or cannot be reached

by the said railroad carriers; and that the applicants' proposed service would be made adequate and sufficient to meet a requirement and demand of the traveling public not now available.

The traveling public is entitled to such service as will reasonably meet the convenience, comfort and demand under the conditions maintaining, and the complaints referred to in the testimony are matters that can be taken up with the carriers for the purpose of investigation and correction whenever it is necessary, and the Commission is duty bound and so holds itself out to at all times entertain complaints and make inquiries concerning the same.

From complaints made, it appears timely to here call attention to the service on the Marysvale Branch of the Denver & Rio Grande Railroad, and to suggest that the public is apparently not satisfied with the same, particularly with conditions of the coaches on the return trip, Marysvale to Salt Lake City. The carrier should see that the cars are kept clean and properly ventilated.

Then again, the time consumed in making the run, Thistle to Marysvale and return, appears to be longer than is necessary, and it would be very desirable if such time could be cut down, thereby making the service more attractive to the public. However, the suggestion herein offered does not mean to run at an unsafe rate of speed. Doubtless the roadbed on this branch line is not what it should be, but it appears from the length of time this branch line has been operated that it should be in such condition as would warrant greater speed, and, if the roadway is not in such condition, improvements should be made within a reasonable time, consistent with circumstances, so that adequate service can be given.

After a careful consideration of all the questions involved as presented by the testimony, we are of the opinion that the application should at this time be denied.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 18th day of June, A. D., 1921.

In the Matter of the Application of A. W. MORRISON and ERIK LARSON, for permission to operate an automobile stage line between Salt Lake City and Richfield, Utah, via Lehi, Provo, Springville, Nephi, Levan, Gunnison, Salina, and intermediate points, and branch lines.	CASE No. 408

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to cancel items 5 to 9 inclusive, in Local Passenger Tariff, No. 10, P. U. C. U. P-39.	CASE No. 409

Submitted April 22, 1921. Decided May 6, 1921.

For Petitioner:
David L. Stine.

For Protestants:
Thomas E. McKay,
Mr. Witherspoon,
Mr. Tanner.

REPORT OF THE COMMISSION

By the Commission:

In an application filed February 25, 1921, the Bamberger Electric Railroad Company, a corporation, operating an Interurban Electric Railway between Salt Lake City and Ogden, Utah, requests authority to cancel items in its tariffs naming rates for special car, special train and Sunday excursions between Ogden and Salt Lake City and party fares between all points on its line, together with rule covering arrangements for special car and trains.

After due notice the case was heard by the Commission at ten o'clock A. M., April 22, 1921, at Salt Lake City, Utah. Representative men from Ogden appeared to protest this action being taken.

It appears that the rates in question have been in effect for some time and petitioner alleges that they are unduly low and prejudicial to the carrier.

It is further alleged that the various carriers operating thruout Utah, as well as other portions of the county, have cancelled all special party rates and all excursion fares from their regular tariffs and have issued tariffs naming excursion fares only when occasion demanded.

Protestants contend that the party fares, in particular, are a great benefit to the residents of Ogden and are used regularly by a particular class of people for Church work; that to permit cancellation of these fares, without making a provision for excursion fares, would result in an increase of approximately 80 per cent to passengers who now use

the rate provided for parties of 50 or more, parties of 50 or more now being granted a fare of one way for the round trip between all points on petitioner's line, which means a rate of $1.00 round trip, from Ogden to Salt Lake City.

If this item is cancelled and no excursion fares published, these passengers would be required to pay regular round trip fare of $1.80 between these points.

It appears that as a general rule excursion fares are not named in the regular passenger tariffs of ony carrier, and that the various state commissions have not, as a rule, assumed jurisdiction over the establishing of excursion fares. The Interstate Commerce Commission has also declined to assume jurisdiction over this particular feature with relation to interstate rates. (28 I. C. C. 122-128). However, the conditions which exist with respect to petitioner's line and its location, connecting, as it does, the two largest cities of the State, and the class of traffic upon which it depends for its revenues, it appears that the Commission will be justified in assuming jurisdiction over this class of transportation with relation to this carrier.

Salt Lake City, in addition to being the largest city in the State of Utah, is a religious center and the place at which the semi-annual conference of the L. D. S. Church is held, which conferences are largely attended by members residing outside of Salt Lake City.

The Annual State Fair is also held at Salt Lake City and has proven in the past an attraction for many visitors from points outside of Salt Lake City.

It appears to the Commission that the items referred to in the petitioner's application should be cancelled but that a provision should be made in the carrier's tariff to provide for a rate of one and a third of the one way fare for the round trips for the conference of the L. D. S. Church and the Utah State Fair; and that the carrier should be permitted to establish equitable excursion fares for other occasions.

An appropriate order will be issued.

Dated at Salt Lake City this 6th day of May, 1921.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) JOSHUA GREENWOOD,
Commissioners.

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 6th day of May, 1921.

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to cancel items 5 to 9 inclusive, in Local Passenger Tariff, No. 10, P. U. C. U. P-39. } CASE No. 409

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted, and the Bamberger Electric Railroad be, and is hereby permitted to cancel from its Passenger Tariff, items naming rates for special car, special train service, Sunday excursions and party fares, and rules covering arrangements for special car and trains.

ORDERED FURTHER, That applicant, the Bamberger Electric Railroad, shall publish in its Passenger Tariff an item providing a round trip excursion fare of one and one third of the one way fare for the following occasions: Utah State Fair; Spring Conference L. D. S. Church; Fall Conference L. D. S. Church.

ORDERED FURTHER, That applicant be permitted to establish equitable excursion fares for other occasions.

ORDERED FURTHER, That the above changes may be made effective upon ten (10) days' notice to the public and to the Commission.

IT IS FURTHER ORDERED, That the tariff cancelling such items shall bear upon the title page the following notation: "Issued upon less than statutory notice under authority Public Utilities Commission of Utah, ordered in Case 409, dated May 10th, 1921".

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

SALT LAKE & UTAH RAILROAD COMPANY,
Complainant,
vs.
UTAH RAILWAY COMPANY,
Defendant.
} CASE No. 410

Submitted May 12, 1921. Decided July 8, 1921.

Van Cott, Riter & Farsworth, for Complainant.
Bradley & Pischel, for Defendant.
Dana T. Smith, for Intervenor.

REPORT OF THE COMMISSION

By the Commission:

This case came on regularly for hearing, May 4, 1921, upon the complaint of the Salt Lake & Utah Railroad Company and the answer of the Utah Railway Company, and the petition of intervention of the Los Angeles & Salt Lake Railroad Company.

The complainant contends that it is a Railroad Company duly organized and existing under and by virtue of the laws of the State of Utah, and is thereby qualified to do business as a common carrier of freight for hire; that the defendant, the Utah Railway Company, is also engaged in the business of common carrier of freight; that the complainant operates an electric railroad extending from Payson, Utah, through Provo, to Salt Lake City; that the defendant operates a line of steam railroad through Mohrland and other points south of Provo.

Complainant alleges that coal is mined and delivered to the defendant for carriage to various points in Utah, and that in cases where such coal is consigned to Salt Lake City, the defendant is unable to carry to its destination, but must deliver it to other carriers operating between Provo and Salt Lake City.

Complainant further alleges that the only railroads operating between Provo and Salt Lake City are the Los Angeles & Salt Lake Railroad, the Denver & Rio Grande Railroad and Complainant; that the three above named railroads are competitors for the business of haul-

ing and delivering to consignees in Salt Lake City, coal hauled by the defendant from points south of Provo, and that the defendant has filed with the Public Utilities Commission and published schedules showing the rates, fares, charges and classifications for transportation from points on its line to Salt Lake City via the Los Angeles & Salt Lake Railroad, Denver & Rio Grande Railroad and Salt Lake & Utah Railroad, and alleges that such tariffs naming rates for the carriage of coal to Salt Lake City from points on the defendant's railroad provide the same rate per ton on coal, regardless of which railroad carries the coal from Provo to Salt Lake City; that the tariffs providing rates for the carrying of coal to Salt Lake City in cases where such carriage is peformed by the complainant, as set forth in a joint freight tariff of the Utah Railway, No. 33, not applicable on interstate traffic, P. U. C. U. No. 8, effective May 2, 1919; that such tariff, on Page 3, contains the following provision:

> "Rates applicable only to traffic for delivery on team tracks of the Salt Lake & Utah Railroad or industries served by it when so routed by shipper."

It is further alleged by complainant that the tariffs of the Los Angeles & Salt Lake Railroad Company and the Denver & Rio Grande Railroad, providing rates for the transportation of such coal from Provo to Salt Lake City, do not contain such restriction as the one above quoted; that the existence of such restriction constitutes a discriminatory preference and advantage to said carriers and against the Salt Lake & Utah Railroad Company, thereby subjecting said complainant to a disadvantage in all cases of shipment of coal at points on the Utah Railway Company's line to consignees in Salt Lake City, where delivery in Salt Lake City must be made at points other than on the team tracks of the Salt Lake & Utah Railroad Company or the industries served by it, thereby the complainant is unable to deliver such shipments of coal without making a charge in addition to the freight rate to Salt Lake City for the switching thereof; that said Railroad Companies are, under the provisions, allowed to deliver such coal without assessing switching charges; that as a result of said discrimination, the complainant is unable to compete on an equal basis for the business of carrying coal in cases where delivery must be made to points other than the complainant's team tracks and industries served by it.

The complainant, therefore, asks that the defendant be required to amend its tariff by striking therefrom the words above quoted.

The defendant, the Utah Railway Company, in answer, denies that the absence of such restriction as to the steam railroads operating between Provo and Salt Lake City constitutes an unjust, unlawful and discriminatory preference or advantage to the two companies or either of them, or that such restriction complained of unjustly or unlawfully deprives the complainant of an opportunity to compete at equal rates for the business of carrying any of the coal where delivery must be made to any point or points other than complainant's team tracks or industries served by complainant, and contends that tariffs between the Denver & Rio Grande Railroad and the Los Angeles & Salt Lake Railroad are based upon proper and lawful operating traffic conditions and interchange of equipment by and between them.

Defendant contends that by virtue of such facts, no discrimination exists so far as the public is concerned; that the coal from all mines is being and can be placed under the present tariffs on the complainant's team tracks and that of industries served by complainants, at the same rate that applies to team tracks and like industries on the lines of the other railroad companies; that said tariffs complained of afford the public, without unjust or additional costs, every right, convenience and facility that would be served by the change demanded; that neither public convenience nor necessity calls for such change.

The intervenor, the Los Angeles & Salt Lake Railroad Company, specifically represents that it and the Utah Railway Company, the defendant, jointly operate extensive railroad yards, and that said lines of railroad have direct communication each with the other at the City of Provo by means of and through the operation of said joint yard; that they are the joint owners of 2,000 steel, gondola coal cars, which were purchased for their joint use in the handling of coal originating on the line of railroad of the defendant and destined to points along the line of the intervenor and other lines of railroad connecting therewith.

The intervenor denies that the restriction referred to by the complainant constitutes any unjust and unlawful discriminatory preference in favor of the two companies referred to, or to either of them, as against the complainant, and contends that the tariffs between the defendant

and the intervenor and the Denver & Rio Grande Railroad are based upon proper and lawful operating traffic conditions and ownership, and interchange of equipment, which conditions do not exist as between the defendant and complainant; that the tariffs complained of afford the public, without unjust or additional cost, every convenience, right and facility that would be served by the change demanded, and that there is neither public convenience nor necessity which calls for such change.

The facts submitted at the hearing of this case are practically those stated above, there being but very little dispute as to the facts upon which the case must be decided.

As suggested in the brief of defendant and intervenor, there are at least two propositions involved in this case:

1. The question of fact as to whether or not the Utah Railway Company and the Los Angeles & Salt Lake Railroad Company can be considered as constituting a single line of railroad.

2. As to whether or not the continuation of the rate on this traffic via the Denver & Rio Grande, without limitation, constitutes an unreasonable discrimination against the complainant on account of the limitation complained of.

The intervenor maintains that on account of the expenditure for equipment and facilities, the operating arrangement between the defendant and the intervenor continues for the purpose of handling the coal traffic over one through line of railroad from points of origin to Salt Lake City and to all points reached by the Los Angeles & Salt Lake Railroad, and that as such, they are entitled to the line haul of all coal destined to Salt Lake City, and advance the argument that they are in accord with the well established rule that no carrier without its consent shall be required to short-haul itself on any traffic originating on its line of railroad, unless such haul would be unwarrantably long as compared with another route.

It appears to the Commission that the conditions established by the joint ownership of facilities, equipment and operating arrangements, would not and do not make the Utah Railway and the Los Angeles & Salt Lake Railroad a single line of railroad, and would not be such a relationship as to take it out of the provisions and requirements of the law governing such cases.

The question raised by the intervenor that the primary consideration in this class of cases are public convenience

and necessity, does not seem to be well taken. If we had under consideration an application for the building and operating of additional and competitive service, then, in such event, the question of necessity would be the controlling question to be considered; but here we find the complainant a common carrier, having established facilities for giving service, and has been, and now is, a competitive line for both passenger and freight traffic.

The Commission cannot but recognize and commend the Los Angeles & Salt Lake Railroad Company for its efforts in assisting materially by spending large sums of money in the movement of coal, that such efforts were put forth in the establishing of joint facilities with the defendant. Yet, the section of the Public Utilities Act which aims to prevent discrimination or preference between competitive carriers, must not be lost sight of, and, under the facts herein admitted, must govern.

If the contract entered into by the intervenor and the defendant contemplates a practice that is discriminatory and preferential under our law, then such contract, to that extent, is unlawful and a joint operation under the same could not be sustained.

After a careful study and consideration of the matters presented in this case, both as to the facts and the law, we are of the opinion that the restriction:

> "Rates applicable only to traffic for delivery on team tracks of the Salt Lake & Utah Railroad or industries served by it when so routed by shipper."

constitutes a discriminatory preference and an advantage to the Los Angeles & Salt Lake Railroad and the Denver & Rio Grande Railroad Companies as against the Salt Lake & Utah Railroad Company, and that the defendant should amend its tariff, by striking therefrom the words above quoted.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 8th day of July, A. D., 1921.

SALT LAKE & UTAH RAILROAD COMPANY,
Complainant,
vs.
UTAH RAILWAY COMPANY,
Defendant.
} CASE No. 410

This case being at issue upon complaint and answer on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That defendant, the Utah Railway Company, amend its tariff naming rates on coal to points on the Salt Lake & Utah Railroad, by removing therefrom the following restriction:

> "Rates applicable only to traffic for delivery on team tracks of the Salt Lake & Utah Railroad or industries served by it when so routed by shipper."

ORDERED FURTHER, That such change in said tariff shall be made effective not later than August 8, 1921.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to increase its steam service rates. } CASE No. 411

Submitted June 15, 1921. Decided Sept. 29, 1921.

J. F. MacLane and C. C. Parsons } for Petitioner.

Van Cott, Riter & Farnsworth, for Hotel Utah Company and other buildings served through the Hotel Utah contract.

C. A. Gilette, for Newhouse Realty Company.

REPORT OF THE COMMISSION

By the Commission:

In an application filed with this Commission, April 6, 1921, petitioner, the Utah Power & Light Company, shows that it is a corporation, organized and existing under and by virtue of the laws of the State of Maine, and is qualified to and does engage in business in the State of Utah.

Applicant alleges that the business of the Company is furnishing electrical service in the State of Utah and Idaho, and also, among other services, the rendering of certain steam heating service in Salt Lake City, Utah, and as to such last named service is a "heat corporation," operating a heating plant, within the meaning of the Public Utilities Act of Utah.

Applicant further alleges that it owns, controls and operates as said heating plant, a central station heating system, consisting of what are commonly known as the "West Temple Steam Plant", "South Temple Steam Plant" and the "Newhouse Plant", connected to a steam distribution system, consisting of mains, laterals and service connections, all in Salt Lake City, and has continuously operated the same for several years last past, serving numerous customers.

Applicant further alleges that the property used and usable for said service represents an investment as of April 1, 1912, of upwards of $700,000, at pre-war costs,

and replacement value at present costs of upwards of $1,000,000. Applicant further alleges that the results of operation of the said heating plant for the past five years show a deficit to yield even its cost of operation, to say nothing of depreciation and a fair return upon the said steam heating plant; nor has applicant received from any other sources any compensation for the deficit in earnings realized from said plant.

Applicant alleges further that the rates named in the Power Company's Steam Heating Schedule No. 1, were not only originally inadequate to reflect the costs of service; but, since the application of said schedule to the Power Company's steam heating service, the cost of operating its steam heating plant has greatly advanced, in labor, coal, material, supplies, taxes, etc.; so that the cost of such service to petitioner is substantially greater than it was at the time of the adoption of said schedule, and, likewise, competitive costs of service of individually owned and operated plants of consumers have greatly increased, and were these consumers to now resume the operation of their plants, they will be met with an increase of substantially 100 per cent in the cost of coal alone. The costs of labor and supplies have increased during the same period some 50 per cent, and it is estimated that the average cost of heating separate buildings by means of privately owned plants, has advanced 75 per cent.

It is further alleged by applicant that the rates prescribed by said Schedule No. 1, Tariff No. 1, are confiscatory; that the revenues derived therefrom are insufficient to pay the operating charges, or any part of depreciation or a fair return on the fair value of the property devoted to said heating service; that the application of said schedule has resulted, and its continued application will result, in depriving the Power Company of its property, without due process of law, and denying it the equal protection of the law, both in contravention of Article 1, Section 7 of the Constitution of the State of Utah, and of Article 14 of the Amendments to the Constitution of the United States, and also in the taking or appropriation of applicant's property for public use, without compensation therefor, in violation of Article 1, Section 22 of the Constitution of the State of Utah.

It is further alleged by applicant that it has exhausted its available capacity for rendering steam heating service, and that the rates now in force will not permit of installation of additional capacity for such service; that additional customers are desirous of securing steam heating service,

and to meet such demand, applicant has under contemplation the reconstruction and enlargement of certain portions of its plant, in order to extend the service, all, of which depends upon the sufficiency of its revenues from such service; and asks permission, after hearing, to adopt proposed Schedule No. 1-A, carrying increased rates to become effective forthwith.

The Hotel Utah Company, protesting, contends that it had erected and was operating in Salt Lake City, Utah, a plant for the generation of electricity, steam and hot water heating, and refrigeration, and that on April 1, 1916, it entered into a contract for the sale of said plant to the Utah Power & Light Company for a stipulated price, and at the same time entered into a service contract with the said Power Company, whereby said Power Company was to furnish electric and heating service for a stated price, and that the contracts so entered into between the Hotel Utah Company and the Power Company were for such consideration as would come under the exception rule or proviso set forth in the Act creating the Public Utilities Commission of Utah, as found in Section 4787, Compiled Laws of of Utah, 1917; that the consideration had at the time of the said transaction was such as to prohibit the changing by the Commission of the rates agreed upon in the contract at the time the property was sold to the Power Company.

The case came on regularly for hearing, April 18, 1921, at which time applicant produced expert witnesses, who testified to the investment cost, original and present reproduction cost, present value, financial history of the plant, operating costs, deficits from operation under present rates, and probable increase in revenues under the proposed rates, after which the hearing was continued for cross-examination and introduction of evidence by protestants. The hearing was resumed May 31st, when cross-examination of applicant's witnesses was had, after which expert witnesses for protestant, Hotel Utah Company, were heard; briefs were filed, and the case submitted.

In Case No. 230, decided October 18, 1920, the contract of the Hotel Utah Company with the Utah Power & Light Company was one which the Commission did not finally pass upon, jurisdiction being retained over the same for the purpose of further consideration, particularly as to the special consideration under which consumers received service. Until after such investigation was had, the rates, rules and regulations prescribed in the standard schedules of the Power Company on file with the Commis-

sion, were ordered applied to the service of the Hotel Company.

In this case, in addition to the finding of a general steam heating schedule applicable to petitioner's service, the following questions, particularly as regards the contract of applicant with the Hotel Utah Company, are presented to the Commission:

1. Was the contract valid?
2. Was there a consideration?
3. What effect, if any, should the consideration have upon the issue presented in the application of the Utah Power & Light Company to increase the rates set forth in said contract?

As to the first and second questions, there appears to be no contention but that the contract was valid at the time it was entered into, and that there was a legal consideration. As to the third, wherein the authority of the Commission is questioned to change the rates, rules and regulations named in the contract, for the reason that the proviso referred to under the law would place such contract beyond the power of the Commission to modify or change such rates, rules and regulations, has, we believe, been settled and established in the affirmative. (Utah Supreme Court, 197 Pac., 902).

Concerning the question of adequate consideration for the rates set out in the service contract itself, such adequacy, we think, cannot be confined to the time alone when said contract was entered into, namely, April 1, 1916. If it shall appear from the showing that a special value was had and taken into consideration, whereby and through which the rates fixed in the contract reflected and affected the price to be paid for the property by the Power Company, and there passed from the Hotel Utah Company a value of property through purchase which was below the actual value, and that in the transaction the Hotel Company, in thus disposing of its property for a less price than the true value, expected to make up such loss by the favorable rate and the length of time for service set out in the contract, and in the deal and sale of its property to applicant, had reason to believe, and did believe, that such difference would be made up to the said Hotel Utah Company through the reduced rate and length of time for service named in said contract, then, in that event, the Commission would have to determine the amount of such value thus passed to the Power Company, and apply said value along with the rate named in the contract, and thereby determine

how much of the reduced rate named in the contract is justified by the amount of value thus passed.

Again, if the showing is such that the Commission is justified in allowing the Power Company to advance its standard rates above those at present in effect, the Hotel Utah Company should be given credit in such sum as under all conditions is justified by the thing of value passed from the Hotel Company to the Power Company. The amount claimed by the Hotel Utah Company, through its expert witnesses, is $263,160, as being the amount the Power Company has benefited by the transaction over and above the value received by the Hotel Utah Company under the contracts, and that the margin or difference was received by the Power Company.

This contention of the Hotel Utah Company, as will be more fully discussed hereafter, is answered in its broader aspects by its stipulation filed June 10, 1920, as Exhibit No. 1, Case 230, wherein it expressly recited and agreed that in the sale of its property to the Power Company, it received, separately from the service contract, the full cost and cash value thereof, the amount it could have realized if put on the market for sale. Whether there should be any special credit or allowance made to the Hotel Company by reason of the sale reflected in a reduced rate or credit upon the rate, will be disposed of later in this report.

In decisions of the Commission wherein it has ordered a change or modification of rates, it has not been with any purpose of doing any party an injustice or to take from them any rights which are theirs under the law, and, in this case, the Commission is of the opinion that it has the authority and it becomes its duty, to modify and change the rates named in the contract to conform to the requirements and provisions of the law, wherein discriminatory, preferential rates, rules and regulations and services are prohibited, and the conclusion is that the consideration in this case is not sufficient, as we understand it, to take the subject of the contract out of the general rule which the law imposes upon such contracts with authority to the Commission to modify and change.

This brings us to a consideration of the valuation of the property, both for the purpose of fixing rates, and to ascertain what special consideration, if any, the Hotel Utah Company is entitled to by way of a reduction from the standard schedules applicable to the general business of the Company.

HISTORICAL

From time to time, people have conceived the idea of heating at least the business section of Salt Lake City from a central heating plant, and probably one of the earliest efforts along this line was the construction of the so-called "Newhouse Plant." About the year 1908, the Newhouse Plant served eleven buildings, among them the Newhouse Hotel, Boston Building, Newhouse Building, Commercial Club, Stock & Mining Exchange, etc. This plant was acquired through purchase by the Utah Power & Light Company, April 1, 1917, and has since formed a part of the general steam heating system of applicant.

In 1910 and 1911, the Hotel Utah Company constructed its plant heretofore mentioned for the purpose of serving the Hotel Utah and a number of L. D. S. Church and other buildings. On April 1, 1916, the Utah Power & Light Company acquired the plant from the Hotel Utah Company, and it has since formed a part of the general heating system of applicant. The "West Temple Street Plant", which is also controlled and operated by the Power Company, also forms a part of the general system. The latter two plants are interconnected, the mains of applicant extending from the South Temple Street Plant to 2nd South Street.

The general plan, as outlined by applicant, is to render steam heating service to that section of the Salt Lake City business district bounded by North Temple, 4th South, State and West Temple Streets.

METHOD OF VALUATION

When a property such as this has been constructed by different corporations, and at different intervals, extending over a series of years, it is difficult, if not impossible, to ascertain the fair value of the property without a physical inventory. Accounts were not usually kept according to standard classifications, and, furthermore, at this late date, if actual costs were available, it would scarcely be possible, without a physical inventory of the property, to say that the costs were wisely incurred, and that all property represented in the accounts is now used and usable in the giving of service to the public. The Commission has accordingly approved "reproduction cost" as a method of valuation to be given consideration.

Applicant has submitted two inventories, one an inventory based upon costs, in part, actual (Where such costs have been available to applicant) and in part, aver-

age costs, intended to reflect prices as of the pre-war period; the other, an inventory with costs intended to reflect present day prices. A statement showing "Property Investment Cost" has also been presented.

The investment cost as shown by applicant, together with the original and reproduction costs heretofore mentioned, are as follows:

PROPERTY INVESTMENT

South Temple Plant—Purchase (Steam only)		$159,000
Total Purchase price So. Temple plant	$214,300	
Electric property (See Exhibit 2, Case No. 248)	55,300	
Steam Property	$159,000	
Newhouse Plant—Purchase		150,000
West Temple Plant Purchase (Boiler room only)		52,114
Additions to property (per books)		232,947
Working Capital (See Table No. 4)		39,944
Going Value—15% of property Additions		34,942
Total		$668,947

ORIGINAL AND REPRODUCTION COST

Account Number	Account	Total Cost Original	Total Cost Reproduction
201	Organization	$ 86,094	$ 127,367
202	Franchises		
204	Other Intangible Heating Cap.	105,092	105,092
	Total Intangible Capital	$191,186	$ 232,459
211	Land Devoted to Production Operations	$ 86,721	$ 98,466
214	Right of Way	801	801
	Total	$ 87,522	$ 99,267

221	Buildings Devoted to Production Operations	$ 71,336	$ 113,041
231	Boilers and Boiler Plant Equipment	145,219	253,257
232	Steam Plant Piping	12,162	25,012
	Total	$157,381	$ 278,269
241	Distribution Mains	167,443	239,986
242	Heating Services	6,336	9,392
243	Meters	7,307	10,616
	Total	$181,086	$ 259,994
271	Office Furniture & Equipment.	816	1,253
272	Shop and Laboratory Equipment	4,347	7,171
273	Stores Department Equipment.	1,956	3,241
274	Stable and Garage Equipment.	8,769	11,494
275	Miscellaneous Equipment	255	412
	Total	$ 16,143	$ 23,571
281	Engineering during Const.	24,807	37,459
282	Interest during Construction	23,978	39,089
283	Taxes during Construction	875	993
284	Insurance during Construction.	1,181	2,009
284-A	Administration and Legal Expense during Construction	10,268	15,482
	Total	$ 61,109	$ 95,032
	Total Tangible Capital	574,577	869,174
	Total Tangible and Intangible Capital	$765,763	$1,101,633
	Working Capital	39,944	39,944
	Total Cost of all Property	$805,707	$1,141,577

LEASED PROPERTY

The record discloses that certain property included in applicant's inventory is property leased by petitioner from the Utah Light & Traction Company. This property is used and usable exclusively for steam heating purposes, and, in line with our decision in Case 44, should, we con-

clude, be valued upon the same basis as the other property, the rental for the property under lease having been excluded from operating costs.

This conclusion is in accord with that reached upon similar questions by the Wisconsin Commission in Milwaukee Electric Railway & Light Company vs. Milwaukee, P. U. R. 1918-E, 1, 55; Indiana Public Service Commission, in re Indianapolis Traction & Terminal Company, P. U. R. 1919-A, 278, 311; and by the Oregon Public Service Commission, in re Portland Railway, Light and Power Company, P. U. R. 1917-D, 962, 974.

UNIT COSTS

Actual unit costs, where available and shown to be reasonable, have been approved in selecting a reproduction cost of the property to reflect fair value. Unit prices for the remainder of the inventory have been selected to reflect average prices as of the period preceding the World War.

After giving consideration to the historical construction program of the property, we believe the above selection of unit prices secures to the property any enhancement in value justly accruing to said property by reason of gradually rising prices. While we have considered reproduction cost new, based upon present prices, in finding fair value, we cannot accept such prices as controlling in finding said fair value. In arriving at this conclusion, we are in accord with the thought expressed by the Indiana Commission, in the case of the Laporte Gas & Electric Company, approved December 22, 1920, where the Commission, in discussing the tendency of some recent court authority, to give weight to present reproduction costs, said:

> "The Commission regards this tendency with concern, because it believes that such a position is inconsistent, unsound, uneconomic and inequitable. It cannot refrain from restating its own position in the light of economic facts and principles, in the hope that to do so may have some slight effect on this tendency.
>
> "The Commission does not presume to set up its judgment against that of the highest courts of the land. It believes, however, that the principles which are to control the rate making value of public service properties are not yet definitely formulated, and that the whole question has not yet been sub-

mitted to the comprehensive, analytical study which its importance seems to require. It has well been said that the problem of utility values is an economic problem; yet few decisions of the courts have considered the question with a full regard for its economic elements. It seems clear that any principle, rule or decision which disregards fundamental economic considerations cannot rest on a firm foundation, and ultimately must fall.

"Without pretending to make a full or elaborate analysis of this highly important question, the Commission is forced to a consideration of a few of these economic elements and their relation to certain constitutional, legal and equitable principles. Considering the present chaos and uncertainty of prices, the Commission believes that the apparent tendency of the courts to accept the present cost of reproduction as the controlling or important factor tends to subject the great agencies of public service to hazardous speculation, extreme financial uncertainty, and obvious inequities—inequities which bid fair to react in a manner fully as hurtful to the utilities themselves as to the public."

Upon the principles heretofore outlined, and after making certain reductions in property accounts, for the reason that we believe costs of certain materials are somewhat higher than they properly should be to reflect the reasonable cost of such materials, and also in the allowance for storehouse costs, where the same has been applied to materials which would not, in the normal, orderly construction of the property, pass through the storehouse, and in certain supervision accounts, where prices have been furnished by contractors, we find the total reasonable constructional costs to be:

Land Devoted to Production Operations	$ 86,721
Right of Way	801
Total	$ 87,522
Buildings Devoted to Production Operations	$ 63,610
Boilers and Boiler Plant Equipment	$142,855
Steam Plant Piping	12,162
Total	$155,017

Distribution Mains	$166,792
Heating Services	6,336
Meters	7,307
Total	$180,435
Office Furniture and Equipment	$ 816
Shop and Laboratory Equipment	$ 816
Stores Department Equipment	1,956
Stable and Garage Equipment	8,682
Miscellaneous Equipment	255
Total	$ 16,056
Engineering during Construction	$ 21,168
Interest during Construction	19,738
Taxes during Construction	875
Insurance during Construction	1,129
Administration and Legal Expense during Construction	9,809
Total	$ 52,719
Total Constructional Cost	$555,359

OTHER ELEMENTS OF COST

Applicant claims, in addition to constructional costs, the sum of $86,094 as organization expenses applicable to its original reproduction cost. Organization expenses as set forth by applicant, comprise: Preliminary engineering studies, preliminary legal studies, preliminary studies of business possibilities, compensation to the originators of enterprise, and cost of acquiring money.

The Commission realizes that preliminary engineering and legal studies must be made before actual construction of property can be carried forward, and a reasonable allowance to cover such costs should be made. Also, as outlined by us in Case No. 44, men who have the ability to construct legitimate enterprises of this kind, are entitled to a reasonable compensation therefor; but they have no right to exact an extravagant one. Compensation should be treated as return for useful services rendered, and should ordinarily be allowed, except where these services have been compensated by returns over and above a reasonable earning on the property, or have been absorbed through sales.

In this particular case, two of the plants incorporated into the general heating system were purchased, and it must be assumed, we think, that such intangible asset as promoter's remuneration applicable to these two plants, has been included in the purchase price, and thus absorbed, and applicant did not require the right to tax the people for any originator's remuneration accruing to the properties.

Costs of selling or marketing securities for the permanent financing of the property, is usually done through regular organizations engaged in the business of selling securities. This cost of marketing must not be confused with bond discount or discount on notes. It is a reasonable charge entering into the cost of the property, and should be allowed in valuation proceedings, except in cases where this charge has been amortized or has been recouped from earnings, or, as the record discloses in this case, is not reasonably a charge to part of the property by reason of the financing of portions of the property by others. The evidence discloses that the Power Company was financed by the Hotel Utah Company to the extent of $214,300, upon which no brokerage, as defined here, was necessarily incurred. With these corrections, the Commission finds a reasonable allowance for organization expenses to be $46,628.66.

GOING VALUE

We now come to the appraisal of that element of value which inheres in a plant when its business is established, as distinguished from one which has yet to establish its business. This is usually sought to be measured by appraising in various ways the costs that would be incurred in making a going concern of the property.

Commissions and courts, including the court of highest jurisdiction, have held that an allowance for going value must be made; but no exact rule has been laid down. The Supreme Court of the United States, in Denver vs. Denver Union Water Company, 246 U. S., at 191, said:

> " * * * We adhere to what was said in Des Moines Gas Company vs. Des Moines, 238 U. S., 153-165: 'That there is an element of value in an assembled and established plant, doing business and earning money, over one not thus advanced, is self-evident. This element of value is a property right, and should be considered in determining the value of the property, upon which the owner has a right

to make a fair return, and the same is privately owned, although dedicated to public use.'

"As was then observed, each case must be controlled by its own circumstances. In the present case, the Master expressly declared that his detailed valuation of the physical property and water rights included no increment because the property constituted an assembled and established plant, doing business and earning money; and a careful examination of his very elaborate report convinces us that this is true. The amount allowed by him on this account is not open to serious question from the standpoint of appellants."

To the same effect is Omaha vs. Omaha Water Company, 218 U. S., 180.

From the foregoing, it clearly appears that while it may be difficult to appraise going value, nevertheless, such property right must be appraised. Various methods of measuring going value have been employed in cases before courts and commissions, and we believe an extended discussion of these various methods would only lengthen this report. This Commission has repeatedly held in other cases that while various methods of measuring going value have been devised, it cannot be a mere matter of formula, and, not being a mathematical product, it can only be made upon the best judgment of the Commission, after full consideration of all material facts. This has been clearly set forth by the Oregon Public Service Commission, in its Order 191, of April 30, 1917, in the case of the Portland Railway, Light & Power Company, as follows:

"The Commission is of the opinion that the determination of a proper allowance for development cost must rest upon the judgment and discretion of the determining body, after a full consideration of the history of the physical plant of the utility, and of its rates, results of operation, operating organizations, and attached business; the nature and size of the territory served, growth of population, and kind, number and general circumstances of its patrons; the general commercial conditions during the life of the plant and during ownership by the present investors; the terms of, and conditions under which the transfers of ownership have occurred; the financial history of the plant; the progress of the art and general attitude of the public toward its utility product; the competitive

conditions, if any, and all matters and things which, in this particular instance, may have a bearing on the subject."

After full consideration of all elements heretofore mentioned, the Commission finds an allowance of $60,198.76 is just and reasonable.

WORKING CAPITAL

Applicant asks $39,944 as working capital, being in its judgment the amount necessary, under ordinary conditions, to carry on the business. This sum comprises, according to petitioner:

1. Money required to pay for coal in storage and coal used.
2. Cost of materials and supplies necessarily kept on hand for the ordinary operation and maintenance of the steam heating system.
3. Cash on hand required for taking care of operating expenses other than cost of coal, including an amount sufficient to maintain credit.

The Commission has made a careful study of the evidence submitted, and finds that the sum of $35,000 should be ample for the proper conduct of the business.

FAIR VALUE

The Commission has given full consideration to all the evidence submitted bearing upon the value of petitioner's property used and useful for heating purposes in the public service, and, exclusive of depreciation, but including a reasonable allowance for the general miscellaneous overheads heretofore discussed, and including an adequate allowance for going value and working capital, we find said value to be $697,186.42.

DEPRECIATION

The different elements of a heating plant need replacement at different periods of time, varying from month to month, as required, and to care for these needs there must be a reserve. To accumulate said reserve, it requires the setting aside of a fund for that purpose, and every consumer should stand his proper proportion of this expense. The purpose of the reserve is to keep the service continuous in the interest of the consumers, by making replacements when and as required, and to guarantee the utility against loss of property employed in the giving of service.

Replacement of plant may be required by any one or more of several causes: Because it is worn out from use or decay, or has become inadequate or obsolete; or has been damaged or destroyed by fire or flood, or other casualty; or by reason of civic requirement and public demand.

It appears reasonable to assume that such portion of the depreciation reserve as is not immediately needed will be temporarily used in the property, and, therefore, such reserve is entitled to share in the earnings of the Company equally with the balance of the investment, and, in order to properly reflect the use of such fund, depreciation will be set up on a sinking fund basis. It follows that funds so invested should not be deducted from the present value.

For the property constituted as at present and based upon the weighted, composite average life of the property, the commission finds the annual requirement for the depreciation reserve to be $14,150.00, set up on a sinking fund basis, at 5 per cent interest per annum.

REVENUES AND EXPENSES

Applicant has submitted in evidence a statement, Table No. 3, Exhibit "G", showing the financial operating history of the steam heating system, as follows:

Year Ending March 31st	Total Entitled to Return	Gross Earnings	Operating Expense
1917	$230,925	$ 48,306.32	$ 62,670.89
1918	532,676	95,786.24	121,973.12
1919	710,414	94,299.50	100,575.08
1920	804,828	109,127.34	136,167.52
1921	960,052	137,592.07	151,983.12
Total		$485.111.47	$573,369.73

	Net from Operation	8% Return and 4% depreciation	Deficits
1917	*$14,364.57	$ 27,711	$ 42,075
1918	* 26,186.88	63,921	90,107
1919	* 6,275.58	85,249	91,524
1920	* 27,040.18	96,579	123,619
1921	* 14,391.05	115,206	129,597
Total	*$88,258.26	$388,666	$476,922

*Deficit.

"NOTE: Petition shows calendar years 1916, 1917, 1918 1919 and 1920 and the deficits for those years are as there shown viz: 1916—$2,509.00; 1917—$39,388.00; 1918

—$2,434.00; 1919—$27,593.00; 1920—$22,349.61. We use here the years beginning April 1st and ending March 31st because it gives five full years of operation from date of purchase of Utah Hotel Plant and commencement of Steam Heat operations."

From the foregoing it appears that, aside from any question of a definite valuation or rate of return thereon, there have not been sufficient gross earnings accruing to meet operating expenses. Certainly to render adequate, continuous service revenues accruing from said service must be sufficient to cover the reasonable costs thereof. Public utility regulation contemplates that the earnings of the utility shall be reasonably remunerative, but not excessive. Sufficient revenues should accrue to cover the cost of service including a fair return upon the fair value of the property devoted to public service. (Smyth vs. Ames, 169 U. S., at 416.)

It follows therefore, that additions to property must be made out of new capital and the utility must compete in the market for money at going rates of interest. Unless the property is permitted to earn a rate that will pay interest on the investment properly made, new money cannot be obtained. Again, inability to borrow money, means stoppage of growth, causing decreased instead of increased service, generally. A utility must grow with the community. The interests of the two cannot be separated. A rate fixed too high is unjust and unreasonable. A rate fixed too low will not permit the giving of a service to which the consumer is entitled.

The Commission has given careful consideration to the business done by applicant in the past. The rate schedules hereinafter found just and reasonable are such as, in the opinion of the Commission, should produce revenues sufficient to pay operating expenses incurred in the rendering of that service and an amount sufficient to replace or renew the physical property involved in the rendering of that service when and as said property shall have become worn out or obsolete, and a return on investment reasonably just and fair. To fix rates lower than these, would be too repressing to the utility and rates materially higher, would be burdensome to the consumers. Rate schedules hereinafter fixed are materially lower than those proposed by applicant and the Commission feels that they are, in light of the showing made, fair and reasonable; as we stated in Case 248:

> "In the last analysis a rate cannot be simply a mathematical product. The Commission can

> determine average costs and fair average rates to properly reflect those costs, but, when that has been done, the balance of the rate between different classes of consumers is a matter of business judgment, considering the nature and conditions of use and value of service as reflected in competitive costs of giving that service. In other words, so many elements must necessarily enter into the making of a rate structure, that there can be no precise mathematical rule of rate making laid down.'

After full consideration of all material elements that have any bearing on this case, the Commission finds the following schedule to be reasonable and applicable to all consumers, except for a credit due the Hotel Utah Company, as will be hereafter in this case determined:

STEAM SCHEDULE
STEAM HEATING SERVICE
AT SALT LAKE CITY

$1.90 per 1000 lbs. for first 10,000 lbs., or less, of steam consumed in any month.
1.65 per 1000 lbs. for next 15,000 lbs. consumed in any month.
1.40 per 1000 lbs. for next 25,000 lbs. consumed in any month.
1.30 per 1000 lbs. for next 50,000 lbs. consumed in any month.
1.20 per 1000 lbs. for next 100,000 lbs. consumed in any month.
1.10 per 1000 lbs. for next 300,000 lbs. consumed in any month.
1.00 per 1000 lbs. for next 500,000 lbs. consumed in any month.
.90 per 1000 lbs. for next 1,000,000 lbs. consumed in any month.
.80 per 1000 lbs. for all over 2,000,000 lbs. consumed in any month.

The above rate is based on coal of 12,300 B. T. U. per pound as received at $4.10 per ton, F. O. B. Salt Lake City, Utah. For each increase or decrease in the price of coal of 25 cents per ton, 2 cents per thousand pounds of steam sold shall be added to or substracted from the billing arrived at by the application of the above schedule.

DISCOUNT will be allowed from the foregoing rates, as follows:

(a) Term. 5 per cent if contract is for 5 years or longer, and less than 10 years, or

10 per cent where contract is for 10 years or longer.

(b) Prompt Payment. 5 per cent from net bill, after deducting term discount, if any, for payment within seven days after date of bill.

MINIMUM SEASONAL BILL

(a) For heating buildings, $2.00 per 1000 cubic feet of space.

(b) For other purposes an additional minimum dependent on the nature and capacity of the apparatus.

For comparative purposes, only, we show the standard rates in effect prior to the effective date of this order, and rates proposed to be charged by applicant.

UTAH POWER & LIGHT COMPANY
PRESENT STEAM SCHEDULE
STEAM HEATING SERVICE
(Low Pressure.)
AT SALT LAKE CITY

Service from September 15th to May 15th following:

$1.50 per 1000 lbs. for the first 10,000 lbs, or less of steam consumed in any month.

1.25 per 1000 lbs. for the next 15,000 lbs. consumed in any month.

1.00 per 1000 lbs. for the next 25,000 lbs. consumed in any month.

.90 per 1000 lbs. for the next 50,000 lbs. consumed in any month.

.80 per 1000 lbs. for the next 100,000 lbs. consumed in any month.

.70 per 1000 lbs. for all over 200,000 lbs. consumed in any month.

