Report of the Public Utilities Commission of Utah to the Governor

January 1, 1922 to November 30, 1922

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COMMISSIONERS

A. R. HEYWOOD, President

WARREN STOUTNOUR

JOSHUA GREENWOOD

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 Annual Report, covering the period of January 1, 1922, to November 30, 1922, inclusive.

COURT PROCEEDINGS

During the period January 1, 1922, to November 30, 1922, inclusive, decisions affecting the Commission were rendered by the Supreme Court of Utah in the following cases:

Hotel Utah Company
vs.
Public Utilities Commission of Utah.

Bamberber Electric Railroad Co. et al.
vs.
Public Utilities Commission of Utah.

Copies of these decisions will be found under Appendix III.

The decision of the Commission in Case No. 230 embodied in our report for the year 1920 and sustained by the Supreme Court of this State was carried to the Supreme Court of the United States by the Ogden Portland Cement Company, the Union Portland Cement Company and the Utah-Idaho Central Railroad Company. These cases were dismissed by the United States Supreme Court. (42-Supreme Court Reporter 381.)

The Commission also joined with the Railroad Commission of Wisconsin in a case before the United States Supreme Court to test the authority of the Interstate Commerce Commission over local state rates. (Wisconsin Railroad Commission et al. vs. C. B. & Q. R. R. Co. 200 P. U. R. 1922, C, U. S. 66 L. Ed.)

STATISTICS

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

	Filed	Closed	Pending
Formal Cases	106	82	24

At the beginning of the period there were 42 formal cases pending, 2 from the year 1919 and 5 from the year 1920.

All of these cases from 1919 and 3 of the cases from 1920 have now been closed, leaving 2 (Nos. 262-282) still pending from the year 1920, and 30 cases from 1921 have been closed leaving 5 still pending (Nos. 399, 450, 466, 477 and 488). Total cases pending as of November 30, 1922, 31.

In addition to the formal cases reported herein many questions have been settled informally, and differences between utilities and consumers adjusted without the necessity of a formal hearing or order being issued.

Ex Parte orders and authorities were issued as follows:

Ex Parte Orders	193
Special Dockets (Reparation)	20
Certificates of Convenience and Necessity....	45
Grade Crossing Permits	12
A classification of ex parte orders follows:	
Steam Railroads	173
Electric Railroads	30

During the period covered by this report, economic conditions have somewhat improved, but not so much in the cost of giving service as was expected. With such improvement has come a call for a reduction in the cost of giving service to the public, and whenever it is reasonable and just to make reductions, changes and modifications, the Commision has and will do so in the future to conform to the demand of such changed conditions.

In its budget for the ensuing biennium the Commission has requested additional funds for the purpose of investigating more fully conditions existing with various utilities, as under the changed conditions the burden of such investigation will fall upon the Commission more heavily than in the past. It is earnestly recommended that this question receive careful and serious attention.

The effect of the Transportation Act, 1920, has been the subject of much discussion and investigation. The following statement was made before the Senate Committee on behalf of this Commission with respect to the powers of the Interstate Commerce Commission over intrastate rates:

TO THE HOUSE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE:

Mr. Chairman and Gentlemen:

I appear for the Utah Commission, having been asked by the Governor of that State, to submit to you our experience under the Transportation Act, and to ask you that it be amended. This law adds to an already complicated and intensified situation.

The people of our State are greatly exercised over the situation, and our legislature at its last session passed a joint House Memorial, a copy of which I am filing with your Committee, asking the Congress to so amend the Act as to restore to our State the authority of regulating through its police power, intrastate railroad rates.

I am not going to dwell upon the undue and unwarranted invasion of the sovereign rights of the State of Utah, as now permitted by the present Transportation Act, nor upon the destructive influence which we believe this Act has upon the perpetuation of our dual form of representative government. I have heard all of that presented and emphasized by others appearing here, and I know that you thoroughly appreciate its significance. We also agree in principle with the views expressed by representatives of other States as to the type of amendment we believe necessary to restore the rate making power to the several States.

Utah is more than twenty-five hundred miles from Washington, and the continued operation of this law means the transferring of our purely State rate affairs to Washington, and the administration of this kind of affairs at long range, and because of the impossibility of long range detail administration it means finally the loss of a forum to which the aggrieved shipping public may appeal for the adjudication of its grievances. This we believe to be true, because under the law, the Commission has no power to make rates, other than those calculated to yield a given return upon total investment. As a practical proposition, aside from the constitutional question

involved in Section 15 (a), this principle of rate making necessarily puts the rate structure, so far as the changing of an individual rate is concerned, in a strait jacket, and on account of the expense, time and the necessarily complicated administration of the Federal Government will, in the ultimate, leave to the railroad itself, the making of its own rates for intrastate traffic.

Intrastate traffic is largely an inter-community service, and this class of service vitally affects the public, and while the revenues accruing from intrastate rates are relatively small in comparison with total revenues accruing from the entire interstate traffic of the country, taken as a whole, it does not by any means measure in the same proportion rate problems confronting the public for solution. In the case of our own state, however, intrastate traffic, measured either in tonnage or revenue is, we believe, relatively higher than in many States. For one of the principal carriers, namely, the Rio Grande Railroad, Utah tonnage averages fifty-eight per cent of total tonnage, and measured in revenues thirty-seven per cent of total revenue. The average tonnage, nine railroads, for a three-year period, Utah traffic, was fifty-four per cent and of revenues forty-seven per cent.

From these figures, it is readily seen that the problem confronting the public of our State is one of vital import. We believe this may readily be shown through our experience under the Transportation Act. The only way we know of to judge the near future is by the near past, and I will briefly outline the history of our case growing out of the Interstate Commerce Commission's Ex Parte 74.

Prior to 1917, the State of Utah had not elected to exercise its police power for the making of intrastate railroad rates. The rate structure in effect at that time was the rate structure initiated by the carriers, and had gradually been made effective through the growth of the railroad business. On March 8, 1917, the Public Utilities Act of Utah became effective, whereby and through which the State assumed through its police power the regulation of traffic within its borders.

Shortly thereafter, the carriers filed a petition with our Commission, requesting the percentage increases applying intrastate in Utah. At this hearing, the carriers submitted evidence to support their application, both from a revenue standpoint and also in support of the necessity for increasing indivdual rates. A traffic

expert for the carriers, in commenting on the existing rate structure, in one of our hearings, frankly informed us that these rates had generally been made, "With a slap on the back" and a "Hello, Jim."

The carriers frankly disclosed in detail their financial and operating condition, and cheerfully complied with every request for specific information. Before this case was decided, the application was withdrawn by the carriers and thereafter the transportation affairs of the country were taken over by the Federal Government, through the Director General. Increases were made in rates during Federal operation, and afterward a horizontal percentage increase was made on interstate traffic by the Interstate Commerce Commission in its Ex Parte 74.

The carriers operating in Utah filed with us an application asking authority to make effective intrastate increases equal to the increases authorized by the Interstate Commerce Commission. Representatives of the carriers at this hearing told us that the Congress of the United States had recently passed a great piece of constructive legislation. This legislation was of such a nature that all we need do in the premises was to grant on intrastate traffic the same increases as had been authorized interstate. The carriers submitted their case on the record made for the Interstate Commerce Commission in Ex Parte 74, and did not otherwise attempt to justify the increase in any particular rate, but advanced the theory that this case was an emergency revenue matter, not a rate case.

The Commission sought to have evidence introduced as to individual rates in the same maner as had been obtained in the first rate case, as I have heretofore outlined, because we believed it to be a proper method of procedure. The carriers refused to offer this kind of evidence. Protestants, however, presented evidence supporting the contention that a horizontal increase in all existing rates would be inimical to important industries, and in the case of mining industry would mean the closing of our mines entirely.

The carriers contended that increases should apply regardless of the showing, so as to conform to the percentage increases authorized in Ex Parte 74, that if our rates were found to be too high, the carriers themselves would put them back down again. Please note this statement, because we believe this principle is one the car-

riers are earnestly seeking to establish; that is, when intrastate rates are too high and traffic will not move, they, themselves, desire to be the judge as to how high the rates shall remain, and not the State regulatory body, thus, in effect, nullifying the adjudication of rates.

The Commission did not adopt this view; it did not believe that the Congress would, or could enact a law, whereby a State regulatory body would be compelled to raise rates to a point when industries were closed, in order to retain jurisdiction of state rate making and then leave it optional with the carriers to put them down again, nor did we believe any such interpretation could be read into the act.

Having in mind the emergency character of the case, the necessity of increased revenues, but at the same time remembering the principles upon which the basic rates of the State had been established, the Commission granted the same percentage increases as authorized in Ex Parte 74, except on coal and ore moving intrastate, and no increase in passenger rates where the same then exceeded three cents per mile, the Commission having found some of the passenger rates exceedingly high.

The Commission in its decision expressly reserved jurisdiction over the case, thus leaving the door open to the carriers to make any further showing they desired as to the specific instances where increases were not approved. The carriers demanded a speedy decision from the Commission, and the opinion was rendered within three days after the case was submitted, and the rates were made effective upon one day's notice to the public and to the Commission. This was the last chance our Commission had to adjudicate the case.

Our Commission was denied any further opportunity to hear the case, the carriers having appealed to the Interstate Commerce Commission, and the Interstate Commerce Commission having entertained the application, our Commission was involuntarily placed in a position of defending its own order, when it had, in effect, expressly stated that the case was not finished.

In due time the Interstate Commerce Commission having heard the application, issued its opinion, overruling our order as to passenger fares, increasing said fares, notwithstanding that some of the intrastate passenger rates were higher per mile than the interstate fares. Through this action, this spread was made still greater. In justification, the Interstate Commerce Commission,

among other things, said (I. C. C. 11831, Utah Rates, Fares and Charges):

> "The Utah interests point out that some of the intrastate factors used in the examples given of record are higher per mile than the interstate factors, and say that it is therefore not established that the intrastate fares are injurious in their effect upon interstate commerce. However, the combinations result in the defeat of the interstate fares sanctioned by us as reasonable in Ex Parte 74, and therefore unjustly discriminate against interstate commerce."

Concretely, this action resulted in passenger rates in sections of the State in excess of six cents per mile; that is, on the main line of the transcontinental railroads. These rates, in many instances, exceed the value of the service. This is shown by the increased use of the automobiles, wherever they may be made available, and the consequent decrease in passenger traffic and revenue, defeating the very purpose for which the increases were sought, namely, to augment revenues.

The Commission was enjoined in the Federal Court from interfering with the enforcement of this order, and the case remains in status quo. Meanwhile, the rates are, as I have indicated in some cases, more than six cents per mile.

It may be noted that, as has been pointed out by other State Commissioners appearing before your Committee, the carriers voluntarily initiated this complaint, alleging unjust discrimination against Interstate Commerce. It should be noted that no interstate traveler appeared to claim injury through the action of our Commission. Such evidence, as the record contained, was given by a railroad traffic expert who testified that a tariff difference existed through a combination of rates. No locality protested an injury. We ask that the Act be so amended that a specific injury to persons or localities must be shown, and that the interstate rate be found a just and reasonable rate before the Shreveport principle may be applied. Certainly, if the intrastate rate is in and of itself, just and reasonable, it can cast no burden on Interstate Commerce, no matter what the interstate rate may be. When one considers the multitude of rates in effect, the case under present law with which the carriers may appeal cases and the time required to adjudicate them, means that ultimately, as I stated in the

beginning, the denial to the aggrieved shipping public of relief, it will mean a great increase in the number of examiners to try cases, instead of a regulating body on the ground familiar with local conditions ready to expeditiously try the case; it will mean long-drawn-out affairs with such a volume of business as will preclude the Interstate Commerce Commissioners themselves, from inquiring into the merits of the case.

Furthermore, the expense on the part of the shipper in these cases will preclude him from bringing action, except in the most important cases, and thus leave to the carriers themselves, the opinion of giving relief.

Many of these inter-community rate cases require prompt adjudication, or the opportunity to move traffic is lost, a loss in which both the carrier and the shipper participate and, removing as in our case, twenty-five hundred miles distant, the authority—that to be effective, must be administered expeditiously and at the origin of the case,—will prove to be ineffective and defeat the very purpose of regulation.

FINANCIAL

The following is a statement of the finances of the Commission November 30, 1922.

Receipts:

Balance on hand, January 1, 1922	$32,367.06	
Receipts from sale of orders, transcripts, etc.	1,315.40	
		$33,682.46

Disbursements:

Salaries	$18,884.49	
Traveling Expenses	1,078.31	
Contingencies	1,292.96	
Unexpended balance Nov. 30, 1922		$12,426.70

Respectfully submitted,

(Signed) ABBOT N. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commissioners.

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

APPENDIX I

Part 1—Formal Cases

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

JEREMY FUEL & GRAIN COMPANY, a corporation, et al., *Complainants,* vs. DENVER & RIO GRANDE RAILROAD COMPANY, a corporation, *Defendants.*	CASE No. 163.

Decided August 10, 1922.

Appearances:
Baldwin Robertson, for Complainants.
J. G. McMurry, for Defendants.

REPORT OF THE COMMISSION

By the Commission:

The complainants are asking the Commission to issue an order of reparation, directing the defendant to pay to them certain alleged excessive charges set out in the complaint filed herein, and justify said complaint upon the grounds and for the reasons as follows:

1. That each of the complainants is engaged in the business of buying, shipping and selling coal in Salt Lake City and elsewhere, as alleged, with the exception of the Utah Iron & Steel Company, Utah Gas & Coke Company, and Utah Fire Clay Company, which companies are purchasers, shippers and consumers of large quantities of coal.

2. That the defendant now is, and during all the times referred to herein, has been engaged in the transportation of coal and other freight and passenger traffic for hire within the State of Utah between the coal fields of Utah to the respective destinations and consumers referred to in said complaint.

3. That between 1917 and February, 1918, the defendant published and filed with the Public Utilities Commission of Utah, a rate of $1.25 per ton, in carload lots,

from points of origin to Salt Lake City, except, that from the stations of Sunnyside and Thompson, which was $1.30 per ton; that coal was shipped over said route from its origin to said destination in keeping with the said rates to consumers other than the complainants herein; and for such transportation the defendant demanded and collected the sum of $1.60 per ton on all coal, with the exception of slack, for which a charge of $1.30 per ton was paid (except from Sunnyside and Thompson, which was $1.70 and $1.40, respectively), and that such rates and charges were collected during the times mentioned in the complaint, from the same points of origin along the same route as that shipped and delivered to the Salt Lake, Garfield & Western Railroad Company for the sum of $1.25 per ton; that the rates demanded and collected from the complainants herein were in excess of the legal rates and that said excessive rates so collected were unlawful, unjust, unreasonable and discriminatory to the extent that they exceeded $1.25 per ton, and to that extent that the said rates exceeded the rates carried in Supplements Nos. 8, 9 and 10 to D. & R. G. Freight Tariff 4614-E.

4. That said rates, charged and collected, were excessive and unreasonably high.

The defendant, in answering the allegation of complainants, denies the contention of the complainants wherein it is claimed that the defendant demanded and collected from them rates for the transportation of coal that were excessive, unlawful, unjust, unreasonable or discrimnatory. That defendant admits that, as a common carrier, it has been and now is, employed in the transportation of coal at the times and between the points set out in the complaint, but that the rates so collected from the complainants were the legal rates, and that the rates charged and collected from the Salt Lake, Garfield & Western Railway Company were proportional rates, and that they were legal and not discriminatory or preferential to the rates charged and collected from the complainants in this case.

The hearing on the above case began March 11, 1920. The evidence submitted by the complainants was to the effect that they were dealers and shippers of coal transported by the defendant Company, and that the rates paid during the time in question were as set out and alleged, namely, $1.60 per ton for coal other than slack, and $1.30 per ton for slack coal; that the rate collected from the Salt Lake, Garfield & Western Railway Company was

$1.25 from Carbon County points to Salt Lake City; that some of the bills-of-lading carried Salt Lake City as the destination, while others were designated Salt Lake, Garfield & Western Railway; that cars of coal were shipped to Salt Lake City and placed on the track for exchange with the Salt Lake, Garfield & Western Railway Company, and taken to the yards of said Salt Lake, Garfield & Western Railway Company and consumed by it for fuel and power purposes; that the coal so delivered to the Salt Lake, Garfield & Western Railway was not sold in competition with the coal shipped to the complainants herein, with the exception of a limited amount which was used in Salt Lake City without knowledge or consent of said defendant Company, and for which said Salt Lake, Garfield & Western Railway Company was required to pay an additional freight rate, sufficient to increase the rate to $1.60 per ton.

Considerable testimony was submitted, consisting of tariffs, waybills, etc., special attention being called to the destination of coal shipped to the Salt Lake, Garfield & Western Railway Company; also to the question of excessive, unreasonable rates in connection with the movement of coal.

In the matter of the tariffs, rates and waybills referred to, it might be well here to call attention to Case No. 9, the Marsh Coal Company, et al., vs. the Denver & Rio Grande Railroad Company, in which this Commission carefully and clearly analyzed and passed upon the main question raised in this case. (See Pages 64, 65, 66, 67 and 68, Report of the Public Utilities Commission of Utah, Volume 1), which analyzes the testimony in said case and finds the issues against the contentions of the plaintiffs in said case, which would seem to be decisive of the questions raised here. Unless additional evidence has been given to take it outside the rule laid down in that case, we are of the opinion that the evidence does not justify the Commission in holding adversely to the rule promulgated in said Case No. 9.

The question of unjust and excessive rates was raised by the complainants, and upon which some testimony was submitted tending to show that the rates charged and collected were unjust and excessive, and from such showing the rates would appear to have been high, if not excessive. However, such schedules of rates had been for some time, and were at the time complained of, the legally published rates, and under which the ser-

vice of hauling coal had been performed. Such schedules have likewise been found by this Commission heretofore to be the legal rates at the time complained of, and not discriminatory.

It would appear from an examination of the decisions, and especially under our State law, that the Commission is without authority to award reparation unless it finds that the rates were in violation of the law at the time of shipment.

Upon the subject of the collection of rates, Section 4788, of the Revised Statutes of Utah, provides:

> "Except as in this section otherwise provided, no public utility shall charge, demand, collect, or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals, and charges applicable to such products or commodity or service as specified in its schedules on file and in effect at the time * * * "

The above provision would seem to clearly direct the Railroad Company to collect the rates that are attacked in this case, and none other.

Section 4838 of the same law provides:

> "When complaint has been made to the Commission concerning any rate, fare, toll, rental, or charge for any product or commodity furnished or service performed by any public utility, and the Commission has found, after investigation, that the public utility has charged an excessive or discriminatory amount for such product, commodity, or service in *excess of the schedules, rates, and tariffs on file with the Commission, or has discriminated under said schedules against the complainant,* the Commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection; provided, no discrimination will result from such reparation."

The above provision would seem to require a finding that the rates, fares, tolls or charges for the service per-

formed must be found to be excessive or discriminatory and in excess of the schedules, rates and tariffs on file with the Commission. If the Commission should find that the rates are excessive or discriminatory, then, under the requirements of the law, it is necessary to also find that they were in excess of the schedules, rates and tariffs on file with the Commission. So, under the above provisions, the rates, schedules and tariffs on file with the Commission at the time complained of, were the schedules, rates and fares charged and collected from the complainants, and not in excess thereof. No order of reparation could legally be made by this Commission. As to the question of proportional rates, the Commission finds that the rates attacked were the legal rates at the time complained of, and that the charge of $1.25 per ton charged the Salt Lake, Garfield & Western Railway Company, was a proportional rate.

An appropriate order will issue.

(Signed) JOSHUA GREENWOOD,

....

Commissioners.

Attest:

(Signed) T. E. BANNING,
Secretary.

(SEAL)

STOUTNOUR, Concurring:—

I agree in the finding that the rate of $1.60 per ton on lump and nut coal, from Castle Gate, and $1.70 from Sunnyside and Thompson, was the legal rate at the time the shipments under investigation moved, and that the rate of $1.25 which is sought to be applied to the shipments and which was quoted from Supplements 8, 9 and 10 to D. & R. G. Freight Tariff 4614-E, was a proportional rate, applying to shipments destined to points on the Salt Lake, Garfield & Western Railway.

However, the record is convincing to me that the rates on coal under attack were in and of themselves as of that period, all material things considered, unreasonable and excessively high, in that they exceeded $1.35 per ton for lump and nut, in the Castle Gate district, and $1.45 from Sunnyside and Thompson, $1.15 per ton, for slack from Castle Gate, and $1.25 from Sunnyside and Thomp-

son. However, under Section 4838, Revised Statutes, the Commission is estopped from ordering that reparation be made, as the then rates were the published tariff rates on file with the Commission and were the rates charged and collected from the complainants.

(Signed) WARREN STOUTNOUR,
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 August, 1922.

JEREMY FUEL & GRAIN COMPANY, a corporation, et al.,
Complainants.
vs.
DENVER & RIO GRANDE RAILROAD, COMPANY, a corporation.,
Defendants.

CASE NO. 163

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 be, and it is hereby, dismissed.

By the Commission.

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

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

JEREMY FUEL & GRAIN COMPANY, a corporation, et al.,
Complainants.
vs.
DENVER & RIO GRANDE RAILROAD, COMPANY, a corporation.,
Defendants.

CASE NO. 163

Submitted Oct. 2, 1922. Decided Nov. 3, 1922

Appearances:

Baldwin Robertson, for Complainants.
J. H. Gallaher, for Defendants.

REPORT AND ORDER UPON APPLICATION FOR REHEARING

By the Commission:

The motion for a rehearing in the above entitled cause came on for arguments on October 2, 1922, and after due consideration of the same, we are of the opinion that the motion should be denied.

IT IS THEREFORE ORDERED, That the application of the Jeremy Fuel & Grain Company for a rehearing in the above entitled matter be, and it is hereby, denied.

(Signed) WARREN STOUTNOUR,
JOSHUA GREENWOOD,
....
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

AMERICAN FOUNDRY & MACHINE COMPANY,
Complainant,
vs.
UTAH POWER & LIGHT COMPANY,
Defendant.

CASE No. 203

Submitted June 20, 1922. Decided June 29, 1922.

Appearances:

B. L. Liberman, for Complainant.
J. F. MacLane, for Defendant.

REPORT OF THE COMMISSION

By the Commission:

This complaint, filed June 20, 1919, alleges that the American Foundry & Machine Company, a corporation, duly incorporated in the State of Utah and operating for some time heretofore an iron and steel foundry in Salt Lake County, Utah, on May 3, 1916, entered into a contract with the Utah Power & Light Company, for electric power to be used in the operation of its electric furnace then being installed by complainant; that the schedule of rates provided for in said contract was as follows:

Service Charge—

For each H. P. of maximum demand, $1.00 per H. P. per month.

Energy Charge—

For first 10,000 K. W. H. per month, 1¼c per K. W. H.
For next 40,000 K. W. H. per month, 8 mills per K. W. H.
For all additional K. W. H. per month, 7 mills per K. W. H.

It is further alleged that at the time said agreement was entered into, it was recognized by the parties to said agreement, that the electric furnace was a new industry in this community and in an experimental stage, and at the time the schedule of rates was fixed between the

parties to the agreement, further provision was made that said schedule should be temporarily suspended for the first 180 days of the life of the agreement and pending the actual experience in the use of the electric furnace, a flat rate of seven mills per K. W. H. was provided; that heretofore, on May 22, 1918, this Commission provided for a temporary rate of eight mills per K. W. H., to continue in effect until January 1, 1919, and that by further order, on March 17, 1919, said rate of eight mills was extended to June 1, 1919.

Complainant alleges that it is desirous of having Schedule "G" heretofore referred to as the schedule of rates originally provided in the agreement between the applicant and the Utah Power & Light Company, permanently suspended; that said schedule is prohibitory, in so far as it applies to the consumption of electric energy for the electric furnace, and alleges that electric energy, when used in electric furnaces, is a fuel and forms a very considerable item in the cost of producing electric steel, and that the cost should be determined upon the amount of electric energy actually consumed and not upon demand or service charges made independent of consumption; that the extent of the operation of electric furnaces depends upon varying conditions of the business; that said furnace may not be operated more than a few days per month; that if the demand or service charge were in effect there would be a charge of approximately $600.00 per month, fixed regardless of whether the furnace is in operation one day a month or each day of said month.