Usual discount, as above.

UTAH POWER & LIGHT COMPANY
PROPOSED STEAM SCHEDULE
STEAM HEATING SERVICE
AT SALT LAKE CITY

$2.00 per 1000 lbs. for the first 10,000 lbs. or less of steam consumed in any month.
1.75 per 1000 lbs, for the next 15,000 lbs. consumed in any month.
1.50 per 1000 lbs. for the next 25,000 lbs. consumed in any month.
1.40 per 1000 lbs. for the next 50,000 lbs. consumed in any month.
1.30 per 1000 lbs. for the next 100,000 lbs. consumed in any month.
1.20 per 1000 lbs. for all over 200,000 lbs. consumed in any month.

The above rate is based on coal of 12,300 B. T. U. per pound as received at $4.60 per ton in the plant bunkers. For each increase or decrease in the price of coal of 25c per ton, 2c per thousand pounds of steam sold shall be added or subtracted from the billing arrived at by the application of the above schedule.

Usual discount, as above.

HOTEL UTAH COMPANY CONTRACT

In support of the adequacy of the consideration for the contract for service between the Hotel Utah Company and applicant, the Hotel Company produced Expert Witnesses Levi J. Riter and W. H. Trask, who testified that they had made a study, with a view of determining what value the Hotel Company gave the Power Company, and what value the Power Company gave the Hotel Company, and, for this purpose, had estimated and appraised the paragraphs of the contract so as to cover the inferred values, which at the time of the making of the contract it had not been found necessary to state in exact amounts. In substance, the results of said appraisal are:

Plant Inventory	$ 214,300.00
Organized and Developed Value	60,000.00
Revenue from Hotel Company, 15 years	825,000.00
Value of business of 141 other customers and accretions	65,160.00
Value of clear field	75,000.00

Value of permit to change the plant for joint operation	75,000.00
Rental of tunnel	63,000.00
	$1,377,460.00

The items of value received by the Hotel Utah Company from the Utah Power & Light Company are:

Cash for plant	$ 214,300.00
Service billed at	825,000.00
Relief from supervision and uncertainties	75,000.00
Margin that Hotel Company gave more than it received from the Power Company to balance the two accounts	263,160.00
	$1,377,460.00

The record (Witness Cope, Transcript, Page 21) shows that in addition to service for the buildings mentioned in the service contract, the Hotel Utah Company at the time of sale of its property to the Power Company served one hundred forty-one electric light and power customers who did not take steam service. Thus, it is seen that both the Hotel Utah Company and the Utah Power & Light Company were engaged in the rendering of a public service, and were potentially subject to regulation; and, had this sale not been consumated, the light, power and heating service of the Hotel Company would have been subject to regulation under the rates, rules and regulations of the Commission as prescribed by the Public Utilities Act. Thus, the value of the property under discussion is worth only to the Hotel Company what it is fairly worth to the Power Company, the value of whose property is limited by what it may justly earn in the public service under regulation. (Smyth vs. Ames, 169 U. S., at 416.)

As heretofore indicated, we think many of the issues raised have been answered broadly by the stipulation filed in this case. The stipulation provides (Page 2):

> "The Utah Light Company contracted to pay for the plant thus purchased the full cost and cash value thereof, as shown by a joint audit of the books, viz: $214,300, no attempt being made to place any valuation on any tunnel rights through the Temple Block. By cash value is meant the amount that could have been realized if put on the market for sale."

In connection with so-called intangible values we are convinced that the Hotel Utah property is entitled, in addition to the full cost as stipulated, such intangible values as may be included within the legitimate definition of going value, which includes whatever there is of clear field, good-will, etc., as outlined by commissions and courts, including courts of the highest jurisdiction.

Bearing in mind that the property being impressed with public use, is worth just as much and no more to the Hotel Utah Company than it may earn under regulation, the Commission will allocate to this property the same percentage upon the physical cost as compensation for that property right or element of value which exists in an assembled and established plant, doing business and earning money, over one not thus advanced; as the Commission allowed upon the general system in this case. This sum, under all the circumstances shown to exist in this case, we find to be $21,400, which should be paid to the Hotel Utah Company amortized over the entire life of the contract, with interest at 6 per cent upon deferred payments.

RENTAL VALUE OF TUNNEL

The rental value of tunnel as appraised by expert witnesses, is declared to be $63,000. Witness Riter (Transcript, Page 202) testified in substance that this value is based on the cost of that part of the tunnel used by applicant. This cost as testified to by Witness Riter, is $21,500.

Upon the basis of this valuation, we find an annual rental charge for the tunnel of $2,580, is under all material facts shown to exist in this case, just and reasonable, and this sum should constitute a credit upon the bills for steam heating chargeable to the Hotel Utah Company.

RECORD OF FINANCING

The record of financing shows that the Hotel Utah Company sold its property to the Power Company on deferred payments, bearing six per cent interest. Giving the Hotel Company the benefit of having financed the Power Company for so much of its enterprises, on a six per cent basis, the Hotel Company would be entitled to a credit represented by the difference between six per cent and the cost of money to the utility. This credit should be amortized over the entire life of the contract.

TOTAL ANNUAL VALUE OF THE CONSIDERATION

After a full consideration of all material facts submitted having any bearing upon this question, we are of the opinion and so find that the annual value of these considerations, which should be amortized uniformly throughout the life of the contract, to be $5,683.41, which sum the Power Company is directed to credit annually upon the Hotel Company's bills.

The Hotel Company was placed on standard schedules for light, heat and power, in accordance with our order in Case No. 230, effective October 22, 1920. The steam and electric contracts being inseparable, said order in Case No. 230 carried with it necessarily the application of the standard schedules for steam service, as well as electric service. Hence, the standard electric and steam schedules prevailing up to the effective date of this order, should be applied from October 22, 1920, to the date hereof, subject also to the application of the credit herein found. This, it appears, can result in no injustice to the Hotel Company, as the former schedules were clearly shown to be inadequate to meet the costs of service.

The stipulation between the Hotel Utah Company and applicant further recites that the annual loss sustained by the Hotel Company in operating its plant, August 1, 1911, to August 30, 1915, was practically $12,000.

It is further stipulated that during the same period, the buildings now included under the service contract contributed $64,000 per annum revenues for steam and electric service.

It is further stipulated that since the change of ownership, April 1, 1916, prices having advanced materially, the Hotel Utah Company might reasonably be expected to have an annual increase in the cost of operation of $50,800, had it retained its property and continued to operate as a private plant.

After an allowance for the revenues and expenses that may be reasonably allocated to customers of the plant other than those served under the Hotel Utah Company contract, we find from the stipulation that the reasonable annual cost to the Hotel Utah Company for electric and heating service for the buildings named in the service contract would approximate very closely $122,000. Under existing schedules applied to actual records of energy used for the year 1920, electric service to buildings under the contract of the Hotel Company should not reasonably exceed $42,000.

Thus, it appears that the cost of steam heating service to the Hotel Utah Company, under the conditions above outlined, would approximate very closely $80,000 per annum. The Commission, in constructing its general steam heating schedules, has made provision to reflect this result, assuming a reasonable steam consumption for the buildings taking service under the contract. Finally, we have considered this problem from the standpoint:

(a) The highest possible value which can be ascribed to the purchase property with business attached, including all possible elements that may be included in any legitimate definition of going value, which includes whatever there is of value in good-will, clear field, etc.; or:

(b) From the standpoint of continuing the operation of the plant by the former owners, had they not made this contract.

The conclusion is, and we find, that the annual value of the consideration of the contract cannot possibly exceed $5,683.41, and the Hotel Utah Company will be fully compensated and at the same time will be placed in at least as good a position as if it had retained the plant by being placed on the standard schedules, rules and regulations for power, electric and steam heating service.

The Power Company is, therefore, required to credit on the Hotel Utah Company's bills annually for the balance of the contract period, $5,683.41, as above indicated. This credit will cease when by its terms the purchase contract will be complete and the service contract will expire, and, for convenience of accounting, the Power Company is ordered to charge this credit exclusively to steam operation. The distribution of the credit between the Hotel and the other buildings, including the Deseret News, which has been a party in this proceeding, is a matter for the determination of the Hotel, in which this Commission has no concern.

The record clearly indicates that the effect of preserving the contract rate under the admitted facts in this case, would be either to prevent the rendition of central station steam service, by reason of its inability to pay expenses, or to cast upon the remaining consumers of such steam service the burden of making up the deficit stipulated to amount to over $66,000 per year, resulting from the service to the Hotel Utah Company at the contract rate. The contract rate is therefore discriminatory and preferential.

Summarized, we find:

That the showing made is such as to require increased revenues, in order to pay operating expenses, including the accruing of an adequate depreciation reserve, as well as a reasonable return on the property dedicated to the public service.

That the rates provided in the steam heating schedule of applicant now on file with the Commission and in effect, are, on the whole, insufficient to yield the cost of service, and do not provide reasonable and sufficient revenues for the service rendered to consumers under said schedule, which will be cancelled and set aside and superseded by the schedule heretofore in this order found to be reasonable, with annual credit to the Hotel Utah Company, as heretofore stated.

Further, that the proposed general rules and regulations of applicant, covering steam heating service, insofar as they are not inconsistent or in conflict with the provisions of the order, may be filed as the rules and regulations governing applicant's steam heating service from and after the effective date of this order.

Further, that the schedule of rates and charges herein prescribed, and the rules and regulations, may be made effective on not less than ten days' notice to the public and to the Commission.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
(Signed) JOSHUA GREENWOOD,

(SEAL) Commissioners.

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 September, A. D., 1921.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to increase its steam service rates.	CASE No. 411

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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, Utah Power & Light Company, be, and it is hereby, authorized to publish and put into effect, rates for steam heating service which will not exceed those set forth on Page 20 of the attached report, subject to the rules, regulations, discounts, etc., prescribed on Page 21 of said report.

ORDERED FURTHER, That applicant, Utah Power & Light Company, shall extend to the Hotel Utah Company the credits hereinbefore set forth on Page 27 of the attached report.

ORDERED FURTHER, That such increased rates may be made effective upon ten days, notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to increase its steam service rates.	CASE No. 411.

MINORITY REPORT

HEYWOOD, Commissioner:

Subdivision "C", Section 5, Article 3, of the Public Utilities Act of Utah provides in part as follows:

> "Nothing in this Act contained shall be construed 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 petitioner, the Utah Power & Light Company, and the protestant, the Hotel Utah Company, on April 1, 1916, entered into a written contract whereby the Power Company purchased from the Hotel Company the electric power and light plant, the steam and hot water heating plant, and the refrigerating plant, buildings, equipment, real estate, easements, rights-of-way, tunnels and use of tunnels, and all other property in connection with such plants, and all contracts for supplying electric energy and steam heat, and hot water and refrigeration and the heating, lighting and power and refrigeration business, franchises, immunities and good will now belonging to the vendor and located in Salt Lake City, Utah; together with the main power plant buildings, leanto, coal bunker, stack and other structures, with the contents thereof, consisting of boilers, stokers, breeching, engines and generators, ammonia compressor, auxiliary engines, boiler feed pumps, coal elevator equipment, hot water circulating pump, vacuum pumps, water heaters, switchboard equipment, and all and singular, the apparatus, equipment, devices, and materials and supplies contained therein or appurtenant thereto; also the business and good will belonging to or connected

with the generation, transmission and sale of steam and hot water, electric power and energy, and refrigeration, or either, to the consumers heretofore purchasing the same from the vendor, and all franchises, privileges, permits and immunities, owned by the vendor for the maintenance and operation of said steam, hot water, electrical and refrigerating distribution systems, or either of them;

All for the consideration of $214,300.00, and the furnishing to said Hotel Company certain electric and steam heating service, for a period of fifteen years, at the price of $55,000 per year.

The Power Company now seeks to set aside that portion of the contract relating to the price for the furnishing of steam heat and electric service, claiming that the same is confiscatory, and insists that the Hotel Company shall pay schedule rates for such service in the future.

The Hotel Company resists this contention, pleading that the contract was founded upon an adequate consideration, and that therefore all of its terms and provisions must be carried out. The Power Company admits that at the time the contract was entered into, April 1, 1916, it was a valid contract and was based upon an adequate consideration, but contends that in the light of the Public Utilities Act and its provisions, and the decisions thereunder, the fact that the consideration was adequate and valid when made is now no defense, but that its adequacy must be tested upon values existing at the present time.

With this latter contention, it would seem difficult to find any ground upon which to stand. If there be no date upon which this adequacy can be ultimately established, then it would be futile to enter upon any contract, for none of the interested parties would ever know at what moment his feet would be resting upon shifting sands and his efforts prove of no avail.

The assertion of either party to a contract that it is based upon an adequate consideration, although supported by the admission of the other party, would not be sufficient for the purposes of this Act; but this Commission must find by its own investigation or upon evidence introduced at the trial that the consideration was adequate, and so strong must be the proof, that it must meet the strongest requirements of that word "adequate," which is so important in this case. Webster gives as that strongest definition the words "fully sufficient," and, therefore, this Commission, if it is to give substance to this defense, must

first find that the consideration given by the Hotel Company to the Power Company was fully sufficient.

The parties, at the time of purchase, on both sides seem to have been competent to handle the interests of their respective companies. The Power Company not acting until they were fully advised, knew thoroughly what they were getting, and, in addition, they were fully informed of the receipts and the operation of the plant and the expenses and the real value of all the property, nor did they act until they had also advised themselves thoroughly of what the probable return would be upon operation by their own agents and employes. It would follow from all this that the power Company did not put their names to the contract and assume their obligations until satisfied that the Hotel Company was giving them a consideration that was fully sufficient for the service assumed by them.

This consideration, of course, was made as of the date of the contract, April 1, 1916, and the Legislature, when they used the words "upon adequate consideration," intended that people contracting, fairly and justly had a right to base their future operations upon the words used, and to know that changing values and new conditions, would not be allowed to keep them in a continual state of suspense and uncertainty.

This was not a contract where, on the part of the Power Company, they were to simply furnish continuing service, and on the part of the Hotel Company there was to be paid only a money consideration therefor; but this was a contract of broader scope and one in which the additional duties and consideration on both sides were sufficiently important and far reaching as to affect the business horizon of the Hotel Company, and upon which, if there be no definiteness, the career of such an enterprise would be seriously affected.

At the hearing, the Hotel Company's expert witnesses gave evidence which appeared to have merit, that there was an additional consideration, important to the Power Company, of certain elements of value moving by said sale to the Power Company and naturally following therefrom, tabulated as follows:

Organization and developmental value,	$ 60,000.00
Value of connected business from independent customers and accretions from increase of rates to standard schedules,	65,000.00

Value of "clear field" or absence of other burdensome contracts and removal of competition,	75,000.00
Value of joint operation in connection with the balance of Power Company's steam system,	75,000.00
Value of tunnel lease,	63,000.00
	$338,000.00

> "Against these as a credit it seems to be admitted that the Hotel Company gained a value called 'relief from responsibility of operation' of $75,000.00, leaving a net increment of value to the Power Company, over and above the purchase price of the plant, of $263,000.00."

Without deciding whether these figures are correct, it is safe to say that the items carried with them certain values and the Power Company realized that at the time of the sale, and were anxious to avail themselves of the resulting advantages.

If we say that all this is but chaff before the wind and shall avail nothing to the parties to the contract, then we wipe out the express words of the statute, and that is farther than this Commission ought to go. If the date of the transaction is but idle words, then a reconstruction of its terms in the light of another day would in succeeding times be equally liable to attack, and thus instead of studying the hands of those upon whom fall the carrying out of its provisions, they would act, only to find themselves by later authority cast into difficulty and doubt.

The rights of the public can best be conserved by relying upon the wisdom of the body that enacted the Public Utilities Act and fairly carrying out its terms as we find them expressed.

The Hotel Company honestly and with clean hands entered into this contract, and, obeying it themselves, they had a right to build and carry on their business, relying upon the full performance of the provisions resting upon the Power Company.

(Signed) A. R. HEYWOOD,
Commissioner.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to increase its steam service rates. } CASE No. 411

Decided October 13, 1921.

REPORT OF THE COMMISSION ON PETITION FOR REHEARING

By the Commission:

The Hotel Utah Company, in a petition filed October 10, 1921, asks the Commission to grant a rehearing in the above entitled case, and further, asking that pending such rehearing, the Commission's order issued September 29, 1921, be suspended.

The Commission has examined this petition and finds no grounds upon which the rehearing should be granted.

As to the question raised in Paragraph 9 of the petition for a rehearing, that the Commission should make its report more definite as to whether the said Hotel Company is to pay the "wholesale" or "retail" rate, the Commission herewith enters its order as supplemental to its order of September 29, 1921, and, by way of explanation, as follows:

That the rate schedule found reasonable and applicable to service rendered the holders of the special contract, shall be applied in accordance with the general rules and regulations open to and actually used by the public generally for similar service, said schedule being constructed on the principle that it would be applied to service rendered under the special contract of the Hotel Utah Company, as well as the public generally, and in accordance with the general rules and regulations of applicant open to and actually used by the consuming public for similar service. The purpose of the lower blocks set out in the said schedule was to provide a differential for large users, such as the Hotel Utah Company.

How the Hotel Utah Company collects its charges from other buildings heated under the contract of the said Power Company, is not made a subject for consideration by the Commission in this case, and, therefore, no order

was made with respect thereto; but the Hotel Utah Company should pay the Power Company, in lieu of the flat rates specified in said contract, the rates heretofore named and applied to consumption measured separately at each point of delivery, together with the general rules and regulations as referred to and found in said order (Case No. 411), issued September 29, 1921, subject only to the credits due to the Hotel Company as heretofore defined in Case No. 411, and set out and ordered in said Report and Order.

Other than the above modifications and explanations, the application for rehearing and order to suspend, is denied.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 13th day of October, 1921.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to increase its steam service rates. } CASE No. 411

This case being at issue upon petition for a rehearing, and the Commission having, on the date hereof, made and filed its report containing its findings, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of the Utah Hotel Company for a rehearing in the above entitled matter, and for a suspension of the Commission's order in this case, dated September 29th, 1921, be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOHN SLATER and JOHN FUNK, doing business as the Brigham Auto Truck Company, for permission to operate an automobile freight line between Brigham City and Ogden, Utah, and intermediate points.	CASE No. 412

Submitted June 2, 1921. Decided Sept. 1, 1921.

Young & Davis, for Petitioners.

DeVine, Howell, Stine & Gwilliam, for Utah Idaho Central Railroad Co.

J. T. Hammond, Jr., for Oregon Short Line R. R. Co.

REPORT OF THE COMMISSION

By the Commission:

The application represents that John Slater and John Funk are doing business in Brigham City as an automobile truck line, and asks the Commission to grant them permission to operate a truck service for the hauling of freight to and from Ogden and Brigham City, and intermediate points; that they believe there is a necessity for the service as proposed, and that the same will consist of a direct, daily shipment of freight to and from Ogden and intermediate points, by taking freight from factories or wholesale houses and from retail and other business places enroute, thereby eliminating delivery charges heretofore made on consignments delivered to the regular freight carriers for shipment.

The application was protested by the Oregon Short Line Railroad Company, upon the grounds that there is no necessity for the establishing of such service which petitioners propose, but, on the contrary, asserts that the common carriers now operating between points mentioned have ample facilities to serve the public; that it would be not only unnecessary but unjust and unequitable to allow the petitioners to enter into competitive service under the conditions and circumstances maintaining.

The Utah Idaho Central Railroad Company joined in the protest of other common carriers, and represented

that for more than five years past it has operated, and does now operate, an electric railroad between Ogden and Brigham City, Utah, and points beyond Brigham City, and in such service valuable quantities of railroad equipment are put into service for the operation of its trains; that said line of railroad parallels the highway running between Ogden and Brigham City, over which the applicants propose to operate a motor truck service; that it has reached and served, and will continue to reach and serve, the same towns and points as will be reached and served by the applicants, if granted permission to operate said freight service.

The Utah Idaho Central Railroad Company further represented that it operates passenger trains between said cities at intervals of two and one-half hours on each day of the year, which trains serve all of the intermediate towns between Ogden and Brigham City; that on each of said passenger trains public express service is provided; that a daily freight service carries freight to and from each of said towns; that said railroad in its operation has required large sums of investments.

It further alleges that all freight and express offered it has been taken care of with dispatch and proper care; that said proposed motor freight and express service cannot be maintained all seasons of the year, as can the trains of the protestant and other common carriers; that it would be unfair to authorize additional and competitive service, in view of the enormous operating expenses and investment of expensive equipment and rolling stock, and high taxes for the purpose of establishing and maintaining a complete railroad system, to give adequate service to the towns and places mentioned in the application.

This case was heard, May 12, 1921, at Brigham City, before Commissioners Heywood and Stoutnour.

In support of the petition, the applicants contended in their testimony that they had been engaged in the cartage business at Brigham City for a number of years, and were experienced in the handling of freight; that Brigham City has a population of five thousand people, and is entitled to additional service; that said service is desired on the part of a number of business men, who signed a petition favoring the granting of the application, predicated upon the proposed rates and schedules of the petitioners.

The Utah Idaho Central Railroad Company submitted evidence tending to show that the public was being adequate-

ly served, and that to authorize additional and competitive service was not only unnecessary, but that it would tend to decrease the patronage of the carrier, and thereby result in damage to said protestant; that the statement of comparative rates shows that the rates proposed by the petitioners are, with one exception, higher than the existing rates being collected from the shippers by said common carriers. If true, this would result in an increased rate to the shippers, unless, as is claimed by the petitioners, the saving of expenses for drayage to and from the railroads would fully make up the difference in the rates. The question of the sufficiency and adequacy of the rates to be charged by common carriers, is always open for investigation, either upon complaint of shippers or the Commission's own motion.

The question of monopoly of service cannot, under the present system of control, be urged in favor of a duplication of service which amounts to a competitive service. The interests of the public must be the vital problem of inquiry in passing upon questions of transportation. It is intended by the law that a service to the public should be reasonably sufficient, convenient and adequate, and at a rate base suited to serve the necessities of the public and consistent with the cost and requirements of giving such service. The public is entitled to that which is economically best, taking into consideration all matters which affect the service. In furnishing transportation for the public, it is required that the methods, facilities, schedules and rates shall be such as to meet the reasonable demands of the general public.

The service of a common carrier is entirely different from that in which limited facilities are afforded. A common carriers contemplates the transporting of any and all freight offered for transportation, in a responsible manner, and the establishing of warehouses and agencies to look after and care for property to be transported; also accounts must be kept and reports made of the carrier's business in serving the general public.

In granting a certificate for an additional service which is competitive with the already established carriers, the Commission is of the opinion that it should not be done without a clear showing of substantial and pressing necessities, and that a service will be rendered that gives an additional and different service which cannot be given by those operating as carriers for the public.

The testimony would seem to indicate that the parties making the application have been serving a few people at

such time and under such circumstances as may have amounted to the giving of limited service, but not such service as contemplated and as is required to be rendered by any common carrier.

After a careful consideration of all the circumstances and conditions shown in this case, it appears to the Commission that the circumstances do not warrant the authorization of the services of another common carrier between the points in question, and the application should be denied.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 1st day of September, A. D., 1921.

In the Matter of the Application of JOHN SLATER and JOHN FUNK, doing business as the Brigham Auto Truck Company, for permission to operate an automobile freight line between Brigham City and Ogden, Utah, and intermediate points.	CASE No. 412

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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the PARK VALLEY LIVESTOCK ASSOCIATION, for a certificate of convenience and necessity authorizing the operation of a telephone line between Kelton, Utah, and Rosette, Utah.	CASE No. 413

Submitted April 7, 1921. Decided April 21, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed April 7, 1920, the Park Valley Livestock Association represents that it is a voluntary association fomed by men engaged in the livestock industry in Park Valley, Utah, with its principal place of business and post-office address at Park Valley; that, as a matter of convenience to the residents in the vicinity of Park Valley, a telephone line approximately fourteen miles in length, connecting Kelton and Rosette via Park Valley, has been constructed, and, in order to connect with other telephone lines and to be placed in communication with the outside world, it is desired to assess and collect toll and rental charges for the use of its line; that public convenience and necessity require and will continue to require such a service.

Copy of the Articles of Association and franchise by the County of Box Elder, authorizing the construction of such a telephone line, is attached to an made a part of the application.

Petitioner desires authority of the Public Utilities Commission to operate and maintain such a telephone line and to assess and collect charges for this service.

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

1. That the application should be granted and the Park Valley Livestock Association should be authorized to operate and maintain a telephone line between Kelton, Park Valley and Rosette, Utah.

2. That applicant should file with the Commission a schedule showing the rates to be assessed and collected for rental charges and for transmitting telephone messages over its line.

3. That this telephone line should be constructed and maintained in conformity with the rules heretofore adopted by this Commission, covering such construction and maintenance.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 108.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 21st day of April, A. D., 1921.

In the Matter of the Application of the PARK VALLEY LIVESTOCK ASSOCIATION, for a certificate of convenience and necessity authorizing the operation of a telephone line between Kelton, Utah, and Rosette, Utah. } CASE No. 413

This case being at issue upon petition on file, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, the Park Valley Livestock Association, be, and is hereby, granted a certificate of convenience and necessity, and is authorized to construct, operate and maintain a telephone line between Kelton, Park Valley and Rosette, Utah.

ORDERED FURTHER, That applicant shall file with the Commission a schedule showing the rates to be assessed and collected for rental charges and for transmitting telephone messages over its line.

ORDERED FURTHER, That the telephone line herein authorized shall be constructed and maintained in conformity with the rules heretofore adopted by this Commission governing such construction.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the TELLURIDE POWER COMPANY, for permission to increase its rates. } CASE No. 414

Submitted Oct. 24, 1921. Decided Dec. 27, 1921.

Appearances:

H. R. Waldo, for Petitioner.

For Protestants:

Messrs. Hays & Heckler, for Citizens of Richfield.

E. E. Hoffman, for Richfield Commercial Club.

G. J. Goulding and J. E. Evans, County Atty. } for Panguitch.

Morris & Callister, for Milford Copper and Town of Milford.

W. A. Darrah, for Utah Sulphur Co.

O. W. Wilson, for Pipe Fitters Union of Milford.

W. J. Wilson, for International Association of Machinists of Milford.

E. A. Harrington, for Irrigation Interests.

Mr. Jeffries, for Locomotive Engineers of Milford.

O. J. Salisbury, for Deer Trail Mining Co.

REPORT OF THE COMMISSION

By the Commission:

In an application filed April 8, 1921, the Telluride Power Company, a corporation, duly organized and existing under and by virtue of the laws of the State of Delaware, duly qualified to own property and carry on business in the State of Utah, alleges that it is the owner of an extensive power system situated in the Counties of Millard, Beaver, Garfield, Piute, Sevier, and San Pete, State of Utah, and is engaged in the business of producing and distributing electric power and energy, serving the territory supplied by its lines, including municipalities, farming and mining districts.

Applicant alleges that the rates now in force, with minor exceptions, are the rates under which the utility

has operated for the five years last past, with the following results:

INCOME

1916	1917	1918	1919	1920
$107,317.64	$131,551.51	$144,533.61	$152,895.69	$158,781.66

OPERATING EXPENSES INCLUDING TAXES

$ 62,725.35	*67,710.85	84,977.21	85,033.13	11,710.10

NET EARNINGS AVAILABLE FOR INTEREST AND TO COVER DEPRECIATION AND OBSOLESCENCE

$ 44,592.29	63,840.66	59,556.40	67,862.56	47,071.56

As of January 1, 1921, applicant alleges that the total cost of the fixed property owned and devoted to the public service of supplying electric power and energy is $1,307,770.45, and that the present fair value of said property is largely in excess of that amount, by reason of heavy increases in the value of the elements composing the works owned by applicant since their installation.

In addition to said investment in fixed property, applicant is required, it is alleged, in the carrying on of its business and maintaining its public service, to continuously utilize about $50,000 as working capital, for carrying necessary supplies of materials and repair parts, customers accounts receivable, bank balances, etc. The cost of the fixed property owned by applicant must increase constantly, as the demands of the territory served have and will require continued new investment.

Applicant further alleges that the present rates are entirely inadequate to produce revenues sufficient to cover applicant's reasonable and necessary operating expenses, a reasonable allowance for depreciation and obsolescence, and a fair return upon applicant's investment in the property employed by it in the public service. Further, that it is vitally necessary, in order to enable applicant to continue to render public service and to meet the ever-increasing demands of the territory it is serving, that

* Includes settlement made in 1920 for injuries sustained in 1917.

it be permitted to increase its rates so as to produce a larger earning than it is now receiving. Basing its estimate on 1920 results, the increase required to enable applicant to obtain revenue sufficient to cover operating expenses, an allowance of 4 per cent of its investment in fixed capital, to cover depreciation and obsolescence, and a fair return upon its investment devoted to the public service, on the basis of an average of results for the last five years, is approximately 83 per cent, and that these percentages would have to be largely increased if the calculation is based on the present fair value of said property.

Owing, however, to numerous uncertain elements entering into the calculation of revenues to be produced by given rates, applicant alleges that it does not desire to increase its rates at this time to such an extent; but does believe that an increase to the proposed new rate schedules is amply warranted by existing conditions.

Written protests were received from the towns of Central and Centerfield, protesting against any increase in charges for service rendered to them, for the reason that wages are declining in all branches of industry, and materials are getting lower in prices. These declines will result in decreased operating expenses, and, taken as a whole, protestants believe the present charges are sufficiently high and no increased rates should be granted under the existing conditions.

Protest was filed, June 27, 1921, by the Town of Panguitch, protesting an increase in the rates, for the reason that the cost of construction of the system serving Panguitch cannot reasonably exceed $30,000; that the records of said Power Company for the first four months of 1921 indicate that said Company is receiving an annual income of 26.8 per cent per annum on its investment in the Panguitch, Utah, system, and further, that protestants feel they are being charged an excessive rate for light and power furnished by applicant, and the rates should be reduced, instead of increased.

On August 23, 1921, a protest was received from the citizens of the county of Sevier, Utah, stating that the present rate is excessive and exorbitant, and that prices of all commodities now employed and used by applicant are much less expensive than when the present rates were adopted, and asking the Commission to take prompt action in the reduction of said rates.

This case came on regularly for hearing at Richfield, Utah, May 24, 1921.

The City of Richfield and the Commercial Club of said City were represented by counsel, who protested the granting of any increase in rates, alleging the same was not justified; that some of the power plants of applicant are obsolete and are not now used and useful in the public service; that extravagant prices were paid for such plants; and further, that labor and material costs are declining.

At this hearing, petitioner presented exhibits and testimony as to property investment, operating results and probable earnings under the proposed new rates, after which the hearing was adjourned for cross-examination of applicant's witnesses.

On May 26, 1921, the hearing was resumed at Panguitch, Utah. Testimony was heard, evidence particularly applicable to petitioner's property in Panguitch, after which the hearing was adjourned, and again resumed, July 12th, at Milford, Utah.

Mr. E. R. Callister appeared on behalf of the Town of Milford and for the Milford Copper Company. The protest of the Town of Milford was based upon the grounds that material and labor costs were declining, and there exists no justification for increased rates. The protest of the Milford Copper Company was based upon the ground that the Company was alleged to be working on such a narrow margin that any further increase in expenses, particularly power rates, would probably necessitate the closing of the plant.

Mr. W. A. Darrah, representing the Utah Sulphur Company, made a formal protest against the increasing of power rates, alleging that the Utah Sulphur Company is selling in a highly competitive market, and any increase in the power rates would cause an undue burden upon the industry.

Mr. O. W. Wilson, on behalf of the Pipe Fitters Union, Mr. W. A. Wilson, on behalf of the International Association of Machinists, and Mr. Jeffries, on behalf of the Locomotive Engineers, objected to the increase in light and power rates, alleging living expenses to be very high and the times not prosperous; that wages were being reduced, and an effort is being made to reduce the cost of living along all lines.

Mr. E. A. Harrington objected on behalf of the farmers adjacent to Milford who were pumping water for irrigation purposes and using power furnished by petitioner, alleging that the present rate, which is $6.00 per H.

P. per month, is all the farmers can afford to pay, on account of the low price of the products they are raising.

The hearing was resumed, for the purpose of taking additional testimony, at Richfield, Utah, July 21st. Further cross-examination of applicant's witness was had, and the hearing was continued to September 24th and 26th, at Salt Lake City.

Mr. O. J. Sallisbury, President of the Deer Trail Mining Company, protested the increasing of contract rates to the Deer Trail Mining Company, for the reason that the Company has been maintaining operations on a very narrow margin, and to add additional expense to his Company, would necessitate the closing of the plant, and alleged that the present contract rates are ample and sufficient.

The property under consideration consists primarily of an interconnected system, serving Sanpete, Sevier, Piute, Millard and Beaver Counties. There is also an isolated plant serving Panguitch. The interconnected system consists of two principal hydro-electric generating stations situated on the Beaver River, in Beaver County. These stations are locally known as the Upper and Lower Beaver Plants. The Upper Beaver Plant consists of two 1,000 K. V. A. generators direct connected to Pelton wheels under head of 1,080 feet. In the Lower Plant there are installed two units, one 350 K. V. A. and one 250 K. V. A., direct connected to Pelton wheels under head of 485 feet. From these stations radiate 44 K. V. transmission lines, totalling some 240 miles in length, and, with the necessary distribution lines, serve the various communities in the counties heretofore mentioned.

In addition to the principal power generating stations on the Beaver River, there are several smaller stations connected with the system, viz., Sterling, Glenwood and a steam generating station of 250 K. V. A. capacity at Sevier Station in Sevier County.

In serving its territory, the transmission lines of applicant cross in places a precipitous, mountainous country. Three lines reach a maximum elevation of over 10,000 feet.

As part of its evidence, applicant introduced exhibits showing an itemized statement of its property and plant account as follows: Exhibit "C-1", Book Account as of March 31, 1921; Exhibit "E", Cost of Reproduction of the Property based upon Prices as of January 1, 1921; Exhibit

"S", Original Reproduction cost of the Property based upon Average Prices, 1913 to 1917.

Property and Plant Account as of March 31, 1921, is detailed in Exhibit "C-1", thus:

Cost of Securing Rights, Resevoirs and Waterways	$ 239,984.91
Buildings and Grounds	51,209.18
Power Station Equipment	96,155.56
Transmission System	160,289.61
Distribution Systems	83,981.97
Utility Equipment	1,892.93
Roads and Bridges	37,264.80
Cost of Property and Plant Purchased	521,901.32
	$1,192,680.28

Miscellaneous Construction Expenses:

Administration and Superintendence	$ 16,513.18
Office Supplies and Expenses	7,118.94
Taxes	72.57
Interest	8,655.16
Law Expenses	1,495.66
Discount on Bonds Sold	67,050.00
Miscellaneous Expenditures	15,947.96
	$1,309,533.75
Less Credit for Custom Construction Work	39.58
	$1,309,494.17

Testimony is to the effect that the book account of the property represents actual moneys expended by applicant in the construction of its property, except that portion of the property purchased and carried in its accounts as such, in the sum of $521,901.32.

In Exhibit "E", applicant shows the "bare bones", reproduction constructional cost of this property based upon prices as of January 1, 1921, to be $695,907.00, and in Exhibit "S", the reproduction and constructional cost, without overheads of this portion of the property, based upon average prices of 1913 and 1917, is shown to be $464,847.00.

A reasonable allowance for overhead charges and going value would, upon this basis, justify a value closely

approximating the purchase price. There is also included in property and plant account the sum of $67,050.00, as being chargeable to bond discount. This sum will be excluded as a charge not properly to be included for rate-making purposes. This correction would reduce the property and plant account, as per books, to $1,242,444.17.

The reproduction field cost of the entire property as of January 1, 1921, is shown in a condensed form in Exhibit "E" as $1,625,909.00. To this sum is added a claimed allowance for overheads, working capital and going concern value, making a total reproduction cost upon this basis of $2,440,992.00.

It may be proper here to state that the Commission is not inclined to accept as controlling a value based upon the maximum of war and post-war prices applied to property that was constructed and placed in operation before radically increased prices became effective. This is not intended to exclude consideration of such prices applied to property constructed during the war period.

The Supreme Court of Illinois, in the State Public Utilities Commission, ex rel., City of Springfield vs. Springfield Gas & Electric Company, (P. U. R. 1920-C, Page 652), in deciding this question, said:

> "It would be equally as unfair to the consumer to fix the rate at a figure which would produce a reasonable income on a value determined by the cost of reproduction new at a time when cost of construction was abnormally inflated, as it would be unfair to the public utility to compel it to serve the public for a rate that would produce a reasonable income on a value determined by cost of reproduction new at a time when the cost of construction was abnormally low. Therefore it cannot be laid down as a rule without qualifications that cost of reproduction new, less depreciation, is the only basis of valuation for rate-making purposes. It is equally true that the original cost of construction, less depreciation, cannot be held to be the only proper basis for determination of valuation for rate-making purposes. As we have pointed out heretofore in this opinion, the weight of authority is that every element having any bearing on the situation must be considered in the investigation, and then sound business judgment applied to the determination of a valuation that is fair and just to the consumer

and the utility. Each case must be considered on its own merits, and such result of value arrived at as may be just and right in each case."

Exhibit "S" shows in the same way reproduction field cost estimate for system, based on prices of 1913-1917, to be $1,081,236.00, to which is added claimed overhead costs, including going concern value, making the total reproduction cost $1,643,539.00.

We think the claimed allowances for overhead costs are excessive. Whether or not this latter figure would be supported if an actual physical count and inventory of the property were made, manifestly cannot be determined upon this record; nor does it seem necessary in the instant case to ascertain precisely the present value of the property, as will hereinafter be shown; nor does the Commission, in passing upon the question here at issue, accept at this time as final the statement of book values presented by the petitioner. Such reference to the figures as has been made is intended merely to indicate that the financial condition of the petitioner is such that under this petition and for the purpose of passing upon the question herein involved, it is not necessary to enter minutely into consideration of the constructional cost. This will be made apparent by a consideration of the earnings of applicant.

Exception was taken to the inclusion in applicant's valuation of certain power plants and transmission lines which it is claimed have not been in recent operation and should not now be included as property used and useful in the public service.

In a general way, this property includes Sterling Station, Glenwood Station, Sevier Steam Plant and portions of certain transmission lines. A study of the actual operation of the Sevier Steam Plant convinces us that it should be included as property necessarily used and useful in the rendition of the public service. A certain portion of a transmission line at the time of the hearing was not being used. It has now been removed and reconstructed in a different location, and is in use.

For the purpose of this case, only, we will exclude Sterling Station, Glenwood and certain portions of the transmission lines used only in connection with these stations. We will further include in this deduction, Panguitch division, which will be considered separately, for the reason that it is an isolated plant, separated some fifty miles

from the nearest lines of the interconnected system. We conclude a reasonable deduction covering the items heretofore mentioned would approximate $88,500.00. The book cost of the property, with this deduction, and exclusive of the Panguitch division, would approximate $1,154,000. From this should be deducted $77,000, which, as appears in the testimony of Witness Waters, is the actual tangible depreciation in the property. Including, however, a reasonable allowance for working capital, there may be taken for the purposes of this case a valuation of $1,100,000 for the interconnected system.

Petitioner, in Exhibit "B-B", shows earnings realized from present rates for a period of five years and seven months, viz., January 1, 1916, to July 31, 1921. Testimony is that existing rates have been in effect all of this period, except for some very minor changes. These changes in the main effect slight increases, rather than decreases, and thus in nowise tend to diminish revenues. Earnings and expenses of the Panguitch division have been excluded in all cases in the following three year summary:

	1918	1919	1920	7 months of 1921
Operating Revenue..	$144,741.19	$153,425.06	$158,772.00	$88,116.08
Operating Expenses.	85,809.62	87,134.98	110,652.87	58,557.67
Operating Income...	$ 58,931.57	$ 66,290.08	$ 48,119.13	$29,558.41

Operating income in this case, as will be observed, is the amount available to cover both an allowance for depreciation and a return upon the property, since the operating expenses deducted are actual necessary expenses of operating the property and no more, with nothing included for depreciation.

Before the question of a return may be considered, the utility is entitled to a sum sufficient to replace or renew the different elements of the property when and as required. Renewals or replacements may be required on account of any one or more of several causes: because they have become worn out from use or decay in the public service, or have become obsolete or inadequate; or have been damaged or destroyed through casualty, or on account of civic improvement or public demand.

Depreciation is both actual and latent. Therefore, it is necessary to create a fund to make replacements when

and as required, so as to guarantee to the public adequate, continuous service, and to guarantee the utility against loss of property in the rendition of such service.

In discussing this question, the United States Supreme Court, in the Knoxville Water Company case, said:

> " A water plant * * * begins to depreciate * * * from the moment of its use. Before coming to the question of profit at all, the Company is entitled to earn a sufficient sum annually to provide not only for current repairs, but for making good the depreciation and replacing the parts of the property when they come to the end of their life. The Company is not bound to see its property gradually waste without making provisions out of earnings for its replacement. It is entitled to see that from earnings the value of the property invested is kept unimpaired, so that at the end of any given term of years the original investment remains as it was at the beginning * * * ."

In Exhibit "H", applicant has shown in detail the annual requirement for the depreciation reserve. The weighted average annual requirement set up on a straight line basis is 4.77 per cent of the depreciable property, or, measured in dollars, $62,547.00.

The depreciation reserve fund, as shown by the record in this case, is invested temporarily in the property. The Commission has heretofore in other cases permitted this use of the fund until such time as it is needed for replacing and renewing property. The Commission believes, however, that the earnings of the money so used should be credited to the fund, and to properly reflect the use of the fund on behalf of the public, it should be set up on a sinking fund basis.

Assuming the same weighted, composite average life of the depreciable property as that found by petitioner in Exhibit "H", we conclude the proper annual requirement for the depreciation reserve fund as set up on a sinking fund basis at five per cent, approximates very closely $28,000 per annum. Upon this basis, except for the two years 1917-1918, applicant has not set aside sufficient funds to take care of depreciation in its property. In 1919, $12,000, and in 1920, $5,000, were set aside for depreciation.

With a proper allowance for depreciation, we find the earnings applicable to a return upon investment for the year 1920 and for the seven months of 1921, to be as follows:

For the year 1920 ..... $20,119.13
For 7 moths of 1921 ..... 13,325.41

The earnings for the year 1920 would yield the rate of return indicated below on the valuation shown:

Return of 5% on valuation of..... $402,382.00
Return of 6% on valuation of..... 335,318.00
Return of 8% on valuation of..... 251,489.00

As we have hertofore indicated, it is seen that any valuation likely to be found and fixed by the Commission after a field inventory and appraisal, would exceed by a substantial sum the amount upon which, as shown in the foregoing tabulation, the earnings in 1920 would yield a fair rate of return. Upon the tentative valuation fixed by the Commission, the return is about two per cent.

It is apparent, therefore, that the petitioner must increase its revenues or reduce expenses, or both, if it is to render adequate, continuous service. The increase asked for is estimated by petitioner to yield additional revenues to the amount of $59,239.00. This figure is obtained by applying these rates to the business already done by applicant. As set forth in Exhibit "G", this statement includes $5,400.00, estimate gross revenue for power sold to the Deseret Power Company, which is new business.

The testimony of Witness Waters is to the effect that the Company may hardly expect more business in the next twelve months than during the same period last past, and the operating statistics of the Company to date appear to support this conclusion. There has been no question of extravagance in operation raised, and, after an inspection of the property by the Commission, it clearly appears that operating expenses generally have been held to the minimum, and we conclude that the showing is clear and positive that the existing rates are not adequate to insure the continued successful operation of the plant, and however reluctant the Commission may be to permit the imposition of greater than the present burden of cost upon the consuming public, there exists no other method of providing the revenue absolutely required. If applicant is to pay its operating expenses, maintain its credit and carry on

its business, the cost of giving service must be borne by those who receive such service.

During the hearing, objection was made to an increase in rates, upon the ground that the war is over and we are in a period of price readjustment downward, and the utility having traveled thus far without an increase in rates, should continue to do so until declining prices have adjusted income to outlay.

During the war period, a customary objection made by a class of protestants at rate hearings, was to the effect that prices of every kind were advancing with great rapidity, and the public generally was carrying heavy burdens. This being true, the Commission was asked to deny relief, regardless of the showing made, until after the "war was over"; then rates might be adjusted to meet outgo.

Since the war, this class of objection has taken the form that though the war is now over, the time is not yet to adjust rates; but that some time, when prices are stabilized, income might be adjusted to outlay, and further, that in unregulated industries, prices are now generally declining. In adjusting rates during the war period, the Commission allowed only the necessary minimum increases to meet enormously advanced prices for materials and labor to the utilities, and these increases became only generally effective after increased prices to the utility had occurred.

Again, there is distinction between what might be termed "private industries" and "public utilities". Service by public utilities is compulsory and the prices for service are fixed by regulation of the state or nation. The property of public utilities, being impressed with public service, must be, in the public interest, kept free from confiscation. The above principle seems to be frequently overlooked by objectors. Rates that do not permit of the continued operation of the plant, must necessarily be confiscatory. If the Commission were to sustain this class of objectors at a time when rates are already too low to insure the continuing service of property, it would in effect be fixing rates violative of constitutional rights, both under the Constitution of the State and the United States. Again, if the rates were fixed too low to permit of the renewal and replacement of property, it means that the present class of customers would escape a just obligation, and that the burden of continuing the plant, if service is to be continued, would be thrust upon future consumers. This is manifestly unfair, for one reason: future consumers may

or may not be the same as present consumers, and the burden cannot be shifted.

The experience of the Commission is that the great mass of the public wants to be fair, and, when its mind is not clouded by misinformation, insists on fair play, and our decisions must be guided by a consideration of justice.

The Supreme Court of Wisconsin, in a recent decision, had this to say in this regard:

> "The commission legislation has been welcomed by the public and the public utility companies alike. It has never been suggested that the purpose of the legislation was other than for the promotion of the public interests. Critics should appreciate that private capital devoted to public service is entitled to a fair return and that it requires more courage to render just than popular decisions. It is believed that fourteen years of experience has vindicated the law as a measure of great public benefit, although recently, when abnormal industrial and commercial conditions have given rise to a general increase in rates or service, mutterings against the law or its administration may be heard. But it should not be forgotten that successful regulations must be fearless and fair and accommodated to the exigencies of changing conditions. Whenever the administration agency appointed to arbitrate between the public and the utility is influenced by public sentiment rather than considerations of justice, the purpose of the law will fail, not because of its infirmities but because of its weak and servile administration."

In speaking of the regulation of rates, the Supreme Court of the United States, in the Knoxville Water Company case, 212 U. S., p. 1, said:

> "It is a delicate and dangerous function, and ought to be exercised with a keen sense of justice on the part of the regulating body, met by a frank disclosure on the part of the company to be regulated. The courts ought not to bear the whole burden of saving property from confiscation, though they will not be found wanting where the proof is clear. The legislatures and subordinate bodies, to whom the legislative power has been delegated, ought to do their part. Our social system rests

> largely upon the sanctity of private property, and that state or community which seeks to invade it will soon discover the error in the disaster which follows. The slight gain to the consumer, which he would obtain from a reduction in the rates charged by public service corporations, is as nothing compared with his share in the ruin which would be brought about by denying to private property its just reward, thus unsettling values and destroying confidence. On the other hand, the companies to be regulated will find it to their lasting interest to furnish freely the information upon which a just regulation can be based."

To render adequate, continuous service, revenues accruing from said service must be sufficient to cover the reasonable costs thereof. Included in the term "reasonable costs" is the cost of service, including a fair return upon the fair value of the property devoted to public service. (Smythe vs. Ames, 169 U. S., at 416).

It follows, therefore, with this limitation upon earnings, that additions to the property must be made out of new capital, necessitating the competition of the utility in the money market for money at going rates of interest. New capital cannot be attracted unless the property is permitted to earn a return that will pay interest on the investment properly made. Inability to borrow money means stoppage of growth instead of increased service, generally, service is decreased. The utility must grow with the community; the interests of the two cannot be separated, and it is a shortsighted policy, indeed, that would deny to a vital community service such as this is shown to be sufficient earnings to maintain continuous service to those most interested.

Some measure or yard-stick must be used impartially in fixing rates. For this purpose, principles of rate-making have been adapted by commissions and almost unanimously supported by the courts. It is not a question entirely of what the Commission might individually think the rates ought to be to meet popular approval. The Commission's findings must be, in a measure, the same as a court or jury which finds according to the evidence and the facts existing in the case and plums its findings to the law.

This question is economic, and a settlement on any other basis will not permanently or properly provide a

solution of this vexing question, and the Commission now faces the duty of allowing increases that will augment applicant's net earnings to a point that will insure the continued conduct of the business. The record shows, as a general proposition, that fixed charges have in the past been met at the expense of depreciation.

Applicant filed various proposed schedules which it desires to be made effective throughout its territory, and upon which the probable increase in revenues heretofore discussed is based. While the Commission is convinced that the schedules carrying some increases must be made effective, it believes in some instances the increases asked for will make effective rates that are higher than just and reasonable rates as measured by the value of the service to the public.

In 4 R. C. L., 635, 636, we find:

> "In arriving at a determination of what is a reasonable rate the interest both of the public and of the carrier should be considered, but it is not always possible to do full justice to both, and where this is the case the rights of the public must prevail. And so it naturally follows that as the charge approaches oppression to the shipper, it should in the same degrees approach the point of minimum profit to the carrier. Ordinarily however the carrier is entitled to reasonable compensation, the determination of which by the court is usually an embarrassing question."

There is also another phase of this question presented for consideration: Some of the lines serving the various communities in applicant's territory, have been constructed into sparsely settled districts, and it is very apparent that a period of time must elapse before increases in population will follow to fully justify their construction, and it is apparent that applicant must of necessity forego a full return at this time upon such portions of the enterprise. However, this service is a vital service to the communities served, and it cannot be expected that service from this system can be rendered to comparatively sparsely settled districts at a rate comparable with rates effective in large centers of population.

Rate schedules proposed by petitioner carry increases varying from 12 to 44 per cent over the present schedules. The weighted average increase as proposed, totalled 35.7

per cent. The rate schedules hereinafter fixed by the Commission are materially lower than those proposed by applicant and will yield less than half of that asked for by petitioner; but the Commission feels they are, in light of the showing made, fair and reasonable.

Bearing in mind that the public should not be burdened at this time with any charges in excess of the absolute minimum, and after a full consideration of all material facts that may or do have any bearing on this case, we find the following schedules to be reasonable and applicable to the respective classes of service set out in said schedules:

EXHIBIT B

SCHEDULE No. 1.

RESIDENTIAL LIGHTING

Effective in Utah in all territory served by the Company.

RATE

14 cents per kilowatt hour for the first 30 kilowatt hours of monthly consumption.

11 cents per kilowatt hour for the next 30 kilowatt hours of monthly consumption.

9 cents per kilowatt hour for all additional kilowatt hours of monthly consumption.

Minimum Charge: $1.50 per month.

Prompt Payment Discount. 10 per cent on all charges including minimum charges if paid within the discount period.

Application of Schedule: This Schedule is for residence lighting service in the form of alternating current supplied at approximately 110 or 220 volts.

Rules and Regulations: Service under this Schedule shall be subject to all its terms and to all Rules and Regulations of the Company on file with the Public Utilities Commission of Utah. Copies of this Schedule and of such Rules and Regulations may be obtained on application at any of the Company's offices.

SCHEDULE No. 2

COMMERCIAL LIGHTING

Effective in Utah in all territory served by the Company.

RATE

14 cents per K. W. H. for the first 50 K. W. H. of monthly consumption.

11 cents per K. W. H. for the next 100 K. W. H. of monthly consumption.

9½ cents per K. W. H. for the next 100 K. W. H. of monthly consumption.

9 cents per K W. H. for all additional K. W. H. of monthly consumption.

Minimum Charge: $2.22 per month.

Prompt Payment Discount: 10 per cent on all charges including minimum charge if paid within the discount period.

Application of Schedule: This schedule is for alternating current lighting service at approximately 110 or 220 volts for all commercial lighting, which includes all lighting uses except residence lighting, municipal street lighting, and church lighting.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE No. 3

COMMERCIAL LIGHTING

OPTIONAL LOAD FACTOR RATE

Effective in Utah in all territory served by the Company.

No increase in present rates applicable to this class of business.

SCHEDULE No. 4

SIGN AND DISPLAY LIGHTING

Effective in all territory now served by the Company in Utah.

No change in present rates applicable to this class of business.

SCHEDULE NO 5

MUNICIPAL INCANDESCENT STREET LIGHTING

Effective in all territory now served by the Company in Utah.

RATE

$ .90 per lamp per month for each 20 candle power lamp.
1.25 per lamp per month for each 50 candle power lamp.
2.25 per lamp per month for each 100 candle power lamp.
4.00 per lamp per month for each 200 candle power lamp.
5.00 per lamp per month for each 400 candle power lamp.

No prompt payment discount.

Contract: Service under this schedule shall be under contract for a period of not less than three years.

Application of Schedule: This schedule is for municipal incandescent Street Lighting only. The Company will make, maintain and operate the original installation and additions thereto, provided that no extensions exceeding 600 feet will be made to install a single lamp and that no extensions will be made at the Company's expense during the last two years of the contract.

Lamp renewals will be supplied by the Company at its expense. No reductions in candle power or number of lamps shall be made during the term of a contract.

The location of lamps will be changed at the order and at the expense of the municipality.

Service without Contract: Municipal Street Lighting Service will be supplied without contract at a rate 25 per cent in excess of the rate under contract.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE NO 6

MUNICIPAL INCANDESCENT STREET LIGHTING

Effective in all territory now served by the Company in Utah.

No change in present rates applicable to this class of business.

This schedule supersedes Schedule No. 4-A.

SCHEDULE NO. 7

CHURCH LIGHTING

Effective in all territory now served by the Company in Utah.

No change in present rates applicable to this class of business, except changes in residence lighting rate on which this rate is based.

SCHEDULE NO. 8

HEATING AND COOKING

Effective in Utah in all territory served by the Company.

RATE

3-3/4 cents per K. W. H. for the first 50 K. W. H. of monthly consumption.

3-1/4 cents per K. W. H. for all additional K. W. H. of monthly consumption.

Minimum Charge: $2.22 per month for connected loads of 3000 watts or less, plus 35 cents per month for each additional 1000 watts of connected load or fraction thereof.

Prompt Payment Discount: 10 per cent on all charges including minimum charges, if paid within the discount period.

Application of Schedule: This Schedule is for alternating current service at approximately 110 or 220 volts for heating, cooking, general household appliances, and motors of one horse power, or less, used for domestic purposes.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE NO. 9

POWER FOR GENERAL PURPOSES

Service at 2300 to 11000 volts.

Effective in Utah in all territory served by the Company.

RATE

10 cents per K. W. H. for the first 100 K. W. H. of monthly consumption.

8 cents per K. W. H. for the next 100 K. W. H. of monthly consumption.

6 cents per K. W. H. for the next 100 K. W. H. of monthly consumption.
5 cents per K. W. H. for the next 200 K. W. H. of monthly consumption.
4 cents per K. W. H. for the next 200 K. W. H. of monthly consumption.
3.5 cents per K. W. H. for the next 600 K. W. H. of monthly consumption.
2.9 cents per K. W. H. for the next 6700 K. W. H. of monthly consumption.
1.75 per K. W. H. for all monthly consumption in excess of 8000 K. W. H.

Minimum Monthly Charge: $2.78 per month for the first horse power and $1.39 for each additional horse power of Consumer's connected load, or of Consumer's maximum demand, if same is in excess of the connected load.

Prompt Payment Discount: 10 per cent on all charges, including minimum charges, if paid within the discount period.

Application of Schedule: This schedule is for alternating current service at 2300 to 11000 volts, inclusive, and at approximately 60 cycles per second for all power uses in loads of not more than 24 horsepower; and for all power uses, except for mining and ore treating purposes, in loads of not more than 75 horsepower, provided that as to loads of 50 horsepower or more the Company may at its option restrict the hours during which service will be supplied under this schedule to the hours between midnight and dusk of each day, and as to loads of 25 horsepower or over service will be rendered only under contract.

Where the Company has adequate transformer capacity, power will be applied under this schedule at approximately 110 or 200 volts.

Guarantees: For service to loads of 25 horsepower or more, there shall be guaranteed (for at least three months) net minimum monthly payments per horsepower of Consumer's connected load, or of consumer's maximum demand, if same is in excess of the connected load as follows:

$4.00 per month per horsepower for 3 months service.
3.70 per month per horsepower for 4 months service.
3.40 per month per horsepower for 5 months service.
3.10 per month per horsepower for 6 months service.
2.85 per month per horsepower for 7 months service.

2.65 per month per horsepower for 8 months service.
2.45 per month per horsepower for 9 months service.
2.30 per month per horsepower for 10 months service.
2.15 per month per horsepower for 11 months service.
2.00 per month per horsepower for 12 months service.

For periods of more than three months which include a fractional portion of a month the guarantee shall be determined by adding to the required guarantee for the nearest shorter even month period the same proportion of the difference between that amount and the required guarantee for the nearest longer even month period as the fractional portion of a month included in the period in question bears to a full month.

If service should be discontinued for any reason before the expiration of the period mentioned in the contract for service, Consumer will be deemed to have taken service only for the period same actually continued and upon discontinuance the final bill shall be adjusted to the minimum guaranty for that period, but in no case less than three months.

Where the Company has adequate transformer capacity, power will be served under this rate at approximately 110 or 220 volts.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE NO. 10

POWER FOR GENERAL PURPOSES

Service at 2300 to 11,000 volts.

Effective in all territory in Utah served by the Company.

RATE

A Demand Charge of:

$3.50 per month per horse-power for the first 5 horse-power of Consumer's monthly maximum demand or any part thereof.

$3.25 per month per horse-power for the next 10 horse-power of Consumer's monthly maximum demand or any part thereof.

$3.00 per month per horse-power of Consumer's monthly demand in excess of 15 horse-power.

Plus an Energy charge of:

2.5 cents per K. W. H. for the first 250 K. W. H. of monthly consumption.

2.0 cents per K. W. H. for the next 500 K. W. H. of monthly consumption.

1.7 cents per K. W. H. for the next 2000 K. W. H. of monthly consumption.

1.45 cents per K. W. H. for the next 3250 K. W. H. of monthly consumption.

1.0 cents per K. W. H. for all monthly consumption in excess of 6000 K. W. H.

Minimum Charge: An amount equal to the above demand charge determining the Consumer's maximum demand for the purpose of computing such charge by his connected load.

Prompt Payment Discount: 5 per cent on all charges if paid within the discount period.

Application of Schedule: This schedule is for alternating current service at 2300 to 11,000 volts inclusive, and at approximately 60 cycles per second, for general power purposes for installations of 49 horse-power and under, and is available only under contract for periods of not less than one year, but service will be rendered hereunder if desired under contract, for less than one year at a rate 10 per cent in excess of above rates.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE NO. 11
POWER FOR GENERAL PURPOSES

Service at 2300 to 11000 volts.

Effective in Utah in all territory served by the Company.

RATE

A Demand Charge of $2.25 per month per horse-power of maximum demand, plus an Energy Charge of:

4 cents per kilowatt hour for each of the first 25 kilowatt hours used during such month per horse-power of maximum demand for that month.

3.5 cents per K. W. H. for each of the next 25 K. W. H. used during such month per horse-power of maximum demand for that month.

2.8 cents per K. W. H. for each of the next 25 K. W. H. used during such month per horse-power of maximum demand for that month

2 cents per K. W. H. for each of the next 25 K. W. H. used during such month per horse-power of maximum demand for that month.

1.2 cents per K. W. H. for each of the next 25 K. W. H. used during such month per horse-power of maximum demand for that month.

1 cent per K. W. H. for each of the next 25 K. W. H. used during such month per horse-power of maximum demand for that month.

.9 cent per K. W. H. for each of the next 25 K. W. H. used during such month per horse-power of maximum demand for that month.

.8 cent per K. W. H. for all additional K. W H. used during such month per horse-power of maximum demand for that month.

Minimum Monthly Charge: $2.25 per month per horse-power of connected load.

Application of Schedule: This schedule is for alternating current, three phase service at 2300 to 11000 volts, inclusive, and at approximately 60 cycles per second, at points adjacent to the Company's transmission system for general power purposes only, for loads of 50 horse-power and over, and for mining and ore treating purposes for loads of 25 horse-power and over, when measured by a single meter of each kind needed.

Load Factor Discount: When a Consumer shall establish for any month, a load factor for such month greater than seventy per cent, a discount on his total bill for such month shall apply, which discount expressed in per cent, shall be one-third of the difference between such established load factor, expressed in per cent, and seventy per cent.

Quantity Discounts: The following discounts will apply to the total monthly bill, provided, however, that no monthly bill shall be reduced by quantity discounts to less than the minimum charge:

First $200.00 or fractional part thereof .....Net
Next $400.00 or fractional part thereof 5%
All in excess of $600.00 .....10%

Prompt Payment Discount: An additional discount of 2 per cent will be allowed on all charges, including guaranteed minimum payment, for payment within the discount period.

Annual Guarantee: The Consumer shall guarantee a net payment to the Company for each calendar year or fractional part thereof elapsing after the date fixed in the contract for the commencement of service hereunder, at the rate of $3.83 per month per horsepower of Consumer's demand during such calendar year or fractional part thereof; except that in case of seasonal loads such as irrigation pumping and sugar factory installations the net payment guaranteed shall be for each season during the term of the contract during which service is required, but in no case for less than three months in each yearly period after the date fixed in the contract for the commencement of service hereunder at the rate of $4.59 per month per horsepower of Consumers' demand during such season. Such guaranteed annual or seasonal payment shall be kept up by payments at the end of each month during the period in question as follows: At the end of each month, if the total charges against Consumer under other portions of this schedule during the time that has elapsed since the commencement of the period in question shall not equal a minimum payment at the applicable rate hereinabove specified for the then elapsed portion of the period in question based on Consumer's demand during such period to that time, the Consumer shall then pay the amount by which such total charges fail to equal such minimum payment, provided, that due credit shall be given on succeeding bills to the extent that later charges under other portions of this schedule during the period in question are sufficient to make any portion of the charges made under this paragraph alone unnecessary to satisfy the requirements of this paragraph.

Term of Contract: The above rates are available only under contracts for a term of not less than two years, but service will be rendered under contracts for terms of one year or over and less than two years at a rate of 10% in excess of this schedule, all discounts remaining the same; and, at the option of the Company, under contracts for less than one year, at a rate 25% in excess of this schedule, all discounts remaining the same.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE NO. 12

POWER FOR GENERAL PURPOSES

Service at 44,000 volts.

Effective in Utah in all territory served by the Company in Beaver, Piute, San Pete and Sevier Counties.

RATE

A Demand Charge of $2.00 per month per horsepower of maximum demand plus:
An Energy Charge of:

3-1/2 cents per K. W. H. for each of the first 25 K. W. H. used during such month per H. P. of maximum demand for that month.

3 cents per K. W. H. for each of the next 25 K. W. H. used during such month per H. P. of maximum demand for that month.

2-1/2 cents per K. W. H. for each of the next 25 K. W. H. used during such month per H. P. of maximum demand for that month.

2 cents per K. W. H. for each of the next 25 K. W. H. used during such month per H. P. of maximum demand for that month.

1.2 cents per K. W. H. for each of the next 25 K. W. H. used during such month per H. P. of maximum demand for that month.

1 cent per K. W. H. for each of the next 25 K. W. H. used during such month per H. P. of maximum demand for that month.

.8 cent per K. W. H. for each of the next 25 K. W. H. used during such month per H P. of maximum demand for that month.

.7 cent per K. W. H. for each of all additional K. W. H. used during such month per H. P. of maximum demand for that month.

Minimum Monthly Charge: $2.00 per month per horse-power of connected load.

Application of Schedule: This Schedule is for alternating current, three phase service at approximately 44,000 volts, and 60 cycles per second at points adjacent to the Company's transmission system, for power purposes only, for loads of 50 H. P. and over, and measured by a single meter of each kind needed.

Load Factor Discount: When a Consumer shall establish for any month, a load factor for such months greater than seventy per cent, a discount on his total bill for such month shall apply, which discount expressed in per cent, shall be one-third of the difference between such established load factor, expressed in per cent, and seventy per cent.

Quantity Discounts: The following discounts will apply to the total monthly bill, provided, however, that no monthly bill shall be reduced by quantity discounts to less than the minimum charge.

First $500.00 or fractional part thereof ..... Net
Next $500.00 or fractional part thereof 5%
All in excess of $1,000.00 .....10%

Prompt Payment Discount: An additional discount of 2% will be allowed on all charges, included guaranteed minimum payment, for payment within the discount period.

Annual Guarantee: Same as Schedule No. 11.

Term of Contract: Same as Schedule No. 11.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE NO. 13

POWER FOR IRRIGATION PUMPING

Effective in Utah in all territory served by the Company.

RATE

$7.78 per month per H. P. for the first 10 H. P. of Consumer's monthly maximum demand or any part thereof.

$7.22 per month per H. P. for the next 15 H. P. of Consumer's monthly maximum demand or any part thereof.

$6.67 per month per H. P. for the next 25 H. P. of Consumer's monthly maximum demand or any part thereof.

$6.11 per month per H. P. of Consumer's monthly demand in excess of 50 H. P.

Minimum Charge for Season: Four times the monthly charge for Consumer's demand for the season, except that for loads of 35 horse-power and over where Consumer desires service only after June 1st for the purpose of pumping water to supplement a natural supply liable to fail after said June 1st, the minimum charge per season

shall be three times the monthly charge for Consumer's demand for the season.

Prompt Payment Discount: 10 per cent on all charges including minimum charges if paid within the discount period.

Application of Schedule: This schedule is for alternating current service supplied at 2300 to 11,000 volts inclusive for loads up to 100 horse-power, for irrigation pumping only during an irrigation season commencing on the first day of April, and ending on the first day of October of each year.

Contract: This schedule is available only under contract guaranteeing to Company the above seasonal minimum charge at least one season.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE NO. 14

EMPLOYEES' RATE

Effective in Utah in all territory now served by the Company.

Electric service is furnished without charge to regular employees of the Company whose services are devoted exclusively to the Company, and who are the heads of families, and who make no commercial use of such service.

DEER TRAIL MINING COMPANY

Service to the Deer Trail Mining Company at the present time is rendered under a contract. This Company is applicant's largest customer; the business during the past year brought in gross revenues of $22,522.00, or approximately 31.5 per cent of applicant's entire gross revenue from power service.

The distinctive feature of the contract, a copy of which is on file with the Commission, guarantees a minimum payment of $10,080 per year for the term of the contract, without the privilege of discontinuing service on sixty days' notice, as is extended to other mining customers.

Under the rate named in the contract, operating at 75 per cent load factor, which is approximately the operating load factor of the Company, the unit cost per K. W. H. is 1.3c. This is somewhat less than the yield under the present schedule applicable to this class of business, but, as heretofore stated, the present schedules do not carry the favorable guaranty. Under all circumstances, we find

the contract rate to be self-sustaining and should be continued for the present. In connection with this question, and in order to avoid discrimination, we will require that this contract rate, together with rules, regulations and practices named therein, be filed as an optional high voltage power schedule, and open to any other customer who is willing to make similar guarantees, and otherwise take service under similar conditions to those specified in said contract as it now stands.

PANGUITCH

Panguitch is served by an isolated plant, in no way physically connected with the rest of the Company's properties, but is handled as a part of applicant's general system and with its general organization.

The Company has heretofore charged higher rates at Panguitch than elsewhere in its system, but, in asking for increased rates, petitioner seeks to have Panguitch consumers placed on a parity of rates with like consumers of the general system.

Applicant's Exhibit "T" shows original reproduction cost of this property to be $34,370.00, and Exhibit "I" shows reproduction cost as of January 1, 1921, to be $46,200.00. The City of Panguitch also presented a valuation made by an engineer employed by the City, showing a valuation considerably less. Criticisms may be made of all the valuations submitted. The Commission will tentatively accept a valuation of $30,000 for the purposes of this case.

The results of past operations of Panguitch were shown in Exhibit "A". An analysis of the results set forth in this exhibit discloses that operating earnings after deduction of operating expenses exclusive of depreciation, for the years 1918-1920, both inclusive, were as follows:

1918	*$ 159.49
1919	1081.93
1920	2109.30

*Deficit.

If a reasonable annual allowance of $812.00 is made for depreciation, it follows that the amount available for return on investment in no year exceeded 4.32 per cent. Further, the number of customers in and contiguous to Panguitch is limited, and there can be no greatly increased volume of business in the reasonably near future.

We have concluded to place Panguitch on the uniform schedules of the system as found by the Commission. This effects some slight increases and decreases over present schedules. On the whole, we think the result would be a slight increase in revenues.

EARNINGS OTHER THAN POWER & LIGHT EARNINGS

The suggestion has been made that earnings from outside business and investments be included in revenues for rate-making purposes, both as regards Panguitch and the general system. Investigation of these earnings discloses that they are principally profits from sales of electrical merchandise, house-wiring, earnings from an investment in a fire-clay factory in Salt Lake City, and rental of buildings in Pocatello, Idaho.

In making rates, we have excluded all costs, revenues and expenses other than those actually entering into the rendering of the public service. Our property account includes only property used and useful in the giving of that service. The person who pays to have his house wired, buys and electric light globe, purchases brick in Salt Lake City, or pays rent in Idaho, cannot be required to help pay part of the rate charged the person who pays for electric power and light. Again, it sometimes happens, as we have discovered in other cases, that annual losses are realized in the conduct of other departments or investments, and we see no justice in compelling a light or power consumer who buys only a service, to assume burdens which arise from operation such as we have heretofore outlined. The principle has been so universally established that only property used and useful in the rendering of a public service may be considered, and only revenues and expenses pertaining to such service may be considered in making rates. We believe any further discussion of this question would only tend to lengthen this report.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:
(Signed) T. E. BANNING,
Secretary.

In the Matter of the Application of the TELLURIDE POWER COMPANY, for permission to increase its rates. } CASE No. 414

MINORITY REPORT

HEYWOOD, Commissioner:

The withholding of my name from the majority report must not be construed as a refusal to recognize the authority that a public utility is entitled to a fair return on the investment.

In the recasting of the financial world, some attention must be paid to the coming hour of reduced replacement values and operative expenses, which doubtless will be followed by a revival in the volume of business. With the two former going down, and the latter bringing in larger returns, the present net income might sooner than looked for, grow near to the full amount permitted.

A study of the returns received by petitioner during the past five years, warrants the belief that no present distress can come to them in exercising a patience that would make possible the avoidance of resorting to the disingenous plant of raising rates at a time already crowded with perplexing situations.

Again, in some of the schedules now in effect, this Power Company is apparently receiving rates larger than obtain in portions of Utah served by other utilities, and while there is doubtless grounds therefor, it naturally arouses caution and invites hesitancy in allowing any increase.

This Company should be treated as generously as others, and, insofar as the rates in any of its schedules compare unfavorably with those in force in portions of Utah served by other utilities, correction or readjustment should be granted.

I think petitioner should be allowed to withdraw with permission to present their case, insofar as justified, at a date when times become more normal.

(Signed) A. R. HEYWOOD,

Commissioner.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 27th day of December, A. D., 1921.

In the Matter of the Application of the TELLURIDE POWER COMPANY, for permission to increase its rates. } CASE No. 414

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of the Telluride Power Company, for permission to put into effect the increased rates set forth in its petition, be, and it is hereby, denied.

ORDERED FURTHER, That applicant, the Telluride Power Company, be, and it is hereby, permitted to publish and put into effect rates for electric light, heat and power which will not exceed those set forth in the preceding order.

IT IS FURTHER ORDERED, That such increased rates may be made effective upon ten days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of A. H. BARTON, for permission to operate an automobile truck express line between Tooele City, Utah, and Salt Lake City, Utah. } CASE No. 415

Submitted June 3, 1921. Decided June 23, 1921.

L. C. Kramer, for Petitioner.

Dana T. Smith, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled matter was heard on the 3rd day of June, 1921, upon the petition of the applicant and protest of the Los Angeles & Salt Lake Railroad Company.

The petitioner claims that there is a necessity for the establishing of an automobile truck and express line between Tooele and Salt Lake City; that at present there is not sufficient service to properly care for the traffic; that the petitioner has an auto truck, and is prepared to, and will, if permitted, render a service that will meet the demands of the public.

The protestant, the Los Angeles & Salt Lake Railroad Company, in its opposition to the establishment of the service set out in the petition, contends that there is ample and sufficient service now being rendered to the people of Tooele by the trains which operate daily between said points, and that there is no necessity for additional service.

Some documentary evidence, together with an oral testimony, was given in support of the application, in which it was claimed that the common carrier, the Los Angeles & Salt Lake Railroad Company, was not rendering a service which was of such nature as to serve the demands of most of the business houses of Tooele City; that the service offered by Mr. Barton would save considerable

time in getting their commodities direct from the wholesalers in Salt Lake City to their places of business, and that such service would furnish an accommodation to the merchants and business concerns of Tooele not now afforded; that the service rendered by Mr. Barton in the past was much superior to that rendered by the railroads especially in the transportation of express articles which are perishable and which do not reach their destination in a time best suited to meet the demands.

It would appear from the testimony that the service to be rendered by the petitioner would be more direct and would lessen very materially the time taken for the shipment of articles of express; that the method of receiving the merchandise at the wholesale houses and delivering it to the dealers of Tooele would seem to be a more convenient and expeditious manner of handling the same.

It was, however, contended by the Railroad that the proposed service can be given, if at all, only during the summer months; but that the railroad is required to carry such articles the year round, and to operate at all times a means of transportation; that the Railroad is justly entitled to the business asked for by petitioner; that the service offered is unnecessary, and should not be authorized.

The service given by the American Railway Express Company over the Salt Lake Route, between Salt Lake City and Tooele, is handled on trains 51 and 52, leaving Salt Lake City for Tooele at 7:30 A. M. and leaving Tooele City for Salt Lake City at 3:30 P. M. The transfer is made of the express at Warner on the Salt Lake Route to the Tooele Valley Railway and taken to Tooele, a distance of 2 miles.

It would appear from the above that in the summer months, the service of the Railroad Company is not giving entire satisfaction; that it is not a matter of rates, but a matter of convenience and dispatch.

It is not the purpose of the Commission to encourage or authorize conpetition that is unnecessary, or when conditions and circumstances do not warrant.

After a careful consideration of the showing made in this case, together with the appeals of a number of business concerns, the Commission is of the opinion that there is a necessity for the service asked for by petitioner, particu-

larly that class of goods manufactured or furnished on short notice and required to be delivered within a limited time.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 115.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 23rd day of June, 1921.

In the Matter of the Application of A. H. BARTON, for permission to operate an automobile truck express line between Tooele City, Utah, and Salt Lake City, Utah. } CASE No. 415

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted, and A. H. BARTON be permitted to operate an automobile truck line for the transportation of express between Salt Lake City and Tooele, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and charges, together with a schedule showing arriving and leaving time, and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of such lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HENRY K. GOODART, for permission to operate an automobile stage line between Helper and Vernal, Utah.	CASE No. 416

Submitted April 27, 1921. Decided May 10, 1921.

Henry K. Goodart,
Pope & Wallis, for Protestant.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

In an application filed April 16, 1921, Henry K. Goodart asks the Commission for authority to operate an automobile stage line between Helper and Vernal, Utah, alleging that there is sufficient traffic to justify a stage line between said points, and that he is capable of conducting such stage line operation.

A hearing was had, April 27, 1921, at Myton, Utah, at which time Pope and Wallis, attorneys for Harold Baxter, protested the granting of the application, stating that on the 31st day of January, 1921, the Commission issued its order, granting to Harold Baxter a certificate of convenience and necessity to operate an automobile stage line between the same points set forth in applicant's petition. Protestant alleged that there is not sufficient traffic to justify the operation of an additional stage line over the said route; that, if the application of Henry K. Goodart be granted, it would conflict with and be detrimental to the operation of protestant under the said certificate of convenience and necessity already issued to protestant by the Commission; and further, that it is the bona fide intention of protestant to operate said stage line in accordance with said certificate of convenience and necessity and pursuant to the rules, regulations and orders of the Commission, and asked that the application be denied.

Mr. Goodart testified that no regular stage service was at this time being rendered between Helper and Vernal, Utah; that he was prepared to render such service, had the necessary equipment, and would be willing to undertake continuous operation during the winter between these points.

Harold Baxter, protestant, testified that he had succeeded James S. Fontjos in the operation of the Helper to Vernal stage line, and had been granted a certificate of convenience and necessity by the Commission, to conduct such operation; that during the past winter, a portion of the road between Helper and Duchesne had become impassable and teams had to be used to convey passengers over this section. When it became generally known that it would be necessary to go part of the way by team, traffic was diverted to the Price-Myton stage line, and the Helper to Vernal stage received no patronage. Since ceasing operation between Helper and Duchesne, he has been maintaining a service between Duchesne and Vernal. He admitted that a regular, consistent service between these points had not always been maintained; but testified that the traffic was extremely light at times, and that unauthorized individuals had carried passengers over the highway, to the great detriment of the regular service. He testified further that the highway across the summit of the mountain would be opened to traffic in a very few days, and the regular service between Helper and Vernal would be resumed.

It appears that due to the severity of the winter, the route over the summit of the mountain between Helper and Duchesne had become impassable; that assistance in keeping the road open had not been rendered to the same extent as had previously been the case, and that a regular service during the winter months was not feasible, except at a cost prohibitive to applicant.

It appears that, while applicant has not maintained at all times a regular, consistent schedule, the highway is now open to Helper, and, in view of the efforts put forth by protestant during the past winter, he should be given some further consideration and be permitted to conduct further the operation of this service. The application of Henry K. Goodart will, accordingly, be denied.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
(Signed) JOSHUA GREENWOOD,
(SEAL) Commissioners.

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 11th day of May, A. D., 1921.

In the Matter of the Application of HENRY K. GOODART, for permission to operate an automobile stage line between Helper and Vernal, Utah. } CASE No. 416

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Henry K. Goodart, for permission to operate an automobile stage line between Helper and Vernal, Utah, be, and the same is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UINTAH RAILWAY COMPANY, for permission to discontinue operation between Watson and Vernal, Utah. } CASE No. 417

Submitted April 28, 1921. Decided May 3, 1921.

Thomas L. Mitchell
Thomas W. O'Donnell } for Applicant.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

The Uintah Railway Company, applicant in this case, is a corporation, organized under and existing by virtue of the laws of the State of Colorado, and is engaged in the operation of a narrow gauge, steam railway between Mack, Colorado, and Watson, Utah, and, in connection therewith, has been operating, since the year 1906, a wagon and stage line between Watson and Vernal, Utah, a distance of over fifty miles. There has been a daily passenger service rendered, but no regular schedule has been maintained for freight, the frequency of said freight service depending upon the quantity of freight to be transported.

Applicant further alleges that during the period of operation of the said wagon and stage line up to and including December 31, 1920, the net loss sustained on account of transporting freight and passengers over said wagon and stage line had been in excess of $275,000, and that during the past few months there has been very little freight and a greatly reduced number of passengers; and that there is now no necessity of maintaining a regular freight service or daily passenger line such as has previously been in effect.

A hearing was had at Vernal, Utah, on the 28th day of April, 1921. No protests were entered, neither did any protestants appear at the hearing.

Mr. W. D. Halpin, Assistant Secretary of the Uintah Railway Company, testified as to the operating revenues

and expenses of applicant, both as to its general railway revenues and expenses, and as to the losses sustained by the wagon freight and passenger stage line. Mr. James E. Hood, General Manager, testified as to the method of operation of this stage line in connection with the railway, and as to the greatly diminished volume of traffic moving via this line during the past few months.

The record clearly shows that operation of the wagon freight and passenger stage line service cannot be rendered except at a continuing direct loss to applicant. Rate increases have heretofore been granted upon traffic moving via the wagon and stage line, and further rate increases will not, in our opinion, make the business self-sustaining.

The operation of the wagon and stage line service has had a fair trial, and it does not appear that sufficient traffic can be originated to warrant a regular service. Accordingly, we conclude that further operation of the wagon freight and stage line as such will result in placing too great a burden upon the general commerce of applicant, and petitioner should be granted permission to discontinue the present service upon proper notice to the public.

Stage lines operating between Vernal, Utah, and Price and Helper, respectively, under authority of the Commission, afford service to the traveling public in that section.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:
(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
(SEAL) Commissioners.

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 3rd day of May, A. D., 1921.

In the Matter of the Application of the UINTAH RAILWAY COMPANY, for permission to discontinue operation between Watson and Vernal, Utah. } CASE No. 417

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted, and the Uintah Railway Company be, and is hereby, permitted to discontinue its freight and passenger line services between Watson, Utah, and Vernal, Utah.

ORDERED FURTHER, That such change in its service may be made on ten days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

UTAH STATE WOOLGROWERS ASS'N,
Complainant,
vs.
DENVER & RIO GRANDE RR. CO., AND
A. R. BALDWIN, RECEIVER.
LOS ANGELES & SALT LAKE RR. CO.,
OREGON SHORT LINE RR. CO,
SOUTHERN PACIFIC CO,
UNION PACIFIC RAILROAD CO.,
WESTERN PACIFIC RR. CO.,
Defendants.

CASE No. 418

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for a certificate of Public Convenience and Necessity to exercise the rights and privileges conferred by franchise granted by the Town of Layton, Utah.	CASE No. 419

Decided June 3, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed April 23, 1921, the Utah Power & Light Company, a corporation of the State of Maine, represents it has secured from the Board of Trustees of the Town of Layton, Davis County, Utah, an ordinance authorizing it to construct, operate, and maintain electric light and power lines, together with all the necessary or desirable appurtenances, for the purpose of supplying electricity to said Town of Layton, Utah, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes; and petitions the Commission for authority to exercise the rights and privileges granted by said franchise, a copy of which is attached to, and made a part of the application.

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

1. That public convenience and necessity require, and will continue to require, the construction, operation and maintenance of electric transmission and distribution lines in the Town of Layton, Davis County, Utah.

2. That in the construction of such electric lines, applicant, the Utah Power & Light Company, should conform to the rules and regulations issued by the Public Utilities Commission of Utah governing the construction of electric light and power lines.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Public Convenience and Necessity No. 111.
At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 3rd day of June, A. D., 1921.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for a certificate of Public Convenience and Necessity to exercise the rights and privileges conferred by franchise granted by the Town of Layton, Utah.	CASE No. 419

This case being at issue upon petition on file, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, UTAH POWER & LIGHT COMPANY, be, and is hereby, granted a certificate of convenience and necessity and is authorized to construct, operate and maintain electric transmission and distribution lines in the Town of Layton, Davis County, Utah.

ORDERED FURTHER, That in the construction of such electric lines, applicant shall conform to the rules and regulations issued by the Commission governing the construction of electric light and power lines.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the IRON COUNTY TELEPHONE COMPANY, for permission to increase its exchange and pay station rates.	CASE No. 420

Submitted July 13, 1921. Decided Nov. 3, 1921.

J. T. Woodbury, for Petitioner.
H. C. Parcells, for Protestant.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

In an application filed April 27, 1921, the Iron County Telephone Company, a corporation, engaged in the commercial telephone business in Iron and Washington Counties, Utah, with its principal place of business at Cedar City, Utah, alleges that the existing exchange rates have never been adequate, and are practically those established by the Company at its organization in 1908.

Applicant alleges that during the period 1917 to 1920, while expenses were rising, toll revenues increased in like ratio; but that during the first quarter of 1921, toll revenues decreased to approximately that of 1916, and that the burden of carrying on the business has heretofore fallen on toll revenues. However, it is alleged if this petition be granted, revenues will be increased approximately $200.00 per month.

Applicant further alleges that the outside telephone plant, contiguous to Cedar City, was rebuilt and enlarged during 1920, and suitable real estate acquired in both Cedar City and Parowan for the location of central offices; and that the book value of the property now used in conducting the business is $31,477.10, plus $4,815.88, for real estate acquired for future use.

It is further alleged by applicant that on account of an ample reserve and regular payment of dividends, stock is selling at a premium of 25 per cent; that to secure cash for the necessary betterments and extensions, applicant must continue to offer stock to the public, the sale of said stock depending upon the ability of the utility to earn a fair return, applicant alleging that it is paying nine to ten per cent interest for loans.

The case came on regularly for hearing at Cedar City, Utah, July 13, 1921.

The City of Parowan protested the granting of the application upon the ground that the rates as at present charged are adequate, alleging that commodity and labor costs having declined, there exists no good reason for the granting of said increase in rates.

J. T. Woodbury, a witness on behalf of applicant, testified as to the financial history of the Company; its revenues and expenses, and the present physical operating condition of the property. As part of Mr. Woodbury's testimony, there was introduced as Exhibit "A", comparative balance sheets and income statements as of December 31, 1920, and June 30, 1921, as follows:

COMPARATIVE BALANCE SHEETS

	Assets	
Account	Dec. 31, 1920	June 30, 1921
100 Plant and Equip.	$25,059.01	$27,359.01
105 Other Property	7,115.88	4,668.43
100 New Plant		120.17
115 Cash	210.11	558.22
120 Notes Receivable		
125 Due from Subscribers & Agents	2,215.61	2,681.13
130 Accounts Receivable	124.34	230.01
135 Materials & Supplies	1,443.44	1,444.24
	$36,168.39	$37,070.21

	Liabilities	
Account	Dec. 31, 1920	June 30, 1921
160 Capital Stock	$ 9,504.65	$12,438.32
170 Notes Payable	7,690.00	5,546.63
175 Accounts Payable	948.19	394.10
180 Accrued Liabilities not due	(taxes & Int.)	468.14
185 Depreciation Reserve	9,360.09	10,395.27
190 Other Credit accounts, (premium on cap. stock)		733.35
195 Surplus	8,665.46	7,085.40
	$36,168.39	$37,070.21

INCOME STATEMENT

300	Telephone Operating Revenues	$13,256.77	$ 5,866.22
330	Telephone Operating Expense	11,055.04	5,647.08
	Net Telephone Operating Income	$ 2,200.73	$ 219.14
350	Taxes	687.07	353.50
	Telephone Operating Income	$ 1,514.66	*$ 134.36
310	Other Operating Revenue	$ 509.63	$ 194.90
340	Other Operating Expenses	587.28	266.27
	Net Revenue from other Operations	* 77.65	*$ 71.37
	Operating Income, gross	$ 1,447.01	*$ 205.73
360	Interest accrued		$ 160.60
370	Mis. Charges to Income	25.90	25.65
380	Dividends Declared (Charged direct to Surplus)		
	Total Deductions	25.90	*$ 186.25
	Balance transferred to Credit Surp.	$ 1,411.11	Dr. Surp. $ 391.98

*Deficit.