It is further alleged that the flat rate of eight mills per K. W. H. heretofore ordered has been a fair and reasonable charge; that since the signing of the Armistice, the steel industry, including the manufacture of steel by means of electric furnace, has been depressed, and the prices of steel have decreased, and competition is keen; that the super-addition of a demand or service charge of $1.00 per month per horsepower would make it impossible for applicant to operate its electric furnace, and petitions that an order be entered by this Commission, authorizing and directing the Utah Power & Light Company to furnish service to the applicant in the operation of said electric furnace, at the rate of eight mills per K. W. H., during the life of the agreement heretofore entered into between the applicant and the Utah Power & Light Company, on May 3, 1916, and that the rates provided for in Schedule "G" of said agreement be abrogated and annulled.

In its answer filed July 25, 1919, the defendant, Utah Power & Light Company, admits that at the time said agreement was entered into, the parties to the contract recognized that the electric furnace industry was new and untried in this community, and in an experimental stage, and, for that reason, a provision was made in the contract that the schedule provided for in the contract should be suspended for the first 180 days of the life of the agreement and a flat rate was provided for in the contract during this period. It was also realized at the time by the Power Company and by the consumer that it would be necessary for the consumer to acquire knowledge to the end that the furnace could be operated economically, and that this knowledge could be gained only through experience obtained through the actual operation of the furnace.

The answer alleges that due to unsatisfactory conditions surrounding the operation of the furnace, which the Foundry Company claimed to be the fault of the manufacturer, the Power Company agreed with the Foundry Company to continue the flat rate provided for in the contract until the furnace troubles could be adjusted between the manufacturer and the consumer.

It is admitted that on May 22, 1918, the Public Utilities Commission of Utah, in its order, provided for a temporary rate, which was a different rate than that provided for in the contract entered into between the Foundry Company and the Power Company, May 3, 1916, and which was to continue in effect until January 1, 1919. The Power Company denies, however, that the rate fixed in the Commission's order is a reasonable rate, and alleges that the temporary rate fixed by the Commission, on May 22, 1918, was fixed by the Commission, upon the application of the Foundry Company, and agreed to by the Power Company, because the applicant had alleged that during the year 1917, the applicant had found its furnace mechanically defective, and that it had failed in many respects to meet the demand of the manufacturers, and, as a result, the Foundry Company had been obliged to replace a large portion of it, and had not, at the date of the Commission's order, succeeded in getting it into satisfactory operating condition sufficiently to demonstrate whether or not it could be practically operated.

It is further alleged by the defendant that the Commission, in its order, expressly stated that from and after the termination of the year 1918, any electric service furnished by the Power Company to the Foundry Com-

pany should be supplied only under the Power Company's standard schedules referred to in the contract, or such other schedules as it may have in force applicable to the service rendered to the Foundry Company, and reserved the right to extend the experimental rate upon further application, to be determined entirely upon the merits of the new application, and admitted further that on March 17, 1919, this Commission, upon application of the Foundry Company, and with the consent of the Power Company, issued an order, extending the time during which the temporary experimental rate fixed by the Commission should be in effect, until June 1, 1919, so that the applicant could complete investigations as to the result of electric operation of smelter furnaces in other sections of the country as well as rates charged for such service.

The Power Company alleges that rates fixed by the contract entered into by the Foundry Company and the Power Company on May 3, 1916, became effective on June 1, 1919, the date of the expiration of the order of the Commision, and that the Foundry Company has been billed by the Power Company since June 1, 1919, in accordance with the terms of the contract, but that the Foundry Company has neglected and refused to pay such bills as provided by the terms of the contract.

The defendant Company denies that the electric energy furnished to the Foundry Company is in the nature of fuel, and denies that the cost of such electric energy should be determined, as alleged by the Foundry Company, "upon the amount of electric energy actually consumed and not upon demand or service charges made independent of consumption," and denies that the application of rates fixed by the contract entered into between the Power Company and the Foundry Company would make it impossible for the applicant to operate its electric furnace, and alleges that the rates so fixed are less than the average rates fixed by public utilities furnishing electric energy for the operation of electric furnaces throughout the United States.

The defendant, Power Company, denies that the rates fixed in the contract are unreasonable, and alleges that the temporary rate which was in effect until June 1, 1919, was an experimental non-compensatory rate and was a burden upon the general consuming public; and it is further alleged that if any change should be made by order of the Commission in the rates fixed in the contract, the Commission should revise and alter the contract rate, by increasing the same to the rates provided for this

class of service, as shown in the Company's standard schedules on file with the Commission, and that said schedules establish the just, reasonable and lawful charges for such service.

The Commission set this case for hearing, September 16, 1919, at 10 A. M. By stipulation of both parties, this case was postponed to October 21, 1919, at 10 A. M., and later, upon motion of the defendant and by consent of the complainant, the case was continued, without date.

The Commission, on its own motion, entered into an investigation of certain contracts between the Utah Power & Light Company and certain of its customers, in which contracts the rates, charges, facilities, privileges and conditions of service were apparently not in conformity with the schedules of the Power Company published and on file with this Commission and open to the public generally. The Commission, in its order dated September 27, 1919, called upon the Power Company and its customers who were being served under such special contracts, to appear before the Commission on November 11, 1919, then and there to justify the continuing in effect of such special contracts and the rates, charges, facilities and privileges granted thereunder, and to show that they were not in contravention with the provisions of the Public Utilities Act of Utah of 1917.

After a protracted hearing and argument, and the filing of briefs, the Commission issued its order dated October 18, 1920, finding that it had jurisdiction over the rates, charges, facilities and conditions of service in the existing contracts under consideration in the proceedings, and, after a full consideration of all material facts, found that many of the contracts of which the American Foundry & Machine Company was expressly stated as one, and under which service was being rendered, did not carry such special consideration as would entitle them to service at other than the standard schedule rates open to the public generally, as evidenced by the schedules of the Power Company on file with the Commission, and that such standard schedules on file should be applied to the service rendered, in lieu of the rates and charges in effect under the special contract.

The findings in this case were appealed to the State Supreme Court by some eighteen consumers, and the findings made by the Commission were sustained.

In the meantime, the Utah Power & Light Company had filed, on December 4, 1919, an application to increase power rates, which came on regularly for hearing, March

4, 1920, and continued for some months. The transcript, together with the testimony introduced in Case No. 230, which, by stipulation, was made a part of and to be considered, so far as material testimony in this case, comprised some 4,500 pages of testimony; while exhibits to the number of approximately one hundred were introduced during the course of the hearing. Practically every phase of the power business was presented, and a large number of expert witnesses were heard.

The rates involved in this case were the same as those under investigation in the special contract case, and testimony was heard upon this particular situation, June 9, 1920, during the progress of Case No. 230.

Finally, this Commission, on March 8, 1921, issued its order in Case No. 248, wherein it found certain rates, rules and regulations to be applicable to the respective classes of power users named in that order. Thus the rates charged the American Foundry & Machine Company have been before the Commission in one form or another for several years.

The rates found applicable were based upon the cost of rendering service to the various classes of power users; competitive costs of service were also considered. The Commission, after carefully considering the testimony, arrived at the cost of the principal power producing system of the Power Company, together with the necessary transmission lines, terminal facilities and equipment and primary distribution arrangemnts, and the rates since prescribed by the Commission are based upon admittedly the most efficient and least expensive part per unit of the Company's system, and, as applied to the service of this consumer, or any other consumer, affords, in our judgment, a reasonable rate for service.

It is admitted by representatives of the Foundry Company that the effect of this type of furnace load upon the Power Company's system is not substantially different from that of general induction motor loads of like size, and we see no just reason why this type of service should be set apart and differentiated by giving it a rate other than the general power rates open to the public generally for large induction motor service. It might be well at this time to call attention to the fact that the present Commission schedules carry no power factor penalty. The power factor for this type of furnace is approximately the same, on the average, as that of induction motors.

Complainant states that since the war, profits realized from electric furnace operation have been meager, and

it cannot afford to pay the general power rates. If the Commission were to take into consideration the ability to pay of a single customer, it would end in every customer having a different rate, and all uniformity of rate structure would be destroyed, with illegal discrimination the result. The Commission has made a study recently of rates applicable to electric furnaces used in many parts of the country, and we believe the rate applicable here is, on the average, a rate reasonably comparable with average rates elsewhere.

However, as we said in Case 457, Dixie Power case:

> "Rates must be based upon the cost of service. Cost of service, in turn, depends upon the investment necessary to render said service. Investment varies with location, and particularly so with hydroelectric properties. Thus, before a comparison of rates may be made or relied upon, it is necessary to first ascertain whether the conditions and costs of rendering service are similar, and, unless the conditions are analogous, the fact that other companies in other localities charge rates higher or lower than those complained of, would shed no light on the reasonableness of the rates under consideration. Further, it would be necessary to determine, first, whether or not the rate selected for comparative purposes in some other locality, was a compensatory rate as applied to its own utility."

The various phases of this question have been before us for a long time, and, after full consideration of all material facts, we find that the present general power schedule is applicable to this service. The application for change in the rate is accordingly 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 29th day of June, A. D. 1922.

AMERICAN FOUNDRY & MACHINE COMPANY,
Complainant,
vs.
UTAH POWER & LIGHT COMPANY,
Defendant.

CASE No. 203.

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 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 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

Submitted June 12, 1921. Decided July 27, 1922.

Appearances:

For Applicant:
Milton Smith,
L. J. Williams.

For Protestants:
Messrs. Willey & Willey and Nelson, for
The Salt Lake County Farm Bureau.
John E. Pixton
D. W. Moffatt
John F. Bowman
for Salt Lake County Civic Improvement Association.
John E. Pixton, for Murray City.
Wm. H. Folland, for Salt Lake City.

REPORT OF THE COMMISSION

By the Commission:

This application was filed May 4, 1921, by the Mountain States Telephone & Telegraph Company, a corporation, duly organized and existing under and by virtue of the laws of the State of Colorado, and authorized to do business in the State of Utah, and is conducting a general telephone business in the State of Utah and adjoining states, as a public utility, subject to the laws of said State; that on March 29, 1921, this Commission issued its order in Case No. 206, and found the value of applicant's property, used and useful in giving telephone service within the State of Utah, as of January 1, 1921, to be $8,662,167.11.

Applicant alleges that after depreciation computed at the rate of 5.72 per cent on applicant's depreciable property and a fair return at the rate of 8 per cent per annum, there is a deficit of $336,263.37, for the year 1920. Based on the average valuation as found by the Commission, the return to applicant on the value of its property in the State of Utah, approximates 4.07 per cent; that the operation of applicant for the months of January and February, 1921, based on assumptions of petitioner, show a return to plaintiff company, on the Commission's average valuation for January, 3.45 per cent; for February, 3.42 per cent.

Petitioner alleges that, based on these figures, applicant's deficit for 1921 will be more than $1,000.00 per day; that in order to serve the public and prevent the impairment of service, and meet the public demand for telephone service, it is essential that relief be had; further, that the nature of applicant's business is such as to require a constant use of new money, which funds can only be obtained upon a satisfactory financial showing; that there has been no substantial return in the price of materials used by applicant; that increases in transportation charges have added to the expense of all classes of expenditures entering into the telephone service; that there has been a very substantial increase in maintenance expense, traffic and commercial expense; that the taxes of applicant were increased over $43,000.00 in 1920 over 1919; that to retain competent employees, it is necessary to maintain the present wage scale throughout the year, and there is no present prospect of relief from this situation. Again, that for the years 1914 to 1919, inclusive, applicant has made no profits and had laid up no surplus, but, on the contrary, has suffered deficits; that the toll rates now in effect are as follows:

From 0 to 12 miles, station to station, 10c

From 12 to 24 miles, station to station, 5c each 6 miles.

Over 24 miles, station to station, 5c each 8 miles.

Together with standard, person to person, appointment messenger and other classifications applying to the foregoing, as now on file with the Public Utilities Commission of Utah.

The rate changes applied for are as follows:

Basis of measurement, air line to 40 miles, over 40 miles block.

From 0 to 10 miles, station to station, 10c.
From 10 miles to 70 Miles, station to station, 5c each 6 miles.
Over 70 Miles, station to station, 5c each 7 miles.
The standard person to person, appointment, messenger and other classifications as now in effect apply to the foregoing station to station day rates and also standard evening and night rates, all in the same proportion as they now bear to rates now in effect.
No change is made in present special toll rates.

That the said proposed toll rates are the same as now being charged by applicant in the States of Montana, Wyoming, Colorado, Texas, Idaho and New Mexico and for all interstate toll business of applicant; that the above change is necessary to secure uniformity, and will produce for applicant an increased revenue as hereinafter stated:

That the rural rates necessary and proper to be charged in the State of Utah are as follows:

RESIDENCE RATES

0 to 3 miles,	$30.00	per annum
3 miles to 6 miles	33.00	per annum
6 miles to 9 miles	36.00	per annum
9 miles to 12 miles	39.00	per annum
12 miles to 15 miles	42.00	per annum
15 miles to 18 miles	45.00	per annum

Over 18 miles $3.00 additional for each additional 3 miles or fraction thereof.

The present rate is $24.00 per annum.

That the proposed rural business rate is $48.00 per annum for all distances up to 15 miles, beyond 15 miles an additional charge of $3.00 per annum for each additional three miles or fraction thereof.

The present rural business rate is in general $48.00 per annum except in certain exchanges, as shown by schedules now on file with this Commission.

In Holliday, Murray and Midvale there is a business rate of $60.00 per annum applicable to an enlarged service area, which rate will be superseded by the above proposed rate.

The present flat rate 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 is further defective in that it does not produce adequate revenues; that no increase for this class of service has been made during the past several years in which cost of furnishing service has, as a matter of common knowledge, substantially increased, and which costs are at present and will be in the future much greater than they were at the time these rates were established; that the proposed rates are necessary and proper to reduce the said deficits and enable applicant to give proper rural service; and the rates are increased in proportion to the increase in distance which is a measure of increase in cost.

That it is necessary and proper to restrict the present enlarged local service areas of Murray, Midvale and Holliday to the proper local service areas of each of said exchanges, and it is proposed to eliminate said enlarged local service areas as they now exist; that in said exchanges there is an optional local service area which includes the area of these exchanges and the area of Salt Lake City; that the giving of service under enlarged local service area is an unwarranted discrimination against patrons not having use or demand for this extended service, and is 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 revenues and result in commuting toll schedules to flat rate charges; that it results in the congestion of trunk facilities which impairs the quality of the service; that in order that toll rates may be uniformly applied among these exchanges, it is proposed to eliminate the present enlarged local service areas and confine the service areas of these exchanges to their respective areas the same as in other exchanges.

The present rates for Murray, Midvale and Holliday are:

OPTIONAL SCHEDULES

The lower of these is:

BUSINESS

One party ....$48.00 Per annum
Two party .... 42.00 per annum

The higher of these is:

BUSINESS

Individual line, unlimited, ...$78.00 per annum
Individual line, message rate..........$60.00 per annum

Minimum, 1200 message allowance, 5c each additional message.

PRESENT RESIDENCE SCHEDULE

LOWER

One party ....$27.00 per annum.
Two party .... 21.00 per annum.
Four party .... 18.00 per annum.

HIGHER

One party ....$36.00 per annum.
Two party .... 30.00 per annum.
Four party .... 24.00 per annum.

These are for unlimited services, respectively.

The individual line message rate is $30.00 per annum, minimum 600 message allowance, 5c for each additional message; two party message rate $24.00 per annum, minimum 480 message allowance, 5c for each additional message.

All message charges have initial periods of five minutes, and overtime is measured in multiples of this initial period. The charges for overtime are 5c for each overtime period among all exchanges, except from Midvale to Salt Lake City the overtime charge is 10c, and each such message is considered the equivalent of two messages.

The proposed rates for said exchanges are:

BUSINESS

One party ....$54.00 per annum.
Two party .... 48.00 per annum.

RESIDENCE

One party ....$27.00 per annum.
Two party .... 24.00 per annum.
Four party .... 21.00 per annum.

Rates for other services to be the same as now on file for this class of exchanges.

It is also proposed to withdraw schedules now on file and rates quoted for the community of Pleasant Green for enlarged service rate areas covered on sheet 2 present filing, there being no subscribers at this rate.

It is further proposed to increase the exchange 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, so as to produce proper revenues. No change is proposed in present business rates.

The present rates for unlimited service are as follows:

RESIDENCE

One party ....$45.00 per annum.
Two party .... 39.00 per annum.

Individual line measured minimum charge $33.00 per annum, message allowance 660, excess message charge 3c.

Two party measured minimum charge $27.00 per annum, message allowance 540, excess 4c.

Four party measured minimum charge $24.00 per annum, message allowance 480, excess 5c.

The proposed rates are:

BUSINESS

Same as at present.

RESIDENCE

Unlimited Service

One party ....$48.00 per annum.
Two party .... 42.00 per annum
Four party .... 36.00 per annum.

It is proposed to make changes in Ogden as follows:

Present rates are:

BUSINESS

One party ....$84.00 per annum.
Two party .... 72.00 per annum.

RESIDENCE

One party	$36.00 per annum.
Two party	30.00 per annum.
Four party	24.00 per annum.

Residence individual line measured minimum charge $21.00 per annum, message allowance 420, excess message charge 5c.

Proposed rates for Ogden are:

BUSINESS

One party	$96.00 per annum.
Two party	84.00 per annum.

RESIDENCE

One party	$39.00 per annum.
Two party	33.00 per annum.
Four party	27.00 per annum.

The estimated annual revenue increases from these proposed changes are:

Toll Rates	$ 74,000.00
Rural Rates	32,000.00
Elimination of Enlarged Local Service Areas	6,000.00
Salt Lake City Exchange Rates	57,000.00
Ogden Exchange Rates	24,000.00
TOTAL	$193,000.00

That all of the foregoing rates are reasonable and necessary to be put into effect, and while the revenue to be derived therefrom will not meet the estimated deficit for the year 1921, it will assist in reducing the amount thereof, and in enabling applicant to give to the public adequate service; that the said toll rates should be made effective June 21, 1921, the beginning of the monthly toll billing period, and the other said proposed changes should be made effective June 1, 1921.

Protests were received from Salt Lake County Farm Bureau, alleging that the case presented by petitioner's application does not call for either increase in rates or change in the character of service; that the proposed restriction of service would be inconvenient and inefficient; that the change contemplated will work an economic and

social detriment to citizens and patrons in Salt Lake County.

Salt Lake County Civic Improvement Association protested, alleging that the said changes, if made effective, would be a very serious impediment to the growth and development of the County of Salt Lake, and would materially interefere with business conditions; further, that said changes would be in violation of the terms of a certain agreement entered into on the 21st day of April, 1916, between the Mountain States Telephone & Telegraph Company and the citizens of Salt Lake County, whereby said Company agreed not to charge tolls between the exchanges of Murray and Midvale and Salt Lake City.

Murray City, a municipal corporation of the State of Utah, entered its protest, alleging that the said changes, if installed, would be a serious handicap and hindrance to the growth and development of the City of Murray and the County of Salt Lake; that on the 21st day of April, 1916, said Company entered into an agreement with the citizens of Salt Lake County, agreeing not to charge tolls for service rendered between points in Salt Lake County and Salt Lake City, and asked that the application be denied.

After due notice, the case came on regularly for hearing, before the full Commission. June 9, 10, 11 and 12, 1921.

In connection with the rehearing granted in Case 206, evidence was submitted by the Company, by the Farm Bureau and by Murray City, the evidence of the two last named pertaining to the question of restricting the local service areas, and particularly as that question will affect service in Murray and Midvale, municipalities located near the City of Salt Lake.

This applicant seeks relief principally as to four matters:

1. Modifications in its toll rate schedule.
2. A change in the rural rate schedule.
3. The elimination of district service, sometimes called the restricting of local service areas.
4. Modification of schedule of residence rates in Salt Lake City, so as to eliminate residence measured service and establish an unlimited service, and the elimination of measured service in the City of Ogden, and the modification of the Ogden schedule as to both business and residence service.

The Company contended that the granting of its application in its entirety, even on the basis of conditions as they existed in 1920, would produce an increased revenue in the entire State of $193,000.00 per annum. This, of course, was an estimate; but it is claimed to be based upon a thorough study of the evidence introduced. It is also claimed that the propriety of thus increasing revenue and the necessity for it is borne out by the Company's condition, and as shown by the evidence, to the effect that from 1914 to the present time, the Company has sustained deficits in its operations for every year in the State of Utah. In Case 206, we discussed these deficits, and will not lengthen this report by again discussing them.

Actual operations for the year 1920 are as follows:

REVENUES

Exchange Service Revenue..........	$1,693,290.05
Toll Service Revenue	699,215.38
Miscellaneous Operating Revenues ..	* 94,493.13
Total Operating Revenue........	$2,298,012.30

*Indicates Loss.

EXPENSES

Traffic Expenses ....$	663,964.91	
Maintenance Expense (not including Depreciation)	334,704.77	
Commercial Expenses	228,917.06	
Insurance, Accident, Damage, Law..	5,595.13	
Telephone Franchise Requirements..	490.00	
General Expense, Benefit Fund, and Net Messenger	71,068.29	
Uncollectible Operating Revenue ...	9,973.05	
Taxes, Franchise, Occupation, Income and General	207,253.23	
Rent Deductions	11,750.85	
Amortization of Intangible Capital and Right-of-way	2,878.50	
	$1,536,595.79	
Depreciation of Plant and Equipment.	393,851.41	
Total Expenses & Depreciation....	$1,930,447.20	
		$1,930,447.20
NET INCOME		$ 367,565.10

Valuation as found by the Commission in Case 206..$8,662,167.11

Rate of Return on that amount 4.2% plus.

Applicant submitted evidence to show that for the two months' period, January and February, 1921, showed deficits upon the basis claimed by the Company of $33,000 per month. On the basis claimed by the Company, operations of this period would show a return of yearly rate of approximately 3.4 per cent. From the foregoing it is seen that the increases in revenues would not wipe out the deficit, but would substantially reduce it.

The Company submitted evidence tending to support its claims that to meet its obligations and to give adequate telephone service, make necessary extensions and improvements, undertake new construction and retain competent employees, it should earn a greater return than shown by the foregoing figures; that its wage scale cannot be reduced substantially; that during the war period, the wages of its employees were not unduly increased; that those increases were delayed until the end of the war period, by reason of the fact that revenue increases under regulation came more slowly than in industrial enterprises, and that wages even now are lower than those of most industries; that its taxes for 1920 have been increased over 1919 not less than $43,000.00; that a continuation of present conditions and results sustained in its operations will result in impaired telephone service and the inability of the company to perform its full obligations to the public, and that, therefore, its application should be granted in its entirety.

1. MODIFICATION OF THE TOLL RATE SCHEDULE

In 1912, the Company, after acquiring the properties of the Rocky Mountain Bell Telephone Company and other companies in the State of Utah, reduced the then existing toll rates from approximately ten mills to eight mills per mile. That schedule remained in effect until the year 1919, at a time when the properties were operated by the United States Government. The Government then installed a schedule of classified toll rates, which was designed to produce an improvement in the toll revenue situation as a whole throughout the United States, without regard to the variation in conditions in the several states, the requirements of no particular state were controlling.

A uniform system being adopted, these Government rates became effective, January 21, 1919. Toll revenues in Utah were thereby increased approximately six per cent over the pre-war schedule, installed in 1912; but

the schedule in 1912 voluntarily established by the Company, was 20 per cent lower than the one under which the people had been paying before its adoption. In 1918, the Company modified its toll schedule in many of the states of its territory, and increased its schedule of rates; but that had not been done in Utah. Hence, it was that the Government schedule effective January 21, 1919, produced the increase of six per cent above mentioned.