The record in this case discloses that applicant has in the past received from its revenues sufficient funds to carry on its business, set aside a depreciation reserve amounting to $9,360.09, as of December 31, 1920, which sum approximates 40 per cent of the total book cost of plant and equipment, and, in addition to annual dividends, has accumulated a surplus as of above date in the sum of $8,665.46. The records on file with the Commission indicate that the average annual cash and stock dividend for the thirteen year period of the existence of this property was 10.65 per cent, with a maximum dividend of 12 per cent.

In its order decided November 11, 1920, carrying certain increases, the Commission permitted an annual amount equal to ten per cent of the depreciable property to be set

aside to take care of deferred replacements. The testimony of Mr. Woodbury is that this work has now been completed. The record discloses that the depreciation reserve fund and the surplus are at present invested in additions and betterments to the property. Thus, the depreciation reserve is not now available in cash for making replacements.

A depreciation reserve is, under the Public Utilities law, created for a specific purpose, that of replacing and renewing property that has become worn out or obsolete in a public service. It is not a fund to be set up for the purpose of creating new property under the name of a depreciation reserve.

While the Commission has permitted such portion of the depreciation reserve as is not immediately needed for replacement purposes to be invested temporarily in a property, such portion of the reserve as is needed to meet immediate depreciation demands, must be kept available.

The annual amounts heretofore set aside as a depreciation reserve, have resulted in the accumulation of a depreciation reserve account considerably in excess of the requirements of the Company for this purpose, and the fund carried as a reserve for accruing depreciation may be considerably reduced without affecting the investment. For the year 1921, applicant should not be required to set aside an annual amount for the reserve fund for depreciation, and for the year 1922, until further ordered by the Commission, applicant should set aside as the annual requirement for the depreciation reserve fund the sum of $1,000, which sum is based upon the present depreciable physical property, with a composite weighted average life for the property of sixteen and two-thirds years and set up upon a sinking fund basis at five per cent.

With corrections as above indicated, the actual investment in property is enjoying a reasonable return, and there appears no reason at this time for the granting of said increase. In view of the surplus earnings realized in past years, the utility should bear its proportion of the burden during the period of transition from war conditions.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,

We concur:

(Signed) A. R. HEYWOOD,

(SEAL) JOSHUA GREENWOOD,

Commissioners.

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 3rd day of November, A. D., 1921.

In the Matter of the Application of the IRON COUNTY TELEPHONE COMPANY, for permission to increase its exchange and pay station rates.	CASE No. 420

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HOWARD J. SPENCER, for permission to operate an automobile stage line for the transportation of passengers between Salt Lake City, Utah, and Pinecrest, Utah.	CASE No. 421

Submitted May 12, 1921. Decided May 25, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled matter came on for hearing, May 12, 1921, at the office of the Commission. There was no opposition in writing or otherwise.

Testimony in support of the application was to the effect that the petitioner, Howard J. Spencer, has had eight years' experience in operating automobile stage lines, and for the past two years has operated under the order of the Commission, between Salt Lake City and Tooele; that he is the owner of three-seven passenger cars, and is able to increase the rolling stock to any extent to take care of the traveling public; that Pinecrest is located in what is known as Emigration Canyon, about thirteen miles east of Salt Lake City; that it is one of the summer resorts patronized by many of the citizens of Salt Lake; that a request has been made by the people interested in Pinecrest Inn, and others, that applicant be granted permission to operate an automobile stage line service between Salt Lake City and Pinecrest Inn; that there is no available means of transportation to and from said canyon resort, except by private automobiles.

From the showing, it appears, and the Commission finds, that there exists a public necessity for the operation of an automobile stage line between the points named in the application; that the applicant is experienced in such service and is equipped with sufficient cars to insure a reasonably adequate service, and that the Commission would be warranted in authorizing petitioner to operate an automobile stage line for the transportation of passengers between Salt Lake City and Pinecrest, Utah.

Applicant will file with the Commission a schedule of rates and time of operation, before commencing service.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 112.
At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 25th day of May, A. D., 1921.

In the Matter of the Application of HOWARD J. SPENCER, for permission to operate an automobile stage line for the transportation of passengers between Salt Lake City, Utah, and Pinecrest, Utah. } CASE No. 421

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and Howard J. Spencer be permitted to operate an automobile stage line between Salt Lake City, Utah, and Pinecrest, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HOWARD HOUT, for permission to operate an automobile stage line between Salt Lake City and Coalville, Utah.	CASE No. 422

Submitted May 25, 1921. Decided June 4, 1921.

Dan B. Shields, for Applicant.
C. B. Diehl, for Protestants.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled matter came on for hearing, May 25, 1921, at the office of the Commission, upon the petition of the applicant and the protest of the Oregon Short Line Railroad Company and the Union Pacific Railroad Company.

The hearing disclosed the fact that Howard Hout is a resident of Salt Lake City; that he is now, and has been for the past few years, engaged in operating an automobile stage line between Salt Lake City and Park City, Utah, under the direction and order of the Public Utilities Commission of Utah; that part of the route proposed by the applicant is over the same road as the service now being given from Salt Lake City to Park City; that Coalville is the county seat of Summit County, situated in the eastern end of said County, on what is known as the Lincoln Highway; that Coalville is served by a branch of the Union Pacific Railroad, which service is not first-class, as it consists of a mixed train on a daily freight which operates between Echo and Park City; that the service offered by the protestant is not convenient or adequate to meet the demands of the traveling public between the points herein named; that, in addition to Coalville, there are a number of settlements and ranches which require passenger service to Salt Lake City; that the applicant has been urged by a number of the business men and business institutions located along the line of the proposed route, to establish an automobile service; that the applicant is desirous of

operating a daily service, consisting of a round trip from Coalville to Salt Lake City and from Salt Lake City to Coalville; that there is a necessity for such service, and that the applicant has equipment to handle same and finance it; that such service would be more convenient, more desirable and less expensive than the present service being furnished by the Oregon Short Line and Union Pacific Railroads.

Some telegrams and letters were introduced, tending to corroborate the statements set forth in the petition.

The protestants maintained that there is no necessity for the establishment of the service, but, on the contrary, asserted that the common carriers now operating between the points mentioned have ample facilities to render and afford the service required by the public, and that it was unjust to allow the petitioner to make use of the public highway by competing with the lines of other carriers, in view of the fact that such carriers are required to pay a large amount of taxes to the State, while the petitioner, who enters into competitive service, is given free use of the public highway.

The fare proposed by the applicant is $3.24 each way, including war tax, between Salt Lake City and Coalville, which is very little different from that charged by the railroads, which is $3.30 each way. The time required, however, to make the trip by railroad, would seem to be much longer than by automobile, and could not be as convenient, for the reason that a passenger could be taken up by the auto service at Coalville and intermediate points without the expense and trouble of traveling to Echo and there taking the Union Pacific Railroad to Ogden, and from Ogden, the Oregon Short Line Railroad to Salt Lake City. The train from Echo to Ogden appears to be a through train from the east, and the train from Echo to Park City via Coalville and other points would not be desirable, for the reason that it is a mixed train and takes time to handle the freight, which is the principal reason for operating such a train.

There is no doubt but what the proposed additional service would furnish a very convenient means of travel between Salt Lake City, Coalville and intermediate points, at those seasons of the year when the road is open, and that it would furnish a convenience which is not available under the service of the Oregon Short Line and Union Pacific Railroads.

After a careful study of the conditions set forth in the testimony, the conclusion is that there is a necessity and the conditions warrant the establishing of the service contemplated in the application; that the applicant is able and equipped to furnish such service and is therefore entitled to a certificate of convenience and necessity, as asked for in the application.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 113.
At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 4th day of June, A. D., 1921.

In the Matter of the Application of HOWARD HOUT, for permission to operate an automobile stage line between Salt Lake City and Coalville, Utah. } CASE No. 422

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and HOWARD HOUT be permitted to operate an automobile stage line between Salt Lake City and Coalville, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of SALT LAKE AND UTAH RAILROAD COMPANY for an investigation of the method of measuring power furnished by the UTAH POWER & LIGHT COMPANY under Tariff No. 2 Schedule No. 1 for use by Electric Railroads. } CASE No. 423

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the RICHFIELD AUTO & TAXI COMPANY, for permission to operate a stage line between Richfield and Fish Lake, Utah.	CASE No. 424

Submitted May 17, 1921. Decided May 28, 1921.

REPORT OF THE COMMISSION

By the Commission:

The above entitled case came on for hearing at Richfield, Utah, May 17, 1921, the applicants appearing in their own behalf and no one appearing in opposition.

From the showing it appeared that the Richfield Auto & Taxi Company is a partnership, composed of W. H. Harvey, George Carrier and Paul George, of Richfield, Utah; that said Company is the owner of three automobile touring cars; that a large number of the business men in Richfield and elsewhere has requested the petitioner herein to establish between Richfield and Fish Lake a passenger stage line; that there is no railroad from Richfield to Fish Lake, or other means of conveying the traveling public; that Fish Lake is a popular mountain resort, to which many people travel during the summer months; that Richfield is a station on the Denver & Rio Grande Railroad and the point to which many of those who visit Fish Lake go.

It further appeared that the parties composing the Company have had considerable experience in the operation of automobiles for passenger service and have facilities to operate and give such service to the traveling public; that such a service has been and will be necessary for the convenience of travel between said points; that the road from Richfield to Fish Lake is necessarily a mountain road, and Fish Lake is reached by a long climb from the valley, and is accomplished with some considerable difficulty and expense; that the proposed rates and fares are as follows:

From Richfield to Fish Lake.....$6.00
From Fish Lake to Richfield 5.00

Under the application and showing made, the Commission concludes as follows:

1. That there is a necessity for the establishing of an automobile stage service between Richfield and Fish Lake during the summer months.

2. That the parties applying for a certificate of convenience and necessity are equipped with sufficient facilities to reasonably take care of the traveling public who shall avail themselves of such service.

3. That the parties applying have had sufficient experience and knowledge of such service as to insure reasonable and safe transportation of the public.

4. That the road leading from Richfield to Fish Lake is a mountain road, some parts of which are steep and require careful and most sober attention, and the parties so operating will be required to conform strictly to the rules and regulations of the Commission.

5. That under all circumstances and conditions shown, the applicant is entitled to a certificate of convenience and necessity.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 110.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 28th day of May, A. D., 1921.

In the Matter of the Application of the RICHFIELD AUTO & TAXI COMPANY, for permission to operate a stage line between Richfield and Fish Lake, Utah. } CASE No. 424

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and the Richfield Auto & Taxi Company be permitted to operate an automobile stage line between Richfield and Fish Lake, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automoible stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

In the Matter of the Application of BAMBERGER ELECTRIC RAILROAD COMPANY, for an investigation of the method of measuring power furnished by UTAH POWER & LIGHT COMPANY under Tariff No. 2 schedule No. 1 for use by Electric Railroads. } CASE No. 425

PENDING.

In the Matter of the Application of UTAH IDAHO CENTRAL RAILROAD COMPANY for an investigation of the method of measuring power furnished by UTAH POWER & LIGHT COMPANY under Tariff No. 2 schedule No. 1 for use by Electric Railroads. } CASE No. 426

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of P. D. STURN, for permission to operate an automobile stage line between Salt Lake City and Heber City, Utah, via Provo. } CASE No. 427

Submitted June 3, 1921. Decided June 15, 1921.

P. D. Sturn, Petitioner.
Benjamin R. Howell, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled matter came on for hearing, June 3, 1921, upon the application of the petitioner and protest of the Receiver of the Denver & Rio Grande Railroad.

Testimony on the part of the applicant was to the effect that there is a necessity for the operation of a stage line between Salt Lake City and Heber City, via Provo; that such necessity and convenience is predicated upon the following statement of facts:

That there is not sufficient service given by the Denver & Rio Grande Railroad between Provo and Heber City, especially is that true during the summer months; that there is but one daily train operated between Provo and Heber City, leaving Provo at 6 P. M. and returning from Heber City at 7 A. M.; that there is a stage line operated during the summer months between Duchesne and Heber City, and, unless the parties so traveling from Duchesne to Salt Lake City and intermediate points can connect with the service given by the Railroad, there is considerable delay at Heber City, which would be avoided by the establishing of an automobile stage service between Heber and Salt Lake City via Provo; that Provo Canyon is an attractive summer resort, to which many people from Salt Lake City and intermediate points go; also the Strawberry Valley, through which the Duchesne-Heber City Stage Line operates, attracts a great number of pleasure seekers, and that many of such pleasure seekers are from Salt Lake City and travel to Heber City and points on the Provo River and Strawberry Valley via Provo; that it is not the intention

of the applicant to interfere with the traffic between Salt Lake City and Provo, but that the service will be offered between Provo and Heber City, also an opportunity given to make points in Provo Canyon, with no intention, however, to interfere or to give competitive service between Salt Lake City and Provo; that the applicant is at present engaged in driving an automobile stage between Salt Lake City and Park City, and has had many years' experience in operating stage lines, and is able and willing to equip such route with proper and sufficient means that will render efficient and adequate service, and will properly take care of the traveling public.

The protestant maintains that there is no necessity for additional competitive service to that which is being tendered the public by the Denver & Rio Grande Railroad from Provo to Heber City, for the reason that there is an established method of transportation between Salt Lake City and Heber City via the Railroad to Park City, and from there an established automobile stage line from Park City to Heber City is regularly operated. Protestant further alleges that it operates a daily passenger train between Provo, Utah, and Heber City, Utah, leaving Provo at 6 P. M., arriving at Heber City, 8:15 P. M.; returning, leaving Heber City, 7 A. M., arriving at Provo, 9 A. M.; that there is ample and sufficient passenger train service between Salt Lake City and Provo; that for many years past the protestant has been equipped to carry all passengers between Salt Lake City, Provo and intermediate points, to Heber City, and that, if the petition is granted, the protestant would be subjected to unjust and unreasonable competition, and would thereby suffer great and irreparable injury; that in the arranging of its schedule, the protestant has had in view the accommodation of the traveling public between Heber and Provo and intermediate points.

The Commission has heretofore issued certificates of convenience and necessity to various parties, to operate between said points, and some service was rendered by one of them, but the last parties did not avail themselves of such certificate, for the reason that the road up the canyon was being repaired and was inconvenient for travel.

It is not the policy of the Commission to authorize unnecessary competitive service, for the reason that the common carriers should not be deprived of traffic that they are justly entitled to, and are willing and able to serve. However, in some cases, while railroads have been

giving service, the service has not been sufficient to meet the growing demand and convenience of the traveling public, and the service rendered by the carrier between Provo and Heber, according to the showing, does not and could not, without increasing the present service, meet the reasonable demands of the traveling public.

The passenger service given by the carrier between the points mentioned is a mixed service, necessarily slow, and, being but one train a day, could hardly meet the requirements, as it appears that there is necessarily a great deal of traffic leading to and from Heber City down Provo Canyon, which is an outlet for the Duchesne country and other points.

Under the showing made and in view of the action of the Commission heretofore in issuing certificates of convenience and necessity for the operation of automobile stage line between Heber City and Provo, it does appear that there is some necessity at least for additional service to that already being given by the Denver & Rio Grande Railroad; that the petitioner is experienced in the operation of automobile stage lines and is prepared to furnish the necessary equipment and is therefore entitled to a certificate of convenience and necessity for the operation of a stage line from Salt Lake City to Heber City, via Provo. It is understood, however, that the service is not to be given between Provo and Salt Lake City. The operation is restricted to through traffic.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 114.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 15th day of June, A. D., 1921.

In the Matter of the Application of P. D. STURN, for permission to operate an automobile stage line between Salt Lake City and Heber City, Utah, via Provo. } CASE No. 427

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and P. D. Sturn be permitted to operate an automobile stage line between Salt Lake City and Heber City, Utah, via Provo, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of W. E. OSTLER, for permission to operate an automobile stage line between Spanish Fork and Castella Springs, Utah.	CASE No. 428

ORDER

Upon motion of the petitioner, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter be, and it is hereby, dismissed.

Dated at Salt Lake City, Utah, this 10th day of June, 1921.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SALT LAKE & UTAH RAILROAD COMPANY, temporarily to decrease passenger train service between Salt Lake City and Magna, Utah. } CASE No. 429

Submitted June 16, 1921. Decided June 25, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed May 23, 1921, and amended June 16, 1921, the Salt Lake & Utah Railroad Company asks permission to reduce its train service between Salt Lake City and Magna, Utah, from nine daily trains each way to five daily trains each way.

The case was heard, June 16, 1921, at Salt Lake City, after due notice. No protest was received.

Petitioner offered testimony and introduced exhibits to show that during the present business conditions there is no public demand for the full service now being given, and that the revenues from the operation of this branch line are not sufficient to warrant the continuance of present schedule.

Exhibit No. 7 introduced by petitioner, shows the number of passengers handled by each train for the week ended June 11, 1921, the daily average being 145 passengers to Magna and 136 passengers to Salt Lake City. Other exhibits were introduced by petitioner showing the financial results of its operation, which indicates that its revenues are not sufficient to enable it to continue operation of all its passenger trains under present conditions, without suffering an actual loss.

Testimony was offered to show that the proposed reduction of service will effect a saving of approximately $1,000 per month, by reducing operating expenses.

It is proposed to operate on the following schedule between Salt Lake City and Magna:

Leave Salt Lake	Arrive Magna
7:55 A. M.	8:35 A. M.
11:15 A. M.	11:59 A. M.
4:10 P. M.	4:55 P. M.
6:10 P. M.	6:55 P. M.
7:45 P. M.	8:25 P. M.

Leave Magna	Arrive Salt Lake
7:05 A. M.	7:50 A. M.
8:40 A. M.	9:25 A. M.
12:10 P. M.	12:55 P. M.
5:05 P. M.	5:45 P. M.
7:00 P. M.	7:40 P. M.

Petitioner's exhibits show that these trains handle the major portion of the traffic between Salt Lake City and Magna. The showing seems sufficient to warrant the Commission in authorizing a reduction in the passenger service on the Magna branch of petitioner's railroad.

It will be observed that proposed schedule of petitioner does not contemplate the giving of late evening service between these points, the last train leaving Magna for Salt Lake City at 7 P. M., and Salt Lake City for Magna at 7:45 P. M. It will thus be seen that people desiring to spend the evening in either Salt Lake City or Magna, would, under the proposed schedules, be compelled to seek other methods of transportation. Petitioner's present schedule provides for a train leaving Salt Lake City at 11:20 P. M., returning, leaves Magna at 12:25 A. M.

Petitioner introduced an exhibit showing the number of passengers carried on each train during the week of June 5th-11th, inclusive. The train leaving Salt Lake City at 11:20 P. M. carried an average for the week of nine passengers per train per day to Magna, while the return trip made in the early morning averaged three passengers per train per day.

In a previous case, No. 383, an application for permission to operate an automobile stage line service between Salt Lake City and Garfield, evidence was introduced to show the necessity for additional late evening service. The Commission at that time ordered no change of schedule,

neither did it permit the operation of an automobile stage line in competition with the Railroad.

The Commission is at all times desirous of seeing the carrier effect economies, but it must be remembered that this service is an intercommunity service and such economies should not be effected at the expense of sufficient service to care for the reasonable needs of the community. It is the opinion of the Commission that service should be provided so that people of both Salt Lake City and Magna may be given an opportunity to avail themselves of late evening service. Accordingly, the proposed schedule of petitioner will be approved, with the addition of the present night train leaving Salt Lake City at 11:20 P. M.

This order is not intended to prevent applicant from making a further showing in the future, should circumstances justify.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

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 25th day of June, A. D., 1921.

In the Matter of the Application of the SALT LAKE & UTAH RAILROAD COMPANY, temporarily to decrease passenger train service between Salt Lake City and Magna, Utah. } CASE No. 429

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and the Salt Lake & Utah Railroad Company be permitted to establish the schedule set forth in the Commission's report, with the addition of one night train leaving Salt Lake City at 11:20 P. M.

ORDERED FURTHER, That such reduction in service may be made upon five days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SALT LAKE & UTAH RAILROAD COMPANY, temporarily to decrease passenger train service between Salt Lake City and Magna, Utah.	CASE No. 429

Submitted June 16, 1921. Decided July 16, 1921.

SUPPLEMENTAL REPORT OF THE COMMISSION

By the Commission:

Since issuing its Report and Order of June 25th, the Commission has conducted further investigation into the necessity of operating a train from Salt Lake City at 11:20 P. M., and is of the opinion that its Report and Order should be modified to provide that a train be operated from Salt Lake City to Magna at 10:15 P. M., in lieu of the train at 11:20 P.M.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

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 16th day of July, A. D., 1921.

In the Matter of the Application of the SALT LAKE & UTAH RAILROAD COMPANY, temporarily to decrease passenger train service between Salt Lake City and Magna, Utah. } CASE No. 429

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the order heretofore issued in this case, dated June 25, 1921, be, and it is hereby, modified to read as follows.

> "That the application be granted and the Salt & Utah Railroad Company be permitted to establish the schedule set forth in the Commission's Report, with the addition of one night train leaving Salt Lake City at 10:15 P. M."

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the AMERICAN RAILWAY EXPRESS COMPANY, for permission to make effective within the State of Utah, Official Express Classification No. 27.	CASE No. 430

Submitted June 2, 1921. Decided June 24, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed April 27, 1921, the American Railway Express Company, by N. K. Lockwood, its Superintendent of Traffic and Transportation, asks authority by exparte order, to make Official Express Classification No. 27, I. C. C. 1500, effective, upon intrastate traffic in Utah, said classification to become effective upon one day's notice to the public and the Commission. The Commission declined to authorize said classification becoming effective without a showing as required by law.

After notice, the case came on for hearing June 2, 1921.

The proposed changes embody clarification of rules, increases and decreases in rates and amounts charged and collected for the transportation of certain articles by express.

At the hearing, protests were made against the proposed increase in the rates on newspapers and empty bread carriers returned.

In Case No. 333, decided March 31, 1921, an application of the American Railway Express Company for authority to increase express rates, petitioner was requested to furnish reports of operating revenues and expenses applying to traffic intrastate in Utah, together with such other data as would inform the Commission as to the Company's requirements. As pointed out in the above numbered case, petitioner failed to furnish such information or make such showing as would enable the Commission to know and properly determine whether or not applicant

was entitled to relief. Again, no such showing was made in the instant case, and the Commission, under our law, cannot permit increases in the rates and charges of any utility without a proper showing before the Commission that such increases are justified.

On the showing made, the application, insofar as the classification embodies increases in rates, should be denied. Insofar as it does not effect increases in rates or charges, petitioner should be allowed to make Official Express Classification No. 27 effective on Utah State Traffic, on one day's notice to the public and to the Commission.

An appropriate order will be issued.

Dated at Salt Lake City, Utah, this 24th day of June, 1921.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

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 24th day of June, A. D., 1921.

In the Matter of the Application of the AMERICAN RAILWAY EXPRESS COMPANY, for permission to make effective within the State of Utah, Official Express Classification No. 27.	CASE No. 430

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of the AMERICAN RAILWAY EXPRESS COMPANY, to make effective on Utah State traffic, Official Express Classification No. 27 insofar as said classification effects increases in rates or charges, be, and it is hereby, denied.

ORDERED FURTHER, That the American Railway Express Company be, and it is hereby, authorized and permitted to make effective on one day's notice to the public and to the Commission, Official Express Classification No. 27 on Utah State Traffic insofar as it does not effect increases in rates or charges.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH RAPID TRANSIT COMPANY, for an order directing that no curbing be constructed in the paved highway in Ogden, Canyon, Weber County, Utah.	CASE No. 431

Submitted June 24, 1921. Decided June 25, 1921.

David L. Stine, for Petitioner.
George Brown and Mr. Allen, for Weber County.

REPORT OF THE COMMISSION

By the Commission:

This is an application of the UTAH RAPID TRANSIT COMPANY, a common carrier, owning and operating a line of electric railway between the City of Ogden and Huntsville, through Ogden Canyon, Utah.

In Ogden Canyon, the highway parallels the railway of applicant, and particularly in the district Idlewild to Pineview, a distance of approximately one mile, and at various others points in the Canyon. At these points the highway and railway are in such close proximity that it appeared impractible to maintain the full, standard clearance, and the Commission had heretofore approved a type of construction wherein the clearance was somewhat reduced, and a concrete curb provided along the edge of the paving, where the same parallels the roadbed and tracks of petitioner, said curb being placed with a view of securing a greater degree of safety in traversing the highway.

A later consultation between the authorities of the County and the different Boards interested, resulted in a union of opinion that the curbing would seriously prevent the expeditious and economical removal of snows, which in winter time, are so heavy and frequent in the Canyon.

A petition thereupon was filed by the Railway Company asking that the order for the curbing be rescinded.

The case came on regularly for hearing June 21, 1921, at which time testimony was heard in part, and adjourn-

ment of the case was taken until June 23rd, to procure additional data, and, on the last named date, the parties again appeared and submitted further testimony.

Testimony was to the effect that it would be impracticable to change the location of the highway in this Canyon so as to permit of greater clearance between the highway and the railroad, and that the presence of the curb did not add to the safety of the traveling public. Some testimony was also given as to the physical location of the railroad at these points, and the cost involved in changing the location of the railroad with reference to the highway so as to provide a greater clearance.

The Commission is impressed with the plea that the curb should be removed and with the impracticability of changing the location of the highway, and will permit the elimination of the curb, retaining, however, jurisdiction of the case, so that if in its judgment a dangerous condition may develop, will, on its own motion, consider the advisability of providing greater clearance by changing the location of the railroad with reference to the highway.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

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 25th day of June, 1921.

In the Matter of the Application of the UTAH RAPID TRANSIT COMPANY, for an order directing that no curbing be constructed in the paved highway in Ogden, Canyon, Weber County, Utah. } CASE No. 431

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and that the concrete highway in Ogden Canyon may be constructed without a protecting curb.

ORDERED FURTHER, That the Commission retain jurisdiction of this case, and reserves unto itself the right to increase the clearance between the highway and railroad should the safety of the traveling public require.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of PRICE, A MUNICIPAL CORPORATION, for permission to change the rates for electric power to retail users.	CASE No. 432

ORDER

Upon motion of the petitioner, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter be, and it is hereby, dismissed.

Dated at Salt Lake City, Utah, this 14th day of September, 1921.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE UINTAH RAILWAY COMPANY, for a Certificate of Convenience and Necessity for construction and extension of railroad.	CASE No. 433

REPORT OF THE COMMISSION

By the Commission:

In an application filed June 1, 1921, the Uintah Railway Company represents it is a corporation, organized and existing under and by virtue of the laws of the State of Colorado, and has complied with the law of Utah relating to freight corporations. That it owns and operates, as a common carrier, a line of narrow gauge railway from Mack, Colo., to Watson, Utah, and Rainbow, Utah, a distance of approximately 65 miles.

A certified copy of the Articles of Incorporation are attached to and made a part of the petition.

Applicant asks permission to construct and maintain extensions to its present line to be known as the Watson North Extension, 19.362 miles in length, the Bonanza Extension, 3.011 miles in length, the Cowboy East Extension, 1.401 miles in length, and the Cowboy West Extension, 1.193 miles in length, as more particularly described in the application and shown on blueprints and profiles accompanying same.

The Commission has previously authorized the construction of the Salt Lake & Denver Railway into Uintah Basin, and has notified its president of the proposed new line with a view of determining if the granting of this application will, in any way, conflict with the construction heretofore authorized. No reply to the Commission's communication has been received.

The Commission has investigated the territory to be served by the proposed new extensions and finds:

1. That public convenience and necessity requires, and will continue to require, the construction, operation,

and maintenance of single track, narrow guage railroad extensions of applicant's line of railroad from Watson, Utah, and from Bonanza, as more particularly set forth in its application.

2. That applicant should begin work on such extensions within a reasonable time and should observe the minimum clearances, both side and overhead, heretofore prescribed by the Commission.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Public Convenience and Necessity No. 116.
At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 7th day of September, 1921.

In the Matter of the Application of THE UINTAH RAILWAY COMPANY, for a Certificate of Convenience and Necessity for construction and extension of railroad. } CASE No. 433

This case being at issue upon petition on file, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted, and the applicant, the Uintah Railway Company, be, and is hereby authorized to construct, operate and maintain a single track narrow gauge railroad extensions of its line from Watson, Utah, and from Bonanza, Utah, as more particularly set forth in its application.

ORDERED FURTHER, That applicant, the Uintah Railway Company, shall, in the construction of such extensions, observe the minimum clearances, both side and overhead, heretofore prescribed by the Commission.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

BEAR RIVER VALLEY TELEPHONE COMPANY, a corporation, *Complainants,* vs. UTAH POWER & LIGHT COMPANY, a corporation, *Defendant.*	CASE No. 434

ORDER

Upon motion of the complainants, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter be, and it is hereby, dismissed.

Dated at Salt Lake City, Utah, this 21st day of September, 1921.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of AXEL F. JONES and LEONARD ROSANDER, for permission to operate an automobile stage line between Salt Lake City, Utah, and Eureka, Utah, via Provo, Payson, Goshen and other points.	CASE No. 435

ORDER

Upon motion of the applicant, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter be, and it is hereby dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 25th day of June, 1921.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

PEERLESS COAL COMPANY,
SPRING CANYON COAL CO.,
STANDARD COAL COMPANY,
Complainants,

vs.

BAMBERGER ELECTRIC RR. CO.,
BINGHAM & GARFIELD RY. CO.,
LOS ANGELES & SALT LAKE RR. CO.,
OREGON SHORT LINE RR. CO.,
SALT LAKE & UTAH RR. CO.,
SOUTHERN PACIFIC COMPANY,
TOOELE VALLEY RY. CO.,
UNION PACIFIC RR. CO.,
UTAH-IDAHO CENTRAL RR. CO.,
UTAH RAILWAY COMPANY,
UTAH TERMINAL RY. CO.
Defendants.

CASE No. 436

Submitted July 18, 1921. Decided July 26, 1921.

Appearances:

H. W. Prickett, for Complainants;

H. A. Scandrett, George H. Smith, J. V. Lyle, J. T. Hammond, Jr. } for Oregon Short Line RR, & Union Pacific Railroad;

David L. Stine, for Utah-Idaho Central RR, also for Lion Coal Company as intervenor, and Bamberger Elec. RR.

R. G. Lucas, for Bingham & Garfield Ry. Co.
Martineau and Evans, for Utah Terminal Ry. Co.
G. S. Anderson, for Utah Railway Co.
Dana T. Smith, for Los Angeles & Salt Lake RR.

REPORT OF THE COMMISSION

By the Commission:

In this case, the complainants allege that they are coal companies, organized under the law of the State of Utah, engaged in the business of mining, producing and distributing coal, wholesale; that their general offices are located in Salt Lake City, and the mines so operated are located in Carbon County, Utah; that the defendants, with the exception of the Utah Terminal Railway Company, are practically engaged in the transportation of freight and passengers between points in the State of Utah; that the Utah Terminal Railway Company, after June 15, 1921, will be engaged as a common carrier in the transportation of passengers and property between points in the State of Utah; Complainants further allege that on July 9, 1920, the Public Utilities Commission of Utah issued its order granting the said Utah Terminal Railway Company a certificate of convenience and necessity, authorizing to to construct, operate and maintain a single track, standard gauge railroad, for the purpose of engaging in intrastate business; that the said Utah Terminal Railway Company connects with the Utah Railway and serves the above named complainants at Peerless, Storrs and Standardville; that the complainants, and each of them, have their mines developed and equipped in such a manner that they have a daily capacity of 5,250 net tons.

It is further alleged by complainants that numerous coal mines are situated on the line of defendant, Utah Railway Company, and coal is transported by the defendants to various points in Utah; and further, there are through carload rates in effect for the transportation of coal from complainants' aforesaid mines to the points of destination; but there are no through carload rates in effect for the transportation of coal from complainants' aforesaid mines at Peerless, Storrs and Standardville, Utah; to points of destination referred to herein, via the railroad of the defendant, the Utah Terminal Railway Company and its connections beyond the junction point of the said Utah Terminal Railway and the Utah Railway Company; and that the defendants, except the Utah Terminal Railway Company, provide class and commodity rates covering the movement of all commodities between points in Utah situated on their respective railroads and Hiawatha and Mohrland, situated on the line of the defendant, the Utah Railway Company; that the Utah Terminal Railway Company is a newly con-

structed railroad, and there are no through joint rates, either class or commodity provided for the transportation of commodities between points on its line, including the complainants herein and points on the line of the other defendants herein; that the complainants desire and ask for the establishment of such joint rates, including those for the transportation of carload shipments of coal from their lines to points of destination herein referred to, via the railroad of the defendant, the Utah Terminal Railway Company and its connections, beyond the junction point of the said Utah Terminal Railway Company and the Utah Railway Company. Further, that the rates as now published are unjust and unreasonable and in violation of the Public Utilities Act of Utah; that they are prejudicial, disadvantageous, discriminatory, unlawful and in violation of said Act, and that said defendants should be required to provide cars and other facilities for the transportation of coal from complainants' mines to the destination points referred to herein and facilities for the transportation of all classes of freight between complainant's mines and points situated on the lines of the said defendants.

The defendant, the Utah Terminal Railway Company, in answering, alleges that it would be prepared with its proportionate share of power and equipment on June 15, 1921, or as soon thereafter as the rates prayed for by the complainants are made effective, to operate its said railroad as asked for in the complaint, and admits that there are no through carload rates in effect for the transportation of coal from complainants' mines, as alleged in said complaint, or for the transportation of commodities from the points on said defendant's railroad, Peerless, Storrs and Standardville, via defendant's railroad to the points of destination referred to in said complaint, and that this defendant is ready and willing to join in the fixing and establishing of through rates which will be fair, reasonable and just to all parties to this proceeding; that it connects directy with the railroad of the defendant, the Utah Railway Company.

The defendant, the Bingham & Garfield Railway Company, alleges that the Utah Terminal Railway Company does not propose to own, operate, lease or control any locomotives, motive power, cars or equipent; and is not and will not become a common carrier of freight or passengers.

The Utah-Idaho Central Railroad Company, in its answer denies the allegations of the complaint and alleges that it is a common carrier for the transportation of

freight and passengers between points on its line of railroad within the State of Utah, and does not desire at any time to evade or avoid any of its duties or responsibilities as such common carrier which are imposed by law.

The Bamberger Electric Railroad Company denies and admits certain paragraphs of the complaint, and alleges that it is a common carrier and does not seek to avoid any of its duties under the law.

The Los Angeles & Salt Lake Railroad Company admits that the defendants named in said complaint, except the Utah Terminal Railway Company, are common carriers, as alleged in the complaint.

The Union Pacific Railroad Company and the Oregon Short Line Railroad Company admit that they are common carriers, as alleged in the complaint, and admit that there are no through rates to or from the Utah Terminal Railway, and deny that the complainants are entitled to the relief prayed for.

The Lion Coal Company, in its petition in intervention, objects to the granting of the prayer of the complainants, and predicates its objections upon the grounds that it is a competitor in the coal mining business, as well as of the products of the coal mines of said complainants; that the petitioner is dependent for its transportation service, as stated before, solely upon the Utah Railway Company, and that during the past year the supply of equipment of the said railroad has not been entirely sufficient for the uses of the petitioner and other coal mines situated upon the Utah Railway Company's line; that the establishment of joint rates and a through connection from the line of the Utah Railway Company, as prayed for, will place an additional burden and demand on the equipment of the said Utah Railway Company, and thereby interfere with the service heretofore given the petitioner by said Utah Railway Company, all of which would be prejudical and injurious to said Lion Coal Company; that if the Commission grants to the complainants the through route and joint rates prayed for, it should do so upon a condition that the Utah Terminal Railway Company furnish ample and sufficient equipment and power for the uses of said complainants.

This case came on for hearing July 18, 1921, before the Commission. The testimony given was not contradictory, but was to the effect that the complainants were owners of the coal mines situated on the line of the Utah Terminal Railway Company as well as the Denver & Rio

Grande Railroad; that a certificate of convenience and necessity has been issued by this Commission, and that in keeping with said order, the Utah Terminal Railway Company constructed a railroad from the complainant's mines to connect with the Utah Railway which railway has connection directly or indirectly with the other railway companies mentioned as defendants in this case; that said railroad so constructed is ready for use and that the owners thereof are ready and willing to operate the same as soon as through routes and rates are established by this Commission from the said complainant's mines over said Utah Terminal Railway Company's road and railroads of the other defendants herein, to various points situated on the the respective railroads within the State; that it had been the intention and understanding of said Utah Terminal Railroad Company to provide the necessary facilities for the transportation of coal and other commodities, both freight and passengers.

The question of whether or not the defendant, the Utah Terminal Railway Company, is a common carrier, has been raised as an issue in this case, and the attitude taken by some of the carriers concerned, is that the Utah Terminal Railway Company is not a common carrier, and, therefore, no joint or through rates could be fixed as contended by complainants.

Under our law, the term "common carrier" includes railroad corporations operating for public service within this State and engaged in the transportation of persons or property for the general public, and shall furnish, provide and maintain such services, instrumentalities, equipment and facilities necessary to render service, and shall file with the Commission schedules showing the rates, fares, charges and classifications for transportation between the termini within the State, from each point on its route to all other points upon the route of any other common carrier. Whenever a joint or through route has been established between any such points, such rates must be filed jointly, when there are more than one carrier interested in and taking part in such rates for the transportation of property, provided that one party may file such schedule, if a sufficient concurrence in said rates, fares, charges and classifications is made by the other carriers thereto, and further that no common carrier shall engage or participate in the transportation of persons or property between points within the State, until such schedule of rates, fares, charges and classifications has been filed and published. Under

such requirements, the joint or through rate must be fixed and decided upon before it can be filed and published, as required, and no legal service can be offered or rendered by the said Utah Terminal Railway Company until such rates are fixed, filed and published.

Again:

A plea of not being a common carrier, for the purpose of avoiding the giving of service on the part of the Utah Terminal Railway, could not, in the judgment of the Commission, be upheld. The authorities seem to hold that in the question of whether a railroad is a common carrier, the extent to which the railroad is used, would not necessarily be a determining factor, but rather as to whether or not the public has a right to demand service of a railroad.

The showing in this case is to the effect that the Utah Terminal Railway Company applied to and received from this Commission a certificate of convenience and necessity to construct, operate and maintain a railroad from the complainants' mines to connect with the Utah Railway Company; that such construction has been completed and is ready for use; that the said Utah Terminal Railway Company is willing and ready to operate and give service over its route, as contemplated in the certificate of convenience and necessity above referred to, and that upon the fixing of the rates, fares, charges and classifications with other carriers who shall participate in the transportation of coal and other commodities, to be shipped over its railroad, the said Utah Terminal Railway Company will within a reasonable time be prepared to receive and transport passengers, freight, and other commodities over its railroad.

The question raised by the Lion Coal Company, as intervenor, cannot be successfully pleaded as a bar or estoppel as to the rights claimed by the complainants to have a joint, through schedule of rates, fares and charges to include the defendant, the Utah Terminal Railway Company. The matter of furnishing cars to the several shippers who may be affected, as claimed by the intervenor, the Lion Coal Company, cannot in these proceedings be passed upon by the Commission.

After a careful consideration of the testimony given, and an examination of the record in this case, together with the law pertaining thereto, the Commission is of the opinion that there is a public necessity for, and the complainants are entitled to the benefit of joint through rates between their mines at Peerless, Storrs and Standardville,

Utah, and destination points in Utah, via the defendant railroad, the Utah Terminal Railway, including its connections beyond the junction point of the Utah Terminal Railway Company and the Utah Railway Company, which rates should not exceed those in effect from other mines located upon the rails of defendant, Utah Railway, and that said mines are entitled to cars and other facilities for the transportation of coal from their mines to the destination points referred to.

In the event defendants herein are unable to reach a satisfactory adjustment regarding the operation of the Utah Terminal Railway, or agree as to the manner in which the through rate shall be divided, the matter may again be brought to the attention of the Commission for final adjustment.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

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 26th day of July, 1921.

PEERLESS COAL COMPANY,
SPRING CANYON COAL CO.,
STANDARD COAL COMPANY,
Complainants,

vs.

BAMBERGER ELECTRIC RR. CO.,
BINGHAM & GARFIELD RY. CO.,
LOS ANGELES & SALT LAKE RR. CO.,
OREGON SHORT LINE RR. CO.,
SALT LAKE & UTAH RR. CO.,
SOUTHERN PACIFIC COMPANY,
TOOELE VALLEY RY. CO.,
UNION PACIFIC RR. CO.,
UTAH-IDAHO CENTRAL RR. CO.,
UTAH RAILWAY COMPANY,
UTAH TERMINAL RY. CO.
Defendants.

CASE No. 436

This case being at issue upon complaint and answers on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That defendants, Bamberger Electric RR Company, Bingham & Garfield Ry. Co., Los Angeles & Salt Lake RR Company, Oregon Short Line RR Co., Salt Lake & Utah RR Co., Southern Pacific Company, Tooele Valley Ry Co., Union Pacific RR Company, Utah-Idaho Central RR Co., Utah Railway Co., and Utah Terminal Ry. Co., be, and they are hereby required to establish and put into effect, between Peerless, Storrs and Standardville, Utah, located upon the line of the Utah Terminal Railway, and stations in Utah located upon their respective lines of railway, joint through rates for the

transportation of freight which shall not exceed those at present in effect between Hiawatha and Mohrland located upon the Utah Railway, and such stations.

IT IS FURTHER ORDERED, That such joint through rates be made effective September 1, 1921.

ORDERED FURTHER, That the Commission reserve unto itself the right to prescribe the method of operation of said Utah Terminal Railway, and to prescribe the manner in which such joint through rates shall be divided among the respective defendant carriers, in the event said carriers are unable to make a satisfactory adjustment of such matters.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 8th day of August, 1921.

PEERLESS COAL COMPANY,
SPRING CANYON COAL CO.,
STANDARD COAL COMPANY,
Complainants,

vs.