Some of the proposed schedules offer a classification of toll service which is lower than any service offered under the 1912 schedule. Some of the higher classifications exceed slightly the 1912 schedule. The net result of the general level of the revenues produced by the proposed schedule, will be approximately the same as under the schedule existing prior to 1912. The proposed schedule makes no increase in rates from 0 to 10 miles, or from 12 to 16 miles, or from 18 to 22 miles, or from 24 to 28 miles, or from 32 to 34 miles. Approximately 57 per cent of the total business is not increased at all; 24 per cent is increased only 5c per call; approximately 80 per cent of the business will be increased 5c or less.

The Company contends that the toll schedules in the various states in the territory in which it operates, should be on the same general level. The proposed schedule is now effective in Arizona, Idaho, Montana, New Mexico, Texas, Wyoming and Colorado, for all interstate business.

The business of applicant is conducted in many states, and the Commission is convinced that expenses in this State are not out of line with the expenses incurred elsewhere for this service; neither are they abnormal nor unreasonable, and we are of the opinion that a deficit from intrastate business as compared with interstate business, and revenues occurring in other states from their intrastate business, will be shown upon any reasonable, composite theory of division of revenue and expenses, interstate and intrastate, that can be devised. The increase sought will bring to the general level the intrastate rate to conform to the interstate rate. There is no reason why Utah should be excepted from the general rule. To do otherwise, would, in our opinion, discriminate against the interstate transmission of telephone messages.

Again, toll users of telephone service constitute only a small part of the patrons of the Company, only those persons whose business requirements are of a particular character use toll service. They do not use it unless the

value to them is greater than the cost. Otherwise, they use the mails or the telegraph. The proposed changes produce no excessive revenue, and the application in regard to the modification of its toll revenue, should be granted.

2. RURAL RATES

The Company seeks increases in the present rates on the grounds that there have not been for several years any increase in rural rates in the State of Utah, rural rates not having been increased at the time increases in urban rates were made. This is claimed to produce discrimination between urban and rural localities. It is also claimed there is discrimination as between rural patrons, in that under its present schedule of rates, rural subscribers who live farthest from the switchboard pay only the same rates as those who live in the immediate proximity, and it is claimed that the cost of maintenance, repair, etc., is much higher as lines extend farther and farther from the switchboard, and also the investment is much larger per station. The Company seeks relief from both of these conditions and asks for a rural classified or zone rate schedule.

It is claimed that rural service is more costly to produce than urban service; lines are longer; it takes more time to repair them, transportation charges are greater, and, by reason of the fact that more poles and wires are required, investment increases as the distance from the switchboard increases. It follows that those rural subscribers living nearest to the switchboard should pay a less charge than those living farthest. Under the present system of charges, that fact is not considered. Probably the only method which will meet this situation, is the zone method proposed.

While we are in sympathy with the general zone system, we believe that the present scale of rates should not be disturbed at this time, for the reason that the economic situation as affecting farming localities, is such that increased rates brought about by installing the zone system at this time, would create a situation resulting in cost of service greater than its value, and, under the circumstances, the application as regards rural rates, will be denied.

3. DISTRICT SERVICE

Midvale, Murray and Holliday, all of which places have exchanges at the present time may communicate by telephone with each other and with the City of Salt

Lake, without assessment of other than a schedule of exchange charges, which includes the area of each and all of these exchanges, and upon the payment of the so-called district service charge, the subscribers in these three exchanges may use the exchange lines and the inter-exchange trunk lines, or toll lines, without limitation.

The resident of Salt Lake, however, does not have that privilege. If he desires to communicate by telephone with a resident of Murray, Midvale or Holliday, he must pay the toll charge. This is a discrimination against the telephone users of Salt Lake City, and, indeed, all subscribers of the entire system, and in favor of the telephone users of these other localities above mentioned. Under the laws of this State, a discrimination of this kind and character is plainly not permissible. Either district service must be eliminated, or the exchange areas of Salt Lake must be extended to take in the exchange areas of the Midvale, Holliday and Murray exchanges, which means the greater part of Salt Lake County, for the reason that the rural lines out of these exchanges reach nearly every part of that county. If such a thing were at all feasible, the schedule of rates would have to be so increased in Salt Lake as to add to the Salt Lake charge for all subscribers the charges for similar service in these other localities. In other words, rates to produce revenues sufficient to approximate the sum of the other two charges. This would also be true of the other subscribers in the other three exchanges. Only a few subscribers would be benefited by this plan; but all subscribers taking service in this vicinity, would have to bear the burden, and that too for the benefit of a few, only.

Where communities are self-contained, are separately built up, maintain industries, stores, etc., and, generally speaking, are communities in and of themselves, there should be a telephone rate schedule for that community, with rates commensurate with the value of that service, and a toll or long distance service from that locality or town to all other localities or towns.

District service, sometimes called "inter-exchange service," was a development of the telephone business, which gained a foothold throughout the country in the earlier days of telephone development, when telephone companies were striving enthusiastically to increase their service areas, and before the economic side of the telephone business had been thoroughly understood, companies were

trying to surpass each other in the number of subscribers. It was a natural thing for subscribers to want to include in their local service areas as much territory as their influence could command. In many cases the companies acceded to these requests or demands from subscribers, as was the case here. Murray and Midvale exacted this type of service, and the other subscribers of the Company must bear the burden.

Experience developed that this method of furnishing service was unsound, inequitable and uneconomical. The general treatment of these situations was very generally along the same line; that is, the elimination of district service, or the restriction of local service areas was found to be the economical way to treat such situations. To extend the areas would simply mean rates so high as to preclude the giving of such service, and no other way has been found as a substitute. The extreme of the situation is found in Chicago and New York, where it is necessary to make local service areas within the cities themselves, and establish what is known as zone rates, toll rates applying between the several zones.

We have examined a large number of cases where this question has come before commissions and almost invariably the treatment accorded the subject has been to eliminate district service, rather than to extend the exchange area of the larger exchange, so as to include the exchange areas of a number of smaller exchanges. With the elimination of district service, commissions generally provide for an exchange schedule for each exchange, based upon population, the number of stations, etc. Where the smaller exchanges are situated not far distant from the large exchange, as in this case, a system of special toll rate charges is provided by which if a particular person is called, the same operations and movements are necessary as in the ordinary long distance call. Where a call for a number in a particular city, say Salt Lake, is to a number in another community, say Murray, is made, then a special two number rate is provided, and the calling party in Salt Lake would simply ask the operator in Salt Lake for the number. To illustrate: Murray 120, and immediately the Salt Lake operator connects the Salt Lake subscriber with the number in Murray, or vice versa, as the case may be.

The standard long distance station toll charge between Salt Lake City and Murray or Holliday is 10c, but under this system, the charge between Salt Lake City, Murray and

Holliday and Midvale, would be 5c, and between any one or more of the three small exchanges, 5c. Where a particular patron's wants are of great importance and therefore of great worth to the patron, and the location of the phone is such that it cannot be served within the exchange area of a particular exchange, the general tariff of the Company provides a foreign exchange mileage rate. In such circumstances, the patron in one exchange area is connected with a switchboard to another exchange area. The costs of operation and maintenance of this class of service are greater, and therefore a higher rate is collected. If there are any such special cases in these similar towns, such service is available.

There is no doubt that many subscribers in Murray have use principally for telephone service only within the exchange area of Murray. The same is true as to other exchanges. There are some subscribers in each of these exchanges who have need of frequent communication with subscribers in other areas. A way should be provided for their so doing; but that means should be provided by a system of trunk or toll lines, not by enlargement of exchange areas.

Service can be given in the local area of Murray cheaper than it can where the service covers both Murray and Salt Lake, and so with all the other named areas. It is unfair and discriminatory to charge those persons who need only the service in any one of these local areas, a rates that would be commensurate with the costs of giving service over the enlarged area.

This question has been before many commissions, and we have examined numerous opinions. The principle of eliminating district service wherever possible, is economically sound, and where discriminatory practices exist, such as here, the continuation of such practice is illegal and is supported by the following Commission and Court decisions:

The Arizona Commission, in the case of *Re Mountain States Telephone & Telegraph Company,* P. U. R. 1917-E, 251, had before it an application to eliminate district service between Glendale and Phoenix, Arizona, and to apply a standard toll charge for such service. The Commission said:

> "Free toll service between the Glendale and Phoenix exchanges is a *discrimination* against every other exchange located within the state of Arizona not having a like privilege; and it is apparent that

there are other exchanges within the state that would be entitled to a similar service in the event that we allowed a free service between the town of Glendale and the City of Phoenix."

The South Carolina Commission permitted the Southern Bell Telephone & Telegraph Company (113 C. L. 1119) to substitute toll rates for district service, and in the opinion said:

(Decided March 24, 1921, Order 229.)

"The Commission also finds, under the laws of South Carolina, that it cannot demand a service from any individual or corporation without compensation for such service. To allow free service between the exchanges, as above outlined, is to maintain a *discrimination* among subscribers of the Southern Bell Telephone & Telegraph Company for service through its several exchanges, inasmuch as a great majority of the subscribers does not enjoy free service from one exchange to another, notwithstanding they are taxed to maintain such service for others. Investigation shows that a great portion of the time the circuits provides for such use, as above described, are being used by non-subscribers and by parties contributing no revenue whatever for such service, which service is performed to the detriment of the party actually bearing his pro rata share of the cost of such service. It certainly cannot be reasonable, just or equitable for some exchanges to enjoy this privilege while others paying the same proportionate rate for service are not permitted to enjoy a like privilege.

"The Commission is of the opinion that the subscribers of the telephone Company who actually pay for maintenance of this service would prefer to pay a reasonable toll rate and be assured of service, than to depend upon the use of a so-called free service that is almost wholly monopolized by messages of no import, usually of a social nature, many times children and others holding the lines for messages of this kind, causing important business messages to be delayed. This practice, therefore, should cease, and the discrimination resulting therefrom ended."

In a recent case, the Oregon Commission, in discussing this question, said:

> "Discriminations have existed between communities as well as classes of patrons. Communication from Oak Grove and Milwaukee to Portland has been permitted without charge, a five cent toll rate being required in the opposite direction. The latter charge was frequently evaded by pre-arrangement of calls. Subscribers in these towns thus received what was virtually Portland service. They received it for less than Portland rates, though the cost of giving it was more, on account of distance. Under the present tariff a five cent toll rate is charged in each direction and the exchange rates have been slightly decreased.
>
> "Milwaukee now proposes that it pay the Portland rates and be included in the Portland primary rate area, arguing that it is only a mile outside the city limits. Oak Grove amends by proposing that the area be extended to the Clackamas River. The Clackamas River is just outside the city limits of Oregon City, so it would be unreasonable to resist the claim that Oregon City, too, should be included with Portland.
>
> "The size of the primary rate area, as well as the number of users in it, is an important factor in cost, and consequently in rates. The boundaries of the primary rate area must be restricted as much as practicable in the interest of the subscribers. Inclusion of Oak Grove and Milwaukee would mean that the extra cost of serving them would be laid on the Portland rate area. The line must be drawn somewhere and we can see no other place as suitable as at the city limits.
>
> "In large cities, like New York and Philadelphia, it has been found advisable to establish separate rate areas within the city lines. These zones may be separated only by the center line of a street which is solidly built up on each side, yet toll rates are charged for communication between areas.
>
> "It was shown by the Company at the hearing that the total of the charges to the sub-subscribers in Milwaukee in the month of April at the Portland exchange rates would have been more than the charges actually paid, toll and exchange

combined. With a toll charge of only five cents, it is not conceivable that any necessary messages were not sent, although doubtless much unnecessary conversation was eliminated. It is evident that if Milwaukee were included with Portland at the request of a few whose total charges would be lowered, there would be at once a vigorous protest from the larger number whose charges would be increased."

Numerous decisions could be cited to the same effect. It is apparent that district service is considered discriminatory by practically all of the commissions in the United States. We call attention to other cases that have come to our attention:

The case of Farmers Committee of Laurel vs. Mountain States Telephone & Telegraph Company, (P. U. R. 1915-E, 54,), Montana Commission.

Farmington Chamber of Commerce vs Mountain States Telephone & Telegraph Co., (P. U. R. 1915-F, 630), the New Mexico Commission.

In the matter of the application of Wray Telephone Company,—the Colorado Commission (112 C. L., 536,—decided Feb. 16, 1921, Case No. 114).

The case of Lincoln Telephone & Telegraph Co., (111 C. L., 317,—decided Jan. 15, 1921, Application No. 4164.)

Application of the Hamilton Tel. Exchange, (1117 C. L. 409,—Decided May 17, 1921, Docket No. 3596) Kansas Commission.

Case of the Southwestern Bell Telephone Company, (C. L. 119, at 1154, Case No. 2697,—Decided September 28, 1921) Missouri Public Service Commission.

In re Michigan State Telephone Company, (96 C. L., 89,—Decided September 23, 1919) Public Utilities Commission of Michigan.

Edwards vs. Glen Telephone Company (P. U. R. 1916-B, 965) New York Commission.

Scribner vs. Bell Telephone Company (P. U. R. Ann., 1917-E, 529) Pennsylvania Commission.

Coos Telephone Company (P. U. R. 1918-F, 601) New Hampshire Commission.

There is a particularly clear case of discrimination involved in the service Salt Lake City to Murray. If a subscriber in Murray calls a subscriber in Salt Lake, there is no toll charge. However, if the process be reversed and a Salt Lake subscriber initiates a call, using the same instrumentalities, the charge is 5c. (This sort of thing came about through pressure brought to bear upon the Company at the expense of Salt Lake, and the service generally. This discrimination is being aggravated by pre-arrangement of calls, so that calls properly originating in Salt Lake City are reversed and orginate in Murray, thus evading the toll charge.)

District service should be eliminated. We have already discussed the impracticability of making a very large exchange area for this entire district. There remain to fix charges for inter-communication between exchanges. The so-called two number toll system should be established, with a 5c cent charge for direct calls between Murray, Holliday, Midvale and Salt Lake. Applicant asks that charge to Midvale be made 10c. We believe, however, the charge should at this time be universal at 5c and the local rates named in the application for business and residence, for the exchanges of Murray, Midvale and Holliday, approved. In adition to this, those patrons whose business demand it, may avail themselves of the foreign service provided by the general tariff now in effect in this State.

MODIFICATION OF THE SALT LAKE CITY AND OGDEN SCHEDULES

This Commission is of the opinion that residence measured service should be eliminated as rapidly as consistent and a flat rate schedule instituted, which would give the subscriber unlimited service.

There is a value in residence service, influenced more by the amount of use permitted under a fixed charge, than business service. Residence service is one of social use. While measured service was adopted more or less as an emergency measure, growing out of war conditions, we feel that a city of this size should not be compelled to continue using this type of service.

At the time of our decision in Case No. 206, the Commission ordered an increase in the number of calls in each of the classes of measured service mentioned in its schedule. To this the Company demurred, and asked for a rehearing upon that question, as well as other grounds.

The Company asked in this application for the approval of a schedule of flat rate residence service in Salt Lake City and the elimination of measured service, entirely. The proposed schedule is as follows:

Individual Line	$48.00
Two Party Line	42.00
Four Party Line	36.00

Upon the rehearing, the Commission issued its opinion and order, naming the same number of calls for each class of residence service as that named in its order in Case No. 206, which is now before the Federal Court, a restraining order having been served upon this Commission, restraining the Commission from enforcing such order.

The Commission has not changed its views upon the desirability of the elimination of measured service; but at this time it would seem that to entirely eliminate measured service, might result in a hardship to that class of patrons of the Company who need service and cannot afford to pay the rates necessary to meet the cost of giving unlimited service. The service, generally, would be improved were there only unlimited service; but the necessity of giving a class of service at a less price than unlimited service can be given for at this time, outweighs the other consideration for the present.

We have given full consideration to the matter, and believe there should be a four party, measured service, as well as a four party, flat rate service. The other classes of measured service will be eliminated. We understand that under the restraining order, we may not increase the number of calls to subscribers, and we are not seeking in this opinion to interfere with that order. The Company asks for a four party line, flat rate charge at the rate of $36.00 per annum. We believe that this is too high, and that the charge for this class of service should not exceed $2.50 per month, or $30.00 per annum. Accordingly, the residence schedule for Salt Lake City, shall be:

Individual line, unlimited	$48.00 per annum
Two party line	39.00 per annum
Four party line	30.00 per annum

Four party, measured service continued, as heretofore indicated.

The Company has asked for Ogden an increase of $1.00 per month in its one and two party business, and also an increase in residence service of 25c per month. We are of the opinion that these service rates should not be increased in excess of 50c per month. Residence rates should be increased 25c, to the following scale of charges:

One party line, unlimited	$39.00
Two party line	33.00
Four party line	27.00

There are approximately 270 residence telephones in Ogden on measured service. While we feel that measured service in communities of this size should be eliminated, we believe present subscribers should be permitted to retain this class of service until, of their own volition, they select some other class, thus gradually eliminating measured service.

The Commission has given close attention to the revenues and expenses of this Company for the past five years. It has heard rate cases from time to time, growing out of applicant's financial condition for almost three years. This case has been pending for more than one year. In these cases much testimony has been introduced, many witnesses have been examined, a great number of exhibits introduced and analyzed, and a voluminous record made for the consideration of the Commission, which evidence the Commission may not ignore.

Some question has been raised as to the acceptance of the physical account of applicant's property by the Commission. The Commission made an actual count of numerous sections of the applicant's property in widely scattered districts, and without previous advice to the Telephone Company as to which districts were to be checked, so as to satisfy itself of the substantial accuracy of the physical count, before accepting it, and it does not believe that it would be justified in incurring expenses upon the part of the State to count each and every article of the inventory.

A plea has been made that the applicant, having gotten along thus far and realized a return in the neighborhood of 4 per cent. with an additional amount for depreciation, should continue to operate without increased rates. (This rate of return upon the property as a whole, is plainly confiscatory.) It is obviously our duty to grant sufficient revenues to satisfy the demands of Law and

equity. It is not optional with the Commission as to what rates shall be. This principle of regulation is well known to require lengthy discussion.

Again, this Company is a public utility, and not a private enterprise. It cannot fix rates as it pleases, nor can it, in boom times, charge excess rates sufficient to tide over a period of depression. Under regulation, there are no profits realized by utilities from rates, as that term is generally known. Without regulation, rates would undoubtedly have been much higher in the past and would have reached their peak some years ago. Rates based upon the theory that revenues accruing shall yield only a fair return, obviously make it impossible to require a utility to bear the full burden of depressed times.

Some witnesses testified that they opposed any increase in rates.

We are in accord with the Oregon Commission in the case above cited. In discussing a similar line of testimony, that Commission said:

> "A score of witnesses were put forward to say that they opposed any increase in rates. This was not necessary. Every man of reason knows that no one wants to pay more for service. The witnesses are not more averse to paying higher rates than this Commission is to ordering them paid."

Again, telephone companies must grow on an ever-increasing scale in order to meet the demands of the public for service. Under the theory that only a fair return is permitted upon the property used and useful in giving public service, the utility must make extensions out of new capital, unless money representing the investment in the property already made is earning a reasonable rate of return, commensurate with the going rate for money invested in property of approximately like risk, new money cannot be obtained. To illustrate: When new equipment is installed and extensions are made, the Company must obtain the same outside of the returns from the rate payer for service for the money to pay the cost of installation. In securing money for such purposes, it must be remembered that the prospective investor will not give up his money unles the earnings of the property already in operation are sufficient to induce him to invest. Thus, it is that revenues cannot be expected to be kept

down to the point of confiscation and the same time permit the normal growth of the utility and insure efficient and sufficient service to the public.

While the foregoing is a fundamental concept of regulation, we have repeated it here because it appears to be frequently overlooked by objectors.

The increases we have granted, after a full consideration of this case, are only such as we believe will comply with the foregoing.

An appropriate Order will be issued.

(Signed) WARREN STOUTNOUR,

(SEAL) Commissioner.

Attest:

(Signed) T. E. BANNING,

Secretary.

MINORITY REPORT

HEYWOOD, Commissioner:

The petition in this case was filed May 4, 1921, whereupon, subsequently the matter was duly and seasonably heard by the Commission, evidence being introduced at great length by the Telephone Company; and, now the case being submitted, the following findings are made:

STATEMENT

On July 31, 1918, the United States Government took over the possession, control and operation of the system of the Mountain States Telephone & Telegraph Company, and continued to operate the same until July 31, 1919.

During the period of government control, the Postmaster General, representing the government, inaugurated a system of service connection charges and, from time to time, made changes in the schedule of exchange for toll rates in accordance with the power accorded by an act of Congress.

On July 21, 1919, the Telephone Company filed with this Commission an application, alleging that it would be impossible for it to render adequate service on a less net revenue than was then being received, and that it was imperative, in the interest of good service to continue in effect after the return of the property to the Company the rates and charges as amended and changed by action of the Postmaster General, and asked that the same be approved and continued in effect. (Case No. 206.)

In accordance with the petitioner's desires, a thorough investigation was made by the Commission into the investment, revenues, expenses and affairs of the Company, and, after such investigation, the Commission, on March 29, 1921, issued its report approving and continuing in effect permanently the said Government's charges and rates.

There was, however, in its report some change made by the Commission in the measured rates to be charged, and the Telephone Company feeling that this measured rate order was confiscatory, procured an injunction in the District Court of the United States, forbidding the same to be put in effect by the Commission.

On May 4, 1921, a new case was filed by the Telephone Company, asking to be allowed to advance the rates upon toll and certain exchange rates.

FINDINGS

1. The statement of the Telephone Company for the year ending December 31, 1921, shows net income of $7.57 per share against net in 1920 of $7.19 per share.

The absence of this Commission making a complete physical check of the replacement cost introduced by the Telephone Company, makes it permissible to use whatever data there is before us to determine what is a legitimate return on the investment. The financial statements put out cannot be denied and no attempt has been made by the Company to show wherein the return therein shown should not be accepted.

A reqest for higher rates is not warranted upon the evidence.

2. Murray City enjoys her present rates by reason of an arrangement entered into, after much patience and effort exercised by the committees appointed by Salt Lake Civic Organization, the Telephone Company and Murray.

While the Commission can undoubtedly, if found warranted, grant new rates, it should be done only when other cities similarly situated are brought in and uniform schedules made for them all.

3. The measured rates apparently need adjustment; but the United States District Court having taken jurisdiction, this Commission will, of course, obey its mandate and suspend further activities.

4. Petitioner should have leave to withdraw.

(Signed) A. R. HEYWOOD.
Commissioner.

Attest:

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

GREENWOOD, Commissioner—Concurring.

In concurring in the final conclusions reached by the majority of the Commission which, under the showing made by the Telephone Company, the representations and opposition of the protestants, together with the careful work of checking up and auditing all matters which would shed any light upon the questions involved, and plumbing the weight of the testimony to the requirements of the law as it has been interpreted by the courts and numerous commissions, clearly supports such report as being justly and legally made. I am not unmindful of the attitude of the patrons of the Telephone Company in their objections to the advancing of any rates or changing any rules sought by the Telephone Company. The rates changed and rules affected, however, by the report are limited to certain patrons.

Some modifications of the rules and requirements of the Postmaster General, which were adopted in war times, have been heretofore, by this Commission, modified in favor of certain subscribers but were not accepted by the Company and the final disposition of the same is now in the Federal Courts upon an injunction to estop the Commission from enforcing its orders, upon the grounds and for the reasons that an enforcement of said findings would clearly be confiscatory. Such claim of confiscation is predicated upon the fact and for the reason

that the Company's property was being used without just and legal compensation for the same. Hearing and disposition of said injunction has not been had.

A careful checking up of the operation of the Company within the State of Utah, together with the value of its property discloses the fact that the returns from its operation under the present rates are not sufficient to pay a reasonable income on the investment made, and is as follows:

Net Income for the year 1920......$365,565.10.

Added to said amount, the estimated increase, which would result under the operations proposed by the Company of $193,000.00 would amount to $560,565.10, which would be 6.3 per cent return on the Commission's value of the Company's property. The estimated increase, however, cannot be realized, for the reason that the rates asked for have been, in some instances, cut down and will necessarily decrease the amount to be earned below the amount estimated. That being true, the rate of return would not be greater than between five or six per cent.

The figures submitted have been carefully studied and form a basis for calculating and deciding what rates should be allowed. The record so made must stand as a guide in reaching conclusions as against outside figures given by publication or otherwise, which have not been introduced as testimony in the course of the Commission's investigation.