BAMBERGER ELECTRIC RR. CO.,
BINGHAM & GARFIELD RY. CO.,
LOS ANGELES & SALT LAKE RR. CO.,
OREGON SHORT LINE RR. CO.,
SALT LAKE & UTAH RR. CO.,
SOUTHERN PACIFIC COMPANY,
TOOELE VALLEY RY. CO.,
UNION PACIFIC RR. CO.,
UTAH-IDAHO CENTRAL RR. CO.,
UTAH RAILWAY COMPANY,
UTAH TERMINAL RY. CO.
Defendants.

CASE No. 436

IT APPEARING that on July 26th, 1921, the Commission issued its report and order requiring the defendants herein to publish, effective September 1st, 1921, joint through rates between Peerless, Storrs and Standardville, Utah, located upon the line of the Utah Terminal Railway and stations in Utah located upon the lines of respective defendants.

AND IT FURTHER APPEARING that defendant carriers are unable to publish such rates to become effective September 1st, 1921, upon statutory notice.

IT IS ORDERED, That such joint through rates be made effective on one day's notice to the public and to the Commission but not later than September 1, 1921.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 21st day of Sept., 1921.

PEERLESS COAL COMPANY,
SPRING CANYON COAL CO.,
STANDARD COAL COMPANY,
Complainants,

vs.

BAMBERGER ELECTRIC RR. CO.,
BINGHAM & GARFIELD RY. CO.,
LOS ANGELES & SALT LAKE RR. CO.,
OREGON SHORT LINE RR. CO.,
SALT LAKE & UTAH RR. CO.,
SOUTHERN PACIFIC COMPANY,
TOOELE VALLEY RY. CO.,
UNION PACIFIC RR. CO.,
UTAH-IDAHO CENTRAL RR. CO.,
UTAH RAILWAY COMPANY,
UTAH TERMINAL RY. CO.
Defendants.

CASE No. 436

IT APPEARING that on July 26th, 1921, the Commission issued its order in the above numbered case, requiring publication of joint through rates between points on the Utah Terminal Railway and points on the lines of defendant carriers in Utah, to become effective September 1, 1921;

AND IT APPEARING that joint through rates on coal from points on the Utah Terminal Railway to points on lines of defendant carriers in Utah have been published and made effective September 1st, in compliance with the Commissions' order.

IT FURTHER APPEARING that the publication of class and commodity rates, other than coal, involves procedure which cannot be completed within the time specified;

IT FURTHER APPEARING that various carriers interested have requested additional time in which to file tariffs naming class and commodity rates other than coal;

IT FURTHER APPEARING that reasonable diligence has been and is being exercised in the compilation of such rates;

IT IS ORDERED, That the application be granted and the Commission's order dated July 26th, 1921, in the above numbered case be modified to provide that class and commodity rates on all articles other than coal be made effective November 1st, 1921.

Dated at Salt Lake City, Utah, this 21st day of September, 1921.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 15th day of November, A. D., 1921.

PEERLESS COAL COMPANY,
SPRING CANYON COAL CO.,
STANDARD COAL COMPANY,
Complainants,

vs.

BAMBERGER ELECTRIC RR. CO.,
BINGHAM & GARFIELD RY. CO.,
LOS ANGELES & SALT LAKE RR. CO.,
OREGON SHORT LINE RR. CO.,
SALT LAKE & UTAH RR. CO.,
SOUTHERN PACIFIC COMPANY,
TOOELE VALLEY RY. CO.,
UNION PACIFIC RR. CO.,
UTAH-IDAHO CENTRAL RR. CO.,
UTAH RAILWAY COMPANY,
UTAH TERMINAL RY. CO.
Defendants.

CASE No. 436

IT APPEARING that on July 26, 1921, the Commission issued its order in the above numbered case, requiring publication of joint through rates between points on the Utah Terminal Railway and points on the defendant lines in Utah, to become effective September 1, 1921;

AND IT APPEARING that by its order, dated September 21, 1921, the Commission extended the time within which such rates should be published, to November 1, 1921;

AND IT FURTHER APPEARING that publication of class and commodity rates, other than coal, involves procedure which cannot be completed within the time specified;

AND IT FURTHER APPEARING that various carriers interested have requested additional time in which to file tariffs naming class and commodity rates, other than those applying on coal;

AND IT FURTHER APPEARING that reasonable diligence has been, and is being, exercised in the compilation of such rates;

IT IS ORDERED, That the application be granted and the Commission's order, dated July 26, 1921, in the above numbered case, be modified to provide that class and commodity rates on all articles, other than coal, be made effective January 1, 1922.

ORDERED FURTHER, That individual lines will arrange publication of rates on different commodities, should occasion arise which demands the publication of through rates prior to January 1, 1922.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WILLIAM E. OSTLER, for permission to operate an automobile stage line between Payson, Utah, and Eureka, Utah. } CASE No. 437

Submitted July 12, 1921. Decided July 14, 1921.

B. R. Howell, for Protestant, Denver & Rio Grande R. R. Co.
No appearances for Applicant.

REPORT OF THE COMMISSION

HEYWOOD, Commissioner:

In an application filed June 10, 1921, W. E. Ostler asked permission to operate an automobile stage line between Payson and Eureka, Utah.

The case was set for hearing at Salt Lake City, June 24, 1921, at ten o'clock A. M., and, at that time, upon motion of the applicant, was continued until 10 A. M., June 30th, being subsequently continued until July 12th at 10 A. M., due notice having been given to all parties.

Petitioner failed to make an appearance, either in person or by attorney, to present the evidence showing that necessity for the operation of such a stage line existed.

The Commission, therefore, finds that the application should be dismissed, without prejudice.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
Commissioner.

We concur:

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 14th day of July, A. D., 1921.

In the Matter of the Application of WILLIAM E. OSTLER, for permission to operate an automobile stage line between Payson, Utah, and Eureka, Utah. } CASE No. 437

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, dismissed, without prejudice.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of THE EASTERN UTAH TELEPHONE COMPANY, for authority to place in effect certain revised rules and regulations, rates, etc. } CASE No. 348

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH OUTDOOR ASSOCIATION, for permission to operate an automobile stage line between Salt Lake City and its community camp at Day's Fork, 23 miles from Salt Lake City, in Big Cottonwood Canyon.	CASE No. 439

Submitted June 22, 1921. Decided August 27, 1921.

J. E. Light, for Petitioner.
James Neilson, Protestant.

REPORT OF THE COMMISSION

By the Commission:

In an application filed June 15, 1921, the Utah Outdoor Association, organized as an eleemosynary institution, asks permission to operate an automobile stage line for the purpose of transporting passengers and freight between Salt Lake City, Utah, and its community camp at Day's Fork, twenty-three miles from Salt Lake City, in Big Cottonwood Canyon.

After due notice, the case came on for hearing, June 22, 1921. Some testimony was introduced by applicant, after which a consultation was held between applicant and James Neilson, who appeared as protestant. At the conclusion of this consultation, the case was continued, in order to give these parties an opportunity to devise some method of operating which would not interfere with the business of the present stage line.

No further effort having been made by applicant to show a necessity for the operation of additional services in Big Cottonwood Canyon, the application should be denied.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 27th day of August, A. D., 1921.

In the Matter of the Application of the UTAH OUTDOOR ASSOCIATION, for permission to operate an automobile stage line between Salt Lake City and its community camp at Day's Fork, 23 miles from Salt Lake City, in Big Cottonwood Canyon.	CASE No. 439

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOSEPH J. MILNE, for permission to operate a truck line between Modena and St. George, Utah.	CASE No. 440

Submitted July 14, 1921. Decided Oct. 6, 1921.

D. H. Morris, for Petitioner.
Geo. R. Lund, for Protestant.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

In an application filed June 4, 1921, Joseph J. Milne alleges that he is one of the parties who now have a certificate of convenience and necessity for the transportation of freight between Lund, Utah, and St. George, Utah.

Petitioner further alleges that the highway between Modena, Utah, and St. George Utah, has been reconstructed, and that a part of the freight now being received at Lund via the railroad, will be diverted and delivered at Modena, Utah, for the reason that during certain seasons of the year, one highway is better suited than the other for transporting freight to St. George. On account of the aforesaid division of traffic at certain seasons of the year, applicant asks that he be given a certificate of convenience and necessity to transport freight via Modena—St. George route, in addition to that already existing on the Lund-St. George route.

Applicant further alleges that the volume of traffic moving via the two roads would be no greater than that formerly moving on the highway from Lund to St. George, and that he is fully equipped to handle all traffic on both roads.

The case came on regularly for hearing, July 14, 1921, at Cedar City, at which time George R. Lund, appearing for Mr. Marshall, protested the granting of an exclusive permit to Mr. Milne via the Modena-St. George route, for the reason that a certificate had been issued in the name of Marshall & Milne, operating an automoible truck line

between Lund, St. George and intermediate points, and that Mr. Marshall had on hand a Federal truck, now worth $2,000, and, as the co-partner of Joseph Milne, objected to the granting of an exclusive permit to the said Joseph J. Milne, for the reason that freight being shipped over both routes, would preclude Mr. Marshall from any chance or opportunity to continue in his present business, and that his equipment will become a total loss to him, and his business will be gone.

Protestant further alleged that no objection would be made to the issuing of a certificate for freight moving via Modena to St. George, provided a certificate were issued in the name of Marshall & Milne, the same as now exists, authorizing the carrying of freight between Lund and St. George.

In support of his application, Mr. Milne produced a petition signed by numerous shippers along the line, asking the Commission to grant him the exclusive right to haul freight between Modena and St. George. At the hearing, a petition was also presented, signed by various shippers, asking that the service continue as at present. The Commission was asked to include Mr. Marshall in the certificate covering traffic between Modena and St. George. Some of the signers of the first petition also signed the second petition.

Testimony on the part of Mr. Milne was to the effect that Mr. Marshall had not always taken care of his duties in transporting freight, and that an added burden had, therefore, fallen upon him, and he felt that the past operating experience indicated that the public would be best served by having a certificate issued to him rather than in the name of Marshall & Milne; further, that Mr. Marshall's service is not sufficient to be reliable, and that he cannot be depended upon; that he had not operated within the last two or three years with regularity, and that there was not sufficient business for two automobile stage lines.

While friction no doubt exists between the parties, which has been reflected in the service rendered, still we feel that the matter of the joint operation should be adjusted between the petitioner and protestant, if possible. The freight which would move over the new route is admittedly a portion of that now being transported by the Marshall & Milne Truck Line, on the Lund-St. George route.

The records of the Commission show that both parties were operating on the highway even before regulation of automobile freight traffic as common carriers was taken over by the State, and we are of the opinion that a further trial should be given and that a certificate should issue jointly to Marshall & Milne, for authority to handle traffic as a common carrier between Modena and St. George, Utah, and that the application of Joseph J. Milne, for permission to operate an automobile truck line via the Modena-St. George route, be denied.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 121.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of October, A. D., 1921.

In the Matter of the Application of JOSEPH J. MILNE, for permission to operate a truck line between Modena and St. George, Utah.	CASE No. 440

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Joseph J. Milne, for permission to operate an automobile truck line via the Modena-St. George route, be denied.

ORDERED FURTHER, That Marshall & Milne be, and they are hereby, authorized to operate an automobile freight line between Modena, Utah, and St. George, Utah.

ORDERED FURTHER, That before beginning such operations, applicants, Marshall & Milne, shall, as provided by law, file with Commission and post at each station on their route, a printed of typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

Utah Lake Distributing Company, a Corporation, Provo Reservoir Company, a corporation, The Draper Irrigation Company, a corporation, The Jordan and Salt Lake Canal Company, a corporation, The Utah Lake Canal Company, a corporation, The South Jordan Canal Company, a corporation, The North Jordan Canal Company, a corporation, The East Jordan Canal Company, a corporation, and the Bonneville Irrigation District, a body corporate and politic, *Complainants,* vs. The Utah Power & Light Company, a corporation, *Defendant.*	CASE No. 441

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of F. A. JOHNSON, for permission to operate an automobile stage line between Helper and Vernal, Utah, via Duchesne, Myton, Roosevelt and Fort Duchesne, Utah. } CASE No. 442

Submitted August 3, 1921. Decided August 22, 1921.

Pope & Wallis and A. N. Alt, for Petitioner.

L. A. Hollenbeck, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above application was heard in connection with Cases Nos 443, 447 and 448, on August 3, 1921, at Duchesne, Utah.

The applicant represented that he was familiar with the road along the route set out, and was qualified and had sufficient means and facilities to operate the stage service over the route designated in the application.

It appears that the route over which the petitioner desires to operate had been, and is at the present time, being conducted by Baxter Brothers, and that J. W. Johnston had entered into negotiations for the purpose of taking over what interests said Baxter Brothers owned, and had also made application for a certificate of convenience and necessity to operate said route.

The Commission having heard and carefully considered this application in connection with that of J. W. Johnston, and having decided to release Baxter Brothers from the operation of said line, and to grant a certificate of convenience and necessity to J. W. Johnston, and having further concluded that there was no necessity of further and additional service, the application of F. A. Johnson should necessarily be denied.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
(SEAL) WARREN STOUTNOUR,
Commissioners.

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 22nd day of August, A. D., 1921.

In the Matter of the Application of F. A. JOHNSON, for permission to operate an automobile stage line between Helper and Vernal, Utah, via Duchesne, Myton, Roosevelt and Fort Duchesne, Utah.	CASE No. 442

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That the application of F. A. Johnson be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of BAXTER BROTHERS, for permission to withdraw from stage service between Helper and Vernal, Utah, and of J. W. Johnston to take over the operation of the stage line between Helper and Vernal, Utah.	CASE No. 443

Submitted August 3, 1921. Decided August 22, 1921.

B. W. Dalton and Dan B. Shields } for Petitioners.

M. B. Pope and L. A. Hollenbeck } for Protestants.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on regularly for hearing at Duchesne, Utah, August 3, 1921, and was heard in connection with Case No. 442, application of F. A. Johnson for permission to operate an automobile stage line from Helper, Utah, via Duchesne, Myton, Roosevelt and Fort Duchesne, to Vernal, Utah; Case No. 447, application of Henry Bottom and Chris Anderson, for permission to operate a stage line between Heber City and Vernal, Utah, via Strawberry Valley and Duchesne; and Case No. 448, application of Hugh Willson and Leland C. Stapley, for permission to operate an automobile stage line between Price and Roosevelt, Utah.

The application was signed by the Dodge Stage Line, by J. W. Johnston, Manager, and Baxter Brothers, by Harold Baxter. The application represents that Baxter Brothers have been engaged in operating an automobile stage line between Helper and Vernal, Utah, under authority of the certificate of convenience and necessity issued January 31, 1921; that J. W. Johnston had been engaged in operating the Dodge Stage Line between Price and Myton, under authority of the Commission, since February 11, 1919; that Baxter Brothers have completed arrangements to trans-

fer their interest to J. W. Johnston, subject to the approval of the Commission; that the said J. W. Johnston, operating the Dodge Stage Line, asks for permission to operate the line between Helper and Vernal; that said service would be given under the present schedule of Baxter Brothers and the same fares between said points would be charged.

The above application was opposed by F. A. Johnson, upon the grounds that said application is made for and on behalf of the Dodge Stage Line, and that it is the intention of the said Dodge Stage Line to operate over the Price-Myton route via Nine Mile, for a good portion of the year, thereby leaving the people of Duchesne and vicinity without stage service, except by making a circuitous trip via Myton and Price, and for the reason that the most direct, convenient way for the people of Duchesne and vicinity is a route between Duchesne and Helper, and further, that he has made application for a certificate of convenience and necessity to operate a line between Helper and Vernal, via Duchesne.

Other applications in the cases above cited, while not making a direct attack on the application in this case, necessarily would be in opposition to the request of said applicant, wherein said applications would come in contact with the applications of J. W. Johnston.

The records connected with this application show that the stage line from Helper to Vernal, via Duchesne, has been operated by different persons and companies. On January 31, 1921, an order was issued by the Commission, granting Harold Baxter a certificate of convenience and necessity to operate an automobile stage line between Helper and Vernal, via Duchesne; that since that time said line has been, and now is, under the supervision of Baxter Brothers, and that said certificate has not been annulled or vacated. It further appeared at the hearing that the reason Baxter Brothers desired to discontinue giving service was that they were unable under the existing conditions to give the service at the rates quoted, especially during the winter season; that J. W. Johnston, of the Dodge Stage Line, had for the past few months been assisting them in taking care of the traveling public, and that they had decided to dispose of the interest they had in giving said service and withdraw in favor of an application made by said J. W. Johnston.

The testimony given in behalf of the application of said J. W. Johnston was to the effect that he was at present, and for some time past had been, the manager

of the Dodge Stage Line, operating from Price to Myton and Roosevelt; that by the request of Baxter Brothers, he had been assisting in the giving of service from Helper to Vernal, via Duchesne, and that he was prepared to continue the giving of said service to take care of the traveling public. In support of his claim for being able and competent to meet all reasonable requirements and demands of the traveling public, a number of petitions and letters were introduced, setting forth that the service given by the Dodge Stage Line had been good, and that sufficient cars had at all times been furnished. Said letters and petitions were highly commendatory of the service heretofore furnished by the applicant, and were signed by the Vernal Commercial Club, the Rotary Club of Price, Chamber of Commerce of Price, and many of the citizens of Myton and other places, as well as the Commercial Club of Roosevelt.

The opposition to the application seemed to be founded in part upon the question of a divided service to be rendered by the applicant between the Price-Myton route and the Helper-Vernal route, via Duchesne. At certain seasons of the year, the people of the Uintah Basin experience considerable trouble and inconvenience in reaching the outside, and a portion of the road between Helper and Duchesne, on account of its altitude and the heavy snowfall, is difficult to travel, and, in the event of said road becoming snowbound or otherwise made impassable, the people of Duchesne and near vicinity are very much inconvenienced by being compelled to travel via Myton and Nine Mile to the railroad and return. The opposition claimed that the road, if looked after and conveniences established for the traffic, could be made passable at all seasons.

From the testimony given and after an impartial consideration of the facts as are known to the Commission, as well as those detailed in the hearing, and with a view of assisting in every reasonable and consistent way to improve and give the best possible public service to the Uintah Basin as a whole, it appears that the reasonable thing to do is to find in favor of the applicant, J. W. Johnston.

During the hearing, the question of making a conection at Duchesne with the Heber-Strawberry stage and the Helper stage, was gone into at some length. It was claimed by the operators of the Helper-Duchesne-Vernal

line that to change the present schedule out of Helper, would very much inconvenience the traveling public, for the reason that said schedule would have to be changed from the morning until afternoon, thereby causing a loss of time of some hours at Helper.

The petitioner, Mr. Johnston, stated that he was willing to operate a special car from Duchesne to Vernal and intermediate points, when the traffic was sufficent to remunerate him for the same, and, in the event that he was not able to or failed to take the passengers who came over the Strawberry route, that he did not object to the Anderson-Bottom Stage Line carrying them to their destinations; but objected to their hauling passengers from Vernal and other points west to Duchesne, for the reason that he had a schedule now being operated that would take care of all westbound passengers.

It was suggested by the Commission that it would be a very desirable thing if the two companies were to set jointly in carrying passengers to their destinations, and not be compelled to remain over at Duchesne, and that an effort should be made by the parties to make such connections as would reasonable meet the demands of the traveling public, and, if such arrangements could not be mutually agreed upon, the Commission retains jurisdiction and reserves the right to make such arrangements as will best meet the demands of the public.

In authorizing the applicant to operate and give service from Helper to Vernal, via Duchesne, it must be understood by the applicant that the line now being operated between Myton and Price shall not influence in any way the service to be rendered to the traveling public from Duchesne and vicinity to Helper, or to those wishing to travel the Strawberry route. It will be expected that every reasonable effort will be put forth in giving the best possible service from Helper to Vernal, via Duchesne, at all seasons of the year, and that no routing of cars necessary for service shall be changed from the Helper route to that of the Myton-Nine Mile-Price route. It is suggested that preparations should be made early by the operator to give service over the mountain to Helper during the winter season.

The above reference is made a part of this order, for the reason that it is claimed by the protestants that it was the purpose of the applicant to operate the two routes together, and that it was feared by the people

of Duchesne that a preference might be given to the Price route.

Applicant further asks that the service of the stage line between Vernal and Helper, be extended from Helper to Price and from Price to Helper, so that the traveling public might avail themselves of taking the stage from Price to Duchesne, via Helper, thereby furnishing an additional convenience for the traveling public. This extension was protested and objected to by one Joseph F. Hansen, who is operating a stage line between Price and Helper.

In view of the service from Price to Myton and Roosevelt being under the same management as the service from Helper to Vernal, via Myton, Roosevelt and Duchesne, there would seem to be no objection to such extension, unless it would interfere with the service of the said Joseph F. Hansen.

If the extension is granted or the opportunity given to take passengers from Price into the Basin via Helper, it must be with a clear and definite understanding that no local service can or shall be rendered by the applicant, or in any way interfere with the passenger traffic between Helper and Price, and such modification herein granted petitioner will be subject to a change at any time by the Commission.

In view of the conditions now maintaining under the newly changed service from Helper, the application to route passengers via Helper from Price, if it shall appear more convenient, may be allowed. However, it must not interfere with or change the Price-Myton service without permission from the Commission.

The Commission is further of the opinion that the application of Baxter Brothers to discontinue operation, should be granted.

The Commission finds:

1. That the application of Baxter Brothers to discontinue service, should be granted.

2. That in view of the application of Baxter Brothers to discontinue giving service as a passenger stage line from Helper to Vernal, via Duchesne, there exists a necessity and convenience for the establishing and granting of authority to operate such stage line from Helper to Vernal, via Duchesne.

3. That the applicant, J. W. Johnston, is competent, able and willing to undertake the giving of said service, and is entitled to a certificate of convenience and necessity to operate a passenger stage line between Helper and Vernal, via Duchesne.

4. That said service shall be operated for the present under the schedule of time and rates as given by Baxter Brothers.

An appropropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 117.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 22nd day of August, A. D., 1921.

In the Matter of the Application of BAXTER BROTHERS, for permission to withdraw from stage service between Helper and Vernal, Utah, and of J. W. Johnston to take over the operation of the stage line between Helper and Vernal, Utah.	CASE No. 443

This case being at issue upon petition and protests on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Baxter Brothers to discontinue service as a passenger stage line between Helper and Vernal, be granted, and J. W. Johnston be permitted to operate said passenger stage line between Helper and Vernal, via Duchesne.

ORDERED FURTHER, That applicant, J. W. Johnston, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and charges, which charges shall not exceed those at present charged by Baxter Brothers, together with a schedule showing arriving and leaving time, and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of such lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

NORTH RICHFIELD PUMPING COMPANY,
Complainant,
vs.
TELLURIDE POWER COMPANY,
Defendant.

CASE No. 444

ORDER

Upon motion of the complainant, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter be, and it is hereby dismissed, without prejudice.

By the Commission.

Dated at Salt Lake City, Utah, this 12th day of September, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of the MORGAN ELECTRIC LIGHT & POWER COMPANY for permission to increase its rates for electric energy.

CASE No. 445

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOSEPH A. BERGER, for permission to operate a freight line between Salt Lake City and Bingham, Utah.	CASE No. 446

Submitted August 9, 1921. Decided August 23, 1921.

Herbert Van Dam, Jr., for Petitioner.
Dan B. Shields, for Protestant.

REPORT OF THE COMMISSION

By the Commission:

The petitioner, Joseph A. Berger, asks for a certificate of convenience and necessity, authorizing him to engage in hauling freight between Salt Lake City and Bingham, and predicates his request upon the following grounds:

That there is ample freight business between the two points mentioned to justify the issuance of a certificate, notwithstanding a certificate has been heretofore granted by the Public Utilities Commission for the carrying of freight, and that the holder of such certificate is not at the present time and has not for many months past, rendered the service as contemplated by said franchise.

Applicant further alleges that he is the owner of two automobiles formerly used in passenger business between Salt Lake City and Bingham, which can be converted and equipped to properly take care of the service of carrying freight; that he is well acquainted with the citizens of Bingham, also with the roads and their condition.

The B & O Transportation Company protested the issuing of a certificate as prayed for in the petition of the applicant, upon the grounds that there is not sufficient business to justify the authorizing of additional service; that said Company received from this Commission, in November, 1919, a certificate of convenience and necessity, authorizing it to operate an automobile freight line between the points in question; that for the rendering of the service said Company obtained sufficient equipment; but that the tonnage taken care of is not sufficient to keep

in active operation the two-ton trucks so provided for said service, and that on account of such conditions obtaining, Mr. J. F. Mitchell has been taking care of the business under their direction.

This matter came on for hearing, August 9, 1921, and testimony was submitted by the respective parties. The evidence submitted by Mr. Berger did not specifically show the amount of tonnage to be carried over the route; but he stated that, in his judgment, there was a necessity for further and more adequate service. Testimony further disclosed that there was considerably less freight to be hauled at the present time than formerly, which was occasioned by much less active working of the mines in Bingham Canyon.

It further appeared that J. F. Mitchell had for some time been engaged in carrying certain articles under special contract between Bingham and Salt Lake City, one being that of the Salt Lake Tribune, and other incidental articles; but, not having sufficient special work, he was able to, and did, enter into the employment of the B. & O. Transportation Company, to take care of that part of its business of hauling freight from Salt Lake City to Bingham.

It further appeared that the said B. & O. Transportation Company had, since March 17, 1919, been engaged in hauling freight between Salt Lake City, Murray, Midvale and Sandy, under a certificate issued by this Commission; that the service of hauling freight to Bingham was only one part of the service taken care of by said Transportation Company; that the freight hauled by Mr. Mitchell for the B. & O. Transportation Company to Bingham, was taken care of and a check made thereof at the warehouse of the said Company, and was so hauled under the certificate issued to the Company by the Commission, and that the freight so hauled by Mr. Mitchell was in the capacity of an agent of said Transportation Company.

From the showing made, it would appear:

1. That there is not sufficient traffic outside of the railroad to justify additional service at the present time.

2. That the B. & O. Transportation Company holds a certificate of convenience and necessity to take care of the transportation of freight by automobile between Salt Lake City and Bingham.

3. That while the immediate work of hauling freight between the points in question has not been entirely and directly taken care of by the said Company, yet it has had

under its supervision a certain amount of freight between Salt Lake City and Bingham, and has not, in the estimation of the Commission, abandoned the right to give such service.

4. That the service being rendered by J. F. Mitchell outside of the work assigned to him by the B. & O. Transportation Company for hauling, is more of a private service than a public service, and cannot be finally disposed of in this proceeding.

5. It might be well to here observe that the B. & O. Transportation Company has been and will be held responsible for the service being given by it under the certificate issued by the Commission.

In view of all the circumstances and conditions shown, the Commission is of the opinion that the application should be denied.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

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 23rd day of August, A. D., 1921.

In the Matter of the Application of JOSEPH A. BERGER, for permission to operate a freight line between Salt Lake City and Bingham, Utah. } CASE No. 446

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Joseph A. Berger be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HENRY BOTTOM and CHRIS ANDERSON, for permission to operate a stage line between Heber City and Vernal, Utah, via Strawberry Valley and Duchesne.	CASE No. 447

Submitted August 3, 1921. Decided August 23, 1921.

Pope & Wallis and A. N. Alt } for Petitioners.

Dan B. Shields and D. W. Dalton } for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This application was heard in connection with Cases Nos. 442, 443 and 448, on August 3, 1921, at Duchesne, Utah, and was, by consent of the parties, made a part of Case No. 442, being the application of F. A. Johnson for permission to operate a stage line from Helper to Vernal, via Duchesne.

The petitioners represented that they were engaged in the operation of a stage line between Heber City and Duchesne; that at present there was no established method of transporting passengers over and along the route from Duchesne and Vernal; that it was their desire to handle passengers from Heber City to Vernal and from Vernal to Heber City; that such a service would avoid passengers stopping at Duchesne over night.

This application was opposed by Baxter Brothers and the Dodge Stage Line, who predicated their opposition upon the grounds that there was already, and had been for some time, a stage for passenger service operated between Duchesne and Vernal, and intermediate points; that said service was being given under the authority and control of the Public Utilities Commission.

The matter of making proper connections at Duchesne for passengers traveling over the Heber-Strawberry route, was gone into, in the discussion of Case No. 443, and an order was issued, in which a certificate of convenience and necessity was granted to J. W. Johnston, as the successor of Baxter Brothers, authorizing him to operate a passenger

stage line between Helper and Vernal. Said order contains the opinion and suggestion of the Commission relative to the connection of the stage lines at Duchesne, and, in view of the order issued in said Case No. 443, this application should necessarily be denied.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
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 23rd day of August, A. D., 1921.

In the Matter of the Application of HENRY BOTTOM and CHRIS ANDERSON, for permission to operate a stage line between Heber City and Vernal, Utah, via Strawberry Valley and Duchesne. } CASE No. 447

This case being at issue upon petition and protest 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Henry Bottom and Chris Anderson be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HUGH WILLSON and LELAND C. STAPLEY, for permission to operate an automobile stage line between Price, Carbon County, and Roosevelt, Duchesne County, Utah.	CASE No. 448

Submitted August 3, 1921. Decided August 23, 1921.

O. C. Dalby, for Applicants.
Dan B. Shields and B. W. Dalton for Protestants.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This application was heard in connection with Cases Nos. 442, 443 and 447, on August 3, 1921, at Duchesne, Utah.

The applicants contend that there is no regular stage line operating between the points named in the application; that a certificate heretofore granted by the Public Utilities Commission of Utah has been abandoned over said route; that there is a necessity for the establishing of such a service, and that they are prepared with equipment and are financially able to meet any demand for the purpose of giving the service.

The application was opposed by the Dodge Stage Line, upon the grounds that said Dodge Stage Line is, and has been ever since 1919, engaged in the giving of service as a passenger stage line between Roosevelt and Price, via Nine Mile and Myton; that said service has been authorized and controlled by the Commission, and an adequate and reasonable service has been rendered the traveling public by said Dodge Stage Line; that there is no necessity for further and additional stage line service over said route.

It was contended by the applicant that the Dodge Stage Line had not rendered sufficient service to take care of the demands of the public.

There was also a petition signed by the residents of Nine Mile, asking for a daily stage service, which they claimed had not been given. Some testimony was had with reference to the requirements of Nine Mile, which is a small place situated in the mountains.

It appeared from signed endorsements of the service rendered by the Dodge Stage Line that such a service had been maintained between Price, Myton and Roosevelt at all times of the year in a satisfactory manner.

After a careful consideration of the showing made, the Commission is of the opinion that there is not sufficient testimony to warrant the revoking of the certificate heretofore issued in favor of the Dodge Stage Line, authorizing it to operate a stage line between Price, Myton and Roosevelt, via Nine Mile. It might be well to here observe that the Dodge Stage Line will be expected to operate according to its schedule of time, as well as to rates published.

In view of the above conclusions on the part of the Commission, it will be necessary to enter an order denying the application of Hugh Willson and Leland C. Stapley.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
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 23rd day of August, A. D., 1921.

In the Matter of the Application of HUGH WILLSON and LELAND C. STAPLEY, for permission to operate an automobile stage line between Price. Carbon County, and Roosevelt, Duchesne County, Utah.	CASE No. 448

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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Hugh Willson and Leland C. Stapley be, and it is hereby, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the CITIZENS OF MAGNA, for a change in telephone service. } CASE No. 449

REPORT AND ORDER

By the Commission:

On July 11, 1921, the Citizens of Magna filed an application requesting this Commission to require the Mountain States Telephone & Telegraph Company to furnish the Town of Magna telephone service through the Murray exchange, in lieu of the Garfield exchange, as at present.

The case was set for hearing September 22, 1921, at 10 A. M., due notice being given. At this time Mr. John E. Pixton, Attorney for the Citizens of Magna, appeared before the Commission and tendered his withdrawal from this case and stated that he understood that the people of Magna had decided not to insist upon the application.

No other representatives of applicant appeared and the case, therefore, should be dismissed for lack of prosecution.

It is so ordered.

Dated at Salt Lake City, Utah, this 26th day of September, 1921.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:
(Signed) T. E. BANNING,
Secretary.

In the Matter of Investigation of conditions existing at the grade crossing over the tracks of the Bamberger Electric Railroad, the Denver & Rio Grande and the Oregon Short Line Railroads, at Becks Hot Springs, north of Salt Lake City, Utah. } CASE No. 450

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Investigation of a grade crossing over the Bamberger Electric Railroad, south of Ogden, Utah.	CASE No. 451

Submitted August 15, 1921. Decided August 30, 1921.

Howell & Stine, for Bamberger Electric R. R. Co.
County Attorney Wilson, for Murray Jacobs.

REPORT OF THE COMMISSION

By the Commission:

The Commission having heretofore, on July 28, 1921, ordered an investigation of the conditions existing where an accident occurred at a certain grade crossing over the Bamberger Electric Railroad, about three miles south of Ogden, Utah, commonly known as Jacobs Crossing, in Weber County, Utah, and said order having been duly served on the Chairman of the Weber County Commissioners, the Bamberger Electric Railroad Company and Murray Jacobs, the adjoining property owner, and a copy having been published in the local newspaper, the matter came duly on for hearing, in conformance with the order.

Evidence was presented on behalf of Weber County, the Bamberger Electric Railroad Company, and the adjoining property owners, Murray Jacobs and Mrs. Brockbank; whereupon, the case was submitted.

The Commission, being advised, finds:

That the crossing in question, known as Jacobs Crossing, is a crossing of a public highway by a double track, interurban electric railroad, as illustrated by Exhibit 3, attached hereto and made a part hereof;

That on this crossing, on July 5, 1921, a northbound electric car ran over and killed four adults who were attempting to cross in a Ford automobile; and that about two years prior thereto, two persons, riding in a Ford automobile, were killed by a southbound Bamberger Electric car, at this crossing.

The Commission further finds that said crossing is dangerous to traffic and should be abolished; and that in lieu thereof as a roadway, the present arm of the road going to the Brockbank house should be continued south, parellel to the railroad tracks, approximately 1200 feet, to a junction with the State Highway west of the viaduct; the roadway to be graded at present, sixteen feet wide; right-of-way to be furnished free by the Bamberger Electric Railroad Company, of such width as to permit of a graded highway twenty feet wide. The construction of said continuation shall be undertaken by the Bamberger Electric Railroad Company, and the cost of said construction shall be divided, two-thirds to the Bamberger Electric Railroad Company and one-third to Weber County.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

GREENWOOD, Commissioner, Dissenting:

The report and conclusion reached in this case, in my opinion, is not warranted under the facts nor the law governing such matters. Therefore, I am unable to agree with or concur in the majority's report and findings, for the following reasons:

This case was, upon motion of the Commission, investigated and a hearing had, following the accident of July 5, 1921, in which four persons were killed while attempting to make their way over the crossing in question. An examination was made by the Commission of the immediate district, and a further hearing was had, at which testimony was introduced, detailing the history of the construction of said railroad, the use of the crossing in question, together with measurements north and south along the railroad line, with a number of photographs showing the relative position and distance from said immediate crossing of automobiles upon the road, as well as cars being operated along the railroad track.

The accident happening prior to the one of July 5, 1921, was occasioned by an electric car running south, while the accident referred to herein was occasioned by a car running north.

From a consideration of the history of this crossing, together with an examination of the relative conditions and situation of the road crossing over the railroad being operated, it would appear, in my judgment, that this is not necessarily a more dangerous crossing than many other crossings within a radius of but few miles. There is no question but what grade crossings are dangerous and accidents are liable to happen by the operation of rapid electric cars over crossings used by automobiles and other means of travel; and that the ideal condition of operating rapid transit cars cannot be expected to come for many years; that such conditions have existed and will exist, and, in bringing about a more desirable relationship of the different systems of travel, such means and methods must be adopted as are lawful, wise and just, and such changes of safer means of traffic accomplished with as little damage and inconvenience to the parties concerned as is reasonable under the circumstances.

We have in this case, as the testimony discloses, two families, Murray Jacobs and Mrs. Brockbank, who, with their predecessors in interest, had enjoyed the privilege of direct connection with the State Highway long before the present railroad was constructed; that the road leading to their homes from the State Highway and over the tracks of the Railroad Company, has been used only by themselves and friends who called to see them or to transact private business; that the road ends at their homes; and, since the State Highway has been constructed, it furnished those parties with an easy and direct highway to Ogden, at which place they transact most of their business and find a market for the products of their farms.

The order proposes to change the course of travel over a road that is much longer and will be traveled with a great deal more labor and effort, and thereby, a closing up of the highway and a changing of the course of travel to and from the homes of these parties, would result in great irreparable damage to the value of these homes and lands. I am of the opinion that there is no question about a resulting damage to the value of the properties, as well as an additional expense and inconvenience in reaching the homes of these people and in finding a sale for the products of their orchards, gardens and farms.

I cannot agree with the conclusion expressed in the order, that the crossing in question is a public highway, or that this Commission can make and enforce orders regulating the same.

I cannot agree with the conclusion reached in the order, wherein the Commission is assuming to impose certain duties upon Weber County, in view of undisputed testimony in this case showing that such road leading to the crossing in question was ever acknowledged, dedicated or used as a public highway. It would, under the order, be the forcing of an adoption of a road against the consent, will and authority of Weber County, and in violation of the rights of the parties who maintain that it is a private road. Such a highway, in my estimation, would be a creation without legitimate parentage, an orphan, a creation of this Commission which, in my opinion, is an attempt to extend the power of this body into a realm never contemplated by the law.

The building and constructing of county roads is not a part of this Commission's duty. Its power is limited to the operations of railroads over public highways. Long established rights should not be interrupted or changed without there being pressing demands or necessities for the same, and when such changes are asked for under the law and conditions warrant same. Changes should be made only after a careful consideration of the existing rights, together with an analysis of the results following such changes. If such an occasion has arisen in this case as cries aloud for the closing of the crossing in question, then, in my opinion, there are numerous grade crossings that should be dealt with in the same manner.

It was suggested during the hearing in this case, that the danger arising from cars approaching the crossing from the south, could, in a degree, be lessened, and a better view had, by cutting down a portion of the bank at the north end of the cut, and, if necessary, reducing to a less speed the movement of cars on the track at that particular point. The cut in this case is a considerable distance from the crossing, and, as shown by the photographs, testimony, and a personal observation, sufficient view and time is given the traveler on the road after the car comes through the cut to avoid coming in contact with an approaching car.

The operation of the electric railroad in question through the district between Salt Lake City and Ogden, is upon a railroad constructed through towns, farms and

homes, and necessarily requires many crossings, none of which, with the exception of very few, have overheads or subways, and cannot be operated without some danger to the traffic, which is increased or diminished in the ratio to the care, attention and manner with which drivers of automobiles operate their machines in passing over railroad tracks, together with the care, attention and methods observed by those who are operating steam or electric railroad cars or trains as the law requires.

The advent of rapid means of traveling is regarded as a great convenience and takes the place and fills the purpose of much slower means of transportation, and has resulted in many serious accidents.

The accident happening at the crossing in question in July last, no doubt has emphasized very greatly the thought of danger at this particular crossing; when, in fact, the other accident referred to in the order, which happened at this crossing some two years ago, causing the death of Mr. Brockbank, was not influenced at all by the so-called Hunter's Cut, for the reason that it was a southbound train.

I feel that I appreciate the importance and necessity of adopting such means, rules and regulations that may tend to make less dangerous the very rapidly increasing speed with which automobiles and trains are being operated, especially at points and under conditions which make it dangerous, if operated without care and attention, and that grade crossings now being constructed may be accomplished with greater consideration than in the past; but in dealing with long established conditions around which there are rights and opportunities, care must be taken in changing the same, and, in my judgment, the requirements sought to be imposed by this order under the law, circumstances and conditions, are not reasonable and should not and cannot be enforced.

(Signed) JOSHUA GREENWOOD,

Commissioner.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 30th day of August, A. D., 1921.

In the Matter of the Investigation of a grade crossing over the Bamberger Electric Railroad, south of Ogden, Utah. } CASE No. 451

This case being at issue upon motion of the Commission and protests, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the grade crossing over the Bamberger Electric Railroad known as Jacobs Crossing, referred to in the attached report, be abolished.

ORDERED FURTHER, That the arm of the road serving the Brockbank house, be continued south, parellel with the tracks of the Bamberger Electric Railroad, approximately twelve hundred feet, to a junction of the State Highway west of the viaduct.

ORDERED FURTHER, That the right-of-way for such road be furnished free of charge by the Bamberger Electric Railroad Company, said right-of-way to be of sufficient width to permit a graded highway twenty feet wide, and said highway to be at present graded sixteen feet wide.

IT IS FURTHER ORDERED, That construction of such highway shall be performed by the Bamberger Electric Railroad Company, the cost of such construction to be borne as follows: Two-thirds by the Bamberger Electric Railroad Company and one-third by Weber County.

IT IS FURTHER ORDERED, That the change herein required be made within sixty (60) days from the date of this order.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of Investigation of a grade crossing over the Bamberger Electric Railroad, south of Ogden, Utah. } CASE No. 451

Decided November 3, 1921.

REPORT OF THE COMMISSION ON PETITION FOR REHEARING

By the Commission:

The Bamberger Electric Railroad Company, on September 10, 1921, petitioned the Commission for a rehearing in the above entitled case. Murray K. Jacobs and Willard J. Brockbank, and Weber County, filed similar petitions on September 13, 1921.

Arguments on the petitions for rehearing were heard October 1, 1921.

After full consideration of the petitions in question, and the arguments of counsel, the Commission finds no grounds upon which a rehearing should be granted.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

I dissent from the above, denying rehearing in this case.

(Signed) JOSHUA GREENWOOD,
Commissioner.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 3rd day of November, 1921.

In the Matter of Investigation of a grade crossing over the Bamberger Electric Railroad, south of Ogden, Utah. } CASE No. 451

This case being at issue upon petition for a rehearing, and the Commission having, on the date hereof, made and filed its report containing its findings, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That the application for a rehearing in the above entitled matter, be, and it is hereby denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

UTAH MANUFACTURERS ASSOCIATION, an incorporated commercial body, OGDEN CHAMBER OF COMMERCE, an incorporated chamber of commerce, BOARD OF COMMISSIONERS OF OGDEN CITY, UTAH, BOARD OF COUNTY COMMISSIONERS OF WEBER COUNTY, UTAH, representing numerous users of electrical power and energy, and the several users of such power hereinafter named,
Complainants,
vs.
UTAH POWER & LIGHT COMPANY, a corporation,
Defendant. } CASE No. 452

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOSEPH J. STANTON, for permission to operate an automobile freight and passenger line between Vernal, Utah, and the K-Ranch, and as a part of the Craig-Vernal Transportation Company's run between Craig, Colorado and Vernal, Utah.	CASE No. 453

Submitted August 27, 1921. Decided September 19, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

On August 2, 1921, Joseph J. Stanton filed an application for permission to operate an automobile stage line for the transportation of freight and passengers between Vernal, Utah, and the K-Ranch, Utah.

The matter was investigated at Duchesne and further investigation has been made by letter.

It appears that applicant is operating an automobile freight and passenger line between Craig, Colorado, and Vernal, Utah, and desires to extend his operations from Vernal to the K-Ranch, Utah, thereby providing an outlet for honey and other products produced in that vicinity. At present there is no established freight and passenger service from and to the K-Ranch, and the establishment of such a service will doubtless materially benefit this community.

The application of Mr. Stanton is endorsed by the Vernal Commercial Club, which alleges that public convenience and necessity will be subserved by the establishment of such a line.

After investigation and consideration of all material facts, I, therefore, find:

1. That public convenience and necessity require and will continue to require the operation of a freight and passenger line between Vernal, Utah, and the K-Ranch;

2. That the application of Joseph J. Stanton should be granted;

3. That before beginning operation, applicant should comply with the law by filing with the Commission schedule showing rates and charges to be assessed for the transportation of persons and property and a schedule showing the arriving and leaving time of his cars from each station upon his route.

(Signed) JOSHUA GREENWOOD,

We concur:

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 120.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 19th day of September, A .D., 1921.

In the Matter of the Application of JOSEPH J. STANTON, for permission to operate an automobile freight and passenger line between Vernal, Utah, and the K-Ranch, and as a part of the Craig-Vernal Transportation Company's run between Craig, Colorado and Vernal, Utah. } CASE No. 453

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and Joseph J. Stanton be permitted to operate an automobile freight and passenger line between Vernal, Utah, and the K-Ranch, and as a part of the Craig-Vernal Transportation Company's run between Craig, Colorado, and Vernal, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of TONY FRONIMAKIS, EMANOIL GONIOTAKIS and JOHN FOURAKIS for permission to operate an automobile stage line between Helper and Vernal, Utah.	CASE No. 454

ORDER

On August 1, 1921, the above named applicants filed a petition asking authority of the Public Utilities Commission of Utah to operate an automobile stage line from Helper to Vernal, Utah, via Duchesne, Myton, Roosevelt and Fort Duchesne.

The parties appeared before the Commission at Duchesne on August 3rd, but did not press their case at that time. Subsequently, by their attorney, they requested that the case be dismissed.

IT IS THEREFORE ORDERED, That the proceedings in this case be, and are, hereby dismissed.

By order of the Commission.

Dated at Salt Lake City, Utah, this 16th day of September, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES DISTEFANO, for permission to operate an automobile freight and passenger line between Salt Lake City and Tabby, Utah.	CASE No. 455

REPORT OF THE COMMISSION

This case was set for hearing at the office of the Commission at 10 A. M., September 21st, 1921.

Petitioner failed to appear either in person or by attorney to offer evidence showing the necessity for the operation of an automobile freight and passenger line between Salt Lake City and Tabby, Utah.

This case should, therefore, be dismissed without prejudice.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of SAMUEL BAIRD, for permission to operate an automobile freight and express line between Salt Lake City and Bingham Canyon, Highland Boy and Copperfield, Utah.	CASE No. 456

ORDER

Upon motion of the applicant, and by the consent of the Commission:

IT IS ORDERED, That the application in the above entitled matter be, and it is hereby, dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 23rd day of September, 1921.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of The DIXIE POWER COMPANY, for permission to file new schedules increasing its rates. } CASE No. 457

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

A. H. BARTON, *Complainant,*
vs.
CURTIS A. MADSEN, *Defendant.* } CASE No. 458

Submitted Sept. 27, 1921. Decided Oct. 6, 1921.

Messrs. McBroom and Smith, for Complainant.
Wm. S. Marks and C. E. Marks, for Defendant.

REPORT OF THE COMMISSION

By the Commission:

The above entitled case was heard in connection with Case No. 462, application of James D. Harris, for permission to operate an automoblie freight line between Tooele City and Salt Lake City, and intermediate points.

The complainant charged that Curtis A. Madsen, of Tooele, was engaged in hauling merchandise and other commodities between Tooele and Salt Lake City; that such act on the part of the defendant is illegal and against the law, for the reason that the complainant, A. H. Barton, is engaged in the operation of an automobile truck express line between said points, under the permit granted to him by the Public Utilities Commission of Utah, on June 23, 1921; that the said defendant has never received a certificate of convenience and necessity from the Commission, and complainant asks that the defendant be restrained from so operating.

The defendant, Curtis A. Madsen, appeared and testified that he was not hauling merchandise and other com-

modities, as alleged in the complaint, but that he was acting for and in behalf of the Tooele Transfer Company, operated by one James D. Harris. The defendant further contends that the Commission has no jurisdiction or right to hear the case, and that the complainant had not complied with the rules and regulations of the Public Utilities Commission at the time of filing this complaint, and asks that the complaint be dismissed.

There is no question but what the defendant was operating for the Tooele Transfer Company, as its agent, and that said operation was technically illegal and without authority of law; but in view of the action of the Commission in Case 462, in which said James D. Harris made application for permission to operate an automobile freight line between Tooele and Salt Lake City, and that a certificate was granted him, and that such operation complained of was a continuation of the service given for many years before, and appeared to have been given without intent to violate the law, we are of the opinion that the showing is such that no action should be taken by the Commission at present.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

CASE No. 459. This number not used.

In the Matter of the Application of L. C. MORGAN and JAMES E. CARTER, for permission to operate an auto truck line between Provo and Eureka, and from Provo and Nephi, Utah, and to include all intermediate points.	CASE No. 460

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of TONY M. PERRY, for permission to operate an automobile stage line between Helper, Utah, and the new townsite, Great Western, Utah.	CASE No. 461

Submitted Sept. 9, 1921. Decided Sept. 17, 1921.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

In an application filed with the Commission, August 30, 1921, Tony M. Perry, a resident of the Town of Helper, Carbon County, Utah, alleges that a new townsite to be known as the town of Great Western, is being established in Carbon County, Utah, about twelve miles west of the town of Helper; and that he is desirous of operating a stage line to connect the towns of Helper and Great Western, and asks the Commission to grant him a certificate of convenience and necessity to engage in the operation of said stage line.

The case came on regularly for hearing, September 9, 1921, at Price, Utah, there being no protests filed, nor were any protestants present. Mr. Perry, appearing in his own behalf, exhibited copies of the Helper Times, showing that the notice of hearing had been duly published.

Mr. Perry testified that he had resided in Carbon County for the past twenty-one years, and at present was engaged as Town Marshall of Helper.

He further testified that the Great Western Coal Company is spending large sums of money in opening up coal properties near the proposed townsite, and that a road would soon be completed up the canyon to the said property.

Applicant testified that the traffic between Great Western and Helper would scarcely be sufficient to warrant a regular stage service between these points during the winter, but that in the spring development would be such that a necessity for an additional stage line would exist; that he desired to be prepared to take passengers to and from said points as occasion demanded during the

winter, and then proceed with regular continuous service in the spring.

Applicant stated that, while he was not an automobile driver, he intended to learn, and was prepared to purchase such cars as were needed in the service, should he be granted a certificate.

The conclusion is that with the development of these properties, public convenience and necessity will require the operation of an automobile stage line over this route, and that a certificate should issue in Mr. Perry's name, with the proviso that he engage competent operators for his cars until such time as he convinces the Commission that he has become a competent driver.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 119.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 17th day of September, A. D., 1921.

In the Matter of the Application of TONY M. PERRY, for permission to operate an automobile stage line between Helper, Utah, and the new townsite, Great Western, Utah. } CASE No. 461

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and Tony M. Perry be permitted to operate an automobile stage line for the transportation of passengers between Helper, Utah, and the new townsite, Great Western, Utah.

ORDERED FURTHER, That applicant, Tony M. Perry, shall engage competent drivers to operate his cars, advising the Commission the names of such drivers, until such time as he has convinced the Commission that he is qualified to operate automobiles carrying passengers.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES D. HARRIS, for permission to operate an automobile freight line between Tooele City and Salt Lake City, and intermediate points, under the name and style of "Tooele Transfer Company."	CASE No. 462

Submitted Sept. 27, 1921. Decided Oct. 6, 1921.

Wm. S. Marks and C. E. Marks, for Petitioner.
Messrs. McBroon and Smith, for A. H. Barton.
D. T. Lane, for Salt Lake & Utah Railroad Co.

REPORT OF THE COMMISSION

By the Commission.

This application was heard before the Commission, September 27, 1921, in connection with Case No. 458, being the complaint of A. H. Barton vs. Curtis A. Madsen.

Testimony in behalf of applicant, James D. Harris, was to the effect that for some time he had been engaged in the delivery and transfer business at Tooele City, and had been hauling all kinds of freight from and to Tooele City, including Salt Lake City and places in Utah County, as well as in other parts of the State; that he is the owner of two automobile trucks, used in the transportation of goods and wares, in giving this service for the general public; that for a number of years prior to the Act creating the Public Utilities Commission of Utah, the applicant's principle vocation was in giving the service, as above described, to the general public.

The applicant stated, in defense of his failure and neglect to sooner apply for a certificate of convenience and necessity, that he did not know that the law required him to obtain such permission from the Public Utilities Commission, until he decided to operate on a regular schedule, at which time he was advised of the necessity of obtaining a certificate of convenience and necessity.

A. H. Barton, of Tooele, protested and objected to the issuing of the certificate applied for by James D. Harris,

upon the grounds that for some time past he has been, and is at present, operating an automobile freight line between Salt Lake City and Tooele, and that such operation has been under the direction of the Public Utilities Commission of Utah; that for the purpose of giving said service to the public, he had obtained an automobile truck, at the expense of $1,000, in order to render such service, and during the time mentioned, has operated a daily automobile truck between Tooele and Salt Lake City, thereby taking care of and transporting all freight and express offered for such hauling, and that he has equipment, and is ready and willing, to haul all commodities offered for transportation; that the Los Angeles & Salt Lake Railroad Company is likewise operating a freight line between said points, and for such reason, public convenience and necessity will not be promoted, and there is no demand for additional transportation facilities, as contemplated in the application.

The protestant admits that said James D. Harris has been operating as a transfer company, within the limits of Tooele City; but denies that such operation has been beyond the limits of said City, on any kind of a schedule; that if the petition is granted, the protestant would be subject to unjust and unreasonable competition, and would suffer great and irreparable injury.

On behalf of the applicant, there was introduced and filed as testimony in this case, a petition signed by a number of business men of Tooele City, who alleged that the applicant for the last twelve years had been hauling freight between Salt Lake City and Tooele, and his services had been entirely satisfactory and his rates reasonable, and asked the Commission to permit him to continue to haul freight between the points in question, and that it was necessary for the convenience and accommodation of such vicinity.

Witnesses were sworn and testified concerning the service given by the applicant, to the effect that it was necessary that such service should be continued.

A petition in behalf of A. H. Barton was filed and received as evidence, in which a number of the merchants and Business men of Tooele City certified that the service rendered by Mr. Barton was adequate and efficient; that said service was attended to in a very capable and efficient manner, and was entirely dependable; that before the establishment of the Barton Automobile Truck Line, there

was no regular automobile service, and there was a need of just such service as Mr. Barton was giving.

It further appeared in the testimony given that the applicant had been hauling the goods and wares of a number of people in Tooele, and was up to the present time; that the operation by Mr. Barton was satisfactory, in that he was hauling daily the amount in tonnage that his automobile is capable of carrying.

The applicant contended, however, that he expected to add to the present equipment to the extent of being able to take care of all freight between Tooele and Salt Lake City, with the exception of that which was hauled by the Railroad Company.

The Commission is charged with the duty of protecting Mr. Barton against any unnecessary or unauthorized competition which would result in prejudice and damage to the undertaking of transporting freight from Salt Lake City to Tooele.

It appears from the showing made that Mr. Harris had been operating for some time before Mr. Barton, and that since Mr. Barton's operation, the two have been giving service, without any complaint on the part of Mr. Barton, until an application was made and filed with the Commission, August 31, 1921, while on September 24, 1921, Mr. Barton brought a complaint against one Curtis A. Madsen, who was the agent of Mr. Harris and was operating for him.

There can be no question but what Mr. Barton's right and privilege to give the service to the public is regular and legal, and should not be unnecessarily interfered with by the applicant, in a way that would be damaging to Mr. Barton, and yet, we have here a condition, as shown in the history of the service, to which the Commission feels called upon to apply a liberal and reasonable rule. The showing would fairly indicate that there is a sufficient tonnage to be hauled over the road from Salt Lake City to Tooele as to require the service of at least two automobile trucks, and it would further appear that if the applicant is allowed to continue the work, there would still remain sufficient tonnage to employ the service of Mr. Barton, as he has been giving it in the said past few months.

Under all the circumstances shown in this particular case, it appears to the Commission that in all fairness, equity and justness, the petition of the applicant should be granted, with a proviso that he operate but one truck.

The operation of said truck by the applicant will not, in the opinion of the Commission, materially interfere with the service given by Mr. Barton.

The matter of the complaint of A. H. Barton vs. Curtis H. Madsen (Case No. 458), heard in connection with this case, will be disposed of in a separate order.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 122.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of October, A. D., 1921.

In the Matter of the Application of JAMES D. HARRIS, for permission to operate an automobile freight line between Tooele City and Salt Lake City, and intermediate points, under the name and style of "Tooele Transfer Company."	CASE No. 462

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and applicant, James B. Harris, be, and he is hereby, authorized to operate an automobile freight line between Tooele City and Salt Lake City, Utah, and intermediate points, under the name and style of Tooele Transfer Company; provided, that applicant shall at no time employ more than one truck in such operations.

ORDERED FURTHER, That before beginning such operations, applicant shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LITTLE COTTONWOOD TRANSPORTATION COMPANY, for permission to increase certain Freight rates.	CASE No. 463

Decided September 6, 1921.

REPORT OF THE COMMISSION

By the Commission:

In an application filed August 18, 1921, the Little Cottonwood Transportation Company, a corporation of Maine, asks authority to increase certain rates charged for the transportation of ore from Tanners Flat, Sells Mine, Wasatch Drain Tunnel and Alta, to Wasatch.

Petitioner alleges that on April 10, 1921, it reduced rates on low grade ore from stations on its line to Wasatch, in anticipation of a heavy ore movement; that such movement did not develop, and, as a result, petitioner has suffered a heavy loss, revenues being insufficient to meet operating expenses.

From the showing made by petitioner and investigation by the Commission, it appears that the Railroad has for some time past operated at actual loss and is entitled to relief.

The Commission, therefore, finds that the application should be granted, and the increased rates sought be made effective on one day's notice to the public and the Commission.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 6th day of Sept., 1921.

In the Matter of the Application of the LITTLE COTTONWOOD TRANSPORTATION COMPANY, for permission to increase certain Freight rates. } CASE No. 463

This case being at issue upon petition 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted, and the Little Cottonwood Transportation Company be permitted to publish and put into effect increased rates for the transportation of ore which shall not exceed those set forth in its application.

IT IS FURTHER ORDERED, That such increased rates may be made effective on one day's notice to the public and to the Commission.

By the Commission.

Dated at Salt Lake City, Utah, this 6th day of September, 1921.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of S. A. HALTERMAN, for permission to operate an automobile stage line between Parowan and Lund, Utah. } CASE No. 464

Submitted Oct. 26, 1921. Decided Nov. 3, 1921.

H. C. Parcells, for Petitioner.
Messrs. Shay and Lunt, for Chauncey Parry.
Andrew Corry, Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

After due and proper notice, the above entitled matter came on for hearing at Cedar City, Utah, on the 26th day of October, 1921.

The applicant represented that at the present time there is no automobile stage line between Parowan, Utah, and Lund, Utah, direct; that there has been, and is at the present time, automobile service from Lund to Parowan via Cedar City, Utah, which route requires a number of miles farther to travel; that the State and County road is being completed, making it much more convenient and a less distance to travel by going direct from Lund to Parowan and from Parowan to Lund; that it is not the intention of applicant to interfere with any established route; that there is a necessity for furnishing a service between the points named in petition, and that such service will furnish the traveling public, from Parowan to Lund, a more direct convenience and cheaper means of transportation than is now being operated via Cedar City.

There was no written protest filed, but there appeared at the hearing Mr. Andrew Corry, who operates a stage line for the transportation of passengers from Cedar City, Parowan and Paragoonah, who stated that he was making no profit on his line, and further, that if Mr. Halterman desired to operate a stage line between Lund and Parowan, he would interpose no objection.

The matter of the operation of Parry Brothers from Lund to Zion Canyon, Cedar Breaks and Bryce Canyon, was called to the attention of the Commission, for the purpose of showing that the proposed service could, unless limited to local traffic interfere with the service contemplated in the certificate heretofore issued by the Commission to Parry Brothers; but that if it were purely local from Lund direct to Parowan, it would not so interfere, and that no objections could reasonably be raised.

This statement was made in view of S. A. Halterman having heretofore received a certificate to operate from Parowan to Cedar Breaks, via Parowan Canyon. It was understood, however, at the time said certificate was issued, and it may in this order be understood, that such service is permitted for the purpose of meeting the necessity and desires of the public locally to visit Cedar Breaks via Parowan Canyon, but not to take the place of, or interfere with, the service being rendered by Parry Brothers.

After full and careful consideration of the conditions existing, the Commission is of the opinion that a certificate of convenience and necessity should be granted for the following reasons:

1. There appears to be a necessity for the establishing of service for the traveling public, going direct from Parowan to Lund, and from Lund to Parowan; that such is made more desirable by the construction of a State and County road from Lund to Parowan.

2. That the applicant is shown to be responsible and able to give such service.

3. That the service to be rendered will be confined to local traffic, and it is not intended to in any way replace or take the patronage from the travel contemplated in the certificate issued to Parry Brothers.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 123.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 3rd day of November, A. D., 1921.

In the Matter of the Application of S. A. HALTERMAN, for permission to operate an automobile stage line between Parowan and Lund, Utah. } CASE No. 464

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and S. A. Halterman be permitted to operate an automobile stage line between Parowan and Lund, Utah.

ORDERED FURTHER, That before beginning such operations, applicant shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. G. PACE, for permission to operate an automobile freight and express line between Lund and Cedar City, Utah. } CASE No. 465

Submitted August 31, 1921. Decided Sept. 14, 1921.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on for hearing, at Cedar City, Utah, August 31, 1921.

From the evidence submitted and the records on file, it appears that the Jordan & Brown Truck Line was engaged in transporting freight from Cedar City to Lund before the Public Utilities Act was enforced, and complied with the requirements of the law by filing its schedule of rates with the Commission, and operated thereunder until the present time. On August 5, 1921, Mr. C. M. Brown, of the firm, who had succeeded to the rights of transporting freight, notified the Commission that he was turning over his equipment to the Iron Commercial & Savings Bank, and would not be in a position to fulfill the obligations of his freight and express franchise from Lund to Cedar City and intermediate points.

On July 7, 1921, the application of J. G. Pace was filed, asking for a certificate of convenience and necessity, which application was endorsed by Mr. Brown, who at the same time assigned to Mr. Pace any and all assignable rights he had in the route, stating that the equipment turned over to the above named bank was sold and purchased by the applicant herein. The transaction was further testified to by the officers of the bank. Other reliable citizens of Cedar City further corroborated the petition concerning the standing of the applicant, as to his reliability and backing to carry on the service of freight and express between the points mentioned.

It would appear from the showing that there is a necessity of continuing the service established by the

Jordan & Brown Truck Line; that the applicant is able and competent to continue such service; and that there were no objections to the granting of said petition, all of which is in support of the application, which should be granted.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:
(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 118.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 14th day of September, A. D., 1921.

In the Matter of the Application of J. G. PACE, for permission to operate an automobile freight and express line between Lund and Cedar City, Utah. } CASE No. 466

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and J. G. Pace be permitted to operate an automobile freight and express line between Lund and Cedar City, Utah.

ORDERED FURTHER, That applicant, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and fares, together with schedule showing arriving and leaving time; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Investigation of certain contracts and agreements between the Bingham & Garfield Railway Company and the Utah Copper Company. } CASE No. 446

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE SALT LAKE TRIBUNE PUBLISHING COMPANY, for permission to establish new tariffs for steam heat and electric power and light service.	CASE No. 467

Submitted Oct. 6, 1921. Decided Oct. 29, 1921.

F. J. Westcott and O. W. Ott for Petitioner

REPORT OF THE COMMISSION

By the Commission:

In a petition filed with the Commission, September 12, 1921, The Salt Lake Tribune Publishing Company, a corporation, organized and existing under and by virtue of the laws of the State of West Virginia, alleges that, as an adjunct to its principal business, that of publishing a newspaper, it maintains and operates a steam and electric power plant, rendering service to numerous buildings and small stores adjacent to said plant.

Petitioner alleges that the steam heating service has heretofore been rendered to its customers under contracts, on a flat rate basis; that said flat rates are discriminatory as between customers and inadequate for the service rendered; that no count is taken of the actual amount of steam used by the various customers, but the petitioner is now installing meters on all of its steam service lines, so that the actual steam consumption can be determined for each building or customer served, and asks that such rates for steam heating service and electric light and power service as the Commission found just and reasonable for service rendered by the Utah Power & Light Company, a corporation rendering similar service to the public, be made applicable to steam heating, electric light and power service rendered by petitioner.

The case came on regularly for hearing before the Commission, October 4, 1921, at which time Messrs. Westcott and Ott testified on behalf of petitioner as to revenues and expenses, valuation of the plant, history of contract rates hertofore established, general operating data and probable earnings under proposed rates.

No protests were received in writing, neither did any protestants appear at the hearing.

As part of the testimony, there was introduced Exhibits "A", "B" and "C", showing respectively: Profit and Loss Account for year ending December 31, 1920; Estimated Statement for 1921, Based on New rates with all Service Metered; and Power Plant Account Cost of Construction, as follows:

PROFIT AND LOSS ACCOUNT FOR YEAR ENDING DECEMBER 31, 1920

POWER PLANT ACCOUNT

Earnings:

Steam	$ 7,477.16	
Light and Power	16,428.85	
	$23,906.01	
Less Discounts allowed	462.07	$23,443.94

Expenditures:

Fuel	$23,364.01	
Wages—Operation	8,442.97	
Maintenance	4,793.12	
Supplies—Operation	3,894.43	
Tools	40.25	
Taxes	624.00	
Insurance	175.00	
Miscellaneous Expense	60.00	$41,393.78
Loss in Operation		$17,949.84
Add proportion of Depreciation		7,729.09
Loss for year on Power Plant Operation		$25,678.93

Recapitulation of Earnings:

Kearns and Tribune Buildings, Steam	$ 4,010.25	
Kearns & Tribune Bldgs., Electric	4,529.21	$ 8,539.46
Other Customers, Steam	$ 3,466.91	
Other Customers, Electric	11,437.57	14,904.48
Total Earnings		$23,443.94

ESTIMATED STATEMENT FOR 1921 BASED ON NEW RATES WITH ALL SERVICE METERED

Earnings:		
Kearns & Tribune Bldgs., Steam	$10,184.00	
Kearns & Tribune Bldgs., Electric	12,360.00	$22,544.00
Other Customers, Steam	$ 4,500.00	
*Other Customers, Electric	10,200.00	14,700.00
Total Earnings		$37,244.00
Expenditures:		
Fuel	$20,900.00	
Wages-Operation	8,000.00	
Maintenance	900.00	
Operation-Supplies	3,600.00	
Taxes	620.00	
Insurance	180.00	
Total Expenditures		$34,200.00
Operating Earnings		$ 3,044.00
Depreciation		7,729.09
Net Loss		$ 4,685.09

*Western Union Telegraph Co.
Services discontinued.
Earnings from service $1300.00.

POWER PLANT ACCOUNT COST OF CONSTRUCTION

Construction of plant commenced April 1, 1906, ended March 31, 1907:

Expenditures:		
General Expense	$ 356.80	
Labor	7,827.48	
Material and Supplies	2,390.04	
Machinery	50,296.88	
Cost to Install Plant		$60,871.20
Remodeling Plant:		
During year 1912 this Plant was remodeled at a cost of		$32,535.06
Total Cost Plant		$93,406.26

These exhibits indicate that petitioner realized in 1920 earnings barely sufficient to cover the cost of coal, with nothing for other operating expenses or return upon the property devoted to the public service. If the proposed schedules be applied to 1921 earnings projected throughout the year, it appears that sufficient earnings will be realized to pay operating expenses, with something in addition for depreciation, but nothing for return upon the property.

To render adequate, continuous service, revenues accruing from said service should be sufficient to cover the reasonable costs thereof. The record in this case clearly indicates that revenues accruing under the contract rates are not sufficient to carry on the business. Said rates, therefore, are inadequate and preferential, and are, under the Public Utilities Act, unjust and unreasonable and do not conform to the requirements and provisions of the law, wherein discriminatory, preferential rates, rules and regulations and services are prohibited.

The showing also indicates that these contract rates are discriminatory as among themselves. Each and every consumer should pay as nearly as may be the reasonable cost of service to him, and not something less than the cost of such service, in order that the burden of maintaining and rendering said service be not cast unjustly upon others.

Upon the showing made, we conclude. therefore, that revenues received for service are on the whole insufficient to yield the cost of service, and do not provide reasonable and sufficient revenues for the service rendered to consumers, and, to avoid discrimination, all consumers of light, heat and power services should be placed upon a metered basis; that the application of petitioner should be granted, and tariffs in conformity thereto, together with the general rules and regulations, may be filed and made effective on not less than ten days' notice to the public and to the Commission.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 October, 1921.

In the Matter of the Application of THE SALT LAKE TRIBUNE PUBLISHING COMPANY, for permission to establish new tariffs for steam heat and electric power and light service.	CASE No. 467

This case being at issue upon petition 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted, and applicant, The Salt Lake Tribune Publishing Company, be, and it is hereby authorized to publish and put into effect rates for electric service which shall not exceed those authorized by the Commission, for similar service, in Case No. 248, and rates for steam heating service which shall not exceed those authorized by the Commission, for similar service, in Case No. 411.

ORDERED FURTHER, That such rates may be made effective upon ten (10) days' notice to the public and to the Commission.

IT IS FURTHER ORDERED, That publications naming such increased rates shall bear upon the title page the following notation:

> "Issued upon less than statutory notice under authority Public Utilities Commission, Order Case No. 467, dated October 29th, 1921."

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of BRIGHAM E. FARNSWORTH, for permission to operate an automobile freight line between Lund and Parowan, Utah.	CASE No. 468

Submitted Oct. 26, 1921. Decided Nov. 4, 1921.

H. C. Parcells, for Petitioner.
Shay & Lunt, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

After due notice, the above matter came on for hearing at Cedar City, October 26, 1921, upon the application of Brigham E. Farnsworth and protest by J. David Leigh.

The applicant represented that a new road would shortly be opened for travel between Lund and Parowan, known as the "Federal Aid Project No. 11," a distance of approximately thirty-eight miles; that when said road is opened the service of transporting freight from Lund to Parowan would be more convenient and greatly improved; that the road would be much shorter and more convenient; that he had agreed with the various business men of Parowan to haul freight between the points in question at a rate of 50 cents per hundred for all ordinary freight, and not to exceed 65 cents per hundred for lighter classes of freight; that he was fully equipped to handle this business and had had considerable experience in transporting passengers and freight in Southern Utah.

The applicant filed a petition of endorsement, signed by most of the business men of Parowan, stating that by reason of their confidence in Mr. Farnsworth to make good under the advantages afforded by the new route above mentioned as to distance, time and rate, they favored the application.

In support of his protest against the application of Mr. Farnsworth, Mr. J. David Leigh represented that some two years ago he was granted a certificate of convenience

and necessity to operate an automobile freight line between Lund and Parowan; that he had operated since said time under the rules and regulations of the Commission, and was at present giving such service and hauling all freight from Lund to Parowan offered to him; that the tonnage so hauled was not in excess of an amount that he could reasonably handle; that in hauling said freight he had been going via Cedar City, for the reason that the road to Cedar City and from Cedar City to Parowan was the most accessible and convenient one; that the freight to be hauled by the applicant is the identical freight that he has been transporting between the points mentioned; that there is not sufficient tonnage to justify the operation of another line; and that the operation as contemplated by the petitioner would greatly damage the present service; and that it is his intention, as soon as the new road is completed, to use the same direct from Lund to Parowan, instead of via Cedar City.

It would appear, under the showing made, that the necessity for further services between the points mentioned is not sufficient to justify the issuance of a certificate as asked for in the application; that the issuing of a certificate as prayed for would mean the annulling of the certificate heretofore obtained by the protestant.

The matter of freight rates is always open to consideration by the Commission, and, if the new route will shorten the distance and make the haul more easy and convenient, the rates upon application could be modified.

It was brought out at the hearing that a schedule of time had not been strictly kept by Mr. Leigh, as is required by the Commission, and that some difficulty was experienced in getting immediate transportation of freight from Lund to Parowan. In view of such complaint, it may be well to here observe that Mr. Leigh is required to publish and operate under a specific schedule, both as to time and rates, and the Commission shall insist upon service being given to conform to a schedule; that an examination of the records in this case discloses the fact that Mr. Leigh, under the name of Leigh and Green, filed a schedule of rates, but nowhere can be found a schedule of time. In order to be consistent with the service as a carrier, it will be necessary for Mr. Leigh to at once file his schedule of time and publish the same, as required.

After a careful consideration of the showing made, and in view of the circumstances attending the hauling of

freight from Lund to Parowan, the Commission is of the opinion that the application should be denied.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

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 4th day of November, A. D., 1921.

In the Matter of the Application of BRIGHAM E. FARNSWORTH, for permission to operate an automobile freight line between Lund and Parowan, Utah. } CASE No. 468

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein be, and it is hereby, denied.

By the Commission.

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

In the Matter of the Application of BYRON CARTER, for permission to operate an automobile stage line between Helper and Kenilworth, Utah. } CASE No. 469

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of of the UTAH STATE ROAD COMMISSION, for a hearing with reference to the feasibility of obtaining a safe routing for the State Road through the City of Salem, Utah, as well as the division of expenses between the parties interested. } CASE No. 470

In the Matter of the Application of I. R. PIERCE, et al., for elimination of two grade crossings and location of State Highway through the City of Salem, Utah County, Utah. } CASE No. 470-A

Submitted Nov. 14, 1921. Decided Dec. 10, 1921.

N. C. Poulson
George D. Casto
Ira Browning
Howard Means
for Utah State Road Commission.

Mayor Eli F. Taylor, for Town of Salem.

F. M. Orem and D. T. Lane for Salt Lake & Utah Railroad Co.

Jesse N. Harmon, Chairman, Board of County Commissioners of Utah County for Utah County.

B. J. Finch, for United States Bureau of Public Roads.

W. D. Rischel, for Utah State Automobile Association.

REPORT OF THE COMMISSION

By the Commission:

October 19, 1921, the Utah State Road Commission filed an application with the Public Utilities Commission of Utah, asking that it conduct a hearing to determine whether or not in paving the State Highway between Spanish Fork and Payson, Utah, public interest requires a separation of grades or an elimination of the crossings at the several points of crossing of the present State Highway and the tracks of the Salt Lake & Utah Railroad within the Town of Salem, or whether or not the present crossings at grade should be retained as such.

In the event a separation of grades is found necessary, petitioner asks that the Commission divide the expense between the parties in interest, as provided by statute.

On November 4, 1921, I. R. Pierce and other residents of Salem, Utah, filed a petition, asking that the two southernmost crossings under consideration be eliminated by diverting the State Highway north of the tracks of the Salt Lake & Utah Railroad between said crossings.

Due notice having been given, the two cases were heard jointly at Provo, Utah, November 14, 1921.

Entering Salem, Utah, a town of some six hundred inhabitants, from the north, the State Highway crosses at grade the tracks of the Salt Lake & Utah Railroad from the north to the south, near the outskirts of the town, and thence continues approximately two and one-half blocks south, thence approximately three and one-half blocks west, again crossing the railroad tracks at grade, thence it describes a roughly semi-circular curve around the foot of Salem Pond, crossing the tracks again at grade approximately one and one-half blocks west of the second crossing; thence it extends south two blocks, west two and one-half blocks, again crossing at grade the tracks of the Salt Lake & Utah Railroad, and thence continues onward toward Payson.

At the hearing, Mr. B. J. Finch, District Engineer of the United States Bureau of Public Roads, testified in effect that the portion of the highway under consideration is part of the interstate highway, known as the Arrowhead Trail, extending from the north through Salt Lake City to Los Angeles, thus connecting up adjoining states, and estimated that not less than 50,000 people annually use the road through the Town of Salem, and gave as his opinion that future travel would at least quadruple this figure.

He further testified that the Federal Government contemplates participation in the cost of construction of highways of this kind and character in an amount upward of approximately 75 per cent of the total reasonable cost.

Mr. Finch further testified that said highway crossings at grade are dangerous, and that the Bureau of Public Roads did not consider it proper to enter into or share in the cost of a construction program which would perpetuate a hazard such as exists in this case, even with the elimination of two of the crossings, and further, that a practicable method of eliminating these dangerous crossings contemplates the construction of a section of highway entirely on the north side of the tracks between the two outer crossings, thus eliminating all four grade crossings.

Mr. Finch further testified that the cost of construction of this portion of the highway to the north of the tracks would be less than if the highway were continued through the more settled portion of the Town of Salem, and would also somewhat shorten the distance; that if the highway be continued through the Town of Salem and a separation of grades be found necessary, the cost of such separation for two crossings would be approximately $85,000.

The various members of the Board of County Commissioners of Utah County testified in effect that they concluded the highway should be permitted to continue through the more settled portion of the Town of Salem, south of the railroad, thus eliminating two crossings, but retaining two. They arrived at this conclusion after hearing various delegations, and felt that the residents of the territory contiguous to Salem favored this route; that if these crossings at grade were dangerous, other crossings in the State were equally so, or even more dangerous.

Messrs. Poulson and Casto, of the Utah State Road Commission, testified in effect that they concluded the State Highway should continue through the Town of Salem, south of the tracks, for the reason that representative delegations from this section appearing before them had favored this route.

Mr. Browning, an experienced engineer, also a member of the Utah State Road Commission, testified that, in his opinion, the highway should continue on the north side of the tracks, eliminating dangerous crossings; and it may be said here that all of the engineers who testified concurred in this view.

Mayor Eli F. Taylor, for the Town of Salem, testified that, in his opinion, the paved highway should cross the tracks of the Salt Lake & Utah Railroad, continue through the town, crossing on a bridge Salem Lake, and thence crossing back from the south to the north at the present crossing farthest south. Mayor Taylor contended that if the highway were to remain on the north side of the tracks, the economic future of the town would be affected, for the reason that tourists would not stop to patronize local people, and that the town would be cut off from patronage necessary to warrant the building up of a resort along the edge of Salem Lake, all greatly to the detriment of the town, and further, that the highway existed in its present location long before the roadway was built. He presented a petition signed by some two hundred seventy residents of this vicinity, in support of the route as outlned therein.

Another petition was presented by I. R. Pierce, signed by some fifty-eight residents of Salem and vicinity, asking for a somewhat different route. This route would eliminate the two southernmost crossings now existing, and is in part opposed to the route advocated by the Mayor.

The various witnesses appearing for the State, County and Town testified in effect that there were not funds available at this time to finance grade separations, and were unable to say where funds might be had for such purpose.

Mr. W. D. Rischel, appearing for the Utah State Automobile Association, representing the organized motorists of the State, testified that these grade crossings are dangerous and that public interest other than interest local to the immediate vicinity, was vitally concerned. He testified that this is an interstate highway, that the records of his organization disclose that approximately 22,000 to 23,000 people residing outside of this State had traversed the highway this year, and that the hazard of these crossings should be removed in the most economic way.

Witness Rischel further testified that his organization was interested primarily in the safety of the traveling public; conservation of the public road funds; the shortening of interstate highways; thus securing the greatest amount of good to the largest number of the traveling public.

Mr. R. K. Brown, Superintendent and Chief Engineer of the Salt Lake & Utah Railroad Company, testified that the carrier operated eighteen passenger trains per day

over this portion of the railroad, and, in addition thereto, an average of four freight trains. Witness Brown testified that a recent count for several consecutive days was made of passing vehicles over these crossings into and out of the Town of Salem. An analysis of this travel showed that in volume the local travel amounted to about one-fifth of the total travel on week days, with a slightly higher percentage on Sundays, and that for a typical twenty-four hour day, approximately 460 vehicles traversed this highway, carrying approximately 1380 persons, and, taken in connection with the four grade crossings, would mean the equivalent of 5520 persons whose lives and limbs would necessarily be subject to potential risk of accident. He testified further that at least on one of the crossings fatal accidents had occurred to travelers on the highway, while several other serious accidents, and others of less gravity, had occurred on three of the crossings; and contended that if the highway without crossings be located along the north side of the track, the Town of Salem would not be isolated, and that the distance from the proposed road to what might be termed the business part of the Town would approximate only 700 feet, or a little over a city block. He contended further that many automobile drivers pass between Spanish Fork and Payson via another highway, purposely to avoid the railroad grade crossings and a more devious way through the Town of Salem.

Witness Anderson, Auditor of the Salt Lake & Utah Railroad Company, introduced exhibits tending to support the contention of the Railroad that earnings are not sufficient to permit the carrier to participate in heavy expenses involving grade separations, when a feasible, comparatively cheap route may be had, eliminating all crossings.

Section 4811, Compiled Laws of Utah, 1917, gives the Commission "the exclusive power to determine and prescribe the manner, including the particular point of crossing * * * of each crossing of a public road or highway by railroad or street railroad, and of a street by a railroad, or vice versa, and to alter and abolish any such crossing," as well as to prescribe a separation of grades, and to divide the expense of such separation between railroads, "and the state, county, municipality, or other public authority in interest."

While the Commission has no powers except such as are given in the statute, yet when a power is clearly given, the extent and manner of exercise thereof must be deter-

mined in the light of the object sought to be accomplished. It is clear from this section and the context of the other sections which immediately surround it in the statute, that the purpose thereof is to give the Commission broad power to protect the traveling public, both on the railroads and on the streets and highways, from accident and injury resulting from crossings at grade.

The Commission must adopt a forward-looking view and consider the facts as presented in each case, to determine and carry out the object of the legislature in applying the statute to the facts. These state highways are intended to be the main arteries of traffic, not local roads or streets, for the convenience of the inhabitants of particular towns. While the Commission has no power to prescribe the general routes for such highways, the general courses of which are designated by statute (Laws of Utah, 1921, Chapter 62, Page 158), yet it is given, as above shown, "exclusive power to determine and prescribe the manner, *including the particular point of crossing*" of a public road, highway or street "by railroad, or vice versa, *and to alter and abolish any such crossing.*"

The concluding sentence of the section as previously quoted, shows that this power extends to state, county and municipal highways, indiscriminately. When, therefore, a designated highway crosses a railroad as part of a main highway, the juxta-position of the highway and the railroad gives the Commission jurisdiction to determine the manner of accomplishing the intersection or crossing of the railroad and the highway, or of obviating the necessity of such intersection or crossing, even if in so doing it "alters" or "abolishes" the crossing and incidently necessitates a detour of the highway for a short distance.

To this effect is Sayers vs. Montpelier & W. R. R. R., Supreme Court of Vermont, 97 Atlantic, at 664, wherein the court said:

> " * * * the Commission is required to determine what alteration, changes, or removals, if any, shall be made and by whom. The primary object of this statute is to provide an effectual means to secure the elimination of dangerous highway crossings. As a means to that end the incidental power to change the location of an existing highway is expressly conferred upon the commission; but this power is to be exercised as a mere incident of the real purpose of the statute. Bessette v. Goddard, supra.

> "In short, the authority of the commission to change the location of highways goes no further than to order such changes as are necessary and fairly incidental to the purpose of adapting railroads and public highways to each other in such a manner as best to promote the safety and convenience of the traveling public."

Among the numerous cases that could be cited in support of the foregoing proposition, we refer only to the following: 59 Connecticut, 402; 53 Connecticut, 367; 57 Connecticut, 167; Elliot on Roads and Streets, 3rd Edition, Sec. 452; 37 Cyc., 157; 15 A. & E. 2nd Edition, at 393; 66 Connecticut, 211-222; 72 N. H., 229; 172 Mass, 5-7.

Decisions of the Commission are not made with any purpose of doing any party an injustice or to take from them any rights which are theirs under the law. The interests of the Town of Salem have been valiantly presented by its Mayor, but it is the duty of the Commission to administer the law for the general public good and the general safety of the traveling public, and individual and local interest must give way to the right of the general public.

This highway is not a local road, built by local funds, but an important part of the trans-continental route, and the cost of construction is largely to be undertaken by the Federal Goverment. The interests involved here are varied. Manifestly, it is impossible to fully satisfy all interests or demands in this matter. The record shows that the citizens of Salem, themselves, are divided in their views as to the best location of the highway, some petitioners desiring the elimination of the two inner crossings, and others the elimination of the two southermost crossings. Where, as here, there is a perfectly feasible route offered which will dispense with not only one crossing but with four crossings, and which will dispense with either, on the one hand, the liability of grade crossing accidents to an accumulated total of several hundred thousand persons annually riding in vehicles of various kinds, or, on the other hand, of incurring an expense of $85,000 or more for a separation of grades, which expense the Commission must either levy on the tax-paying public or on the traveling public using the railroad, or on both, it seems perfectly obvious, and we find, that the Commission has the power, and, under the express language of the statute it is its duty to refuse consent to such crossing as an original proposition, or to abolish the existing crossing or crossings, so far as the State Highway is concerned; on the other hand, it is not

necessary for the Commission, in so doing, to abolish the crossing as a local highway or street.

The number of vehicles using the highway locally is but a small fraction of the total number of vehicles using the State Highway. The risk of accident is decreased to the point where purely local convenience and interest is consulted, but there is nothing in the statute, nor in the reasoning behind the statute, which requires the Commission, simply because the highway is maintained as a local street or avenue of traffic, to consent to its use and to the making of the crossings required for the main State Highway. To do so, is to subordinate the general good and the general safety of the traveling public, both on the highway and on the railroad, to the greatly increased accident risk, which it is the purpose of this section of the statute to prevent. To this effect is Missouri Pacific Railway Co. vs. the City of Omaha, (Circuit Court of Appeals, Eighth Circuit, Federal Reporter, Volume 197, at 516.) Circuit Judge Hook said:

> "It is also urged that the ordinance is void because the grade crossing of the railroad tracks under the viaduct was left open for travel, thereby negativing that necessity for an overhead structure upon which the power of the city depended. This is but another way of asserting that the requirement of a viaduct must be accompanied by a complete vacation or abandonment of the surface crossing—that the city is without power to require a railroad company to build a viaduct for less than all the street traffic. The contention is untenable. The necessity for the safety and protection of the public is the statutory warrant for the ordinance, but its extent is for the judgment of the municipality. Conditions might exist in which a mere footbridge for pedestrians would be regarded as sufficient."

FINDINGS

Summarized, the Commission finds the facts as applying to both cases, viz., 470 and 470-A, heard jointly in this proceeding, to be as follows:

That the present State Highway forms a part of an interstate highway and, in passing through Salem, Utah, crosses the Salt Lake & Utah Railroad four times at grade; that all of said crossings are found to be dangerous to the general public, and, in so far as the through State Highway

is involved, public necessity requires that all said crossings be abolished.