Every effort has been put forth to get to the very bottom of the matters submitted, and a study made as far as time and means have been at the disposal of the Commission.

The following as set out in the report briefly shows the changes which will be affected.

RESIDENCE SERVICE SALT LAKE CITY

	Old Rate	New Rate
Measured Service, Individual line......$33.00, with 660 calls eliminated.		
2-party line	39.00 per year	39.00 per year
4-party line	none	30.00 per year

MEASURED SERVICE SALT LAKE CITY

Individual line ....$33.00, with 660 calls eliminated.
2-party line .... 27.00, with 540 calls eliminated.
4-party line, $24.00, 480 calls, no change.

RESIDENCE SERVICE OGDEN

Individual line, unlimited, old rate $36.00: new rate $39.00
2 party line, unlimited, old rate... 30.00: new rate. 33.00
4-party line unlimited, old rate $24.00, new rate $27.00.

MEASURED SERVICE OGDEN

4-party line, old rate $21.00, 420 calls per year, no change.

The change affected by distance is as follows:

Old rate 12 miles 10 cents: 8.3 mills per mile.
New rate 10 miles 10 cents.
Old rate 12 to 24 miles 5 cents each 6 miles or 8.3 mills per mile.
Old rate over 24 miles 5 cents each 8 miles or 6.25 mills per mile.
New rate 10 to 70 miles 5 cents each 6 miles or 8.3 mills per mile.
New rate over 70 miles 5 cents each 7 miles or 7.14 mills per mile.

The question of telephone rates between Salt Lake City, Murray City and adjacent points raises the issue of discrimination. The history of the service by the Company in the vicinity of Murray presents some matters of disagreement years ago, and charges of breaking and interfering with special concessions are made against the Telephone Company.

In its application it further appeared that under such alleged agreement and practice, no charge has been made on calls from such places to Salt Lake City, while a charge of five cents has been collected from Salt Lake City for a return call. While there would be a small amount of revenue resulting from a changed operation, yet the important thing here to decide and the main reason for ordering a change in such practice is to meet the demands and requirements of the law. It cannot be determined and decided upon what concessions and agreements or privileges which have been made and extended heretofore. The question now before this Commission, and upon which the Commission must pass, is as to whether or not such service amounts to a discrimination under the law.

It cannot be decided upon the arguments as to what may be the practice in other communities. The question to be settled is: does the practice as now maintained amount to a discrimination under the law? If it

does, there is but one answer: it is the duty now, and will continue to be the duty of this Commission to so adjust like matters as will conform to the law.

The question of whether or not utilities at this time should be allowed to retain present rates or be ordered to reduce or increase the same is one which the public is deeply interested in, and the argument is advanced and the contention made that when and where material and other costs of giving service is downward, the charges and rates should follow and reduction made accordingly.

Nothing could be more reasonable and logical and such contention would be prima facia well supported if, at the time of the peak of costs, a reasonable rate of return was being received, but, if at the time of the high costs for giving service, rate returns were low and had not been advanced in keeping with the advanced costs of producing service, then, in that event, the above rule should be to some extent modified.

It is with some disappointment and surprise that an investigation of this subject discloses the fact that the costs of giving service in many cases have been so slow to yield to the demands of the public in its expectation of reduced rate costs. Not only is this true of service corporations but in the general business interests, and so the public, who are most interested must in a degree be dissatisfied, such dissatisfaction proceeding from the failure of prices and rates to meet the anticipation of adjustment of costs downward.

During the period of advanced prices, many business interests suffered losses and the contention was advanced that all interests should share, take part and suffer in the decline of net earnings. This contention especially has been urged in the matter of rates charged and collected by service corporations under the control of the State through a Commission. Such contention is answered by the public corporations and they place their argument against such contention upon the fact that while all other interests were at liberty to advance prices and rates without any power or influence to control them, the controlled service corporations were prevented from any such advance except upon a showing that they were entitled to the same, and that the advances allowed were not such as kept pace with the increase of costs of giving service, and that the rule above referred to, in the event of reduced cost of giving service or furnishing commodities,

should be followed with considerable care and consideration for reason that the advances allowed by the Commission, during the high costs of giving service, will disclose the fact that rates allowed and the returns made thereby could not be considered reasonable earning for the investment.

There is a natural tendency by some to pass judgment upon immediate results and interests without regard to what may follow, no matter how serious they may be to the general public; the public wants, and it is entitled to a reasonably good service, with a reasonable profit to those who give it. There is a speculative return or profit in a state regulated business, for the reason that returns cannot be and are not guaranteed. The regulations of rates must be founded and based upon facts, and never upon fancies or unwarranted conclusions.

The question of reasonable rates and a return therefrom has been discussed by courts and commissions for some time; and while there is no fixed rate of return, the matter is largely influenced by conditions and circumstances, the nature and kind of business under which the service is given, costs of giving same, and the net result for such service. Reasonable earnings, it would seem, would contemplate that which would reasonably attract investment by way of loans and purchase of bonds issued. etc. The continuation and financial development of the business of the public utility depends to a great extent upon the net results of their operation.

One of the most vital and important questions before the public today is the preservation and maintenance of service corporations in being equipped and able to render service. With the giving of service is connected the very important matter, "the cost of giving the same," as such cost constitutes, to a great extent, the measure of rates to be collected from the public, and, under the new system of public control by the State, there is a responsibility assumed by reason of such authority and control.

The findings in this case are made upon the evidence submitted at the hearing, and it will appear that considerable time has elapsed before a report was made.

From data furnished by the Company and filed with the Commission of its operations for the years 1920, 1921 and 1922 the following appears:

1920—4.2 per cent on the valuation found by the Commission.

1921—4.15 per cent on the Commission's valuation in Utah.

Taking the first five months of the year, we get from data the following:

1922—3.1 per cent on the physical valuation as found by the Commission of the Company's property in Utah.

As set forth in the report, if the increases were allowed as proposed by the Telephone Company, it would approximately make a return to 6.3 per cent. However, it might be fair to here say that the estimate allowed by the Commission would not be more than 60 per cent of what is asked for, and the estimated returns would be about 5 per cent under the rates fixed by the order.

If the courts uphold the order heretofore made, in which a refund was awarded to the measured party line patrons, it is estimated that it would require about $45,000.00 to meet such a refund.

It is difficult for controlled utilities to serve without support of the public, and the difference existing, on account of rates which it is claimed are too high, must, and can, only be removed by a closer and more intimate understanding and relationship.

The work of adjusting and fixing rates and rules, which control and regulate services given by service corporations, is not done in a perfunctory manner or with any purpose of discrimination or favoritism. Much assistance in the work of producing a more intelligent and reasonable understanding between the givers of service and the patrons could be occasioned by a spirit of fairness on the part of some who attempt to enlighten and influence the public.

(Signed) JOSHUA GREENWOOD,

(SEAL) Commissioner.

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 July, A. D. 1922.

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. 206A.

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 Mountain States Telephone & Telegraph Company, for permission to increase rural telephone rates within the State of Utah be, and is hereby, denied.

ORDERED FURTHER, That the application of the Mountain States Telephone & Telegraph Company, for permision to increase its toll rates within the State of Utah be granted, and applicant be, and is hereby, permitted to establish increased toll rates which will not exceed those set forth in the foregoing report.

IT IS FURTHER ORDERED, That applicant, the Mountain States Telephone & Telegraph Company be, and is hereby, authorized to discontinue district service between Salt Lake City, Midvale, Murray and Holliday and to establish and put into effect a rate of five cents per call between said points.

ORDERED FURTHER, That applicant, the Mountain States Telephone & Telegraph Company be, and is hereby, permitted to establish and put into effect in Salt Lake City rates for residence telephone service which shall not exceed the following:

Individual line unlimited service	$48.00	per year.
Two party line unlimited service	39.00	per year.
Four party line unlimited service	30.00	per year.

ORDERED FURTHER, That measured telephone service within Salt Lake City be discontinued, excepting four party residence service, which shall be continued at the present rates.

IT IS FURTHER ORDERED, That applicant, the Mountain States Telephone & Telegraph Company be permitted to establish and put into effect rates for telephone service in Ogden, Utah, which rates shall not exceed the following:

Business one party unlimited service	$90.00	per year
Business two party unlimited service	78.00	per year
Residence individual line service....	39.00	per year
Two party line service.............	33.00	per year
Four party line service............	27.00	per year

ORDERED FURTHER, That subscribers located in Ogden, Utah, now receiving measured service be permitted to retain that class of service under the present rates until such time as such subscribers desire to use a different class of service.

ORDERED FURTHER, That applicant be permitted to establish and put into effect rates for telephone service in Murray, Midvale and Holliday which shall not exceed the following:

BUSINESS RATES		RESIDENCE RATES	
One party..	$54.00 per year	One party..	$27.00 per year
Two party..	48.00 per year	Two party..	24.00 per year
		Four party.	21.00 per year

IT IS ORDERED FURTHER, That the rates herein above set forth may be made effective August 1, 1922, upon three days notice to the public and to the Commission, such notice to be given by publishing and filing schedule naming such rates in the manner heretofore prescribed by the Commission.

ORDERED FURTHER, That schedules naming such charges shall show in connection therewith the following notation:

"Issued upon less than statutory notice by authority, Public Utilities Commission of Utah, Case No. 206-A, dated at Salt Lake City, Utah, the 27th day of July, 1922."

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, to change toll, rural and certain exchange rates, and to restrict certain local service areas in the State of Utah.	CASE No. 206-A.

Submitted September 8, 1922. Decided September 11, 1922.

Appearances:

For Applicants:

David W. Moffat, for Salt Lake County Farm Bureau.

Wm. H. Folland, for Salt Lake City.

Geo. G. Armstrong, R. McCullough, for Salt Lake County.

Tudor S. Rogers, for Sandy City.

L. B. Hampton, for Chamber of Commerce of Salt Lake City.

John E. Pixton, for Murray City.

For Protestant:

Milton Smith.

REPORT AND ORDER UPON APPLICATION FOR REHEARING

By the Commission:

Above matter came on for hearing the 6th day of September, 1922. Parties represented were Sandy City, Salt Lake County, Midvale City, Salt Lake City, Murray City, Salt Lake County Farm Bureau, Chamber of Commerce Salt Lake City, Holliday, et al.

The matters set forth in the applications and motions were presented and arguments made thereon, as well as the protests for a reopening on the part of the Mountain States Telephone & Telegraph Company.

After a careful consideration of the matters submitted, the Commision is of the opinion that the case should be reopened and an opportunity be given to the

parties hereto to present any facts, figures, circumstances or conditions which would tend to throw any additional light upon the questions involved in the rates, rules and regulations now being operated under by the Mountain States Telephone & Telegraph Company.

The reapening of this case is made upon the motion of the Commission itself. The day of hearing will not now be fixed for the reason that it is the intention of the Commission to give to the parties necessary time and opportunity to make such investigations and prepare such data, figures and evidence that will shed any light upon the matters in question.

The records of the Commission, together with all statements, evidence, reports and hearings heretofore had and filed may be opened for the perusal, investigation and examination of the parties concerned or their representatives and when the work of preparation for further hearing is completed on the part of the applicants, they will signify the same to the Commission and that thereupon a date will be fixed, giving such publicity by way of notices so that all parties herein may appear and be heard, and it is so ordered.

(Signed) A. R. HEYWOOD,
(Signed) WARREN STOUTNOUR,
(Signed) JOSHUA GREENWOOD,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Investigation of Special Contracts of the UTAH POWER & LIGHT COMPANY for Electric Service.	CASE No. 230.

Submitted June 27, 1922. Decided July 11, 1922.

Appearances:

W. W. Ray, for Judge Mining & Smelting Company.

J. F. MacLane, for Utah Power & Light Company.

REPORT OF THE COMMISSION

By the Commission:

In Case No. 230, decided October 18, 1920, the contract of the Judge Mining & Smelting Company with the Utah Power & Light Company was one of several contracts the Commission did not finally pass upon, jurisdiction being retained over the same for the purpose of further consideration and investigation, particularly as to the special consideration under which this consumer received service. Pending such further hearing and investigation, however, the rates, rules and regulations prescribed in the standard schedules of the Power Company on file with the Commission were ordered applied to the service of this consumer.

This case was set down for further hearing and investigation, June 27, 1922, at which time a contract termed "adjustment contract" and dated June 15, 1922, covering the adjustment of matters at issue in the application of the power schedules to this consumer's service, was filed with this Commission, having been executed by the Park City Mining & Smelting Company, successors to the Judge Mining & Smelting Company, and the Utah Power & Light Company. This contract has been carefully examined by us, and is regular and in accordance with the law, and is,

therefore, approved by the Commission. The case as to this consumer should be closed.

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. 1922.

In the Matter of the Investigation of Special Contracts of the UTAH POWER & LIGHT COMPANY for Electric Service. } CASE No. 230.

This case being at issue upon motion of the Commission, 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 proceedings in the above entitled matter be, and they are hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Investigation of the Special Contracts of the UTAH POWER & LIGHT COMPANY for electric service.	CASE No. 230.

Submitted June 28, 1922. Decided July 11, 1922.

REPORT OF THE COMMISSION

By the Commission:

In Case No. 230, decided October 18, 1920, the contract of the Progress Company with the Utah Power & Light Company was one that the Commission did not finally pass upon, jurisdiction being retained over the same for the purpose of further consideration and investigation, particularly as to the special consideration under which this consumer received service. Pending such further hearing and investigation, however, the rates, rules and regulations prescribed in the standard schedules of the Power Company on file with the Commission were ordered applied to the service of this consumer.

Under date of June 20, 1922, The Progress Company, by Chester P. Cahoon, General Manager and Secretary, wrote the Commission as follows:

> " * * * The sale of the Progress Company system to Utah Power & Light Company, as aforesaid, has also terminated any further claim of The Progress Company to special consideration in connection with your proceedings in Case No. 230. (its claims and rights in that respect having been transferred and relinquished to The Salt Lake Pressed Brick Co.) and with your acceptance of this contract submitted herewith The Progress Company hereby formally states that it has no further claims to offer before your Commission in connection with said Case No. 230, and that said case may be closed as to The Progress Company."

After full consideration of all the matters and things contained in its agreement dated April 30, 1922, with the Utah Power & Light Company, and submitted to the Com-

mission for its consideration, we are of the opinion, and so find, that, as to the Progress Company, this case should be closed.

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. 1922.

In the Matter of the Investigation of Special Contracts of the UTAH POWER & LIGHT COMPANY for Electric Service. } CASE No. 230.

This case being at issue upon motion of the Commission, 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 proceedings in the above entitled matter be, and they are hereby, dismissed.

By the Commission.

(Signed (T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Investigation of Special Contracts of the UTAH POWER & LIGHT COMPANY for Electric Service.	CASE No. 230.

Submitted September 26, 1922. Decided October 30, 1922.

Appearances:

James Ingebretsen, for Salt Lake Pressed Brick Company.

John F. MacLane, for Utah Power & Light Company.

REPORT OF THE COMMISSION

By the Commission:

In Case No. 230, decided October 18, 1920, the contract of the Salt Lake Pressed Brick Company with the Utah Power & Light Company was one of several contracts the Commission did not finally pass upon. Jurisdiction was retained over this contract for the purpose of further investigation and consideration, particularly as to the special consideration under which this consumer received service. Pending such further investigation and hearing, the rates, rules and regulations prescribed in the standard schedules of the Power Company on file with the Commission were ordered applied to the service of this consumer.

On September 26, 1922, a contract termed "Adjustment Contract" and dated September 1, 1922, covering the adjustment of matters at issue in the application of the power schedules of this consumer's service was filled with this Commission, having been executed by the Salt Lake Pressed Brick Company, John P. Cahoon, President, and the Utah Power & Light Company, by S. R. Inch, Vice-President and General Manager.

This adjustment contract has been examined by us and is regular and in accordance with the law, and is,

therefore, approved by the Commission and the case of this consumer should be closed.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
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 3rd day of November, A. D. 1922.

In the Matter of the Investigation of Special Contracts of the UTAH POWER & LIGHT COMPANY for Electric Service. } CASE No. 230.

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 proceedings in the above entitled matter with relation to respondent, Salt Lake Pressed Brick Company, 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 SALT LAKE & DENVER RAILROAD COMPANY, for a certificate of convenience and necessity authorizing the construction of a line of railroad.	CASE No. 253.

Submitted February 14, 1922. Decided February 17, 1922.

James A. Howell for petitioner.

REPORT OF THE COMMISSION

By the Commission:

In an application filed February 6, 1922, the Salt Lake & Denver Railroad Company asks an extension of two years from February 25, 1922, in which to begin construction work on its proposed railroad from a point at or near Provo, Utah, to the Colorado-Utah State Line through Uintah Basin, as authorized by Certificate of Convenience and Necessity No. 71, issued by this Commission February 25, 1920.

Hearing was held on this application February 14, 1922. Petitioner represents that it has expended upwards of $35,000.00 on preliminary work and is at this time engaged in developmental work, and, if the extension of time sought is granted, will continue with due diligence.

Testimony of petitioner is to the effect that much exploration work is necessary before a final survey is determined upon in order to provide the most feasible route and furnish the best facilities to the territory to be served.

The Vernal Commercial Club by letter protested the granting of additional time in excess of twelve months, alleging that the holder of a certificate of convenience and necessity held the key to the transportation problem of Uintah Basin, and, under these conditions, no other carries could or would attempt the construction of a line of railway over this route. The Myton Commercial Club by telegram opposed any extension of time.

It appears to the Commission that applicant is the only hope the Uintah Basin has at this time to secure railroad facilities so much to be desired, and that recog-

nition should be given the efforts which have been made by this applicant, and the Commission therefore finds that the application should be granted and the time in which the Salt Lake & Denver Railroad Company be required to begin active construction work be extended to February 25, 1924.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,
Commisioners.

(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 February, A. D. 1922.

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 two years from February 25, 1922, in which to commence active 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 BAMBERGER ELECTRIC RAILROAD COMPANY for permission to abolish Sjoblom's Crossing.	CASE No. 256.

Submitted June 9, 1922. Decided October 30, 1922.

Appearances:

R. O. Gwilliam of the firm of Devine, Howell, Stine & Gwilliam for Petitioner.

Mayor Nephi Palmer and Daniel Alexander for Farmington City.

County Commissioners of Davis County for Davis County.

Andrew Sjoblom for himself.

REPORT OF THE COMMISSION

By the Commission:

This matter was heard at Salt Lake City, June 9, 1922, upon the petition and the appearance of Farmington City by its Mayor, and Davis County by its County Commissioners.

The Bamberger Electric Railway Company represented at said hearing that it was a railroad corporation existing in Utah, and operating between Ogden and Salt Lake City; that about the 24th day of December, 1919, a petition was filed with the Commission asking authority and permission to abolish what is known as the Sjoblom Crossing.

A hearing was had on the 30th day of September, 1920, and that on the 15th day of November, 1920, an order was entered and issued authorizing said company to abolish said crossing; that said order directed that certain improvements on the dirt road leading west of the subway, along the right of way of your petitioner, adjacent to said crossing, and place said road in a suitable condition for traffic.

Said Company further represented that since said order it had endeavored to comply therewith, but was

unable to do so for the reason that the owner of the land through which said road passed would not permit any such improvements to be made and that petitioner has no way to comply with the order without the consent of the owner of the land through which the road should be constructed.

The attitude of the Commissioners of Davis County, who were present at the hearing, was to the effect that the road in quesion was not a public road, and that they had no jurisdiction in the matter. Both City and County urged some objections to the change of the road from the roadbed to the highway, stating that it would make it very dangerous for travel. Mr. Sjoblom also urged objections to the plan suggested by the Commission in closing up the crossing and using a subway and constructing a road over his land.

As suggested in the petition of the Railroad Company, the matter was heard and the order issued some time ago to the effect that the Commission found the crossing to be dangerous and that the traffic over the roadbed should be changed so as to pass under the subway which leads to Mr. Sjoblom's farm and home; that the road leading along the roadbed be improved and constructed by the Bamberger Electric Railroad Company in the way as to make it safe and usable by the parties having the right to use the same, and so constructed as to lead into the road in question upon the hill at some distance east of the railroad crossing.

It was not intended in said suggestive order of November 15, 1920, to interfere with private rights of any parties, but that a roadway would have to be obtained from Mr. Sjoblom; and further there was a question as to whether or not the road crossing was a public or private roadway. There is no question but what the crossing is a very dangerous one and should be abolished or so modified as to lessen the danger which is so very apparent.

Part of the order referred to, of November 15, 1920, is as follows: "Some suggestions were given with a view of constructing another road, one to swing to the south of the present road and approach the railroad from the south; the other to abolish the crossing in question."

The matter of swinging to the south and approaching the railroad at an angle which gives a better view of approaching trains from the north would evidently improve the condition; and if it is decided by the parties

that the subway cannot be used for the travel which has gone over the grade crossing in question, then it is suggested by the Commission by swinging to the south could be made and thereby lessen the grade or approach to the railroad grade from 14% to 7%, and afford more of a view to approaching trains from the north.

It would seem that the Commission cannot do anything further in this matter for the reason that the roads in question are private roads over which the Commission has not yet assumed any authority.

The petition will therefore be dismissed.

(Signed) A. R. HEYWOOD,
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 30th day of October, A. D. 1922.

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY for permission to abolish Sjoblom's Crossing. } CASE No. 256.

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 Bamberger Electric Railroad Company for permission to abolish Sjoblom's Crossing be and it is hereby dismissed.

(Signed (T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

HYRUM NEBEKER et al.,
Complainants,
vs.
UTAH & WYOMING INDEPENDENT TELEPHONE COMPANY,
Defendant.

CASE No. 339.

Submitted June 28, 1921. Decided May 31, 1922.

Appearances:

Mr. Hyrum Nebeker, Laketown, Utah.
Mr. Joe Ransom, Mgr. Utah & Wyoming Ind. Tel. Co.

REPORT OF THE COMMISSION

By the Commission:

On December 15, 1919, a complaint was filed in the above entitled matter, alleging inadequate service on the part of the Independent Telephone Company.

After notice a hearing was held at Laketown on June 28th, 1921. At the hearing the parties in interest expressed the belief that the difficulties might be adjusted without further action on the part of the Commission. Various communications to complainant, regarding the case, are unanswered, and it appearing that further action on the part of the Commission is unnecessary the complaint should be dismissed.

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 31st day of May, A. D. 1922.

HYRUM NEBEKER, et al.,
Complainants,
vs.
UTAH & WYOMING INDEPENDENT TELEPHONE COMPANY,
Defendant.

CASE No. 339.

This case being at issue upon complaint and answer on file, and the Commission having upon the date hereof made and submitted its report and findings in the matter, which report is hereby referred to and made a part hereof:

IT IS ORDERED, That the proceedings in the above entitled case be, and they are hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING.

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

DAVIS COUNTY, a Public Corporation,
Plaintiff

vs.

THE OREGON SHORT LINE RAILROAD COMPANY, a Corporation, and the DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, a Corporation,
Defendants.

CASES Nos. 493 and 351,

Submitted October 17, 1922. Decided November 1, 1922.

Appearances:

Mr. Ezra T. Robinson and Mr. Barnes for the Plaintiff.
Mr. Robert B. Porter and Mr. Dana T. Smith for the O. S. L. R. R. Co.
Mr. W. G. Van Cott for the D. & R. G. W. R. R.

REPORT OF THE COMMISSION

By the Commission:

The above came on for hearing before the Commission at the State Capitol, September 13, 1922; and upon stipulation were jointly tried and submitted upon the application of the plaintiff and separate answers of the defendants.

The plaintiff alleges that it is a political division of the State of Utah, with its county seat at Farmington City, Davis County, State of Utah. That the defendants are corporations organized, existing under and by virtue of the laws of the States of Utah and Delaware, respectively, with their principal offices in Salt Lake City; that each of said corporations operate and maintain a steam railroad in and through Davis County, and particularly through section 35, township 5 north, range 2 west of the Salt Lake Meridian, with track and trackage on their rights of way. That application was made by the land owners living along the property in the section referred to for the opening of a county road leading from the paved highway, (which constitutes a State and County road

between Ogden City and Salt Lake City) directly west over sections 35, 34, 33, 32 and 31, and further westward.