As an incidental, though effectual, means to accomplish this end, there is compelling public need, and the Commission so finds, that the cut-off, or detour, as outlined by Witness Finch, of the United States Bureau of Public Roads, should be established by turning the road where it first enters the Town of Salem from the north, and without crossing the tracks of the Salt Lake & Utah Railroad, continue along the north side of the tracks of said Railroad until it connects with the present State Highway, at or near the present southernmost grade crossing under discussion at this hearing.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

GREENWOOD, Commissioner, Dissenting:

I am unable to concur in the findings of the majority in this matter, for the following reasons:

1. That under the showing, the Commission is not warranted in finding that all crossings referred to were dangerous to the extent that they should be abolished.

2. That the Commission is not empowered to direct where the improvements or construction of the highway in question should be built.

3. That the matter of controversy which arose over an improvement of the highway was a subject wholly within the duty and authority of the State Road Commission, together with the County Commissioners of Utah County, and, as far as any Federal appropriation is concerned, the agent of the United States Bureau of Public Roads; and that the findings in this case would result in assuming authority to direct the route along which the State and County highway should be constructed.

A hearing was had before the Commission upon an application of the Utah State Road Commission, in which

it appeared that a hard-finished or cement road was under contemplation between Spanish Fork and Payson; and that the question of just what route should be taken near or through the Town of Salem, had given rise to considerable discussion and controversy; that a proposition was made to leave the established highway just before entering the Town of Salem, and follow a line south and west of the railroad track, leaving the town to the south and east, and connecting with the County and State highway west and south of said town.

This proposition was opposed by the representatives of the southern part of the County and especially the Town of Salem, for the reasons and upon the grounds that such diversion of the road would change the highway from going through the Town of Salem, where it had been constructed and used for many years before the railroad had been built; that it would result in an irreparable damage and inconvenience to the travel and to the general interest of said town and vicinity.

Statements were made at the hearing to the effect that the new route proposed would avoid the grade crossings within the town, and thereby diminish the chances of accidents in the operation of the road, and that it would shorten the distance and lessen the cost of building.

It may well be concluded that grade crossings are more or less dangerous, and that from the view-point of safety alone, all highways should be so built as to avoid coming in contact with railroads; and yet, the question of eliminating and abandoning roads and highways of long standing, is one that requires great consideration. The eliminating and abandoning of all of the grade crossings now used through the Town of Salem, is unnecessary and unreasonable under the showing made, because there is much need of such crossings, at least for local traffic.

If the grade crossings are to be allowed to remain and be used, then the action of this Commission in finding that the cut-off or detour, as outlined, should be established by turning the road where it first enters the Town of Salem from the north and continue along the north side of the said railroad track until it connects with the present State Highway, is not, in my opinion, warranted, and should not be used in settling a disputed matter which should be settled by the State Road Commission, the County Commissioners and the Federal agent. The matter of constructing and replacing of highways, under the law, is in the hands of the State Road Commission and the

County Commissioners, whose duty it is to determine over what route such highway shall be constructed. The Federal Government may also be interested in this matter, inasmuch as a portion of the expenses of building said road will be borne by it.

From the standpoint of safety alone, the new road or route proposed would seem to be the logical one to take; but it does not appear to me that the Commission should be called upon, or is warranted in disposing of the question in a manner and with a view of attempting to direct where the improvements shall be placed, for the reason that such question is a matter that could and should be settled by others than this Commission.

The findings would seem to indicate that there would be no real or actual abandonment or elimination of said crossings; but that the roads will be left open, so that the traveling public would be given a choice of selection as to which route they would take. In that event, the through traffic, for which it would appear the new route is to be established, would have to be in some way warned as to which road to take. The grade crossings would still be used by the local travel, and only in so far as the through travel shall be involved, the majority finding is that the public necessity requires all said crossings should be abolished. If this part of the findings is strictly carried out, it will require a keeper at the gates of Salem to warn through travel how to avoid the dangers of the Salem crossings.

(Signed) JOSHUA GREENWOOD,
Commissioner.

ORDER

At a 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., 1921.

In the Matter of the Application of of the UTAH STATE ROAD COMMISSION, for a hearing with reference to the feasibility of obtaining a safe routing for the State Road through the City of Salem, Utah, as well as the division of expenses between the parties interested.	CASE No. 470
In the Matter of the Application of I. R. PIERCE, et al., for elimination of two grade crossings and location of State Highway through the City of Salem, Utah County, Utah.	CASE No. 470-A

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the four grade crossings referred to in the attached report as constituting a menace to the general public, when forming a part of the State Highway, be abolished.

ORDERED FURTHER, That such crossings be abolished by establishing incidentally a cut-off, or detour, as outlined in the Commission's report, attached, by turning the road where it first enters the Town of Salem from the north and, without crossing the tracks of the Salt Lake & Utah Railroad, continue along the north side of the tracks of said Railroad until it connects with the present State Highway, at or near the present southernmost grade crossing under discussion.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BAMBERGER ELECTRIC RAILROAD COMPANY, a corporation, *Plaintiff*,

vs.

UTAH RAILWAY COMPANY, a corporation, and SALT LAKE & UTAH RAILROAD COMPANY, a corporation. *Defendant*

CASE No. 471

PENDING

In the Matter of the Application of MANOS KLAPAKIS, for permission to operate an automobile stage line beween Price and Great Western, Utah.

CASE No. 472

PENDING.

In the Matter of the Application of MANOS KLAPAKIS, for permission to operate an automobile stage line between Price and Horse Canyon, Carbon County, Utah.

CASE No. 473

PENDING.

In the Matter of the Application of H. M. SPENCER, W. J. WEST and J. A. McHALE, for permission to operate an automobile freight line between Salt Lake City and Provo, Utah.

CASE No. 474

PENDING.

In the Matter of the Application of ELMORE ADAMS, for permission to operate an automobile stage line between Dewyville, Tremonton and Garland, Utah.

CASE No. 475

PENDING

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the BINGHAM & GARFIELD RAILROAD COMPANY, for permission to temporarily suspend and discontinue its passenger train service.	CASE No. 476

Submitted Nov. 12, 1921. Decided Nov. 23, 1921.

R. G. Lucas and Dickson, Ellis & Adamson } for Petitioner.

E. A. Bancroft, Protestant.

REPORT OF THE COMMISSION

By the Commission:

In an application filed October 29, 1921, the Bingham & Garfield Railway Company, a corporation, operating under and by virtue of the laws of the State of Utah, and engaged in the transportation of persons and property for hire by railroad, between Garfield and Bingham, Utah, asks authority to temporarily suspend and discontinue the operation of its trains Nos. 1 and 2, between Garfield and Bingham.

Petitioner alleges that the present inactivity and industrial and commercial depression have resulted in a loss to petitioner of approximately $1,000.00 per month, due to the operation of these trains.

Petitioner further alleges that owing to the conditions above named, public convenience and necessity do not require the continued operation of the trains in question.

After due notice, the case came on for hearing before the Commission, at 10 o'clock A. M., November 12, 1921.

Exhibit No. 1, introduced by the petitioner, is a statement of the gross passenger revenues and expenses for the months March to September, 1921, inclusive, including all passengers, baggage, mail and express, showing a net operating deficit of $5,092.05 for that period.

Testimony was introduced in support of the application, indicating that the present business conditions do not warrant the continued operation of passenger train service between Garfield and Bingham at this time. Applicant

represents that it desires to discontinue this service only during the present period of depression, which is indicated by the following statement made by Witness Haymond:

> "Q. Is it the purpose and intention of the Company to restore passenger traffic service, should this petition be granted, when economic and industrial conditions and the demands of the public are sufficient to call for such restoration?
>
> "A. Yes, we will be glad to restore it at any time business warrants.
>
> "Q. In other words, it is not the intention or purpose of this Company, or the intention of the Bingham & Garfield Railway Company, to abandon its passenger service, but simply to ask to be permitted to suspend until such time as there would be a demand for the restoration?
>
> "A. Yes, sir."

Mr. E. A. Bancroft, appearing on his own behalf, protested the granting of the application on the ground that it would deprive himself and others of transportation facilities for shipments of milk to Salt Lake City.

It was suggested that such express shipments as might be offered, might be handled upon the freight train operating between Bingham and Garfield, and that passengers might also be accommodated during the period regular passenger train service be discontinued.

It appears that no necessity exists at this time for the continued operation of a passenger train between Garfield and Bingham, and that petitioner should be permitted to discontinue such service, upon five day's notice to the public and the Commission.

To care for shipment of milk, etc., and such passengers as may desire transportation, petitioner, should arrange to handle a passenger car on its freight train, which service should care for the needs of the public at present.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
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 23rd day of November, A. D., 1921.

In the Matter of the Application of the BINGHAM & GARFIELD RAILWAY COMPANY, for permission to temporarily suspend and discontinue its passenger train service.	CASE No. 476

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and the petitioner, Bingham & Garfield Railway Company, be, and it is hereby, authorized to temporarily discontinue its passenger train service between Garfield and Bingham.

ORDERED FURTHER, That petitioner, Bingham & Garfield Railway Company, shall, upon discontinuing its passenger train service arrange to operate a passenger car upon its freight train for the accommodation of passengers and express.

IT IS FURTHER ORDERED, That petitioner, Bingham & Garfield Railway Company, discontinue its passenger train service upon five days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of W. A. ENGLE, for permission to increase fares of the Anchor Stage Line, between Price and Sunnyside, Carbon County, Utah. } CASE No. 479

Submitted Nov. 18, 1921. Decided Dec. 12, 1921.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This is an application of W. A. Engle, for permission to increase fares for the transportation of passengers via the Anchor Stage Line, operating between Price and Sunnyside, Utah, under authority of certificate of convenience and necessity granted by this Commission.

Applicant seeks to increase the fares heretofore established and approved by the Commission, by home 25 per cent, for one-way fares, and approximately 20 per cent for the round trip fares, alleging in support thereof that since the establishment of the rates now existing, the ownership of private cars has increased to such extent as to greatly reduce the number of passengers upon the stage line; that the operation of the said Anchor Stage Line have not been a financial success under the existing rates; further, that the mines at Sunnyside are now only partially operated, and the population of said Town, as a result thereof, has been reduced from approximately 3,000 to 2,100, thus decreasing the number of passengers seeking transportation over said route.

The case came on regularly for hearing at Price, Utah, November 18, 1921, W. A. Engle appearing in his own behalf, no one appearing in opposition to said application.

Mr. Engle testified in detail as to his operations and presented a full account of the condition of his business. An analysis of the operating expenses clearly shows that there are not sufficient revenues accruing under present rates to continue the operation of the line.

In February, 1920, Mr. Engle filed an application for increased rates applying via this stage line. After hearing, the Commission decided the revenues at that time were sufficient, and the application was denied.

Traffic conditions have greatly changed since that time, and the public now has the choice of paying higher fares, or permitting the abandonment of the service. This stage line has in the past served a very necessary and useful purpose, and no question is raised as to the compelling need for this service. Mr. Engle has operated for some years under certificates granted by the Commission and has shown competency above the average in the conduct of this class of transportation.

While the Commission hestitates to add to the already existing burden of costs upon the public, there is no other method of providing the revenue absolutely required. If the conduct of the business be continued, the cost of giving the service must be borne by those who receive such service, and it is a short-sighted policy, indeed, that would deny a vital inter-community service such as this is shown to be, sufficient earnings to maintain a continuing service to those most interested.

Under all circumstances shown to exist in this case, and after full consideration of all material facts that may or do have any bearing upon this application, we find that the increase should be granted.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,
Commissioner.

We concur:

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
(SEAL) Commissioners.

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 12th day of December, A. D., 1921.

In the Matter of the Application of W. A. ENGLE, for permission to increase fares of the Anchor Stage Line, between Price and Sunnyside, Carbon County, Utah. } CASE No. 479

This case being at issue upon petition on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, W. A. Engle, operating the Anchor Automobile Stage Line, between Price and Sunnyside, Utah, be, and is hereby, authorized to publish and put into effect increased rates for the transportation of passengers which will not exceed the following schedule:

Price to Sunnyside (one-way)	$2.50
Sunnyside to Price (one-way)	2.50
Between Price and Sunnyside (round trip)	4.25
Between Sunnyside and Price (round trip)	4.25

IT IS FURTHER ORDERED, That said increased fares may be made effective upon five days' notice to the public and to the Commission.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

THE UTAH LIME & STONE COMPANY,
Complainant,
vs.
BINGHAM & GARFIELD RY. CO.,
DENVER & RIO GRANDE WESTERN R. R. CO.,
LOS ANGELES & SALT LAKE R. R. CO.,
OREGON SHORT LINE R. R. CO.,
SOUTHERN PACIFIC R. R CO.,
UNION PACIFIC R. R. CO.,
UTAH RAILWAY COMPANY,
UTAH-IDAHO CENTRAL R. R. CO.,
WESTREN PACIFIC RAILROAD CO.,
Defendants.

CASE No. 477

PENDING.

In the Matter of the Application of W. E. HADLEY and C. M. PETERSON, for permission to operate an automobile stage line between Tremonton, Garland, and Deweyville, Utah.

CASE No. 478

PENDING.

In the Matter of the Application of OREN BURKE and JAMES ROLLINS, for permission to operate an automobile freight and passenger line between Milford, Beaver County, and Cedar City, Iron County, State of Utah.

CASE No. 480

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to discontinue the operation, between Smelter, Utah, and Warner, Utah, of Trains Nos. 57 and 58. } CASE No. 481

Submitted Dec. 6, 1921. Decided Dec. 10, 1921.

Dana T. Smith, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

In an application filed November 28, 1921, the Los Angeles & Salt Lake Railroad Company, a corporation operating as a common carrier for hire within the State of Utah, asks permission to discontinue the operation of passenger trains Nos. 57 and 58 between Smelter, Utah and Warner, Utah.

Petitioner alleges that it is operating these trains at a loss of approximately $2098.24 per month, and that the present industrial situation does not warrant the continued operation of this train between Smelter and Warner particularly in view of other service being given.

The case was heard December 6, 1921, after due notice. No protests were filed. Testimony of petitioners witnesses as to operating expenses and revenues indicated a loss of $2094.24 per month which will be decreased $831.43 if trains 57 and 58 be discontinued between Smelter and Warner.

In addition to trains 57 and 58 petitioner operates two other trains between Smelter and Warner on the following schedule:

	Leaves Salt Lake City	Arrives Warner
No. 51	7:30 A. M.	8:45 A. M.
No. 19	8:55 A. M.	10:01 A. M.
	Leaves Warner	**Arrives Salt Lake City**
No. 52	3:05 P. M.	4:40 P. M.
No. 20	6:41 P. M.	7:50 P. M.

In addition to the above train service, an automobile stage line operated daily between Salt Lake City and Warner, affording passengers service between those points.

After consideration of all the facts, the Commission finds that the application should be granted and the operation of trains Nos. 57 and 58 between Smelter and Warner, Utah be discontinued upon 5 days' notice to the public and the Commission.

That the Commission should retain jurisdiction and authority to require the reestablishment of this service should future conditions warrant such operations.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

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 10th day of December, A. D., 1921.

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, for permission to discontinue the operation, between Smelter, Utah, and Warner, Utah, of Trains Nos. 57 and 58.	CASE No. 481

This case being at issue upon petition and protest on file, and having been duly heard and submitted, 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, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be granted and the petitioner, Los Angeles & Salt Lake Railroad Company, be, and it is hereby authorized to temporarily discontinue the operation of trains Nos. 57 and 58 between Smelter, Utah, and Warner, Utah, upon five days' notice to the public and to the Commission.

IT IS FURTHER ORDERED, That this Commission retains jurisdiction and authority to require such service reestablished, should future conditions warrant.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

In the Matter of the Application of WM. A. ENGLE, for permission to operate an automobile stage line. — CASE No. 482

PENDING.

In the Matter of the Application of JAMES MARTENDALE, for permission to operate an automobile stage line. — CASE No. 483

PENDING.

In the Matter of the Investigation of the method used by the Utah Power & Light Company in determining the maximum demands for mine hoists. — CASE No. 484

PENDING.

In the Matter of the Application of the UTAH TRANSPORTATION COMPANY to discontinue, and L. D. VAN WORMER to assume the operation of the stage line between Milford and Beaver, Utah. — CASE No. 485

PENDING.

In the Matter of the Application of BRUCE WEDGWOOD and FRED A. BOYD to transfer certificate of convenience and necessity to the Salt Lake & Ogden Transportation Company. — CASE No. 486

PENDING.

In the Matter of the Application of G. W. BEGEMAN, for permission to operate a truck line between Salt Lake and Bingham, Utah. — CASE No. 487

PENDING.

In the Matter of the Investigation of the rules of the Mountain States Telephone & Telegraph Company covering rural extensions. — CASE No. 488

PENDING.

In the Matter of Transmitting Telegrams by Telephone from points upon the lines of the IRON COUNTY TELEPHONE COMPANY to points upon the lines of the WESTERN UNION TELEGRAPH COMPANY in Utah. — CASE No. 489

PENDING

In the Matter of the Application of H. L. HAYWARD of Eureka, Utah, for permission to operate an automobile freight line between Provo and Eureka, Utah. — CASE No. 490

PENDING.

APPENDIX I.

Part 2—Ex Parte Orders Issued.

During the period covered by this report, the Commission acted upon 188 applications to publish rates upon less than statutory notice. By far the greater number of these applications were for the permission to effect reductions in the existing rate or fare. These ex parte orders may be classified by railroads as follows:

Name	Number
Bamberger Electric Railroad Company	3
Bingham & Garfield Railway Company	5
Bevengton & McCloud	1
Deep Creek Railroad Company	1
Denver & Rio Grande Railroad	54
J. E Fairbanks (Agent)	9
F. W. Gomph (Agent)	8
Little Cottonwood Transportation Co.	2
Los Angeles & Salt Lake Railroad Co.	23
J. G. Maguire (Agent)	4
Oregon Short Line Railroad Company	30
J. A. Reeves (Agent)	14
Salt Lake & Utah Railroad Company	7
Southern Pacific Railroad Company	6
Uintah Railway Company	1
Union Pacific Railroad Company	1
Utah Idaho Central Railroad Company	7
Utah Railway Company	5
Western Pacific Railroad Company	7

AUTOMOBILE STAGE LINES

The Commission issued 10 ex parte automobile orders. These orders may be classified as follows:

Permission to change schedule, discontinue operations, etc.	8
Permission to make reductions in rates	2

ELECTRIC

The Commission issued 2 ex parte electric orders. These orders may be classified as follows:

Telluride Power Co., correct error in publishing tariff	1
Utah Power & Light Co., publish rates for 120,000-130,000 volt service	1

TELEGRAPH

The Commission issued one ex parte telegraph order, authorizing the Western Union Telegraph Company to discontinue Magna, Utah, as a class twelve office.

APPENDIX I.

Part 3.—Special Dockets—Reparation

Number		Amount
27	E. C. Perkins vs. Utah Gas & Coke Co...	$ 7.45
28	Amalgamated Sugar Co. vs. Utah-Idaho Central Railroad Co.—Utah Railway Co. and Denver & Rio Grande Railroad Co.	98.65
29	Gunnison Valley Sugar Company vs. Denver & Rio Grande Railroad Co....	337.47
30	W. L. Grover vs. Utah Gas & Coke Co.	19.25
31	Eastern Iron and Metal Co. vs. Denver & Rio Grande Railroad Co.	137.82
32	Utah-Idaho Sugar Company vs. Los Angeles & Salt Lake Railroad Co. ...	1709.17
33	Lion Coal Company—Successor in interest to Wattis Coal Company vs. Utah Railway Company	15054.83
34	Utah Apex Mining Company vs. Los Angeles & Salt Lake Railroad Co.....	2781.22
35	United States Fuel Company vs. Utah Railway Company	3761.93

APPENDIX II.

Part 1—Grade Crossing Permits.

The Commission issued 8 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. The following permits were issued:

Name	Number
Bamberger Electric Railroad Company	3
Oregon Short Line Railroad Company	2
Salt Lake & Utah Railroad Company	2
Utah-Idaho Sugar Company	1

Part 2—Certificate of Convenience and Necessity.

Certificates of Convenience and Necessity were issued as follows:

Certificate No.	Case No.	Classification
96	363	Automobile
97	187	Electric
98	377	Electric
99	379	Electric
100	380	Electric
101	371	Automobile
102	385	Automobile
103	321	Automobile
104	384	Automobile
105	392	Automobile
106	375	Automobile
107	393	Automobile
108	413	Telephone
109	398	Automobile
110	424	Automobile
111	419	Electric
112	421	Automobile
113	422	Automobile
114	427	Automobile
115	415	Automobile
116	433	Steam Railroad
117	443	Automobile
118	465	Automobile
119	461	Automobile
120	453	Automobile
121	440	Automobile
122	462	Automobile
123	464	Automobile

APPENDIX II.

Part 2—General Orders

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office, State Capitol, Salt Lake City, Utah, December 29, 1921.

GENERAL ORDER NO. 7

The matter of uniform classifications of accounts for electric corporations being under consideration and the Commission having investigated the uniform classifications of accounts for electric corporations prepared by the Committee of Statistics and Accounts of Public Utilities appointed by the National Association of Railway and Utilities Commissioners;

And it appearing advisable to adopt such classification of accounts:

IT IS ORDERED, That the uniform system of accounts for electric corporations prepared by the Committee appointed by the National Association of Railway and Utilities Commissioners be, and is hereby, adopted as a uniform system of accounts governing electric corporations operating in the State of Utah.

ORDERED FURTHER, That the electric utilities operating within the State of Utah shall, effective January 1, 1922, keep all accounts in accordance with the rules prescribed in such classification.

ORDERED FURTHER, That such utilities may submit to the Commission for further consideration instances where it appears that certain accounts are not properly applicable to the operation of the particular utility within the State of Utah.

IT IS ORDERED FURTHER, That a copy of this order be forthwith served upon all electric corporations operating within the State of Utah.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office, State Capitol, Salt Lake City, Utah, December 29, 1921.

GENERAL ORDER NO. 8

The matter of uniform classification of accounts for gas corporations being under consideration and the Commission having investigated the uniform classification of accounts for gas corporations prepared by the Committee of Statistics and Accounts of Public Utilities appointed by the National Association of Railway and Utilities Commissioners;

And it appearing advisable to adopt such classification of accounts;

IT IS ORDERED, That the uniform system of accounts for gas corporations prepared by the Committee appointed by the National Association of Railway and Utilities Commissioners be, and is hereby, adopted as a uniform system of accounts governing gas corporations in the State of Utah.

ORDERED FURTHER, That the gas utilities operating within the State of Utah shall, effective January 1, 1922, keep all accounts in accordance with the rules prescribed in such classification.

ORDERED FURTHER, That such utilities may submit to the Commission for further consideration instances where it appears that certain accounts are not properly applicable to the operation of the particular utility within the State of Utah.

IT IS ORDERED FURTHER, That a copy of this order be forthwith served upon all gas corporations operating within the State of Utah.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

APPENDIX III.

Court Decisions

IN THE SUPREME COURT OF THE STATE OF UTAH

UNITED STATES SMELTING, REFINING & MILLING CO.,
Plaintiff,
vs
UTAH POWER & LIGHT COMPANY and THE PUBLIC UTILITIES COMMISSION OF UTAH,
Defendants.

FRICK, J.

The plaintiff above named has applied to this court for a writ pursuant to the provisions of what is known as the Public Utilities Act, now found in Comp. Laws, Utah, 1917, and constituting Sec. 4775 to 4835, inclusive, to review certain findings, orders and proceedings of the Public Utilities Commission of this state. In addition to this application seventeen other applications were filed, all of which, including this one, were heard and submitted to this court at the same time. While all of the applications, to a large extent, involve the same questions, and while the several applicants have on some phases presented the same arguments, yet, in practically every application there are also some minor questions that are not common to all, and as to those, separate arguments are presented. The principal or controlling question, which involves the construction of certain provisions of the Public Utilities Act of this state, is, however, involved in all of the applications. The applications will therefore be considered collectively, except where the questions differentiate.

The plaintiff herein, hereinafter for convenience called smelting company, for a long time has owned and operated, and now owns and operates, a smelting plant in Salt Lake County. The Utah Power & Light Company, hereinafter designated power company, for some years has been, and now is, engaged in the business of generating and distributing to the public generally and to private corporations electric energy used for power and lighting purposes. The

Public Utilities Commission, hereinafter called commission, is made a party to this proceeding merely because its findings, orders and proceedings are assailed and are asked to be reviewed as will hereinafter appear.

The facts involved in this application, briefly stated, are as follows:

On June 2, 1915, the smelting company and the power company entered into a written contract wherein the latter contracted to supply the former, at a fixed rate or price, with all of the electrical energy by it required to operate its smelting plant for a stipulated term of years, which term has not yet expired. The electrical energy for which the smelting company paid the rate agreed upon, was regularly supplied pursuant to the provisions of the contract entered into between the parties until the commission made the order which is complained of in this proceeding and to which we shall refer later. On March 8, 1917, and after the contract before referred to was entered into between the smelting company and the power company, the legislature of this state passed the Public Utilities Act, hereinafter referred to merely as act or the act, creating the Commission and conferring upon it the powers and duties provided in said act. After the commission had been created and organized, the power company, as provided in the act, filed with the Commission certain schedules of rates and charges for supplying electrical energy, including the terms and conditions upon which the power company would supply power and light to the public. The power company also filed with the Commission the contract entered into between the smelting company and the power company, and also the contracts the power company had theretofore entered into with other users of its electrical energy for power and other purposes. In September, 1919, pursuant to the act, the Commission made an order in which it was stated that the rates fixed in the contracts filed with the commission as aforesaid were not in harmony with the general rates charged by the power company and that such rates were preferential and discriminatory and in violation of the provisions of the act. The commission also made an order requiring all of the users of electrical energy under the contracts aforesaid to appear before the commission and show cause why the rates in those contracts should not be held to be discriminatory and in contravention of the provisions of the act. Pursuant to that order a protracted hearing was had before the commission at which the power company upon the one hand and all the other holders of contracts upon the other, and

perhaps others, produced a large mass of expert and other evidence in support of their respective contentions. After the hearing terminated the commission made its findings and conclusions as required by the act, which findings and conclusions, together with the record of the proceedings, have been certified to this court by the commission for review. It must suffice to state that the gist of the findings and conclusions of the commission is that the rates and charges for electrical energy as fixed in the contracts before referred to are discriminatory and in violation of the provisions of the act. The commission also made the following order:

> "That the contracts under which the following consumers have hitherto received service, be and the same are hereby modified to the extent that the rates, rules and regulations prescribed in the standard schedules of the Power Company now on file with the Commission be, and they are hereby, applied to the service rendered to or for the said consumers, in lieu of the rates, rules and regulations provided in the said contracts."

The rates referred to in the foregoing order, and which are ordered tentatively to supersede the contract rates, are considerably higher than were the contract rates.

One of the principal reasons urged why the foregoing order of the commission should not prevail is, that the commission has exceeded its power or jurisdiction in making said order for the reason that the contract of the smelting company, as well as the contracts of the other applicants to which reference has been made herein, are excepted from the act. The provision upon which the smelting company specially relies is found in Comp. Laws, Utah, 1917, Sec. 4787. It is there provided as follows:

"Nothing in this title (act) contained shall be construed to prohibit" common carriers from granting certain free service to their employes, etc. The clause specially relied on then follows and is in the words following: "Nor to prevent the carrying out of contracts for free or reduced passenger transportation *or other public utility service heretofore made founded upon adequate consideration and lawful when made.*" (Italics ours.)

In view of the foregoing provisions counsel for the smelting company as we understand them, contend: (1) That inasmuch as the contract between the smelting

company and the power company was entered into before the act was passed, and in view that the contract is "founded upon an adequate consideration and was lawful when made" therefore said contract is excepted from the act and the commission has no power over it; and (2) that in any event the commission would have no authority to interfere with the rights stipulated in the contract, since doing so would result in impairing the obligation of contracts, which is prohibited by our constitution.

The commission, upon the evidence, found that the contract was not based upon an adequate consideration as contemplated by the act. Upon that subject the decision of the commission is as follows:

> "The term 'adequate' as used in the exception clause would seem to imply a separate and additional consideration than the stipulated price to be paid for the service or commodity. It appears to the commission that in the absence of a showing that as part of the contract price paid for the service there was actually passed from the consumer something of value to the power company in the giving of service to the public, there was no such special consideration as would make the reduced contract rate non-discriminatory. Something of value must be shown to have moved from the beneficiary of the reduced rate or free service to the utility rendering such service. In that event, the company would have received something for which it should properly be charged. And if the showing was that such thing of value actually did pass, the commission would then have to determine the amount of such value and apply it along with the rate fixed in the contract, and thereby ascertain whether or not the thing of value passed from the consumer to the power company justified in the whole or in part the reduced rate named in the contract."

The commission also held:

> "That it has jurisdiction over rates, charges, facilities and conditions of service in existing contracts under consideration in these proceedings and has authority to modify or change the same.
>
> "After a full consideration of all material facts that may or do have any bearing upon these contracts, the commission finds that the contracts under which service is being given to the following con-

sumers do not carry such special consideration as will entitle them to the service at other than standard schedule rates open to the public generally, as evidenced by the schedules of the power company on file with the commission: (Here follows a long list of companies, including the smelting company.)

"The standard schedules now on file with the commission applicable to each of the power users hereinbefore in this paragraph mentioned, should be applied to the service rendered to said consumers in lieu of the rates and charges in effect under special contracts, service under said standard schedules to commence upon the effective date of this order, and to continue until changed by further order of the commission."

One of the questions that must be determined by this court therefore, is what is meant by, or what is included in, the term "adequate consideration" as that term is used in the act.

Before entering upon a discussion of that question it will be convenient for us to here refer to some of the provisions of the act.

Section 4788 reads as follows:

"Except as in this section otherwise provided, no public utility shall charge, demand, collect, or receive a greater or less or different compensation for any such product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals, and charges applicable to such products or commodity or service as specified in its schedules on file and in effect at the same time, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals, and charges so specified, nor extend to any corporation or person any form of contract or agreement, or any rule or regulation, or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; *provided*, that the commission may by rule or order establish such exceptions from the operation of this inhibition as it may consider just and reasonable as to each public utility."

Section 4789 provides:

> "No public utility shall, as to rates, charges, services, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person, or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section."

Section 4798 is 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 title, 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."

The various provisions of the act have been considered by this court in the cases of Salt Lake City v. Utah L. & Tr. Co., 52 Utah 210, 173 Pac. 556, P. U. R. 1918-F; Union Portland Cement Co. v. Public Utilities Comm.,....Utah ....189 Pac. 593, and Murray City v. Utah L. & Tr. Co., ...Utah...., 191 Pac. 241, to which cases we refer for a more detailed statement of the provisions of the act.

Proceeding now to a consideration of what contracts are excepted from the act. We are forced to the conclusion that not all existing contracts were intended to be excepted, but only those which were "founded upon adequate consideration." To determine just what is meant by that phrase is not entirely free from difficulty.

The act is a very comprehensive one, and, in adopting it, it was the evident purpose and intention of the legislature to prevent, so far as possible, all preferences and discriminations by public utilities in their rates and charges for public service. In connection with that purpose it is also manifest that it was intended to prevent, so far as that could be done, injustice where contracts had been entered into before the passage of the act in which the rates and charges agreed upon were based upon such a consideration as would work an injustice if the rates were in-

creased without in some way making proper allowances for the consideration upon which the rates agreed upon in the contract were based.

We find no difficulty in arriving at the foregoing conclusion; nor, as we understand counsel's arguments, is there much diversity of opinion with regard to the correctness of the foregoing propositions. There is great diversity of opinion, however, with respect to what constitutes an adequate consideration within the purview of the act. It is strenuously insisted by counsel for the smelting company that by the phrase adequate consideration is meant such consideration as by text-writers and courts of equity, in equity proceedings, has always been considered adequate when the question of adequacy of consideration was involved in such proceedings, in other words, it is contended that the term adequate consideration, as used in the act, must be construed to mean what that term has always been held to mean in the enforcement of contracts. While there is much force to the contention, yet, in view of all the facts and circumstances, it is far from being conclusive. As before pointed out, the act is intended to accomplish certain specific purposes, and in view that all of its provisions, so far as consistent with the rules of construction, must be construed and applied in harmony with and in furtherance of that purpose. It is a well recognized rule of interpretation that where there is doubt respecting the true meaning of certain words that then "the words should be read in the light of conditions and necessities which they are intended to meet and the purposes sought to be attained thereby." Brummitt v. Waterworks Co., 33 Utah, p. 312, 93 Pac. p. 837. There is also another cardinal rule of interpretation to which courts in particular cases must have recourse which, by the author of Sutherland, Statutory Construction, in Section 279, is stated thus: "The sense in which general words, or any words, are intended to be used, furnishes the rule of interpretation, and this is to be collected from the context; and a narrower or more extended meaning will be given, according to the intention thus indicated." For a proper application of the foregoing rule see Plaster & Mfg. Co. v. Juab County, 33 Utah 114, 93 Pac. 53. Moreover, where, as here, the question affects public interests, and where the subject-matter of the contract in question come squarely within the sphere of governmental functions, the foregoing rules of interpretation should, if necessary, be given full force and effect. Keeping in mind, therefore, that public interests as contradistinguished from merely private interests are sought

to be protected, and that the dominating purpose of the act is to prevent preferences and discriminations respecting the rates charged or received by public utilities for services rendered or received, we think that the term adequate consideration, as used in the act, must receive a broader meaning than would ordinarily be given to it in cases merely where rights as between parties to a private contract were in question. Under the circumstances just stated, the rule that would ordinarily be held to apply as between parties to a private contract, when the adequacy of consideration to support or to enforce such contracts in equity is involved, can therefore not be given unlimited application. In view of the foregoing, in our judgment, by the term adequate consideration, as used in the act, is meant a consideration such as would prevent the utility or person receiving the so called free, or the reduced, rate under an existing contract, from receiving a preferential or discriminatory rate, and for which service the public or some utility would be required to pay a higher rate. In other words, by adequate consideration is meant such a consideration as when all the elements which enter into the transaction are considered would prevent the beneficiary under the contract from receiving a substantial preference or advantage over the public or other utility in the matter of rates or charges for the services rendered. To illustrate: In for example the power company had entered into a contract with some other utility to supply such utility with electric energy in consideration that such utility should pay a stipulated rate or charge for such service, and in view that the utility had advanced to the power company something which was of the reasonable value of $2,000.00 the rate had been reduced, say forty per cent below the ordinary rate, when in truth and in fact such reduction should have been say twenty per cent, in order to prevent the rate agreed upon from being a preferential and discriminatory one, then, and in such event, the consideration aforesaid of $2,000.00 would be inadequate to justify the commission in continuing the contract rate, and it should cancel it. This would be so for the reason that in continuing such contract rate the commission would bring about the very result which was sought to be prevented by the act. That is, if the commission would continue in force the reduced rate specified in the contract it would manifestly result in permitting a preferential and discriminatory rate to be continued in force which would result in injustice to all other utilities as well as to the public who were required to pay the

higher rate upon the one hand, while, upon the other, if the commission entirely ignored the consideration in the supposed case and should enforce the established rate, which might be considerably higher, it would result in injustice and perhaps injury to the utility or person who had paid the consideration for the reduced rate. The commission is therefore given the power to so regulate existing contracts as to prevent all preferential rates upon the one hand and injustice upon the other. By Section 4788, supra, the commission may also regulate rates in all cases so as to prevent injustice. The exceptions in the statute are therefore intended to have application only so far as may be necessary to prevent preferential rates from being enforced on the one hand and from working an injustice upon the other.

In this connection it must be kept in mind that by the term adequate consideration the legislature could not have intended to that term as a quid pro quo in the sense that as between two parties to a contract the consideration passing to the utility for the service rendered should be equivalent in value to the cost of the service. With that feature the legislature had no concern, nor any right to interfere unless such interference necessary in the public interest. A utility, in the absence of a law regulating the service in the public interest, may sell or dispose of its property, product, or service at such a price and upon such terms as it may choose the same as any one else, and the legislature, except in its governmental capacity, cannot, unless it be for the public good, interefere with that right. The utility may also sell its service at any price even though it should sustain a loss. When, however, the statute, in the interest of the public, steps in, then it must sell its service at the same rate to all, and if it has contracted to sell such service for a less price to one than it does to another, such a contract may then be held to be preferential and discriminatory.

By adequate consideration, therefore, as that term is used in the act, is meant such consideration as when added to or considered in connection with the reduced rate agreed upon will make such rate non-preferential and non-discriminatory by reason of the fact that the additional consideration paid and received will prevent the reduced rate from being preferential in that the contract, within the purview of the act, is then "founded upon an adequate consideration." Where, under such circumstances, therefore, a reduced rate is contracted for and allowed, neither the public nor any other utility can complain for the simple

reason that there is in fact no preference or discrimination. When we consider all of the provisions of the act and keep in mind that free as well as reduced rate service is provided for, we can see no escape from the foregoing conclusions. How would it be possible, under the provisions of the act, to sustain a contract for free service? If a contract for free service cannot be sustained, because it would be preferential, then one for a reduced rate service cannot be sustained. What would be an adequate consideration to support a contract for "free" service under the act? Manifestly, such a consideration as would prevent the rate agreed upon from being preferential and discriminatory. To do that the consideration would have to be such as would at least approximate, if not equal, the amount that would have to be paid for the service under the usual and ordinary rate. It could be nothing less and yet not be discriminatory or preferential. To my mind it is utterly inconceivable why the adjective "adequate" was used in the act if it was not used in the sense hereinbefore indicated. If the word had reference merely to adequacy of consideration as between the parties to the contract, then it is entirely without force or effect. As between the parties the agreement on the part of the power company to supply electrical energy at a stipulated rate or price and the promise on the part of the smelting company to take the energy and to pay therefor the price agreed upon certainly was an adequate consideration to sustain the contract anywhere and in any court, either of law or equity, without anything more. Why, then, speak of an adequate consideration. The only reason for using that term in the statute was that a contract, in order to come within the exception, had to be founded upon such a consideration as would require the smelting company to pay, approximately at least, the same rate as the public or any other utility was required to pay for electrical energy which was being used under similar circumstances. The purpose of using the term was to protect the public as well as other public utilities from being discriminated against by having to pay a higher rate for electrical energy than those who are paying for the same energy under contracts. If, therefore, the consideration passing from the contract holder to the power company was approximately sufficient to prevent the contract rate from being preferential and discriminatory, then such consideration was an adequate consideration within the contemplation of the act, otherwise not. By what we have said we do not mean that the adequacy of the consideration can be ascertained as though it were

weighed in the scales of an assayer or an apothecary, but what we do mean is that by adequate consideration is meant such a consideration for the service as will clearly prevent the rate agreed upon in the contract from being preferential or discriminatory. We are also of the opinion that in determining whether a contract in which a specific rate is agreed upon is founded upon an adequate consideration or not the commission must take into consideration all of the facts and circumstances and all of the matters which have a direct relation to the subject-matter, and from all of those things determine whether the contract in which a reduced rate is agreed upon is founded upon an adequate consideration and whether the reduced rate agreed upon is, or if it should be continued in force will be or become, preferential and discriminatory. If, after a consideration of the foregoing elements, a rate, if continued would be preferential and discriminatory, then, in our judgment, the commission should find that the contract fixing such rate is not founded upon an adequate consideration within the purview of the act, and the rate agreed upon should be modified so as to prevent it from being preferential and discriminatory. It needs no argument to demonstrate that whether a rate is founded upon an adequate consideration and is preferential and discriminatory or not is, to say the least, a mixed question of law and fact, and, in most instances, principally one of fact, and must, therefore, be determined by the commission from all the facts and circumstances, as before indicated.

Without now pausing to go into the evidence it must suffice to say that the consideration for the rate agreed upon in the contract in question in this proceeding does not measure up to the standard or rule we have just stated, and, therefore, there was ample authority for the commission to refuse to approve the rate agreed upon in said contract.

In connection with the foregoing it is also made to appear that the contract rates are manifestly lower than the regular rates. It is not disputed that the electric energy sold by the power company under the special contracts involved in the hearing to which we have referred amounted to seventy-eight per cent of its total sales, while for this seventy-eight per cent the special contractees paid only thirty-nine per cent of its total earnings. In view of that it necessarily follows that the public and other utilities must pay increased rates to maintain the service.

It is however, also contended with much vigor that the commission exceeded its authority in interfering with the rates stipulated in the contract in question for the reason that in doing so it violated by the Constitution of this State and the Federal Constitution, both of which prohibit the passage of any law "impairing the obligations of contracts." (Art. 1. Sec. 18 Utah Constitution; Art. 1. Sec 10, Federal Constitution.)

It has been held repeatedly, both by the Supreme Court of the United States and the courts of last resort of many of the states, including this court, that the regulation of rates for public utilities is a governmental function coming directly within the police power of the state, and that for that reason the establishing or modifying of rates, although contractural, does not violate the constitutional provision aforesaid. Among the numerous cases that could be cited in support of the foregoing proposition we shall refer only to the following: Union Co. v. Georgia P. S. C., 248 U. S. 372; Pinney & Boyle Co. v. Los Angeles G. & E. Co. (Cal.) 141 Pac. 620; L. R. A. 1915C, 282; Bolt & Nut Co. v. Light & Power Co., 275 Mo. 529; Milwaukee Elec. Ry. v. Wisconsin R. R. Com 238 U S. 174; State v. Billings Gas Co. (Mont.) 173 Pac. 799; City of Pawhuska v Pawhuska O. & G. Co. (Okla.) 166 Pac. 1058; City of Woodburn v. Public Service Commission, 82 Ore. 114, 161 Pac. 391; City of Hillsboro v. Public Service Com. of Oregon, 187 Pac. 617, same case in 192 Pac. 390; Limoneira v. Railroad Commission (Cal.) 162 Pac. 1033, Winfield v. Public Service Commission, 187 Ind. 53, 118 N. E. 531; Chicago, R. I. & P. Ry. Co. v Taylor, 192 Pac 349. The question was also considered by this court in Salt Lake City v. Utah L. & Tr. Co., 52 Utah 210, 173 Pac. 556, P. U. R. 377, 1918-F.

It is however insisted that the foregoing cases are not controlling here for the reason that in those cases the contracts in question were entered into after the utilities law was passed or that the cases emanated from states where there were constitutional provisions authorizing the regulation of rates while in the instant case the contract in question was entered into long before the act was passed. It is therefore argued that in view that there was neither a statutory regulation law nor a constitutional provision authorizing such regulation in force at the time the contract was entered into it was lawful when made and in view of that the obligations thereby assumed cannot be changed without impairing its obligations. While

it is true that the contract in question was entered into before the act was passed, and equally true that in this state there is no constitutional provision expressly authorizing the leglislature to regulate for a service such as is rendered by the power company, yet it is beyond controversy that the right to regulate the rates of public utilities always existed potentially and that the right could be exercised at any time the state, through its agency, the legislature, deemed it wise and proper so to do. Where the right to exercise the police power exists we can conceive of no valid reason why the state may not exercise the right at any time, and that every contract concerning rates for public utility service must conclusively be presumed to have been entered into in view of and subject to that right. If that were not so, then a public utility could enter into a long term contract, say for fifty years or longer, in which it was given a preferential or discriminatory rate, and it thereby not only could prevent any other similar utility to successfully compete with it but it could successfully defy the sovereign state itself. Such, happily, is not the law.

In Chicago R. I. & P. Ry. Co. v. Taylor, supra, it is said:

> "It has been said that the police power is that inherent sovereignty which it is the right and duty of the government or its agents to exercise, whenever public policy (in a broad sense) demands, for the benefit of society at large, regulations to guard its morals, safety, health, order, or to insure in any respect such economic conditions as an advancing civilization of a highly complex character requires.' * * * The police power is an attribute of sovereignty, and exists *without reservations in the constitution, being founded on the duty of the State to protect its citizens and provide for the safety and good order of society.*" (Italics ours.)

In the course of the opinion in the case referred to it is further said:

> "As neither the state nor the municipality can surrender by contract the governmental power to guard the safety, morals, health, and good order of society, a contract purporting to do so is void abimitio, and being void, it is impossible to speak

> of laws as in conflict with its terms as impairing the obligations of a contract."

In the case of Producers Transp. Co. v. R. R. Comm., 251 U. S. 228, the Supreme Court of the United States, in considering the power of the state to interfere with existing contracts, in the course of the opinion, says:

> "That some of the contracts before mentioned were entered into before the statute was adopted or the order made is not material A common carrier cannot by making contracts for future transportation or by mortgaging its property or pledging its income prevent or postpone the exertion by the state or the power to regulate the carrier's rates and practices."

The right and duty of the state to regulate the rates of public utilities in the public interest is as much an attribute of sovereignty or of government as are the things enumerated in the excerpt above quoted from Chicago R. I. & P. Ry. Co. v. Taylor, supra, and hence comes squarely within the principle there stated.

In Winfield v. Public Service Comm., 187 Ind. 53, the Supreme Court of Indiana, in the course of the opinion, after stating that unless the state has clearly divested itself of the right to exercise the police power to regulate rates, held that the state may "for the public good regulate the acts and conduct of the public service companies," and further said:

> "Every charter granted by the state, and every franchise, whether granted by the state directly or by the municipality acting as agent of the state, is granted in view of the rules above stated, and especially in contemplation of the fact that unless the state has in the charter to the utility company, or in the authority to its agent, or by ratification, abandoned its power to so regulate, the state's power is by implication written into such contract; and therefore the state's act of regulation, within the limits above stated, is not an impairment of the contract, but rather the exercise of a right provided in the contract."

A large number of cases are cited.

The same thought is expressed in a different way by the Supreme Court of Oregon in City of Woodburn v. Public Service Comm., etc., 161 Pac. 391, as follows:

> "If a telephone company's franchise from a city, limiting rates to be charged, is deemed a contract, the mere fact that it was made prior to the enactment of the Public Utility Act (Laws 1911, p. 483), and before the state attempted to regulate such rates, does not debar the state from increasing the rate as fixed in the franchise, because when the state exercises its police power, it does not work any impairment of obligation of the contract; the possibility of the exercise of such power being an implied term of the contract."

It will be observed that in the forgoing case although the contract was entered into before the law was passed yet the Supreme Court of Oregon held that it made no difference. We remark that in the constitution of Oregon is found a provision precisely like that in our constitution respecting the impairment of the obligations of contracts. (See Art. 1, Sec. 21, Ore. Conct.)

Nor is the contention that there is a difference between rates fixed in so called franchise ordinances and those fixed in ordinary contracts tenable. Indeed, if there is any difference at all in that regard it should be in favor of contracts entered into in such franchise ordinances. Franchise ordinances, so far as contractural, are precisely like other contracts. There is nothing in either our constitution or any statute whereby the state has surrendered its right to regulate the rates of public utilities at any time. There is, therefore, no basis for the foregoing contention, and in view of what has been said the legislature was clearly within its rights when it authorized the commission to regulate the rates and charges of public utilities in existing contracts.

We remark that while in the cases we have quoted from, as well as in many others, it seems to be assumed that the state may surrender its sovereign or governmental right and power to regulate rates, yet, in view that that question is not directly involved now, we express no opinion upon it.

It is also contended that although it be conceded that the commission had the power to change the rate agreed upon in the contract in question, yet, in case it did so, it

had no power to keep in force all other obligations of the contract assumed by the smelting company. Whether in changing the rates agreed upon in a contract the other provisions thereof are affected, and, if so, to what extent, is not involved in this proceeding and upon that question we likewise express no opinion.

Nor is the question regarding the extent the rates should be modified or increased, if at all, involved here. It may be, as suggested by counsel, that the power company is demanding a greater increase in rates than it is entitled to. That question, however, is still pending before the commission and we must assume that the commission will not permit the power company to impose upon the public by granting it the right to charge and collect excessive rates, or rates that are higher than will enable it to effectuate the purpose for which it is created and to adequately serve the public. Nor can we assume that the commission will permit the power company to inflate the value of its properties with a view of enabling its stockholders to realize large profits upon their stock. All of these matters must be determined by the commission, and in discharging its duties in that regard, in view of the abnormal conditions existing, the greatest care must, and no doubt will, be exercised to prevent injury to the public or to the public utility.

The order of the commission is therefore not vulnerable to the objections urged against it and should be affirmed. Such is the order. Costs to be paid by the smelting company.

We concur:

.....

.....

I concur in the result. I will at a later date file a statement of the reasons upon which I base my concurrence.

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IN THE SUPREME COURT OF THE STATE OF UTAH

Utah Copper Company,
Plaintiff,
vs.
Public Utilities Commission of Utah and Utah Power & Light Company,
Defendants.

CORFMAN, C. J.

This case is brought here by the plaintiff on a writ of certiorari to review an order of the Public Utilities Commission of Utah made and entered on the 8th day of March, 1921, in the matter of the application of the defendant Utah Power & Light Company for permission to increase its power rates, under the provisions of Title 91, Comp. Laws, Utah, 1917, commonly known and referred to as the Public Utilities Act.

For convenience, hereinafter the plaintiff will be referred to as the "Copper Company," and the defendants, respectively, as the "Commission" and the "Power Company," while the statute bearing on the questions involved will be referred to as the "Utilities Act."

It appears that the Copper Company is engaged in the business of mining and reduction of ores upon an extensive scale in this state, and that the power company is engaged in generating hydro-electric energy and furnishing the same to its consumers for heating, lighting and power purposes. The latter owns and operates some twenty-five hydro-electric plants on the Bear River in Utah and Idaho. All of its plants are inter-connected, and upon its power system approximately eighty per cent of the population of Utah is dependent for electrical service, industrially and otherwise.

The evidence discloses that initial cost, exclusive of overhead expenses, water rights and intangible values, of the various power plants owned by the Power Company in Utah and Idaho represents expenditures made on the part of the Power Company and its predecessor companies of about $42,000,000.00. The Power Company was created a corporation under the laws of the State of Maine in 1912. It began its actual business operations in this state January 1, 1913, and about that time it entered into a twenty-five year contract with the Copper Company to furnish the latter, for its operations in the mining and reduction

of ores, 31,000 horsepower of hydro-electric energy, at a base rate of 4.208 mills per K. W. H. upon conditions therein named. Our legislature passed the Utilities Act in 1917, Said Act, among other things, provides:

> Sec. 4798. "The commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in this state, as defined in this title, 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.
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> Subdv. 2 of Sec. 4784. "Under such rules and regulations as the commission may prescribe, every public utility other than a common carrier shall file with the Commission within such time and in such form as the Commission may designate, and shall print and keep open to public inspection schedules showing all rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected or enforced, together with all rules, regulations, contracts, privileges and facilities which in any manner affect or relate to rates, tolls, rentals, charges, from time to time, in excess of or less this section contained shall prevent the commission from approving or fixing rates, tolls, rentals, or charges, classifications, or service. Nothing in than those shown by said schedule."
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> Sec. 4785. "Unless the commission otherwise orders, no change shall be made by any public utility in any rate, fare, toll, rental, charge, or classification, or in any rule, regulation, or contract relating to or affecting any rate, toll, fare, rental, charge, classification, or service, or in any privilege or facility, except after thirty days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring thirty days' notice herein provided for, by an order, specifying the changes so to be made and the time when

they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification, or in any form of contract or agreement, or in any rule, regulation or contract relating to or affecting any rate, toll, fare, rental, charge, classification, or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission, by some character to be designated by the commission, immediately preceding or following the item."

Sec. 4788. "Except as in this section otherwise provided, no public utility shall charge, * * * less of different compensation * * * for any service rendered, than the rates * * * applicable to such * * * service as specified in its schedules on file and in effect at the time, nor shall any such public utility * * * extend to any corporation or person any form of contract or agreement * * * except such as are regularly and uniformly extended to all corporations and persons; *provided* that the commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility."

Sec. 4789. "No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage * * *"

Sec. 4800. "Whenever the commission shall find after hearing that the rates, * * * collected by any public utility * * * or that the * * * practices, or contracts * * affecting such rates * * * are unjust, unreasonable, discriminatory, or preferential, or in any wise in violation of any provisions of law, or that such rates, fares, tolls, rentals, charges or classifications are insufficient, the commission shall determine the just, reasonable, or sufficient rates, * * rules, regulations, practices, or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided."

Sec. 4830. "1. No public utility shall raise any rate, fare, toll, rental, or charge or so alter any classification, contract, practice, rule, or regulation

as to result in an increase in any rate, fare, toll, rental, or charge, under any circumstances whatsoever, except upon a showing before the commission and a finding by the commission that such increase is justified.

"2. Whenever there shall be filed with the commission any schedule stating an individual or joint rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation increasing or resulting in an increase in any rate, fare, toll, rental, or charge, the commission shall have power, and it is hereby given authority either upon complaint or upon its own initiative without complaint at once and if it so orders without answer or other formal pleadings by the interested public utility or utilities, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation, and, pending the hearing and the decision thereon, such rate, fare, toll. rental, charge, classification, contract, practice, rule, or regulation shall not go into effect; *provided* that the period of suspension or such rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation shall not extend beyond 120 days beyond the time when such rate, fare, toll, rental, charge, classification, contract, practice, rule, or regulation would otherwise go into effect unless the commission, in its discretion, extends the period of suspension for a further period not exceeding six months. On such hearing the commission shall establish the rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules, or regulations proposed, in whole or in part or others in lieu thereof, which it shall find to be just and reasonable. * * * "

On April 8, 1918, the Commission issued an order, or its "Tariff Circular No. 3," requiring all public utilities, including the Power Company, to file their tariffs or schedules of rates charged consumers. The order was complied with on the part of the Power Company but its special contracts with the Copper Company and others were not then filed. On October 23, 1918, the Commission issued a supplement to its said Tariff Circular No. 3 in which attention was called to the provisions of the Utilities Act and particularly to Sec. 4788, supra, providing that no public utility shall charge less or different compensa-

tion for any service rendered than that specified in the schedules filed, or any deviation therefrom, and further requiring all special contracts to be filed with the Commission. Thereupon the Power Company, in response to said order, filed with the Commission its special contracts, including its said contract with the Copper Company. After examination of the special contracts, in September, 1919, the Commission, pursuant to the Utilities Act, issued an order calling attention to the fact that the rates fixed in the special contracts of the Power Company with its consumers were not in harmony with the general rates charged consumers by the Power Company; that such rates appeared to be discriminatory and preferential and in violation of the Utilities Act and ordered that the said consumers show cause why the said special contract rates should not be held in contravention thereof. Said order initiated case known and designated as Case No. 230 before the Commission. While said case No. 230 was pending before the Commission the Power Company, on December 4, 1919, filed its petition for a general increase and revision of its power rates, thus initiating before the Commission the case under consideration, designated Case No. 248. Thereafter the two cases, Nos. 230 and 248 proceeded before the Commission concurrently, and the record made, by stipulation of the parties interested, was made as one case insofar as the facts were applicable. On October 18, 1920, the Commission decided Case No. 230, finding that the special contracts under investigation in said case were discriminatory and preferential and therefore in violation of the provisions of the Utilities Act. Thereupon the Commission ordered that the special contracts of the Power Company's consumers be modified to the extent that the "rates, rules and regulations prescribed in the standard schedules of the Power Company now on file with the Commission, be, and they are hereby, applied to the service rendered to or for the said consumers in lieu of the rates, rules and regulations provided in said contracts; provided that the Power Company shall hold itself ready to make reparation, if any, as the Commission may order after its opinion and order in Case No. 248 is issued."

The special contract holders, including the Copper Company, thereupon applied for a rehearing before the Commission, and in response to the said petitions for rehearing the Commission made the following additional findings or order:

> "That the rates set forth in the special contracts under consideration wherein they are different from

those set out in the regular schedule applicable to like service, are discriminatory and preferential.

"That the continuance in effect of those special discriminatory contract rates places an undue burden upon that part of the power consuming public that does not enjoy said special contract rates.

"That the published and filed schedules and tariffs of the Power Company now on file with this Commission, purport to be, and by their terms are, applicable to the service rendered to the holders of the special contracts and are the schedules which are open to and actually used by the public generally for similar service, and unless and until changed, amended, superseded, or annulled by this Commission, should be applied to all service to which by their terms they are applicable.

"The foregoing findings are fundamental implications of the entire proceedings in this case, and are implied in the order of the Commission originally issued herein. This report is not intended to make any additional or new findings, but simply to clearly express the findings which were implied in the original report, and to indicate the Commission's attitude on some question raised herein."

Thereafter, Case No. 230 was brought to this court for review upon a writ of certiorari. The rulings of the Commission were affirmed February 28, 1921. The petitioners, consumers under special contracts, filed a petition for rehearing, which was denied. In denying the said petition for rehearing this court said:

> "The question of whether the rates fixed by the Commission and which it ordered the plaintiffs aforesaid to pay, were just and reasonable, or whether they apply to any one or more, or all, of the plaintiffs, or whether, under the circumstances the Commission had the power to make and enforce them, was not considered and not decided." (U. S. Smelting, Refining & Mining Co. v. Utah Power & Light Co., 197 Pac. 902.)

Pending the hearing of the present case, No. 248, before the Commission, involving the right of the Power Company to increase rates to be charged its customers, we declined, and we think properly so, to pass upon the

reasonableness of the rates sought to be charged by the Power Company, or to pass upon the temporary rates fixed by order of the Commission. We also refused, at that time, to express an opinion as to the power of the Commission, under the circumstances, to issue an order fixing and enforcing temporary rates pending the hearing of the present case before the Commission. Therefore, the position taken by counsel for the Power Company, that our affirmance of the order of the Commission in case No. 230 in effect became res adjudicata as to these particular questions, is not tenable and cannot be sustained.

It is here, among other things, contended by the Copper Company that the rates charged power consumers according to the general or standard schedule of rates filed by the Power Company with the Commission in obedience to its said order or tariff circular No. 3, made and issued on the 8th day of April, 1918, was not applicable to it, and that until the Commission had in the present case investigated and passed upon the justness and reasonableness of the rates to be charged consumers the contract rate of January, 1913, between the Power Company and the Copper Company was the proper and the only rate that could be legally charged against it. In short, the Copper Company, by its petition in the case, not only assails the temporary orders made by the Commission but also questions its jurisdiction and the legality of its proceedings in general, and seeks to have all of its decisions and orders, as to it, reversed, cancelled, annulled and set aside.

As to the jurisdiction and powers of the Commission generally to regulate the public utilities of the state and fix the rates to be charged the public in accordance with our Utilities Act, regardless of contractural relations, we need not here comment. These questions have already been considered and determined by this court, as we think, in accordance with the legislative intent and the mandate of our State Constitution. (Salt Lake City v. Utah L. & T. Co., 173 Pac. 566; Union Portland Cement Co. v. Public Utilities Com., 189 Pac. 599: Murray City v. Utah, L. & T. Co., 191 Pac. 421; U. S. S. R. & M. Co., v. Utah P. & L. Co., 197 Pac. 902.)

Primarily, then, the only questions before us for review and determination in the present case are: First, had the Commission the power to fix a temporary rate and make it applicable to the service of the Copper Company after finding the contract rate was discriminatory and preferential and in conflict with Sec. 4789, as it did do, before making its order of October 18, 1920, with the

proviso that if such rate was ultimately found excessive the Power Company should stand ready to refund and make reparation? Second, if the Commission had the power, under the circumstances, to fix a temporary rate, was the ultimate rate found and fixed by the Commission's order of March 8, 1921, a just and reasonable rate as applied to the Copper Company service?

The Copper Company, in support of its position that the contract rate continued to be the lawful rate until changed by the order of the Commission last above referred to, has cited and relies upon the following authorities: Ohio, etc. Co., v. Commission (Colo.) 187 Pac. 1082; Timber Co. v. Ry. Co., 58 Wash. 604, 109 Pac. 320 and 1020; N. N. & M. V. Ry. v. Brick Co., 109 Ky. 408, 59 S. W. 332; Martin v. Ry. Co. (Ia.) P. U. R, 1917 B, 883; Manitowac v. Traction Co. 145 Wis. 158, 129 N. W. 925; Water Co. v. Commission, 85 Wash. 130, 145 Pac. 125; Portland Ry. v. Commission, 56 Ore. 468, 105 Pac. 709; American Society v. Telephone Co. (Wis.) P. U. R. 1917 E, 215; In re Rhinelander Power Co. (Wis.) P. U. R. 1915 A, 652; In re Searsport W. Co. (Me.) P. U. R. 1920 C, 347; In re N. Y. Steam Co. (N. Y.) P. U. R. 1918 B, 866; Superior v. Douglas Tel. Co., 141 Wis. 363, 122 N. W. 1023.

These cases are not especially helpful in passing upon the questions involved in the case now before us. After a careful reading and due consideration of the cases cited, and many others as well, in not a single instance do we find a contract rate upheld where the Commission, after investigation, found it to be discriminatory.

Fundamentally, the legislative or police power to regulate the public utilities of the state and fix rates rests upon the legal right to secure to the consuming public just, uniform and equitable rates, as applied to the service rendered. In this connection it may also properly be said that the law contemplates that the serving utilities, burdened as they are and as they should be with the duty of rendering efficient service to the public, are entitled to earn a fair return or income from the property used in successful and economical operation.

It should be kept in mind that in the present case no attempt was made on the part of the Commission to set aside the contract rate until after investigation it found the rate to be discriminatory, and therefore illegal and in violation of the express provisions of Utilities Act. As has been pointed out, this record shows that in April, 1918, the Commission issued its order requiring the public utilities of the state, including electric utilities, to file with

the Commission, before June 1, 1918, their schedules showing the rates, rules and regulations affecting their service. That requirement of the Commission was complied with by the Power Company. Thereafter, October 23, 1918, the said utilities were, by a further order of the Commission, required to make known in writing within ten days, among other things, any existing contracts with its customers which were not in accordance with the published schedules filed with the Commission. That order was also complied with the rates charged the consuming public generally, Commission then issued an order to the Power Company and its customers, there being several under such contracts, to show cause why they were not in contravention of the provisions of Sec. 4789, supra, of the Utilities Act, as these contracts appeared upon their face, when compared with the rates charged the consuming public generally, to be discriminatory and preferential. Afterwards, an exhaustive investigation and hearing was had before the Commission, in which the Copper Company appeared, participated and took a prominent part. Every phase of the Power Company's business as a public service corporation, it appears, was gone into. Predicating its findings and conclusions that the contract rates between the Power Company and the Copper Company were discriminatory and preferential upon some 4500 pages of testimony bearing upon both the contractural relations of the parties and the business of the Power Company as a whole, the Commission, on October 18, 1920, made and entered its order (effective October 22, 1920) that the "standard schedules of the Power Company now on file with the Commission, be, and they are hereby, applied to the service rendered to or for the said consumers in lieu of the rates, rules and regulations provided in said contracts; provided, that the Power Company should hold itself ready to make such reparation, if any, as the Commission may order after its opinion and order in Case No. 248 (present case) is issued." In making the regular schedule rates of the Power Company then on file with the Commission applicable to the Copper Company service, the Commission not only pointed out that the continuance in effect of the special contract rates would be casting on the consuming public an undue burden, but that such contract rates were annulled and superseded by the standard rates, charged consumers generally.

It is obvious that the special contract rates, after being properly found discriminatory and preferential, could not be longer continued, in violation of the express

declaration of the Utilities Act that such were invalid. In other words, finding the contract rates to be discriminatory and preferential ended such rates. Therefore, under the circumstances, the only rates that could be made properly applicable to the Copper Company service by the order of the Commission were the regular or schedule rates charged consumers for like service, with provision that if ultimately the schedule rates were found excessive refunds of the excess should be made by the Power Company. (Sec. 4788, supra; Boston, Etc., R. Co. v. Hooker, 233 U. S. 97. 58 L. Ed. 868; Louisville, Etc., R. Co. v. Maxwell, 237 U. S. 94, 35 S. Ct. 494, 59 L. Ed. 853, L. R. A. 1915E. 665; Louisville, Etc., R. Co. v Dickerson, (C. C. A. 6th Cir. 1911) 191 Fed. 705, 112 C. C. A. 295; Poor Grain Co. v. C. B. & Q. R. R. Co., 12 I. C. R. 418; State v. Billings Gas Co., 173 Pac. 799; Suburban Water Co. v. Borough of Oakmont, 110, Atl. 778; T. & P. Ry. Co. v. Abilene Cotton Oil Co., 204 U. S. 426, 9 Am. & Eng. Ann. Cas. 1075; Kinnavey v. Terminal R. Co., 81 Fed. 802; F. S. & W. R. Co. v. State, 25 Okla. 866, 108 Pac. 407; Muskogee G. & E. Co. v. State, 186 Pac. 730; O. & C. B. Street Ry. Co. v. Neb. State R. Com., 173 N. W. 690, P. U. R 1919 F. 307.)

Sec. 4788, supra, of our Utilities Act is analogous to the provisions of the Interstate Commerce Act. (See Par. 7, Sec. 6, "Act to Regulate Commerce," as amended by Act of June 29, 1906, (Ch. 3591, Sec. 2; 34 Stat. L. 587.) The federal courts, in construing the provisions of the Interstate Commerce Act have invariably held that the effect of filing rate schedules is to make the published rates the only lawful rates and all alike must abide by them until modified, vacated and set aside by the Commission.

In Louisville Etc., R. Co. v. Dickerson, supra, it was held by the U. S. Circuit Court of Appeals, Sixth Circuit:

> "The cardinal purpose of the provisions for the public establishment of tariff rates is to secure uniformity, reasonableness, and certainty of charges for services. A rate once regularly published is no longer merely the rate imposed by the carrier, but becomes the rate imposed by law; and routes and rates once so established become matter of public right and forbid private contract inconsistent

> therewith. It results that, under the commerce act, a stipulation in a bill of lading for a rate greater or less than the published tariff is void."

In Texas & Pacific Ry. Co. v. Abilene Cotton Oil Co., supra, the late Chief Justice White said:

> "There is not only a relation, but indissoluble unity, between the provision for the establishment and maintenance of rates until corrected in accordance with the statute, and the prohibitions against preferences and discriminations. This follows, because unless the requirement of a uniform standard of rates be complied with, it would result that violations of the statute as to preferences and discriminations would inevitably follow. This is clearly so, for it be that the standard of rates fixed in the mode provided in the statute could be treated on the complaint of a shipper by a court and jury as unreasonable, without reference to prior action by the Commission, finding the established rate to be unreasonable, and ordering the carrier to desist in the future from violating the act, it would come to pass that a shipper might obtain relief upon the basis that the established rate was unreasonable in the opinion of the Court and jury, and thus such shipper would obtain a preference or discrimination not enjoyed by those against whom the schedule of rates continued to be enforced."

Let it be kept in mind that the Commission did not by its order directing the contract rate to be superseded by the schedule rates determine or adopt the latter rates as being just and reasonable as applied to the service rendered its consumers, including the Copper Company, pending investigation as to whether such rates were just and reasonable. All it did do by its order was to require, pending the ultimate determination of the question as to the justness and reasonableness of the scheduled rates, that the Copper Company should not be permitted to enjoy a contract rate clearly found to be discriminatory and preferential as against the consuming public generally. That order, as made, was, in our judgment, not only in accord with the plain provisions of our Utilities Act but in perfect harmony with the principles of justice and every well considered case that has been passed upon by

the courts where the question had been raised under similar circumstances.

Counsel for the Copper Company, with commendable zeal, points out and contends that the schedule rates were over 100% higher than the contract rates; that the schedule rates were being assailed as being unjust and unreasonable as applied to the Copper Company service; that the reasonableness of the schedule rates should have been first determined by the Commission, and that the effect of the Commission's order as made is retroactive.

As before pointed out, the requirements of our Utilities Act are such the a public utility may not by any device, whether by contract or otherwise, deviate from the regular rates charged under its published schedule. Any contract rates, whether higher or lower than the schedule rates, are expressly declared to be invalid, and the only rates that can be recognized and applied pending an investigation and determination by the Commission. If that be true, then pending an investigation of the reasonableness of the schedule rates it was proper and right for the Commission under the circumstances to make its order temporary only and in the manner and form it did make it. (Suburban Water Co. v. Borough of Oakmont, supra, Fort Smith and W. R. Co. v. State, supra, Muskogee G. & E. Co v. State, supra; Omaha & C. B. Street R. Co. v. Nebraska State R. Com., supra.)

In the case of Suburban Water Co. v. Borough of Oakmont, supra, where the precise question now under consideration was raised, the Supreme Court of Pennsylvania said:

> "While the investigation as to reasonableness of a rate under complaint is pending, 'the rate to be charged is the one fixed and published in the manner pointed out in the statute and subject to change in the only way open by the statute.' Armour Packing Co. v. U. S., supra. It is the effective, collectible, and suable rate duly published as required by the act, and remains as such, governing the charges to be made pending the investigation until the commission 'shall determine, and prescribe by a specific order, the maximum, just, due, equal and reasonable rate * * * to be thereafter established, demanded, exacted, charged or collected.' Sec. 3, Art. 5, supra. It is at this point on petition

> for reparation, that any injustice done to consumers, pending investigation may be worked out; but the proceeding throughout the act in this respect deals with the subject of rates and its allied practices and regulations. It does not deal with contracts."

Under the circumstances disclosed by this record, we are of the opinion that the temporary order of the Commission, making the filed and published schedule of rates then before it the rates applicable to the Copper Company service, was the right one and the only lawful order that could be made pending a hearing and an ultimate determination of the reasonableness of the Power Company rates as applied to the class of consumers to which the Copper Company belonged.

Second: This brings us to the question, Was the ultimate rate fixed by the Commission's order of March 8, 1921, just and reasonable and properly found to apply to the Copper Company service?

At this juncture it may be well to first consider to what extent this court has jurisdiction to review the findings and orders of a purely legislative administrative board or commission, such as our Utilities Commission is conceded to be.

Sec. 4834 of the Utilities Act provides:

> "***The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the constitution of the United States or of the state of Utah. The findings and conclusions of the commission on questions of fact shall be final and shall not be subject to review. Such questions of fact shall include ultimate facts and the findings and conclusions of the commission on reasonableness and discrimination. The commission and each party to the action on proceeding before the commission shall have the right to appear in the review proceedings. Upon the hearing the Supreme Court shall enter judgment either affirming or setting aside the order or decision of the commission."

The foregoing provision of the Utilities Act must be read and construed in the light of Sec. 11 of Art. 1 of our Constitution, which reads:

> "All courts shall be open, and every person, for an injury done to him in his person, property, or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay."

In the case of Salt Lake City v. Utah L. & T. Co., supra., in which our jurisdiction as a reviewing court in this class of cases was passed upon, we said:

> "For the reasons hereinafter stated it will appear that we do not possess the power to review the Commission's findings in respect of whether a certain rate is reasonable or otherwise. * * * After a careful examination of the authorities (cited) we are more than ever confirmed in the opinion that all that we can review in cases of this kind is whether there is any evidence to sustain the findings of the Commission, whether it has exercised its authority according to law, and whether any constitutional rights of the complaining party have been evaded or disregarded."

Speaking of the foregoing constitutional provision, it was said:

> "It is not meant thereby that this court may reach out and usurp powers which belong to another independent and co-ordinate branch of the government. The power conferred upon the legislature is supreme respecting the regulation and establishing of rates. We may not interfere with or review any legislative act unless some judicial question is presented for review. Unless a rate established by the Commission is clearly oppressive on the one hand or confiscatory on the other no judicial question is presented. So far, therefore, as the questions are judicial the Utilities Act has conferred power upon this court, and in so far as the acts of the Commission are properly administrative, or in their nature legislative, the power has been wisely and properly withheld from us. Whether there is any substantial evidence to support any finding of fact that the Commission may make is a judicial

> question, and may be determined by this court. * * The parties also differ with respect to the amount invested and what would amount to a reasonable return on the investments. The Commission has, however, fully considered and passed on those questions. Since we are powerless to review the findings of the Commission, in that respect, it is of no consequence what conclusion the writer, or, for that matter, this court, might arrive at upon those questions."

It will be seen from the foregoing that this court stands committed to the doctrine that our Utilities Commission is purely an administrative body, clothed by the legislature with the power to regulate the public utilities of this state, and that we as a court have no right to interfere with the functioning of the Commission until it clearly appears that the rates as established by it are manifestly unjust or confiscatory in their nature. The case at bar is somewhat peculiar in some of its aspects. Ordinarily, before a rate is established, the Commission takes into consideration what would be a fair return upon the reasonable value of the utilities property devoted to a public use. For the purpose of ascertaining the present value of the property so employed different theories have been adopted, such as examination in the original cost of the plants, cost of their reproduction, their present value and the outstanding capitalization of the utility. (Pond, Public Utilities, Sec. 477.)

In this instance the Commission singled out what is conceded to be the most complete and up-to-date plants of the Power Company, viz. the Bear River plants, thoroughly investigated them and after doing so predicated the rates found by it to be just and reasonable upon these plants. In doing that, if the ultimate rate found by the Commission is just and reasonable, as applied to all consumers alike, certainly the Copper Company has no just cause to complain of the rate fixed as being confiscatory in its nature. While the Power Company endeavored to make a showing before the Commission of its total investment in its entire system, with a view of having the rates fixed accordingly, the Commission in determining the rates here complained of confined its investigations largely to the Bear River Plants, and upon the showing made as to them, and the present needs of the Copper Company, formulated the present rate basis.

It appears that not only is there substantial evidence in this record to support the findings of the Commission as made, but the great weight of the evidence is to the effect that if the Power Company was to be permitted to exist as a public utility and render efficient service to the consuming public, then, temporarily at least, it was necessary that the rates established by the Commission be pactically maintained. Considerable evidence was received before the Commission as to the relative worth of hydro-electric and steam generating plants. At most, there was a disagreement or conflict in testimony of experts in this regard and there is substantial testimony in the record to show that the cost of generating electrical power by means of these plants does not materially differ.

Under the circumstances, we find that the Commission acted regularly and within the powers conferred upon it by the legislature in ordering the contract rates superseded by the regular schedule rates. Further, we are of the opinion that the contention made by the Copper Company that the schedule rates are unjust and confiscatory as applied to its service has not been sustained. Aside from that, and especially as to whether the schedule rates are too high or too low, we express no opinion. In either event that is a matter to be determined by the Commission alone. Until the Commission has acted outside its powers, or until it clearly appears that the rates fixed by it are unreasonable or confiscatory in their effect we have no right to interfere.

Therefore, for the reasons stated, we think the rulings and orders of the Commission should be, and the same are hereby, affirmed, with costs.

In this cause, after the Utah Copper Company alone had brought its case to this court for review within the time and in the manner as by statute provided in which an interested party who is dissatisfied with a decision of the Commission may do so, certain consumers of power under contract with the Power Company, viz., the Bamberger Electric Railroad Company, Utah-Idaho Central Railroad Company, and the Holley Milling Company, who had not joined with the Utah Copper Company nor taken any steps whatever in the proceedings for review before this court asked leave and were granted permission to file briefs and arguments herein concerning the question involved. Subsequent to their filing briefs in accordance with the permission granted by this court, they presented petitions and entries of appearance in the case as brought

on for review by the Copper Company and have sought to have this court treat them in the light that they are interested parties before the court. As to them it must be sufficient to say that they have not in any manner complied with the plain, clear and express provisions of the statutes controlling the rights of interested parties to have the rulings of the Commission reviewed and passed upon by this court and therefore their untimely petitions and appearances should not be permitted and must be and are denied.

I concur:

THURMAN, J.

FRICK, J. (Concurring.)

I concur in all that the Chief Justice has said in his opinion. In view of the peculiar circumstances of this case, I feel constrained, however, to add a few words to what is said in the opinion of the Chief Justice.

This case was pending before the Commission for many months. An immense mass of evidence was produced before it upon the points in dispute. The Commission has made findings upon the disputed questions of fact and in so far as they are supported by substantial evidence, this court, as a matter of course, is powerless to interfere with those findings.

One of the points that has been vigorously argued is that the Commission acted prematurely in adopting the rate drawn in question in this proceeding in that it had not first adopted a reasonable rate but had merely adopted the schedule of rates filed by the Power Company with the Commission as it was requested to do. The Chief Justice has fully answered that contention. I desire to add, however, that what the Commission did was to adopt the schedule of rates, as it had a right to do, as temporary or tentative rates, and after it had fully investigated into their reasonableness, and not before, it established the rates contained in the schedule aforesaid. In doing that the Commission not only did not violate any of the provisions of the statute, but it substantially complied with all of the statutory provisions upon that subject.

It is suggested, however, that after the case was submitted the Copper Company and the Power Company

adjusted their differences and hence this case must fail. This is not an appeal where the appellant may dismiss his appeal at will. It is an original proceeding in this court to which the Commission is a party and under our statute is always a proper if not an indispensable party. The Commission, under Comp. Laws, Utah, 1917, Sec. 4834, has precisely the same rights that any other party has to the proceeding and this court cannot, without the consent of the Commission, dismiss it out of court. The mere fact, if it be a fact—and absolutely nothing appears upon the records of this court that it is a fact—that some of the parties have adjusted their differences as to the rates in no way affects the proceedings as to the Commission or other parties thereto, although the parties who have adjusted their differences may have given rise to the proceeding. This is so because every proceeding under the Utilities Act at some point and to some extent affects the public interests. To illustrate: In this case, as we have seen, it is strenuously contended that the Commission exceeded its power in considering the schedule of rates for any purpose; that it was its duty to determine for itself what rates were reasonable, and unless and until such rates were actually established by the Commission it was powerless to change or interfere with the rates agreed upon by the consumer and the Power Company. That contention, however, is held not to be tenable by the Chief Justice for the reasons by him stated. Now, it so happens that the legality of the action of the Commission relating to the schedule of rates, as before stated, affects not only many others who are furnished electrical energy by the Power Company for both power and lighting purposes but also to a large extent affects the public interests. All those interests, as well as the Commission, are therefore directly interested in knowing whether the acts and conclusions of the Commission relating to the schedule of rates as filed by the Power Company are legal or illegal, or whether the Commission has exceeded its powers in that regard. In view, therefore, that this controversy is not merely a private one and that the Commission as well as the public are directly interested in knowing whether the acts of the Commission are legal and may be followed hereafter or not, it is quite as important and necessary for this opinion to be handed down at this time as it would be if the two parties had not adjusted their differences. Further, in order not to waste the many months of time of the Commission in determining the facts with respect to the reasonableness of the

rate in the schedule of rates aforesaid it is important that the case be now disposed of.

I am firmly of the opinion, therefore, that this opinion should be filed and further that the conclusions reached by the Chief Justice are correct.

GIDEON, J. (Dissenting in part.)

As pointed out in the foregoing opinion of the Chief Justice, this court, in U. S. Smelting R. & M. Co. v. Utah P. & L. Co., ——Utah——, 197 Pac. 902, concluded and so held, that the Public Utilities Law gave jurisdiction to the Commission over contracts entered into by public utilities prior to the enactment of that law, also, if such contracts are found to be preferential or discriminatory, to make the necessary investigation and determine the rate to be paid for the services covered by the contracts. In this case the sole query is whether the Commission, having determined that the contract rate was discriminatory as compared with the rates charged the general public, can, without further investigation, order a new or temporary rate to be enforced during the time necessary to enable the Commission to make a sufficient investigation to determine a reasonable rate for the services covered by the contract in question. It is one thing to determine that a contract rate is discriminatory when compared with what the general public is paying and quite another and different thing to determine whether a rate is discriminatory when ascertaining the rate a public utility is entitled to charge. It might well be that the rate fixed in the contract would be found not to be discriminatory or preferential but that the discrimination existed in the rate charged the general public. The history of the development and gradual substitution of electrical energy in the industries of this country and by the municipalities in public lighting, warrants the conclusion that it was the thought of the legislature that the descending scale of the cost of producing that energy would continue rather than cease and the scale begin to ascend. New methods and inventions tending to reduce the cost of producing this power had followed each other with ever increasing regularity until it had become fixed in the mind of the public that such decreasing cost would continue. The law was enacted by the legislature with such facts as

the controlling reason for any legislation on the subject. I have never thought, nor do I now think, that it was the intent of the legislation to relieve a utility from the legal effects of bad financiering or from the result of disadvantageous contracts made by it. The primary intent was to see that the public and everyone received fair treatment and should have the benefit of the reduced cost of production.

In the very nature of things some investigation is contemplated and necessary before a commission, court, or anyone, can determine a rate to be discriminatory against a utility. In this case no claim is made that any facts were ascertained upon which to base and determine a reasonable or fair rate prior to the order made in October, 1920, save a tariff schedule prepared by the utility itself (the Power Company). It should be kept in mind that no emergency or urgent need existed on the part of the utility for an increase in rate. No receivership was threatening the utility, as was the fact in many of the cases cited. The opening statement, found in the record, by counsel for the Power Company at the beginning of the hearing before the Commission negatives any such claim. We have, therefore, this situation—a valid contract existing between the parties prior to the enactment of the Public Utilities Law a contract admittedly binding and enforceable between the parties except for the intervention of that law. That act was held by the court to be an assertion of the police power reserved to the state for the public good and entering into and becoming a part of all contracts made with a public utility, whether made before or after the law became effective. The act undertakes to and does give to the Commission the power to investigate and from the facts ascertained fix by order the rate to be charged by the utility. Under the facts shown by this record it would seem to be a reasonable and fair construction of the statute to hold that the state had done its full duty to a public utility by relieving it from the burden of a rate fixed in a solemn contract only after an investigation sufficiently thorough to intelligently and with a reasonable degree of certainty determine the rate the utility is entitled to charge for the services rendered. Such construction has the further merit of regularity to support it. In that way the Commission leaves the parties just where they placed themselves by a voluntary contract until such time as the facts have been ascertained upon which to base a determination of what the rates should be. That is all that plaintiff is asking in this pro-

ceeding. The defendant Power Company, the utility involved in this litigation, was organized as a corporation in the year 1912. The record before this court is full of testimony tending to establish the fact that during the period of organization and of financing the enterprise its officers and agents were diligent in attendance in the anterooms of plaintiff and other consumers of electrical energy, as well as the outer rooms of municipal council chambers, soliciting the privilege of furnishing electrical energy for the rates stipulated in the contracts now abrogated by order of the Commission. There is little dispute that by virtue of these contracts the utility was enabled to finance its enterprise. By reason of these facts and others appearing in this record it can, at least with some degree of plausibility, be said that this utility feels that it has the right to make a practical application of the Scriptural admonition, "Ask, and it shall be given you; * * * knock, and it shall be opened unto you."

At the time case known as No. 230 was first brought to this court I entertained serious doubts as to the State's power to give to the Commission authority to enquire into existing contracts and by order determine a different rate to that provided in the contract. The authorities, I am now convinced, amply support the right of the State to assert its power respecting the rates to be charged by a public utility for any service rendered by such utility regardless of prior contracts. Not only do the authorities support that conclusion but it is, in my judgment, in the interest of sound public policy that such rights should always remain in the sovereign. But what I do doubt, however, is the wisdom or the necessity, under the facts shown in this voluminous record, during this period of reconstruction, of the Commission's policy in concluding that its duty required it to fix a rate to be charged by this utility so as to guarantee a fixed income of 8% on the investment. That order could well have been left to a later date, at a time when the economic conditions had become more nearly normal. Investors in other industries are compelled to await incomes on investments and I do not find anything in this record to support the claim that the public interest would suffer if a different policy had been adopted by the Commission.

In my judgment the Commission went beyond the intent of the legislature in making its order of March, 1921, retroactive to take effect at a date prior to the order or finding determining the rate the utility should receive for the services covered by the contract. I therefore withhold

my approval from that part of the Commission's ruling making its order of March, 1921, effective in October, 1920. I concur in the Court's order denying to the Holley Milling Company and others the right to become parties to this review.

WEBER, J.:

I concur with Justice Gideon. I further think that no decision should be rendered in this case because there is at this time no real controversy between the parties as the record of the Public Utilities Commission shows that the Copper and Power Companies have adjusted their differences with the approval of the Commission.

In the Supeme Court of the State of Utah.
United States Fuel Company, Plaintiff,
v.
Utah Power & Light Company and The Public Utilities Commission of Utah, Defendants.

Utah Copper Company,
v.
Same.

Union Portland Cement Company,
v.
Same.

Oregon Short Line Railroad Company,
v.
Same.

Bamberger Electric Railroad,
v.
Same.

Silver King Company,
v.
Same.

Utah Metal & Tunnel Company,
v.
Same.

Salt Lake Terminal Company,
v.
Same.

Deseret News,
v.
Same.

Standard Coal Company,
v.
Same.

Ogden Portland Cement Company,
v.
Same.

Utah-Idaho Central Railroad,
v.
Same.

Utah Steel Corporation,
v.
Same.

Judge Mining & Smelting Company,
v.
Same.

Salt Lake & Utah Railroad Company,
v.
Same.

Utah Hotel Company,
v.
Same.

Salt Lake City, et al.,
v.
Same.

FRICK, J.:

The foregoing seventeen cases were all heard and submitted with the case of United States Smelting, Refining & Mining Co. v. Utah Power & Light Co. and the Public Utilities Commission of Utah which has just been decided and which is reported in ——Utah——,——Pac. ——.

The foregoing cases were all brought to this court for the purpose of having the orders of the Utilities Com-

mission, which are set forth in the opinion in the case just referred to, reviewed and annulled. The questions involved in these cases are the same as those that were involved in the Smelting Company case just referred to. While there are a few minor questions argued in some of these cases that were not presented in the Smelting Company case, yet those questions are not of importance and of no controlling effect and hence in no way affect the questions decided in that case. In view of that, it is unnecessary to now restate or review the propositions decided in the Smelting Company case.

While in some of these cases the contracts in question were made before and in some after the utilities act was passed, yet, as pointed out in the Smelting Company case, that is of no consequence.

Upon the authority, therefore, of the decision in the Smelting Company case, all of the orders of the Commission made and which control in the foregoing cases are affirmed, at the cost of plaintff in each case.

We concur:

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