That pursuant to said request and application, the County Commissioners of Davis County made an investigation and concluded that a street opened up over the land described would be a great benefit to the inhabitants and land owners within said territory, and would be for the best interests of all concerned; that it would be the means of developing and building up a large territory of fertile lands to the great benefit of the country.

That for the purpose of so opening up a highway, the county has purchased a fence and a two-rod road commencing at the State Highway at the east line of section 35, running thence west to said defendants' rights of way, and thence continuing in a westerly direction for some miles.

The Denver & Rio Grande Western Railroad Company filed its answer and subsequently thereto filed an amended answer, contending and denying that it is a corporation existing under the laws of the State of Utah, and alleges that it is a corporation existing under the laws of the State of Delaware. That since the original answer was filed the status of the defendants has changed in the following particulars: in two suits in the District Court of the United States for the District of Colorado, entitled Bankers Trust Company, as Trustee, vs. the Denver & Rio Grande Railroad Company, and the New York Trust Company, plaintiffs, vs. The Denver & Rio Grande Railroad Company, Alexander R. Baldwin, as receiver, of the Denver & Rio Grande Railroad Company and the Denver & Rio Grande Western Railroad Company, defendants.

The said District Court on the 21st day of July, 1922, entered an order appointing Joseph H. Young to be receiver of said Denver & Rio Grande Western Railroad Company; and pursuant to said order said Joseph H. Young had duly qualified as such receiver, and had taken possession of the operation and control of said railroad system, including all of that part of the Denver & Rio Grande Railroad system involved in this petition. That accordingly, this defendant is not, and has not been operating and has no control or disposition over the property and railroads and railroad system involved in this petition; and has not had since July 21, 1922. And the said defendant has no power to construct or permit to be constructed any crossing at the point in question of any kind or description. Denies that the said defendant ever undertook or agreed to construct said crossing, but admits no crossing has

been constructed by the defendant, and that it is unwilling to incur the expense of constructing the crossing at the point in question by making a viaduct.

The defendant also contends that the land over which it is necessary to built the proposed highway across the tracks and right of way of defendant, is the property of the defendant, and is not subject to any right of way for the proposed crossing.

That prior to the year 1900, there was a crossing or a highway at the site of the proposed crossing and subsequent to the last mentioned date, the highway was closed and abandoned and that said abandonment was pursuant to the authority of Davis County, and was acquiesced in and agreed to by the persons living and having property in the vicinity of such crossing. That in consideration of such abandonment, the Company which operated the road at that time paid Davis County the sum of $300.00, to purchase for the use of the persons living in the vicinity of the crossing and right of way running north from said crossing. That pursuant to said abandonment the predecessors in interest of the defendant deepened the cut at the site of the proposed crossing and made other changes in the construction and operation of its said railroad; that the district through which the proposed road passes is sparsely populated and is adequately served with roads other than the proposed one; That the opening up of the said road and the requiring of the Railway Company to construct a viaduct or a roadway over its roadbed would be contrary to the provision of law and unjust, unreasonable and unnecessary, and contrary to the Constitution of the United States and of the Constitution of the State of Utah.

The Oregon Short Line Railroad Company answering the complaint contends that at the point where such proposed crossing is desired, the railroad runs through a very deep cut; and in order to construct a grade crossing at such point it would be necessary to make cut for highways, thereby making it dangerous for the operation of its trains in connection with the public traffic over said road bed at grade crossing. That there is a public crossing one-half mile south of the proposed crossing, and another crossing one-half mile north of said crossing; and that the said two grade crossings are sufficient to meet and satisfy the residents of the community surrounding said district in question; and that there is no reasonable necessity for any further crossing.

The matter of opening a highway over the tract of country and across the road bed of the Oregon Short Line Railroad Company has been before the Commission before. Said hearings were had, however, without notice or the presence of the Denver & Rio Grande Western Railroad; and it was stipulated by the parties hereto that the testimony heretofore taken, and the examinations made by the Commission might be considered in this case, with the exception of the defendant, the Denver & Rio Grande Western Railroad Company, who was not a party to the investigation heretofore had.

The testimony as given heretofore and the additional testimony submitted by the parties in support of their contentions was not to any degree conflicting; and was to the effect that the highway proposed would run east and west through the middle of section 35, and on a direct line westward; providing an additional outlet for the residents of the settlement known as "West Point" and vicinity; that said highway would be put in such proper condition as to be an all the year round highway. That there had once been grade crossings over the railroad tracks and rights of way of the defendants at or near the points in question, prior to the changing of the railroad line through section 35, which resulted in making deep cuts at said points.

That the County Commisioners had taken steps to open the proposed road on the half section line through section 35, 34, 33, 32, and 31, of Township 5 north, 2 west of Salt Lake meridian. And that for the purpose of opening said road the owners of property on each side had expressed a willingness to give the necessary land for that purpose.

That material had been furnished by the county for building fences on either side of the road way and that some parts of the roadway already had been opened and used. That the only obstruction to the plan was the crossing over the railroads in question.

Some testimony was submitted as to the conditions and understandings had at the time of making the grade changes which prevented any further travel across the railroads; the plaintiff contending it was understood that there would be in the future same facilities for crossing furnished by the railroads; that the public did not expect that the crossing would be closed and the public deprived of the right to travel over said route.

An examination clearly demonstrated that a grade crossing at this point under the conditions would be

dangerous; and that if a crossing is ordered it should be an overhead crossing.

The plaintiff laid considerable stress upon the matter of the future possibilities of the district through which the proposed road is projected; and that a viaduct constructed would greatly relieve the traffic over the roads north and south and would afford safety to the traveling public to the great benefit of the public as well as the railroads themselves; that the traffic, especially during the winter season, would be attracted to the proposed route upon the grounds of improved conditions.

The representations made by the railroads were to the effect that it was expensive to construct viaducts and that the conditions existing were against the probability of the county making a reasonably good highway over the proposed route; that said highway could not be made so without an outlay of considerable money; that the roads running north and south and parallel to the proposed road were reasonably good roads and could be made much better by the expenditure of considerably less money than it would take to put the proposed highway in such condition as to make the traffic easy and safe at all seasons.

An estimate given by competent engineers was to the effect that the cost of building an overhead structure would amount to about $8,830.00 for each crossing; part of which would be trestle work and a portion grading or fill, making a cost under our division of expense of about $5,000 for each of the railroads.

The conditions at the Denver & Rio Grande Western Railroad crossing are similar to those of the Oregon Short Line Railroad.

The question raised in the amendment to the answer of the Denver & Rio Grande Western Railroad Company, concerning the change of its status of said Company, in that Joseph H. Young had been recently appointed receiver, could not, we take it, operate to the extent of taking away the power of the Commission to hear an issue and enter an order pertaining to the operation of said railroad.

The question of making a suitable highway is one that the county has answered by assuring the Commission that the road will be placed in such condition as to make it attractive to the public.

In ordering the viaducts to be constructed by the railroad companies in this case, it is with the understanding that the county in opening up and constructing the proposed road will build a highway over the sections of

county in question that will be proper in design and fill the requirements sought.

After a full and complete consideration of all the matters submitted to the Commission by way of conditions, history and future developments, the Commission is of the opinion, and so finds, that the road proposed by the county will be a step forward in the development of that section of the county; that public convenience and necessity require a separation of grades at the point under discussion in this case.

That such overhead crossings shall be erected by defendants, the Oregon Short Line R. R. Co., and the Denver & Rio Grande Western system, Joseph H. Young, receiver, in such manner as to suitably and sufficiently care for the traveling public and shall observe the standard clearances heretofore prescribed by the Commission; that in the construction of such overheads, the railroads will be required to furnish the materials and construct the bridge or trestle work and that the county shall do all the grading or cutting that is necessary to complete said overheads in compliance with the specifications submitted and approved by the Commission.

That the beginning of said construction shall commence not later than sixty days from the date of this order.

An appropriate order will issue.

(Signed) A. R. HEYWOOD,
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 1st day of November, A. D. 1922.

DAVIS COUNTY, a Public Corporation, *Plaintiff,* vs. THE OREGON SHORT LINE RAILROAD COMPANY, a Corporation, and the DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, a Corporation, *Defendants.*	CASES Nos. 493 and 351.

These cases 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, The Oregon Short Line Railroad Company, and defendant, Denver & Rio Grande Western Railroad System, Joseph H. Young, Receiver, shall each provide overhead crossings over their respective railroads, 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 crossings shall be of wood construction, of a design as contemplated in the defendants' estimate of cost, to be approved by this Commission, with approaches not to exceed seven (7) per cent grade; the cost of said overhead wood construction to be borne by defendants, the Oregon Short Line Railroad Company, and the Denver & Rio Grande Western Railroad Company, Joseph H. Young, Receiver, respectively, 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 Complainant, Davis County.

IT IS ORDERED FURTHER, That defendants, in the construction of said overhead chossing, shall observe the standard clearances heretofore prescribed by the Commission.

ORDERED FURTHER, That defendants, the Oregon Short Line Railroad Company and the Denver & Rio Grande Western Railroad Company, Joseph H. Young, Receiver, shall begin construction of such crossings 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 the Application of the SALT LAKE & 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.
In the Matter of the Application of the BAMBERGER ELECTRIC 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. 425.
In the Matter of the Application of the UTAH IDAHO CENTRAL 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. 426.

Submitted April 10, 1922. Decided May 12, 1922.

John F. MacLane, for Utah Power & Light Co.
Devine, Howell & Stine, for Applicants.

REPORT OF THE COMMISSION

By the Commission:

In an application filed May 6, 1921, the Salt Lake & Utah Railroad Company shows that it is being billed for power by the Utah Power & Light Company in accordance with Tariff No. 2, Schedule No. 1, which is the general power meter rate for consumers taking power at high voltage, and that said tariff schedule is in effect by virtue of the Report and Order of this Commission in Case No. 248, issued March 8, 1921; that the operating experience under the rates so fixed is now available from

October 22, 1920, and that the measurement of consumer's demand on a basis of five-minute average peak load has been kept and recorded.

Petitioner alleges that, as shown by the aforesaid record, the method of determining the monthly demand charge is arbitrary and discriminatory as applied to interurban electric railroads, and asked the Commission to conduct a hearing and investigation for the purpose of enabling petitioner to submit its operating experience and to submit such other evidence as may be proper, and asked the Commission to issue an order modifying the rules and regulations governing the measurement of power furnished by the Utah Power & Light Company to petitioner, as may be just and proper.

On May 17, 1921, the Bamberger Electric Railroad Company and the Utah Idaho Central Railroad Company filed petitions of the same character.

These cases came on regularly for hearing, January 21, 1922. Much evidence of a general character, as well as technical evidence offered by experts, was submitted. Numerous exhibits were submitted and a rather voluminous record was made for the consideration of the Commission; briefs were filed, and the case submitted.

In Case No. 248, the Commission said:

> "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 unecessary 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 suports 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."

The interurban railroads, in substance, asked the Commission to either fix a substantially unform flat rate for all electric railroads, or, in order to conform to the general schedules in form, assume a unform load factor of operations which will produce such a rate, regardless of the actual load factor attained by the roads, or regardless of the variations in load factor between the roads, or regardless of the variation in operation of the same road at different times. We do not believe that this can justly be done. To do so would discriminate between the electric railroads themselves and between said railroads and other consumers of power. To adopt this kind of suggestion, will also relieve the roads of responsibility for their electrical operations.

While admitting the principle of a demand component in general, and specifically admitting and asserting that in ordinary industrial loads there should be a demand element in the rate, the railroads contended, in justification of their proposal that they must operate their trains on schedules determined by traffic demands, that they cannot control those traffic demands which, in turn create their peak power loads.

The Power Company contends that this is only partially true; that freight movements are subject to the

railroads' control, and generally the freight business is the larger part of their business and is growing more rapidly than passenger traffic.

Which ever contention is right, and we think there are limits within which the railroads can regulate their traffic and consequently their peaks, although it is more limited than in some other industrial uses of power, the railroads' claim, if true, should not relieve them of paying for power as other power users do, and as they pay for other commodities or service entering into their business, namely, on a basis commensurate to the cost of the commodity or service to the producer. As between the railroads and the Power Company, the former certainly have control of their operations to the exclusion of the latter, which must always stand ready with capacity necessary to meet the peaks established by the former. Hence, there must be a peak component in the rate to these as other power users.

It is generally admitted that the demand component of a rate should reflect investment necessary to render service. In a hydro-electric system such as this, investment costs are necessarily a very large part of the entire cost of rendering service. Hence, it follows that Power Company costs of giving service are properly proportional to the effective demand upon its system, rather than upon kilowatt hours used. A rate which proportions cost to kilowatt hours used instead of demand, cannot reflect properly the cost of service; neither can a rate which is based upon an assumed constant load factor reflect the cost of service, unless there is in fact a constant ratio of average power to demand. The evidence in this case clearly shows that this ratio is not constant, either in the operation of a single road or between the different roads. So far as investment in the power system is concerned, a five-minute avreage peak is such, regardless of whether it is an interurban railroad, ice plant, or what not, that creates it. Capacity is determined by a short interval peak—this record shows of even less duration than the five-minute interval.

Nothing we said in the Utah Manufacturers Association Case, No. 452, in anywise limits this principle. There we merely established an optional rate with a guaranty equivalent to a demand charge, but somewhat less than the demand charge in the general schedules, a concession to the greater possible diversity of use at low load factors. At

load factors equivalent to those of these railroads, this optional rate would not be to the customer's advantage, and would deny them the lower composite rate, resulting from the combined demand and energy charge of the general schedules.

As a method of determining the billing peak, in Case No. 248, the Commission based the demand charge for electric service to these petitioners at 70 per cent of the five-minute average peak load established monthly.

The evidence offered in the record indicative of the percentage to be used, is the diversity obtained among the four substations of the Utah Idaho Central Railroad, 54.5 per cent, and a like diversity among the four substations of the Salt Lake & Utah Railroad Company, 56.8 per cent. The diversities, as above indicated, were determined by a thirty-day test made by the petitioners and the Power Company, jointly. No such test was made as to the Bamberger Electric Railroad. Practically all this petitioner's power is measured at a single substation, and which has only two substations available for taking power from the Power Company's system.

The Power Company contends, on the one hand, that to the diversity thus determined by test, additional factors should be considered for line losses and transmission investment of the Power Company, to carry power to the various substations, but did not assign any definite values to these elements. The railroads contend, on the other hand, that the factors should be further reduced by a consideration of the intermittent character of the loads as compared with industrial loads generally.

The Power Company further seeks to justify the present 70 per cent ratio, tentatively adopted in Case No. 248, by showing that it is the arithmetical average of the diversity of the three roads, computing the Bamberger Electric Railroad at 100 per cent. This is not a justification. Reference is also made to the fact that weighing these diversity factors by the kilowatt hours consumed by each road, gives a weighted average diversity of 66.6 per cent. To apply such an average, however, would give to the Bamberger Electric Railroad Company a part of the benefit of the diversity created by the other roads, just as a uniform kilowatt hour rate, if averaged, would give to the Salt Lake & Utah Railroad Company the benefit of a part of the rate earned by the Bamberger Electric Railroad Company and the Utah Idaho Central Railroad Company, due to their better load factors and consequent more efficient use of power.

It appears to us that the question must be settled on this record by leaving the method of computing the Bamberger Electric Railroad demands unchanged and applying to the future billings of the other petitioners a corrected factor of 55 per cent, instead of 70 per cent, corresponding to the nearest even figure of the diversity factors established by the test. This rule, of course, will be general and applicable to all electric railroads under similar conditions of service. Accordingly, the Power Company will be ordered to amend its present Rule, No. 43, so far as electric railroads are involved, to provide for the continuance of the 70 per cent ratio for railroads having not more than two delivery points for power, and establishing a 55 per cent ratio, for railroads having more than two points of delivery.

Complaint is made by a petitioner that the measured maximum demand for holidays and conference Sundays is very much higher, relatively, than any other maximum demand for the rest of the month, and, for that reason, the billing for such month so high as to discourage the carriers from initiating excursions on those days. They contend that at such time other industries are largely shut down, and much excess capacity available from the Power Company's system.

We think travel upon such occasions should be encouraged so far as consistent, and some allowance may properly be made, through modification of the rules, for computing billing for such days. Accordingly, the Power Company should amend its rules so that the billing peak for national holidays and conference Sundays, where such maximum demand exceeds the maximum demand for the remainder of the month, shall be used for computing the power bill for that day, only; billing for balance of month to be computed upon basis maximum five-minute average peak occurring during the remainder of the month.

Complaint is made by the Utah Idaho Central Railroad particularly, that the per cent rate, or any ratio of additive peaks at various substations, will prejudice that road, because it proposes to install additional substations, which will have the effect of measuring the same peak an additional number of times, without any actual increase of demand on the Power Company's system.

It is enough to say that this decision is based upon the present method of operation of the roads. If conditions materially change, any party to this action may apply to the Commission for further consideration. We do not believe that any further modifications of the rules

or method of billing is justified. We further believe that, with normal traffic conditions and with due care in the avoidance of unnecessary peaks, the railroads should approximate, under the rules as now modified, the ultimate kilowatt hour rate that they claim to be entitled to; but the responsibility of so controlling their operations as to produce such a rate, will rest with petitioners.

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 12th day of May, A. D. 1922.

In the Matter of the Application of the SALT LAKE & 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.
In the Matter of the Application of the BAMBERGER ELECTRIC 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. 425.
In the Matter of the Application of the UTAH IDAHO CENTRAL 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. 426.

These cases being at issue upon petitions and answers 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 respondent, Utah Power & Light Company, publish and put into effect an amended Rule 43, establishing a maximum demand for electric interurban and street railways of 70 per cent of the highest five-minute average peak, for all railroads having not more than two points of delivery for electric power, and

a maximum demand of 55 per cent of the highest five-minute average peak, for all electric railroads having more than two such points of delivery.

ORDERED FURTHER, That such rule shall provide that the peak load established on national holidays and conference Sundays, shall be used for computing charges for such days only, charges for the remainder of the month being computed in the manner set forth in the foregoing report.

ORDERED FURTHER, That such amended rule shall be made effective 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 UINTAH RAILWAY COMPANY, for a Certificate of Convenience and Necessity for Construction and Extension of Railroad.	CASE No. 433.

Decided September 5, 1922.

REPORT OF THE COMMISSION

By the Commission:

In an application filed July 11, 1922, the Uintah Railway Company asks for an extension until December 31, 1924, in which to complete the construction of its branch line, authorized by the Commission September 7, 1921.

Applicant represents that industrial conditions do not warrant the construction of said branch at this time, and that a similar extension has been granted by the Interstate Commerce Commission.

No hearing was held upon the application referred to herein.. The Commission has caused investigation to be made and being fully advised in the premises, finds, that the application should be granted.

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 6th day of September, A. D. 1922.

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 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 Uintah Railway Company be, and it is hereby granted until December 31, 1924, in which to complete the construction of its branch line authorized by the Commission on September 7, 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 EASTERN UTAH TELEPHONE COMPANY, for authority to place in effect certain revised rules and regulations, rates, etc.	CASE No. 438.

Submitted February 1, 1922. Decided February 16, 1922.

REPORT OF THE COMMISSION

By the Commission:

In an application filed June 10, 1921, the Eastern Utah Telephone Company, a corporation, organized and existing under and by virtue of the laws of the State of Utah, and engaged in the general telephone business within the territory comprising Carbon, Emery and Duchesne Counties, with its principal place of business in Price, Utah, alleges that prior to Government control of the telephone companies, the Eastern Utah Telephone Company had effective certain charges for long distance service, which were at the rate of one cent per air-line mile, a complete schedule of said rates being on file with the Commission.

Applicant further alleges that when the Government assumed control of the telephone companies, the rate for long distance service was reduced from one cent per air-line mile to eight mills per air-line mile; that on account of the confusion incident to the change of control, Government rates were kept in effect after the telephone companies were returned to private control, resulting in a great loss to the telephone company; that since the rate of one cent per air-line mile is the rate on file with the Commission, the Eastern Utah Telephone Company requests that the charges arrived at on this basis, a complete schedule of said charges being attached to the application and known as Schedule "B," be accepted as the rate for station-to-station messages; that applicant be permitted to make standard charges in addition thereto, for person-to-person messenger and appointment messages; also be permitted to make standard reductions for evening and night rate messages; all in accordance with the standard rates shown in the general tariff.

Applicant further requests that it be permitted to file standard rules and regulations governing its operations, a copy of which is attached to the petition and known as Schedule "A," be accepted by the Commission as the general rules and regulations applicable to the Company's service, and asks that early action be had on the petition, on account of the need of increased revenues which said schedules would yield.

This case came on regularly for hearing before Commissioners Heywood and Stoutnour, at Price, Utah, September 8, 1921. No one appeared in protest to said application. Mr. Rex Miller, manager of the Eastern Utah Telephone Company, testified in suport of his application and introduced statements showing plant account and earnings.

Testimony was also introduced as to the effect upon the service of adopting the proposed rules and regulations of applicant, after which the case was submitted for consideration and decision.

Mr. Miller testified that no dividends had been paid since 1918; in 1918, 5 per cent was paid; 8 per cent in 1917; 10 per cent in 1916 and 10 per cent in 1915. In other words, for three years there have been no dividends. The surplus accumulated, as shown on its balance sheet, is very modest, when considered in connection with this fact.

Mr. Miller testified that his depreciation reserve was temporarily invested in the property, but that he was building a new telephone exchange to take the place of the old one, and reconstructing the telephone equipment; that a number of lines would have to be replaced in a short time, and that the cost of the old plant will be taken out of the depreciation reserve; that of Notes Payable, the sum represented by said notes is invested in the plant; Accounts Payable represents current expenses and purchases for material.

Exclusive of the depreciation reserve, which must be, of course, as shown by the testimony, used in the very near future for replacement, there is more than $80,000.00 invested in the plant. Mr. Miller testified that he contemplated reincorporating and selling stock, as soon as conditions are favorable. There was no reproduction cost of the property presented. The costs that were presented represent the actual cost of the plant. The Commission must fix rates upon the actual value of the property, rather than upon capitalization. This is in line with com-

petent court authority, including that of the court of highest jurisdiction.

Since the hearing was had, applicant was asked and presented balance sheet as of January 1, 1922, as follows:

BALANCE SHEET

Cash	$ 1,862.19	Capital Stock	$42,020.00
Due from sub. & agts.	3,317.54	Notes Payable	26,500.00
Cash advanced to employes	15.00	Accounts Payable	7,791.85
Plant & Equipment	128,781.87	Reserve for Depreciation	49,234.34
		Prepayments	380.80
		Surplus Jan. 1, 1921	7,421.65
		Net income yr. 1921	627.96
	$133,976.60		$133,976.60

REVENUES AND EXPENSES

REVENUES

Exchange Revenue		$ 20,762.20	
Toll Revenue		29,621.40	
Messenger Revenue		1,443.85	
Miscellaneous Revenue		3,054.75	54,882.20

EXPENSES

Maintenance:			
Repair of wire plant	$ 2,958.20		
Repair of Equipment	1,272.84		
Station removals and changes	163.50		
Depreciation	6,599.70		
Other expenses	4,658.39	15,652.63	
Traffic:			
Operators' Wages	17,566.90		
Messenger expense	1,040.35		
Other expenses	1,279.98	19,887.23	
General:			
General office salaries	6,730.30		
Other general expenses	6,698.10	13,428.40	
Taxes		2,544.88	
Interest		1,566.62	
Uncollectible bills		1,174.48	54,254.24
Net Income			$ 627.96

This balance sheet shows a net return of $627.96 for the year 1921. We think the amount to be set up for depreciation for next year may be reduced somewhat, but,

due to the extensive rebuilding of the exchange, equipment and replacement of lines, as heretofore mentioned, we think a reasonable amount to be set up for 1922 should be $5,137.00. The increase asked for in toll rates, it is believed, will yield increased revenues in the sum of approximately $2,400.00.

There were no protests to this increase, and a full and free hearing has been had. The applicant, as has been stated, seeks to return its toll rates to the pre-war level. This utility, in this instance, was given a reduction instead of an increase in its revenues, through the application of the Burleson rates, and we find that in order for the utility to properly serve the public and carry on its business, the change should be allowed. It may file its schedule, upon ten days' notice to the public, carrying pre-war rates, and may also file its general rules and regulations as the general rules and regulations applicable to its business, and they will be accepted tentatively by the Commission, to be tested by the actual experience by the Company.

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 February, A. D. 1922.

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. 438.

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 that applicant, Eastern Utah Telephone Company, be, and is hereby, permitted to publish and put into effect, upon ten days' notice to the public and to the Commission, rates for telephone service which will not exceed those maintained prior to Federal control of wire lines.

ORDERED FURTHER, That applicant may also file its general rules and regulations governing its telephone service.

IT IS FURTHER ORDERED, That such rules be tentatively accepted by the Commission, to be tested by the actual experience of the Company.

IT IS FURTHER ORDERED, That publication naming such rates, rules and regulations shall bear upon the title page the following notation:

> "Issued upon less than statutory notice, by authority of the Public Utilities Commission of Utah, order dated February 16, 1922, Case No. 438."

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

UTAH LAKE DISTRIBUTING COMPANY, et al.,
Complainants,
vs.
UTAH POWER & LIGHT COMPANY, a Corporation,
Defendant.

CASE No. 441.

Submitted January 23, 1922. Decided March 29, 1922.

Appearances:

For Complainants:

Cheney, Jensen and Holman,
W. H. Folland, for Salt Lake City,
Willey and Willey,
Booth, Lee, Badger & Rich,
James H. Gardner, Lehi.

For Defendant:

John F. MacLane.

REPORT OF THE COMMISSION

By the Commission:

The above entitled camplaint was filed with the Commission June 21, 1921, and a hearing and consideration of Subdivision "E," Paragraph 3, was had. Said Subdivision "E" is directed at Rule 54-B of defendant's rules and regulations, wherein they require complainants and others similarly situated, to deposit in advance one-half of the seasonal minimum guaranty required under said rate schedule, rules and regulations.

The matter was presented by the attorneys for the complainants and the defendant, and, upon consideration of the same, it was concluded and ordered in the record that the said rule be modified so that all bills against complainants for energy be collected at the end of each month.

A further hearing upon the complaint was postponed until January 23, 1922, at which time the complainants represented that they were corporations, organized and existing under the laws of the State of Utah, together with divers other persons and corporations in the State of Utah and elsewhere, each users of power and electric energy for pumping irrigation water; that defendant is a corporation, organized and existing under the law of the State of Maine, engaged in supplying electric energy and power as a public utility corporation, in the State of Utah, at the rates and under the rules and regulations on file with the Public Utilities Commission of Utah, and, in supplying these complainants with electric energy and power required by them for the pumping of water for irrigation purposes, said corporation is the only source from which complainants can obtain electric power so required.

Complainants further allege that the rates, rules and regulations so required are arbitrary, excessive, unreasonable and discriminatory, being greater than the value of the service rendered, as well as greater than the reasonable cost of furnishing the same; that said rules and regulations are unreasonable and unjust, in that the irrigation season ends September 30th of each year, and that it requires complainants and others to either pay the charges for the whole season, as fixed by said rule, or give notice by April 1st, designating the period within which power is desired, which is impossible and impracticable for irrigation users to do; that defendant's rates, rules and regulations are unreasonable and unfair as applied to these complainants, and that they prevent said consumers from starting or discontinuing pumping at the beginning or end of the calendar month, without being required to pay the demand or other fixed charges for the full month.

Complainants represent further that, in consequence of the present power rates, together with other costs, such as taxes and labor, the continuance of such rates would be oppressive; that they should be suspended and the defendant required, until further ordered by the Commission, to reinstate the schedule of irrigation power rates that were in force and effect prior to the decision of the Commission in Case 248, to wit: original Schedule No. 46.

Complainants contend that the irrigation users of power should be considered as a class by themselves; that, by reason of the unprecedented slump in farm products, the farmer is faced with an emergency that he cannot meet

and survive, unless he receives a measure of financial relief from charges imposed upon him, among which are the charges for power; that since the decision of the Commission in Case 248, which resulted in the advanced rates for energy and power to the complainants, the value of standard crops, such as oats, hay, wheat and sugar beets, has declined to such an extent that their value is from one-third to one-half of their price in 1918, 1919 and 1920, while, at the same time, costs, such as labor, taxes, machinery and power rates, have continued much the same; that the farmer has become discouraged and disheartened, and, unless some relief by way of emergency be given, will be unable to plant crops or to cultivate and mature crops that have been planted; that certain provisions in the rules and regulations affecting irrigation service, bear heavily upon the farmer; that complainants had conferred with the defendant Company concerning certain changes in the rules and regulations, which the Power Company, as an emergency matter, seemed willing to concede.

Certain modifications and amendments to the rates, rules and regulations now existing, were submitted by the complainants and not opposed by the defendant, for the approval and sanction of the Commission, part of said changes and modifications being submitted in Exhibit "A." In support of the justice of said modifications that are claimed to be necessary in giving some relief at the present time, testimony was submitted showing the results realized from the operation of the irrigated lands of the complainants, the water being pumped by means of power furnished by the defendant Company. This testimony tended to support the allegations and contentions of the complainants, and tended to establish the fact that the complainants were in need of some relief and that the relief afforded by such modifications in the rates, rules and regulations, would be just and equitable, at least as an emergency measure.

At the close of the testimony submitted by the complainants, the defendant Company, by its attorney, stated that it could not admit that rates for public utility service could be based upon the profits or the lack of profits of the consumer of the service, and yet, there is a principle recognized in the making of rates for public utility service, that within certain limits, temporarily at least, rates may be classified to some extent; but that it would seem improper for the Power Company to select one class of

customers for its favor; yet, if a certain class of consumers is entitled to some special consideration, the Commission, as representative of the State of Utah, should take the responsibility of saying so, dictated by what the Commission believes to be a wide, sound public policy, and is a matter which must be entrusted to the discretion and determination of the Commission.

The defendant Company further stated that the application is made for emergency relief, and the Company, in leaving this matter in the hands of the Commission, desires to do whatever it should do in the premises to help out the situation; contending, however, that the rate structure, as a whole, is absolutely essential to the Company, but it is willing to abide by the judgment of the Commission, upon the facts as they have been shown, so that if the Commission determines that there has been and is such emergency as will entitle the complainants to an unusual and exceptional remedy, the Company will abide by the decision.

As to the effect of the order now to be entered on the rates for the year 1921, the defendant suggests that, if the Commission feels and determines that the rates, rules and regulations now to be entered within the ensuing year of 1922, should likewise be applied to the rates of 1921, counsel for the defendant desired an opportunity to work out with counsel for the complainants some form of application for computation of the bills for the year 1921, for the reason that a rate having been fixed by public authority and charges based upon it, there seems to be no authority which can order a refund of these earnings; that the matter should be worked out by negotiations, subject to the approval of the Commission.

The Power Company contends that if the order is made, it should be limited to the season 1922, and to the existing business, and not made available for other business, that it should be an emergency relief, limited to the complainants.

After a careful consideration of the matters presented in this case by the complainants, together with the attitude taken by the Power Company, it clearly appears that the complainants are in need of relief in the operation of their farming industries and that the energy for the pumping of water is necessary for the continued production of crops; that without such supply of water, the lands would be unproductive and of no value.

The rates which have advanced the cost to said complainants were occasioned by the action of this Commission

in its order in Case No. 248. Rates are necessarily based upon the conditions obtaining at the time of the making of such rates. If conditions change, the Commission is always open for the further consideration of these matters. For the purpose of more intelligently fixing rates, rules and regulations, the Commission has ordered a valuation of its property to be made and reported to the Commission for further action, if necessary.

The Commission is of the opinion that, as an emergency measure, it is justified under the law and the showing herein made, in ordering and authorizing the Power Company to change, modify and reduce the rates, rules and regulations now in force.

Further, the matter of rates, rules and regulations for energy during the year 1921, was the subject for consideration in the complaint filed June 21, 1921, and a partial hearing had thereon, when certain changes and modifications were temporarily made, as above referred to, and, in view of the suggestion and desire of the attorney for the defendant Company, this Commission finds that the rates for 1921 should be modified; that it should be allowed to take up the matter with the complainants with a view of working out some computation for the bills for 1921; that in the event of the failure to so work out some plan agreed to by the parties, the Commission reserves jurisdiction to supplement this order and pass upon the matter itself.

The Commission finds as follows:

1. That under the conditions and circumstances shown upon the hearing in this matter, the complainants are entitled to relief.

2. That the existing rates for pumping purposes shall be suspended for the year 1922, as to existing customers, and the standard rate applicable to such service prior to the advance as made in the Commission's order in Case No. 248, be charged and collected for the season 1922.

3. That since this case was submitted, certain changes and modifications in the Power Company's rules and regulations, resulting in more liberal rules than those sought have been made effective. The present rules covering irrigation service should be modified as follows:

> "(a) Power will be furnished for operating pumps and other irrigation machinery during the season between April 1st and October 31st, in-

clusive, in each year, which is termed the irrigation season.

"(b) Bills shall be pro-rated for fractional parts of a month's use at the beginning and the ending of the irrigation season."

Section "B" of this rule should also be modified to provide that bills rendered for irrigation service shall be payable monthly.

"(d) In irrigation service, the maxium demand for each billing period prior to June 1st and after September 1st shall be the average of the maxium demands established during each seven day period commencing either at the beginning of service or from September 1st, but periods of less than seven days at the end of such billing period will be considered with the previous seven days and the maximum demand for this entire period (less than fourteen days) will be averaged with maximum demands for previous seven day periods if any in the billing period. This provision is made in order that additional units may be added at the beginning of the season as more and more water is needed and so that units may be dropped at the end of the season as less and less water is needed."

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 29th day of March, A. D. 1922.

UTAH LAKE DISTRIBUTING COMPANY, et al.,
Complainants,
vs.
UTAH POWER & LIGHT COMPANY, a corporation.
Defendant.

Case No. **441.**

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 Commision 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, Utah Power & Light Company, be, and it is hereby, required to publish and put into effect, upon one day's notice to the public and to the Commission, effective April 1, 1922, rates for electric service for irrigation purposes, which will not exceed the rates effective prior to March 8, 1921.

ORDERED FURTHER, That the rules and regulations governing such service be modified as provided in the foregoing report.

IT IS FURTHER ORDERED, That the Commission retain jurisdiction over the rates charged for the year 1921, pending result of negotiations between complainant and defendant.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

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.

Submitted April 4, 1922. Decided April 10, 1922.

F. R. Ryan, for Petitioner.

W. W. Porter for City and County of Morgan.
J. A. Anderson, for Morgan Canning Company.

REPORT OF THE COMMISSION

By the Commission:

This application was filed April 12, 1921, by the Morgan Electric Light & Power Company, a corporation, organized and existing under and by virtue of the laws of the State of Utah, with its principal place of business located in the Town of Morgan, Morgan County, Utah.

Applicant alleges that it is engaged in the business of distributing and selling electric current for domestic, industrial and municipal use, in the towns of Morgan, Porterville, Richville, Milton and Littleton; that its property consists of distribution lines and general electrical equipment, used in the distribution of electric energy; and asks authority to increase its rates to the same level of rates as are charged by the Utah Power & Light Company, or to authorize said Company to establish such rates as the Commission may find to be just and reasonable.

Applicant further alleges that it purchases electric energy from the Utah Power & Light Company; that the rates of said Power Company have been increased, thus increasing the cost to petitioner, resulting in an additional loss to that shown in petitioner's financial statement of December 31, 1920; that petitioner has not applied for increased rates since the time of its organization, notwithstanding that the costs of materials, supplies and labor have increased since the present rates were established; that the rates for electric energy are on the average lower than the rates charged by the Utah Power & Light Com-

pany for similiar service in the same territory, and that on the basis of the present rates, petitioner is operating its property at a loss.

This application came on regularly for hearing before Commissioners Heywood and Stoutnour, September 13, 1921, at Morgan, Utah. The City and County of Morgan, through counsel, appeared as protestants; likewise the Morgan Canning Company.

Mr. F. R. Ryan, for applicant, introduced Exhibits "A", "B", "C", and "D". Exhibit "A" purports to show general profit and loss statements as of December 31, 1920, showing a net loss, after interest, January 1, 1920, to December 31, 1920, of $3,313.73. Exhibit "A" also shows balance sheet as of December 31, 1920. An interesting item is Fixed Assets, showing physical plant, less depreciation, of $28,465.04. Exhibit "B" shows Inventory and Appraisal of Property for the Year 1920, $28,225.00. Exhibit "C" sets forth Schedules of Present Rates, and Exhibit "D", rates proposed by the petitioner.

The Morgan Canning Company represented that it had a written contract expiring fifty years after 1914, naming a lower rate for power than the proposed rate.

Mr. Anderson testified that the Como Power Company, predecessor of the Morgan Light & Power Company, originally proposed to develop power from a nearby stream known as Hard Scrabble. After construction, it was found that sufficent power could not be developed to meet the demands in Morgan, together with the Canning Company's requirements. Consequently, the Power Company made arrangements with the Utah Power & Light Company to purchase power. A Mr. Burdick, principal owner of the then plant, having considerable money invested in the property, represented to the Morgan Canning Company that unless said Company took power from him, it would be impossible to go ahead and continue operation.

Witness Anderson further testified that he was willing to enter into such agreement, having previously promised that if the Como Company would furnish power from the Hard Scrabble Plant, he would take all necessary power to operate his plant from the Como Company, so long as it could furnish an adequate supply. The Hard Scrabble Plant having proved a failure and arrangements having been made with the Utah Power & Light Company for additional power, the Como Company decided to abandon the Hard Scrabble Plant and take all power from the Utah Power & Light Company.

Testimony was to the effect that it would probably have been best for the Morgan Canning Company to have contracted with the Utah Power & Light Company direct, and not to have purchased power from the Como Company at all; that the Como Company promised that the power should not cost any more than that bought direct from the Utah Power & Light Company, representing also that the additional power used by the Canning Company, would enable the Como Company to buy its power for other purposes cheaper than it otherwise could, due to the fact that the additional load would bring down the average rate. The contract was entered into, guaranteeing that the Canning Company shall be served with power at a price not to exceed that which the Como Company paid for it. In other words, the Como Company is not to make any profit on power sold the Canning Company.

Witness Anderson further testified that at that time he did not expect htat a contract rate could be changed Otherwise, he would not have taken any chances; but probably would have bought direct from the Utah Power & Light Company, and protested any change in the old contract, on the ground that costs would be increased, if the orginal contracts had not been executed.

Exception was taken by witnesses to the inventory of physical property as filed, and a more complete inventory of petitioner's property and accounts be made. It was finally agreed by the respective parties and ordered by the Commission that applicant should submit to the Commission a more amplified statement of his property account, and was given to October 1, 1921, to prepare and submit same to the Commission and the protestants. The engineering firm of Ambler & Riter, accordingly, made an inventory and report of the physical property of applicant. This inventory and valuation was filed, October 1, 1921.

In filing said inventory and appraisal, it was stated by Ambler & Riter that the replacement values used are based on the average price units effective under the normally low price conditions only. Said price units are, to a great extent, lower than the actual costs for material shown on copies of invoices found in applicant's files as evidence of prices which the Morgan Light & Power Company had been paying. Overhead expense items shown in the estimate covering purchase, superintendence and engineering, are estimated on a basis that would apply to the functioning of a small organization such as the Morgan

Light & Power Company, in which case overhead expenses need not be heavy.

The engineering firm further stated that they had omitted items for contingencies, omissions, interest, insurance or administration during construction, and made no allowance for discounts on securities, cost of financing, organization expense or legal expense, value of franchise or going-concern value. In other words, the inventory is ment to cover only the physical replacement value of the property under normal cost conditions, with direct charges. Further, the condition of the property is such that its present depreciation would be more than offset by the intangible values, and in the opinion of these engineers, the organized value of the property is in the neighborhood of $30,000; their actual replacement value, as per inventory, is $27,408.82. The inventory found by the City of Morgan, after checking, is $21,883.44.

As will be hereafter shown, the finding of an exact value for rate-making purposes in this case is not necessarily material, for the reason that no return upon the property is being realized. Income statement as of December 31, 1920, shows operating loss of $1,513.73. Some criticism may be made of the items shown under "Operating Expenses," but, after correction, there is still a direct operating loss. Later, statement covering a six month's period, January 1st to June 30th, 1921, was filed. After correction, this statement shows a direct operating loss of $156.65. This allows nothing for return upon the property. The same account for the twelve months, partly estimated, shows an operating loss of some $300.00.

This property is devoted to public service, and as such must be kept from confiscation, and is entitled, when used for such purpose, to a reasonable return upon the fair value of such property used and useful in serving the public. This principle has been laid down, so far as we are aware, by all courts of competent jurisdiction, including that of the Supreme Court of the United States. (Smythe vs. Ames, 169 U. S., at 416.)

Under conditions shown to exist, and however reluctant the Commission may be to increase costs to consumers at this time, there remains no other remedy than to authorize increased rates. To render adequate, continuous service, revenues accuring from said service must cover the reasonable costs thereof. The evidence clearly shows that revenues heretofore accruing are not sufficent to carry on the business. Present rates are inadequate

as well as preferential, and, under the Public Utilities Act, are unjust, unreasonable and illegal.

Since this case was heard, applicant has requested that meter rates for residential lighting and commercial lighting be not increased. Otherwise, applicant may initiate rates not greater than asked for and to the level of the Utah Power & Light Company's rates for like service effective in this or similar localities. The contract rate named in the contract with the Morgan Canning Company should be brought to the general level of rates of petitioner for like service of the Utah Power & Light Company. To do otherwise, would be clearly discriminatory and illegal.

We find nothing in this contract which would justly put it in a class exempting it from modification of the rate. It comes clearly within the scope of decisions heretofore made by this Commission covering like cases, and confirmed by our State Supreme Court. (United States Smelting & Refining Company vs. Public Utilities Commission of Utah, 197 Pacific, at 902.)

In order that the burden of maintaining and rendering said service be not cast unjustly upon others, each and every consumer should pay as nearly as may be the cost of service to him, and not at a rate less than the cost of giving such service.

Tariffs in conformity with this order, 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 10th day of April, A. D. 1922.

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.

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, Morgan Electric Light & Power Company, be, and it is hereby, authorized to publish and put into effect increased rates for power service which will not exceed the rates assessed and charged by the Utah Power & Light Company for similar service, together with rules and regulations covering such service.

ODRERED FURTHER, That such increased rates may be made effective upon ten days notice to the public and to the Commission, such notice to be given by filing tariffs as provided by law.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

UTAH MANUFACTURERS' ASSOCIATION, et al.,
Complainants,
vs.
UTAH POWER & LIGHT COMPANY,
Defendant.

CASE NO. 452.

Submitted Jan. 21, 1922. Decided February 16, 1922.

Arthur Woolley, for Complainants.
J. F. MacLane, for Defendant.

REPORT OF THE COMMISSION

By the Commission:

The action in the instant case was filed July 26, 1921, and named as complainants the Utah Manufacturers Association, Ogden Chamber of Commerce, Board of Commissioners of Ogden City, Utah, Board of County Commissioners of Weber County, Utah, and some 119 individuals, named specifically, users of power,

When the case came on regularly for hearing, November 28, 1921, there were added certain additional complainants and certain withdrawals were made, and these, together with seven associations, clubs and commissions, joined in the proceedings.

The individual power users are located for the most part in Salt Lake City and Ogden, and cover a wide variety of industry. It is claimed that this group is representative of the general manufacturing and industrial enterprises of the State.

It is alleged that the defendant, the Utah Power & Light Company, a corporation of the State of Maine, doing business in the State of Utah, with its principal place of business at Salt Lake City, is engaged in supplying electric power and energy as a public utility corporation, for consumption and use in manufacturing, mining, irrigating and operating various kinds of machinery in a large territory of the State of Utah, and has and is able to main-

tain a practical monopoly of the business of supplying electric power and energy to the industries of this State.

Specific reference is made to the rates, rules and regulations under which such electric power and energy is supplied by the defendant, and refers to the tariffs on file with the Public Utilities Commission of Utah as follows: P. U. C. U. No. 3, Tariff No. 3; P. U. C. U. No. 2, Schedules 1 to 8, inclusive, and the general rules and regulations applicable to all classes of electric service. These tariffs and schedules were put into effect by this Commission by its order in Case No. 248, in re application of the Utah Power & Light Company for increase in power rates, dated March 8, 1921, effective March 25, 1921, P. U. R. 1921-C, Page 294. This decision of the Commission was affirmed by the Supreme Court of Utah, the Utah Copper Company vs. Utah Power & Light Company.

Pacific Reporter, Page (Filed Dec. 15, 1921.)

Complainants allege that the said rates, rules and regulations are excessive, unreasonable, unjust, arbitrary and discriminatory, particularly as follows:

(a) That the said rates are unreasonable, unjust and excessive, as a whole, and are greater than the value of the service, as well as greater than the reasonable cost of the defendant for furnishing such service, and are producing, and will produce a greater revenue and profit to the defendant than the defendant is justly entitled to receive on the true value of its plant.

(b) That the said rates are excessive and repressive to the users of electric power and energy, and are higher than the rates for similar service in effect in adjoining states and applicable to the industries, with which the industries of Utah and these individual complainants are required to compete.

(c) That the several demand charges specified and contained in the schedules are unreasonable, unjust and excessive, and the methods of computing power bills provided therein and in the said rules and regulations are arbitrary, unreasonable and unjust.

(d) That the said rates and particularly Rules 43 and 43-A, of the said rules and regulations, are excessive, unjust and unreasonable, in that they provide for rates based upon "peak load" or maximum demand, rather than actual consumption, and the period of five minutes specified therein for the measurement of such maximum

demand, is unreasonable and unjust; that the said Rule 43-A is discriminatory, in that it provides a different rate for different classes of industries using the same amount of power.

(e) The allegations of the complaint of certain irrigating companies against said defendant in case No. 441 before this Commission, are adopted and supported by the complainants in this case. Reference is also made to the sections of the Public Utilities Act, Title 91, of the Compiled Laws of Utah, 1917, which are alleged to be applicable to these proceedings.

The answer of the defendant company alleges that the said tariffs, schedules, rules and regulations in question are fair, reasonable and just to complainants and other consumers of electric energy, and sets forth that the said tariffs were filed and put in effect in accordance and in pursuance of the order of the Commission of March 8, 1921, in Case No. 248.

The hearing was commenced on Monday, November 28, 1921. By stipulation, the record in Case No. 248 was made available for use by either side in this case, by reference. Complainants presented their case in chief and the hearing was continued until December 12, 1921, for cross-examination of complainants' technical witnesses. The defendant presented testimony, finishing on December 13. A continuance was then had to the 16th of December, for cross-examination of the defendant's witnesses and rebuttal testimony on behalf of the complainants. Briefs were filed for the complainants, January 18, 1922, for defendant, January 21, 1922, whereupon the case was submitted to the Commission for its decision.

RELATIONSHIP OF THIS CASE TO CASE NO. 248

Case No. 248, heretofore referred to, was an application of the Utah Power & Light Company for permission to increase its power rates. The application was filed December 4, 1919. Exhausive hearings were had, extending throughout a large part of 1920. Investigation and examination was made of every phase of the Power Company's business, numerous exhibits were filed, and the oral testimony applicable to this case comprised some 4500 pages of transcript.

The application was protested by all classes of power users, including many of the complainants in this case who were ably represented by eminent counsel, engineers

and other experts; exhaustive briefs were filed, after which the Commission gave the testimony and briefs a most painstaking examination and investigation for several months.

At the conclusion of the investigation, the Commision, on March 8, 1921, made its report, in which it established the rate structure now under attack.

In this case, the Commission is asked to re-examine the entire basic rate structure recently established, and to substitute a new set of rates suggested by complainant. We have, therefore, carefully reviewed the Power Company's rate structure in the light of experience of approximately eight months, and from the evidence in this case and for reasons hereafter expressed, we see no grounds at this time for disturbing the basic rate schedules established in Case No. 248.

We are confirmed in this, in view of the filing by the Power Company of its physical valuation and inventory, as required by Finding 4 in Case 248. Upon the filing of said valuation and inventory (now expected any day), a hearing will necessarily follow, at which time evidence on all the points here involved will doubtless be fully presented.

Complainants' criticisms of the premises upon which the rate structure is based, may be, we consider, reduced to two:

1. As alleged by the complainants, the rate structure is fundamentally erroneous, in that the so-called cost curve presented in Case 248, at which the Power Company determined its unit cost of service at various load factors, was based upon the consumer's load factor, instead of the Power Company's system load factor, and hence, that defendant Power Company was collecting its full costs for the units of service (horsepower or kilowatts) used by any consumer at that consumer's particular load factor, although the Power Company's system load factor was substantially higher than that of the consumer, that it might, and indeed does, collect the costs of the same unit of service from other consumers also operating at a low load factor, by reason of the diversity of uses between the two consumers.

In answer to this, we deem it pertinent to say that this attack must apply to the several cost curves offered in Case 248, which cost curves were never adopted by the Commission. We feel that we made this clear in that case. However, our Report and Order clearly shows that the

Commission in that case developed the unit costs of service on the Bear River Power System upon the assumed full load conditions of that system.

The record in that case showed that the Bear River System was stated by the experts for both sides in that case, to be the most efficent and cheapest power producing unit of defendant's system, and the cost of power produced by this system must be less than that produced by other power producing units of defendant.

No material evidence was produced by plaintiffs in this case to show the above to be untrue, or that conditions of power production had been changed.

After developing unit costs of service in Case 248, as heretofore outlined, the Commission then designed the rate structure based upon the evidence before it in that case, as to the demands and consumption of various consumers, calculated under such full load conditions to yield the costs of service. The rate found by the Commission was a typical load factor rate, following the well known principles governing the construction of such rates. Its components were a demand charge and an energy charge. The two together produced a combined rate per kilowatt hour at any load factor varying inversely with such load factors. So, that while the demand charge named in the rate remained the same at all load factors, the ultimate combined demand and energy charge resulted in higher kilowatt hour rates at the lower load factors.

It is generally conceded by competent rate-making authorities, that higher load factor consumers operate under the more efficent conditions and "earn" the lower kilowatt hour rates. This proposition is not disputed, even in the rates proposed by plaintiffs in this case, but even the most cursory superimposition of a curve plotted for various load factors on the rates developed by the Commission in Case 248 on the Power Company's cost curve submitted in that case, will disclose that such rate curve is at all load factors entirely different and very much lower than the Power Company's cost curve.

To further clarify the cost curve as submitted by the Power Company is not a rate curve, and the rates proposed by the Power Company itself in Case 248, which as heretofore indicated, were very substantially higher than the Commission's rates allowed in that case, did not follow the Power Company's cost curve, but were substantially lower at the lower load factors than the cost curve, representing by the difference at any load factor

the proposed allowance for diversity in uses at that load factor.

2. It is claimed that no allowance was made by the Commission for diversity between the consumer's demands in Case 248, or, if there was such an allowance, that the amount thereof is entirely inadequate, and the plaintiffs suggest an allowance of two for diversity, and propose to cut the Commission's demand charges in half.

As to whether the allowance was made for diversity, it is sufficient to quote from the Commission's order in Case 248, as follows:

> "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 established 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."

In the face of this statement by the Commission that it made an allowance for diversity ranging upward to 2.0, we fail to understand the claim that no allowance was made. Questions must be decided by us on the evidence and the facts developed, and in accordance with the law.

As to the adequacy of the allowance, a great deal of testimony was introduced at the hearing, both on the general question of diversity and the effect of diversity on the Power Company's system. It is admitted by the engineering witnesses for the plaintiffs as well as by the Power Company's engineers, that effective measurements of diversity to be reflected in the rate structure were very difficult to make that diversity varied at different points on the system, and from time to time at the same points.

Complainants assumed a uniform diversity of two throughout the Power Company's load, and offered no evidence in support of such claim other than the statement of the Commission that it made an allowance ranging upward to two, depending upon load factor. By this statement, the Commission intended to convey that it made a maximum allowance of two at the lower load factors.

The testimony of the Power Company in the instant case was that an approximate determination of diversity for the last billing month, October, 1921, for which data was available, showed a diversity of power demands of 1.27 and a maximum diversity, including lighting, of 1.43, and a maximum diversity of a power feeder, from which some of the complaints in this case were served, of 1.19.

We believe that the testimony in the record tends to confirm the Commission's allowance of diversity, ranging upwards to two, subject, however, to certain qualifications to be herein made.

It will be admitted as a principle that the fixing of rates is the product of judgement and experience, tempered by the technical facts applicable to the case, that the adequancy of the rates is to be determined by application to the actual business served under the given rates.

Complainants, in their exhibits, offered tests calculated to prove the rates by application. These tests are based upon assumptions. Financial and earning statements introduced in evidence by the defendant Power Company (Transcript, 2nd day's Session, Page 80) showed that the Power Company's revenues for the first six month's application of the rates under attack yielded from the power business, $1,635,820.37. or approximately $3,270,000. for the year, estimated on the six month's basis. Complainant's exhibits (G. M. Stratton exhibit "E," Page No. 20) assumed that the power revenues yield $4,477,123.94, to give the Power Company a full return. It is obvious, therefore, that the present rates do not meet plaintiff's assumption.

It may be said in passing that these are not the Commission's estimates, as they are based rather on what the Power Company claims in Case 248. The Commission's findings of cost in that case, and of permissible return available for the fixed charges of interest, after depreciation and operating expenses, are much less than the Power Company claimed in that case. It may be well, therefore, in view of the apparent conviction of the plaintiffs in this case that the Commission allowed the Power Company

eight per cent return and four per cent depreciation upon its investment, to call attention to the fact that the earning statements introduced in evidence in the case showed that on the claimed approximately $42,000,000 investment of the Power Company in the so-called Utah Power System, described in the report in Case 248, the Power Company's net earnings from all sources on that system under the new rates would amount to approximately $3,500,000. which would yield only 8.33 per cent for both depreciation and return, and not 12 per cent claimed.

Of course, the Commission, as shown in Case 248, has not passed upon the fair value for rate-making purposes of the Power Company's property. Such a valuation is in course of preparation, and the ultimate fair value found may be less or greater than the $42,000,000 claimed, but, within the probable limits of variation, the net earning will be much less than that claimed.

FINANCIAL AND BUSINESS CONDITIONS

It is claimed by plaintiff, and it is a fact, that we were, and are, in a period of severe business depression. It clearly appears however, that power rates as applied to these plaintiffs constitute, as a general proposition, a very small part of their business costs, being characterized by one witness as a half mill per pound on a commodity retailed at $1.00 per pound prior to the war, now being retailed at $1.25 per pound (Transcript, first day's session, Page 64), and it appears from the testimony of other witnesses that the percentage of power costs entering into unit production is, generally speaking, very small.

Competitive costs of power in other localities have been referred to. No attempt has been made to show either that conditions of service are similiar, or that these competitive costs materially enter into the cost of production, so as to prevent successful competition with industries in other states. Upon the question of comparative rates, the Commission, in the Dixie Power Case (No. 457), said:

> "Rates must be based upon the cost of service. Cost of service, in turn, depends upon the investment necessary to render said service. Investment varies with location, and particularly so with hydroelectric properties. Thus, before a comparison of rates may be made or relied upon, it is necessary to first ascertain whether the conditions and costs of rendering service are similar, and, unless the con-

ditions are analogous, the fact that other companies in other localities charge rates higher or lower than those complained of, would shed no light on the reasonableness of the rates under consideration."

Thus, it will be seen that each case must be judged on its own merits. A general reduction of rates to all consumers is in this case not warranted by the evidence introduced.

LOW LOAD FACTOR USERS AT LOW VOLTAGE

We have considered the above matters because they have been forced upon us by the case as made by plaintiffs. We recognize, however, the legitimate complaint against the rate structure in the case of law load factor users of power at low voltage that should be remedied. Quoting from plaintiff's brief, (Page 23):

> "It was pointed out by Mr. Stratton from the tabulation of Power Bills furnished by the defendant (Comp. Ex. A. Tr. 2nd Day, Page 1) that of the list of one hundred forty original individual complainants:
>
> 88% had monthly load factors below 30%
> 18% had monthly load factors between 30% & 15%
> 15% had monthly load factors between 15% & 10%
> 24% had monthly load factors between 10% & 5%
> 30% had monthly load factors below 5%
>
> "This follows naturally from the fact that the manufacturers ordinarily operate on the eight hour basis, and that if this length of operation is continuous, a load factor of 28% would be established. From these facts, it is fair to say that the complainants represent the low load factor users of the defendant's system. It appears from the same tabulation, also, that for the most part these users are upon the low voltage schedules, three and four, and so are typical of the smaller users of power."

An examination of the schedules put into effect in Case No. 248, and of their application as shown by the evidence in this case, has convinced us of the inapplicability of a uniform demand rate to all classes of consumers, regardless of load factor at the low load factors. It is apparent that there is a greater probability of diversity, and that effect of simultaneous demand in the Power Com-

pany's system is much less than the aggregate demands. We believe from the evidence that at the very low load factors, a considerably higher average diversity than two may be obtained. The effect of this is shown by the high K. W. H. charges paid by consumers at less than six per cent load factor.

We quote the following from the plaintiff's brief:

	Cents per K. W. H.
"Ballard & Mortensen	37.0
Bennet Glass & paint Co.	18.3
Binford-Kimball Motor Co.	17.7
Century Printing Co.	11.8
Coombs & Hagen	15.2
Davidson-Lake	10.3
Federal Baking Co.	13.5
Fit-Well Artificial Limb Co.	69.4
General Engineering Co	14.3
Glade-Strickley Candy Co.	18.8
John Hoxer-Tents	36.2
Intermountain Vulcanizing Co	10.2
Langton Lime & Cement Co.	22.2
Layton Sugar Company	14.6
McFarland Lumber Co.	31.4
Modern Tire Service Shop	19.3
Noall Bros. & Armstrong	11.8
Ogden City Meat Market	91.
Ogden Furniture & Carpet Co.	21.1
Ogden Furniture & Carpet Co	23.8
Ogden Steam Laundry	18
Ogden Welding & Repair	15.1
J. G. Read & Bros.	49.9
Salt Lake Artifical Limb Co.	16.5
Salt Lake Casket Co.	33.8
Salt Lake Hardware Co.	10.2
Salt Lake Sash & Weight Foundry	30.6
Summerill Stove Repair	24.5
Union Paper Box Co.	10.2
Union Label & Box Co.	12.
Utah Packing Corporation	31.1
Van Allen Canning Co.	40.2
Western H. & S. Metal Works	24.8
Western Packing Co.	18.8
Woody Printing Co.	78.8

All of these consumers above noted, operate at less than approximately six per cent load factor. At greater than this load factor, it is impossible for a consumer to attain a higher K. W. H. gross rate than 8.3 cents, as all K. W. Hrs. included in the demand charge are exhausted at this load factor. Of course, if the Power Company is to maintain any service charge at all (and plaintiff's proposed rates concede such a charge), an occasional consumer who uses very little energy, would pay a high K. W. H. rate, but the existing rates should be materially reduced in this respect by a block K. W. H. rate. With minimum guarantees much less than the present demand charges, the form of this rate curve appears to us to follow the testimony of witness as to their respective varying economic needs and ability to pay with increased volume of their business. This rate will be offered as an alternative rate, available to such consumers as select the same and without cancelling any existing schedules.

Therefore, it will be ordered that the defendant, Utah Power & Light Company, file within ten days from this date, a rate schedule not greater than the following additional rate schedule, to be designated as P. U. C. U. No. 2, Tariff No. 2, Original Sheet No. 6-A, Schedule No. 4-A, Optional Rate, Low Voltage, effective in all territory served by the Company, the same to be effective March 1, 1922, and to be then made available to all customers electing before April 1st to select the same, and to all customers who may thereafter request service under that schedule.

GENERAL POWER OPTIONAL METER RATE

Low Voltage

Effective in all territory served by the Company.

This schedule is for alternating, single phase or three phase service, supplied at 110, 220 or 440 volts for power purposes only.

Charges

8c per K. W. H. for the first 30 K. W. H. used per month per contract H. P.

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

5.5c per K. W. H. for the next 200 K. W. H. of monthly consumption.

4c per K. W. H. for the next 800 K. W. H. of monthly consumption.

1.75c per K. W. H. for all excess monthly consumption.

Minimum Monthly Charges

$2.25 gross per month for first contract H. P.
1.50 gross per month per contract H. P. for each additional contract H. P.

Discounts

Terms: 5 per cent for a contract of not less than five years.
10 per cent for contract of not less than ten years.
Prompt Payment: 5 per cent if paid within the discount period.

RULES AND REGULATIONS

Certain changes have been requested in the standard rules and regulations. (See Riter Exhibit "G", Pages 12 to 16.) Without discussing them in detail, one or more of the questions raised are in direct issue in another case already submitted to the Commission for its decision. Others are broad questions which will require further consideration and perhaps additional evidence. The Commission, however, deems that Rule 43-A, which appears to be one of the principal rules at issue in this case, should be modified and the contention of plaintiff sustined. We believe this modification can best be brought about by dropping the phrase appearing in Rule 43-A, first paragraph, line 5, as follows: "During the twelve month's period ending with said month."

Except as heretofore noted, the standard rules and regulations will be continued, pending a further test of experience under operation.

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 16th day of February, A. D. 1922.

UTAH MANUFACTUERS ASSOCIATION, et al.,
Complainants,
vs.
UTAH POWER & LIGHT COMPANY,
Defendant.

Case No. 452.

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

IT IS ORDERED, That defendant, Utah Power & Light Company, be, and it is hereby, required to publish and put into effect, on ten day's notice to the public and to the Commission, but not later than March 1, 1922, the rates hereinbefore set forth.

ORDERED FURTHER, That defendant modify Rule 43-A, first paragraph, by eliminating the phrase "During the twelve month's period ending with said month."

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the DIXIE POWER COMPANY, for permission to file new schedules increasing its rates. } CASE No. 457.

Submitted October 25, 1921. Decided January 7, 1922.

Appearances:
D. H. Morris, for Petitioner.

For Protestants:
Messrs. Shay & Lunt, for Cedar City.
John M. Foster, for Cedar City Commercial Club.

George R. Lund, for St. George.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

A hearing was had upon the above entitled application, at Cedar City, Utah, September 1, 1921, and at St. George, Utah, September 2, 1921, and reopened for further testimony at Cedar City, October 25, 1921.

The applicant represents that since January 20, 1917, it has been, and now is, an organized corporation, under the laws of the State of Utah, engaged in the business of generating electrical energy for light and power purposes and transmitting and distributing the same for the use of part of the inhabitants of Washington and Iron Counties; that the rates which applicant has been and is now charging for supplying power and light to its customers in the territory served by it, are and have been the rates on file with the Public Utilities Commission of Utah; that such rates do not produce sufficient revenue to pay the expenses of the generation and distribution of its energy, including depreciation and a reasonable return on its investment; that the total cost of the property used and useful in giving said service, is valued at $496,639.75, which includes its physical property, as well as its going value and discount on $225,000, bonded indebtedness.

Applicant further contends that it is entitled to apply such rates for its service as will permit a return on the investment of six per cent, four per cent depre-

ciation and the cost of giving service; that the present rates are wholly inadequate to produce sufficient income to take care of the fixed and operating expenses, allowance for depreciation and a fair return on applicant's investment in the property employed by it in rendering service to the public; that at the time of the purchase of the electric plant from the City of St. George, it entered into an agreement with said city by the terms of which agreement certain definite rates were agreed upon, which rates applicant was to charge the inhabitants of St. George for electric power and energy. Applicant now contends that when the above rates were agreed upon, business conditions were such that no one had any idea that changes would take place as have taken place; that the prices of labor and all commodities have advanced to such an extent that to be required to live up to the terms of said agreement and to give service at the present rates, would put the applicant out of business.

The application was protested by Cedar City, the Cedar City Commercial Club, the towns of Enterprise, LaVerkin, Toquerville, Washington, Kanarra, Santa Clara, Hurricane, et al.

The City of St. George protested the advance upon the grounds:

1. That it was in violation of an agreement made and entered into by the said applicant and its predecessor in interest, at the time of the purchase and turning over of the municipal plant owned and operated for some length of time by said city to the Power Company.

2. That at the time of said sale and purchase by applicant, the property so sold and delivered to applicant was of a greater value than the sum agreed upon, and that there was a consideration had in reaching said value, for the reason that the rates fixed under the contract at that time were to be continued for a number of years.

3. That the advance asked for by the applicant is unnecessary and unreasonably high.

The Towns of Enterprise, LaVerkin, Toquerville, Washington, Kanarra, Santa Clara and Hurricane, based their opposition upon the ground that the rate now being charged in their respective vicinities is among the highest rates charged by any company operating within the State; that the people were not responsible for said Company investing large sums of money in various localities within its territory; that the Power Company established its business during the year 1917 and 1918, at a time when the prices of both labor and material were abnormally

high, and at figures representing war prices, while at the present, both material and labor have decreased in value; that the present earnings of said Company are fair and, taking into consideration the extreme financial depression through which the country is now passing, that if the rates are increased to the extent asked for by the petitioner, the present consumers will be unable and unwilling to pay the same.

Cedar City and a number of its citizens protested against any and all increases applied for in the application of said Dixie Power Company, upon the grounds that such advance in rates would be unjust, unreasonable, inequitable and not warranted by the financial condition of the Company.

Testimony by the applicant in support of its petition was given at the hearing tending to show the history, investment and results of operation since 1917.

The present Company began operations about the year 1917, and purchased from St. George City its municipal plant, which was being operated some miles north of St. George. Soon after the purchase of said system, the power plant of the present Company was installed on the Santa Clara River, which gives certain opportunity for generating electricity. From the site of the present plant, extensions were made into different parts of Washington County, as well as Iron County. After the purchase of the St. George municipal plant, the Dixie Power Company purchased the plant owned by the Cedar City Power & Light Company, a system owned and operated to furnish light and power to the inhabitants of Cedar City and vicinity; but the petitioner now serves said localilty from its plant on the Santa Clara River. Extensions have been made to Parowan Bottoms and other points, making in all a system covering a considerable territory, furnishing light to a number of towns, cities and ranches, and also power for pumping and commercial purposes.

The amount of investment claimed by the Power Company is taken from its books and represents costs, rather than a valuation obtained from a physical examination, enumeration and report of its property under the rules and methods used in evaluating utility property; and, until such inventory can be made and submitted to the Commission for its consideration, we have reached an amount of investment from the showing submitted, with such checking and investigation of the syetem as has enabled the Commission to conclude what would be

the proper sum to form a basis upon which to build a schedule of rates that would be just and equitable under all the circumstances and conditions attending the giving of this particular service.

Applicant submitted to the Commission, its Property and Plant Account as summarized from its general ledger, as of June 30, 1921, as follows:

Organization Expenditure	$ 2,391.64
Office Furniture and Fixtures	2,167.41
Franchises, Rights, Engineering and Financing	75,000.00
St. George Plant	13,500.00
Power Plant Lands	1,004.40
Sub and Transformer Station Lands	236.30
Power Plant Buildings, Fixtures and Grounds.	12,261.98
Sub-station, Transformer Buildings, Fixtures and Grounds	848.16
Power Plant Equipment	56,691.13
Power Works, Equipment, Flumes, Dams, Ditch, etc.	83,647.94
Sub-station and Transformer Station Equipment	19,583.17
Main Transmission System	73,692.48
Distribution System	103,944.22
Utility Equipment	3,338.81
Interest During Construction	9,337.90
Examinations and Estimates	248.92
Tools and Equipment	1,951.89
State Road Line	36,797.40
Total	$496,643.75

To this sum, applicant alleges it is entitled to $25,000, as working capital, making a book value of $521,639.21. Upon the basis of said book value, applicant further alleges it is entitled to a yearly basis of:

Six per cent Return	$ 31,298,38
Four per cent Depreciation	19,865.59
Total	$ 51,163.97
Operating Expenses	37,402.44
Total Gross Operating Revenues Required	$ 88,566.41
Present Gross Operating Revenues	51,031.92
Based upon assumptions of applicant additional gross operating revenue required	37,534.49

Applicant estimates additional gross revenues accruing from proposed rates would yield approximately $17,000; deficit still remaining to earn six per cent, $20,529.29, upon this basis.

Applicant shows gross income from operation, operating expenses and earnings available to cover depreciation and interest for the last four years and six month's period ending June 30, 1921, as follows:

	1917	1918	1919	1920	6 Mo. 1921
Gross Income	$13,752.08*	$22,990.62*	$35,685.95*	$53,377.91*	$25,515.96†
Operating Expenses Including Taxes and Bond Interest	11,393.15	21,145.50	31,169.20	42,651.71	28,276.78
Earnings Available for other Interest and to cover Depreciation and Obsolescence	2,178.93	1,845.03	4,516.75	10,726.20	2,760.82§

*Includes non-operating income.
†Does not include non-operating income.
§Red figure.

Upon this basis, operating expenses for twelve months would approximate very closely $37,400, and it is apparent that in 1921 there are not sufficent revenues accruing to pay operating expenses and bond interest, to say nothing of depreciation or a return on other forms of securities.

The Commission does not accept as controlling the property and plant account of applicant as heretofore summarized. Serious criticism may be made of some of the items entering therein. For example: Franchise rights, engineering and financing. It must be admitted that some money was spent for these items, but the evidence on this point is vague, and the Commission will allow, under the circumstances, what it considers a reasonable amount for property of this kind and size, namely $25,000. Further, distributed through these accounts is discount on bonds in the sum of $26,850. This will be excluded as property not capitalizable.

In various cases affecting this utility, discussion has been had as to the necessity in the rendering of public service for the transmission line known as the State road line. This is carried in the sum of $36,797.40. For the purpose of this case, this item will be excluded.

With corrections heretofore noted, we find tentatively the book cost of this property to be $386,606.83. With an allowance of $15,000 for working capital, we find for the purposes of this case, a book cost of $401,606.83, and depreciable property upon this basis upon which depreciation must be considered, $385,000.

Before the question of return may be considered, as we pointed out in the Telluride Power Company case, decided December 27, 1921, the utility is entitled to a sum sufficent 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 improvements 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 * * *."

The Commission, as we have many times stated, believes that the earnings of the depreciation fund 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 a weighted composite average life of twenty-one years, the proper annual requirement for the depreciation reserve fund as set up on a sinking fund basis of five per cent, approximates very closely $10,778.50.

Following the hypothesis of rate of earnings as set up by petitioner, and using actual revenues and expenses

for the eleven months of 1921, with projected earnings for the remaining month, we have the following result:

Operating Expenses for the year ....$	38,448.00
Depreciation	10,778.50
Total Operating Expenses and Depreciation	49,226.50
Operating Earnings	50,932.80
Available for Interest and Return	1,706.30

Thus, it is seen from the foregoing that, after a proper allowance for depreciation, the question of an exact valuation is not material here, for the reason that after operating expenses and depreciation are paid out of gross revenues, practically nothing is left for return. So, under this showing, among other matters, we have the question of confiscation to consider. No controlling board or commission, we take it, would feel called upon to simply meet this question with a present dismissal of same, and thereby postpone proper action until a later date or until a time when it might be claimed there shall be a reconstruction and rehabilitation of financial conditions. This might be done if service is to be suspended, or the Company could, from other sources, obtain relief. The law and the practice is against any such procedure, and cannot and should not be done. So far, as we are aware, all competent court authority requires that conditions must be met as of the time the investigation is made.

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 regulatory 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 legislature 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."

From the foregoing summary of earnings and expenses, it is apparent, therefore, that the petitioner must increase its revenues or reduce its expenses, or both, if it is to continue rendering service. The increase asked for would accrue additional revenues to the extent of some $17,000.00. This figure is obtained by applying these rates to the business already done by applicant in the year last past. The possibilities for new business in applicant's field are such that it may hardly expect more business in the next twelve months than during the same period last year.

There has been no question of extravagance in operation raised, and 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 though the Commission is reluctant to permit the imposition of greater than the present burden cast upon the consuming public, there exists no other method of providing the revenues absolutely required to keep the property in operation. The cost of giving service must be borne by those who receive service.

The protests against the allowing of advanced rates were emphasized and urged upon the ground that means had been recently invested in extensions upon which the Company was seeking immediate and unreasonable returns, and that as to such extensions and investments, the Company could not reasonably expect returns that would compensate it in full for some time, and that to make good for such expenditures, the Company was seeking to collect from its patrons in St. George, Cedar City and other former subscribers, unreasonable revenues, which, if allowed, would be unjust and unreasonably high as compared with other rates in the State of Utah.

The above attitude taken by the people of Cedar City and St. George, no doubt has been influenced from the fact that the operations of the plants purchased by the appli-

cant formerly were operated locally, with but little loss or expense upon extension of lines. It developed in the testimony that the service was somewhat improved, and such improvements have no doubt been occasioned by the expenditure of additional means, and that the value of the improved service should be taken into consideration in connection with other necessary elements in reaching a conclusion as to what rates should be allowed.

Close attention and observation of the operation of public service of public utilities within the State, especially as to local municipally owned and operated systems, clearly discloses the fact that service has been offered in some cases to the public, especially at the beginning of operation, at rates too low, so much so, that in some cases plants have almost gone into disuse or have not been able to give adequate, sufficient service, and, in some cases, the Commission has been called upon to grant sharp advances in rates, in order to keep the service from going to pieces; for, without additional revenues, they would be unable to give satisfactory service, such as the public should have and demands.

Annual reports from municipally owned power plants, would seem to be an argument in favor of public ownership, for the reason that energy is apparently furnished much cheaper than by private corporations. That is true, however, when you do not, in figuring costs of service, take into consideration the amount invested in the plant and system. The people are, by taxation, required to pay for the plant generally purchased by the issuing of bonds and to likewise pay the interest on such bonds for a series of years, and, in fixing the rates to be collected from the public in a municipally owned power and light plant, the Commission does not take into consideration plant investment, interest and sinking fund on bonds. These amounts are taken care of by special assessments on general property of the city or town. Thus, in fact, a part of the rates only must be paid by the consumer directly, while in private corporations, rates necessarily are fixed to cover the balance of the rates paid in municipal operation, indirectly, and as we have indicated, through taxes. So, after all, consideration must be given all the necessary elements in the giving of service, and whether it is a publicly owned plant or privately owned, the consumer of the energy cannot expect to escape the paying of the just cost of such service.

In the findings in this case, it will be observed that the amount allowed is not sufficient to meet what the

Company claims it should have in order to pay the pressing demands made upon it in giving the service to the public; yet, as is discussed herein, there are many things to be taken into consideration in the fixing of rates.

It has been, and shall be, the principle by which the Commission is guided, that constructive, rather than destructive, rules should be followed, at the same time jealously watching the rights of the public as against rates which are not warranted under the showing. In other words, the conclusions of the Commission must be based upon the measured requirements of the law and the facts.

It has been held by some commissions that to expect a full return on all means invested during a period of unusual financial depression, does not appear reasonable; that a utility cannot expect, during a period when its business does not increase to hold its own in a manner to support additional investments for power and extensions, to receive at once a full return on all such investments, and therefore, receive such increases in its rates as will take care of all such additional charges and plant capacity, so in this case, the Company cannot expect to be made entirely whole.

Without attempting at this time to lay down any fixed rule by which utilities should be governed in making extensions and increases in plant capacity, careful consideration should be given as to the necessity for and the probable revenue results of such additional investments, with a view that the system as a whole be not called upon to take care of and make good deficits, thus placing a burden upon the consumers which may result in unreasonable rates, and in this case we are not requiring the consumers to pay what might be called a full return upon all property.

The fixing of rates and the giving of authority to a service corporation to charge and collect from the public for a service or commodity, is a power which the Public Utilities Commission is given under the law, and it is not an arbitrary power or authority simply to refuse or permit increases or decreases as a matter of sentiment or personal feeling, or in response to outside influence, any more than it would be with a court or jury. There are well established rules, regulations, principles and laws which cannot or must not be ignored in determining what rates shall be allowed. The decisive and material facts are to be found from the showing made and investigation on the part of the Commission, together with a careful consideration of the law governing such matters. The facts are obtained by a complete, full and free hearing and careful consideration of all matters which tend to shed light on any and all transactions,

practices, property and values in connection with the giving of a service or furnishing a commodity.

Under the law, the Commission is clothed with much power; but such power is limited by the law and within reasonable bounds. With the power and authority to control, there exists a corresponding duty to insure proper treatment and extend such rights as are legal, just and reasonable, with the thought and view of doing justice to all parties concerned. The Commission's duty is to carefully investigate, hear and decide the matters under consideration, and therefrom determine and say what should be done without fear or favor, and this is made necessary, in order that the purpose of the law may be met and public service corporations be able to give proper and adequate service to the public.

We are convinced that the public is not objecting to the right thing when correctly informed and understands conditions, notwithstanding prices are higher for service than formerly, and to that extent causes an additional burden. If the service shall continue, the cost for giving the same is necessary and must be determined.

In the investigation of rates by the Commission, every effort is made, by publishing notices of hearings and invitations to all concerned to take part or be present, in order that a full investigation may be made and the public heard and informed as far as practicable.

In the case of the Utah Copper Company vs. the Public Utilities Commission of Utah and the Utah Power & Light Company, decided December 14, 1921, the court, by its Chief Justice said:

> "Fundamentally, the legislative or police power to regulate the public utilities of the state and fix rates, rests upon the legal rights 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 economic operation."

So, the principle of rate adjustment by a commission, is to secure uniformity, reasonableness and certainty of rates for services, and when once thus established it becomes a legal rate and not one that is imposed by the Company

at will. After a rate for a commodity and service is thus fixed, it must be sold and furnished at such rate and is without any variation or discrimination. Such rate cannot be changed under any condition by the service corporation, but only on permission by the Commission and under such practice, no company has, during war times and since, advanced its rates or increased the same from the original rates, except upon hearing and finding by the Commission that the same was just and reasonable. This is not true of uncontrolled industry touching this question. We call attention to the following findings:

In the opinion of the Indiana Commission, in re Illinois Bell Telephone Company, Nos. 5,563—5,570, March 29, 1921, the Commission said:

> "It is contended that in times of business depression, a public utility should be required to forego its profits and take its losses like any private corporation. This might be all right if, during hard times a public utility were permitted to close its doors and suspend operation until business conditions become promising. It might be still more logical if a utility were permitted during boom times to enjoy large earnings and pay out its profits in dividends. Petitioner furnished service throughout the war period at less than the cost of the service, while unregulated private corporations were joyfully making unheard of profits. Regardless of the state of business generally, it must continue to operate at maximum speed. It must continue to give service, for its service has become one of the necessities of life. It must constantly extend its lines and add to and improve its equipment in order to keep up with the growth of its community and the developments of the art. The public demand these things. Their cost is great and will probably never again be at the pre-war level. As time passes and improvments are developed, the service demands become more complex and insistent. There is but one source of revenue and credit and that is from the subscribers and patrons who pay the rates. Like most public utilities, petitioner is a large borrower of money for its improvement program. In order to borrow money at all, it must have credit. Regardless of its credit, the cost of borrowed money to-day is extremely high."

A similar opinion is held by the Washington Commission, in the case of Public Service Commission vs. Spokane Falls Gas Light Company, et al., No. 5,134, April 7, 1921, in which the Commission says:

> "It is the policy of law and of regulatory bodies generally to stabilize utility investments. It is to the public interest that the utilities of the country should not be subject to the sharp fluctuations which affect private industries. Public utilities should not be permitted to reap excessive profits nor be compelled to suffer losses whch would threaten their existence. Public service concerns should function efficiently at all times. It is to the interest of the public as well as of the utilities that regulations should permit them to earn a reasonable return as well as prevent them from reaping excessive profits."

The question raised by the City of St. George, that a change of rates would violate the provisions of a certain contract made and entered into by the predecessor in interest of the petitioner, for and in consideration of certain privileges, covenants and agreements so entered into, was brought to the attention of the Commission; and it was claimed that the grantee, who was the predecessor in interest of the Power Company, agreed not to charge for electrical energy within the City of St. George, rates that would exceed those previously charged, as is set out as a part of the contract.

This question has been before and passed upon by this Commission, in the matter of Salt Lake City, et al., vs. the Utah Light & Traction Company, reported in Case No. 6, which, upon appeal to the Supreme Court of this State, was affirmed and endorsed. Said decision is reported in 52 Utah, Page 210, and in the Pacific Reporter 173, Page 556. The conclusion reached in the above case, which was upheld by the Supreme Court, was against the contention so raised by the City of St. George in this case.

Speaking upon the question of the jurisdiction of the Commission to regulate and fix rates of utilities, regardless of existing contractural relations, the Supreme Court of our State, in the case of the Utah Copper Company vs. Public Utilities Commission of Utah and Utah Power & Light Company, decided December 14, 1921, declares:

> "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. 556; 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.)"

As to the question raised by the City of St. George, the Power Company purchased the light and power system of the City, after the same had been operated for a number of years. It is claimed that the amount paid by applicant for such system was reached and influenced by the consideration and agreement entered into on the part of applicant and the City, for the furnishing of light and power for a number of years at stipulated prices. There was some testimony introduced directed to the transactions which led up to the said sale and purchase, yet the testimony was not sufficient to show that a value passed from the City to the Power Company, for which said City received no real compensation in return, or that any special value was to be made up by the contract entered into concerning said rates.

The testimony given on that phase of the investigation seemed to be the detailing of the conditions and circumstances which led up to the final transaction, and with a specific view of arriving at such sum as was just and equitable, and that an amount was reached and reported by the committee appointed by the City Council. These findings and conclusions were accepted, and action taken thereon, without the discussion of any question concerning special considerations, and that there was no other consideration than the price fixed, and which was paid by the predecessor in interest of the Power Company.

From the testimony given at the hearing, it appeared that the Power Company, or its predecessor in interest, among other agreements, agreed that the City of St. George should have the free use of 15 kilowatts, or 20 horespower, of electrical energy, for the operation of its street lighting or strictly municipal service. The Power Company, by its manager and attorney, acknowledged that there was such an agreement as discussed and entered into during the negotiations of purchase, and further, that the Company

was willing that the contract and agreement touching such free service should not be interfered with, but did not admit that there was any special or adequate consideration had for such concession in the transaction leading up to the sale and purchase of the city's light and power system by the Company.

In view of the findings of the Commission herein, that there was not sufficient evidence to prove special consideration, and that the proof, if any, was not sufficiently definite or certain as to fix any amount which would have to be found by the Commission, in order to charge the Company and credit the city, and thereby provide some method by which the matter could be properly adujsted, no order could be entered other than to deny the authority to furnish free service as claimed by the City of St. George. To allow a free service to be given under the showing made, would be clearly discriminatory. So, no order could be legally made authorizing the Power Company to continue the furnishing of free energy to the city for municipal purposes, notwithstanding the Company expressed a willingness to continue said free service.

This matter has been passed upon by the Commission in other cases hertofore considered, and, under the action of the Commission and the law, in which certain rules and practices have been invoked, it would be contrary to the law and the practice to allow the free service to continue; but, in order that the City may have an opportunity of making further representations to the Commission and submitting further testimony, the Commission retained jurisdiction of the matter for such purposes.

COMPARATIVE RATES

Protestants contend that the rates of the Dixie Power Company are higher than rates charged in some other parts of the State. It is true that some rates are higher and some are lower in other places than those charged by applicant. Some of these rates are Commission-made rates.

Rates must be based upon the cost of service. Cost of service, in turn, depends upon the investment necessary to render said service. Investment varies with location, and particularly so with hydro-electric properties. Thus, before a comparison of rates may be made or relied upon, it is necessary to first ascertain whether the conditions and costs of rendering service are similar, and, unless the conditions are analagous the fact that other companies in

other localities charge rates higher or lower than those complained of, would shed no light on the reasonableness of the rates under consideration. Further, it would be necessary to determine, first, whether or not the rate selected for comparative purposes in some other locality, was a compensatory rate as applied to its own utility. For example, we have found the present rates of applicant to be confiscatory. If these same rates were used for comparative purposes, without a knowledge of their confiscatory character, it would lead to an absurd conclusion, if applied to similar property. A comparison of rates may give information in a very general way, but, for reasons heretofore outlined, cannot be controlling.

In this particular case, we have a sparsely inhabited territory, over which the Company has extended its service, and it must be apparent to even the casual observer that the cost of service to the consumer must necessarily be higher than in sections where conditions are more favorable.

One or more of the schedules proposed by applicant have been changed in form by the Commission, as we believe the adoption of the proposed schedule as submitted would lead to discrimination. Some reductions have been made in other schedules from that submitted, and, after a full consideration of all material facts that may or do have any bearing upon this case, and particularly as to the economic necessities of the applicant and the public, we find the schedules hereinafter set forth to be reasonable and applicable to the respective classes of service set out in said schedules.

The general rules and regulations of applicant in so far as they are not in conflict with this order, may be filed with the Commission as the rules and regulations applicable to this service. All former rules, regulations, rates, practices and contract rates, except as hereafter noted, are annulled, set aside and superseded by the rates, rules and regulations set out in this order.

SCHEDULE "A"

RESIDENTIAL LIGHTING 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 $1.39 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 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.

SCHEDULE "B"

COMMERCIAL LIGHTING RATE

14 cents per kilowatt hour for the first 50 kilowatt hours of monthly consumption.

11 cents per kilowatt hour for the next 100 kilowatt hours of monthly consumption.

9½ cents per kilowatt hour for the next 100 kilowatt hours of monthly consumption.

9 cents per kilowatt hour for all additional kilowatt hours of monthly consumption.

Minimum charge $2.00 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 alternating current lighting service at approximately 110 volts for all commercial lighting, which includes all lighting used except residence lighting, municipal street lighting, and church lighting.

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.

SCHEDULE "C"

MUNICIPAL INCANDESCENT STREET LIGHTING RATE

$2.15 per lamp per month for each 100 candle power lamp.
3.10 per lamp per month for each 250 candle power lamp.
3.60 per lamp per month for each 400 candle power lamp.
No prompt payment discounts.

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, by means of ornamental posts and underground cable or overhead, series systems when such systems have been installed at the expense of and are maintained by the municipality.

Lamp Renewals, but not glassware renewals, will be supplied by the Company at its expense. No reductions in candle power or number of lamps shall be made during the life of the contract.

Rules and Regulations: Service under this schedule shall be subject to all its terms, to all the terms of the contract and to all Rules and Regulations of the Company on file with the Public Utilities Commission of Utah.

SCHEDULE "D"

MUNICIPAL INCANDESCENT STREET LIGHTING

Multiple Service at 110-220 volts.

RATE

$1.15 per lamp per month for each 60 candle power lamp.
1.75 per lamp per month for each 80 candle power lamp.
2.00 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 multiple incandescent street lighting only. The Company will make, maintain and operate the original installation and additions thereto, provided that no extensions ex-

ceeding 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 of 25 per cent in excess of rate under contract.

Rules and Regulations: Service under this Schedule shall be subejct to all its terms, to all the terms of the contract, and to all Rules and Regulations of the Company on file with the Public Utilities Commission of Utah.

SCHEDULE "E"

CHURCH LIGHTING RATE

Minimum charge only for the first 20 kilowatt hours of monthly consumption.

For all monthly consumption in excess of 20 kilowatt hours and for minimum charge, the Company's Residence Lighting Rate and for the territory in which the service is supplied is effective.

Application of Schedule: This Schedule is for alternating current service supplied at approximately 110 volts for lighting service in churches and places of public worship supported by recognized religious denominations, and which are used for no commercial purposes.

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.

SCHEDULE "F"

HEATING AND COOKING RATE

3.5 cents per kilowatt hour for the first 50 kilowatt hours of monthly consumption.

3.0 cents per kilowatt hour for the next 100 kilowatt hours of monthly consumption.

2.0 cents per kilowatt hour for the next 350 kilowatt hours of monthly consumption.
1.5 cents per kilowatt hour for the next 500 kilowatt hours of monthly consumption.
1.0 cent per kilowatt hour for all additional kilowatt hours.

Minimum Charge: $2.22 per month for connected load of 3,000 watts or less, plus 35 cents per month for each additional 1,000 watts 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.

Contract: This Schedule is available only under contract for a term of at least one year.

Rules and Regulations: Service under this Schedule shall be subject to all its terms, to all the terms of the contract, and to all Rules and Regulations of the Company on file with the Public Utilities Commission of Utah.

SCHEDULE "G"

POWER FOR GENERAL PURPOSES

Service at 2,300, 5,000, 6,600 or 11,240 volts.
10 cents per kilowatt hour for the first 100 kilowatt hours of monthly consumption.
8 cents per kilowatt hour for the next 100 kilowatt hours of monthly consumption.
6 cents per kilowatt hour for the next 100 kilowatt hours of monthly consumption.
5 cents per kilowatt hour for the next 200 kilowatt hours of monthly consumption.
4 cents per kilowatt hour for the next 200 kilowatt hours of monthly consumption.
3 cents per kilowatt hour for the next 600 kilowatt hours of monthly consumption.
2.5 cents per kilowatt hour for the next 6,700 kilowatt hours of monthly consumption.
1.75 cents per kilowatt hour for all monthly consumption in excess of 8,000 kilowatt hours.

Minimum Monthly Charge: $1.25 per month per 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 2,300, 5,000, 6,600 or 11,240 volts inclusive, and at approximately 60 cycles per second, for general power purposes up to 49 horse-power and up to 24 horse-power for mining and ore treating purposes.

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.

SCEHDULE "H"

POWER FOR GENERAL PURPOSES

Service at 33,000 volts.
Effective in Utah in all territory served by the Company.

RATE

A Demand Charge of $2.00 per month per horse-power of maximum demand plus: an Energy Charge of:

3-½ 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 cents per kilowatt hour for each of the next 25 kilowatt hours used during such month per horse-power of maximum demand for that month.

2-½ cents per kilowatt hour for each of the next 25 kilowatt hours used during such month per horse-power of maximum demand for that month.

2 cents per kilowatt hour for each of the next kilowatt hours used during such month per horse-power of maximum demand for that month.

1.2 cents per kilowatt hour for each of the next 25 kilowatt hours used during such month per horse-power of maximum demand for that month.

1 cent per kilowatt hour for each of the next 25 kilowatt hours used during such month per horse-power of maximum demand for that month.

.8 cent per kilowatt hour for each of the next kilowatt hours used during such month per horse-power of maximum demand for that month.

.7 cent per kilowatt hour for each of all additional kilowatt hours used during such month per horse-power 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 33,000 volts, and 60 cycles per second, at points adjacent to the Company's transmission system, for power purposes only, for loads of 50 horse-power 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 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 $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.

Rules and Regulations: Standard rules and regulations on file with the Public Utilities Commission of Utah.

SCHEDULE "I"
POWER FOR IRRIGATION PUMPING
RATE

No change from present schedule.

Rules and Regulations: Service under this Schedule shall be subject to all its terms, to all terms of the contract, and to all Rules and Regulations of the Company on file with the Public Utilities Commission of Utah.

SCHEDULE "J"

EMPLOYEES' RATE

Electrical service is furnished at one-half regular 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.

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 or buys an electric light globe 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) JOSHUA GREENWOOD,
(SEAL) Commissioner.

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

HEYWOOD, Commissioner: Did not sit in this case.

STOUTNOUR, Commissioner, Concurring:

In the instant case, there is no question before the Commission relative to an adequate return on the investment or a profit from earnings, such as that term is generally known. We have before us clearly a case of confiscatory rates. Where confiscation is present, there can,

under the law, be no delay, when the utility seeks relief from such condition through increased rates. To act otherwise, would make us a party to confiscation. We cannot, figuratively speaking, give applicant an ingenous pat on the shoulder and tell him to come again some other time when conditions are normal. Such action, of course, likewise pre-supposes someone wise enough to pause at some given moment in the future, and be able to say, "Times are normal now." However popular and heroic such a course might be with a very few people, the Commission can adopt no such attitude. To do so would invade applicant's constitutional rights. If we do not do our part in saving the property from confiscation, the burden would necessarily be assumed by the courts. The Commission cannot evade its obvious duty through silence or pretext. This case has been heard in accordance with the law and the rules and regulations prescribed by this Commission. Extended hearings have been had for some months, much evidence taken and many exhibits and other data filed. It only remains for the Commission to plumb the evidence and the facts to the law.

Regarding confiscation, the Public Utilities Commission of Montana, in the case of the City of Butte, vs. Butte Electric Railway Company, had this to say:

> "The constitution, protecting the company's right to a fair return on the fair value of its property devoted to the public service, stands unmoved, unshaken by the chaotic winds of post-war distress. The utility insisting upon its rights thereunder, we are not at liberty to reduce rates in response to unfortunate economic conditions rendering patrons less able to pay the rates, but at the same time not depressing operating expenses. Re Juneau Telephone Company, P. U. R. 1921-B, 382. There is nothing in the record to show that the company's costs of operation are materially lower, though economies have been effected, and we know it has not accumulated a surplus now available to fill additional deficiencies which would most certainly result from concessions in the way of reduced fares. The company may waive its right to a reasonable return, but that is a different thing from asking us to compel it to take a loss."

Again, if in this case, service had been furnished to consumers by their own organization, and had been subject

to increased costs, such as have come to this property, there could be no other conclusion than that a higher charge for service would have been necessary, just as it is necessary now, when service is being furnished by a commercially organized company. There is no way to escape the paying of the just costs of service if a utility is to be kept in operation. Economic law knows no arbitrary master, and an arbitrary "yes" or "no" upon the part of any regulatory body, cannot change economic conditions in the least. The thing the Commission can do is to scale the rates as justly as possible and see that no more than absolutely necessary is exacted. It is clearly evident here that if the utility is to continue to operate as such, it must be provided with a set of rates that it can live under. The rates, as a whole, carried in the opinion will, at the most, barely escape the test of confiscation, and however reluctant we may be to increase costs to consumers, increased rates are inevitable.

Bear in mind that this is not a case where rates were raised from time to time during the economic overturn due to war conditions.

(Signed) WARREN STOUTNOUR,

Commissioner.

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 Janaury, A. D., 1922.

In the Matter of the Application of the DIXIE POWER COMPANY, for permission to file new schedules increasing its rates. } CASE No. 457

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, Dixie Power Company, be, and is hereby, authorized to establish and put into effect increased rates for electric service which will not exceed the schedules set forth in the report attached hereto.

ORDERED FURTHER, That the Commission retain jurisdiction in this case in so far as the contract between the City of St. George and applicant is concerned.

ORDERED FURTHER, That the rules and regulations of applicant, Dixie Power Company, in so far as the same do not conflict with the attached report, may be made effective.

IT IS FURTHER ORDERED, That the increased rates authorized herein be made effective upon ten days' notice to the public and the Commission.

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

> "Issued upon less than statutory notice, by authority of the Public Utilities Commission of Utah, Case No. 457, dated January 7, 1922."

By the Commission.

(Signed) T. E. BANNING.

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the matter of the Application of L. C. MORGAN and JAMES E. CARTER, for permission to operate an automobile freight line between Provo and Eureka, Utah, and between Provo and Nephi, Utah, and intermediate points.	CASE NO. 460

Submitted Feb. 15, 1922. Decided Feb. 23, 1922.

Chase Hatch, for Petitioners.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on for hearing at Provo, Utah, September 28, 1921, when testimony taken was to the effect that the applicants had been doing a general freight business by automobile truck between Provo, Eureka and Nephi, Utah; that they had a contract with the Utah Central Truck Line Company, operating out of Salt Lake City, to deliver freight brought by said Company to Provo and billed to points south; that for such service they had invested considerable means; that the Utah Central Truck Line, who had a certificate of convenience and necessity to haul freight from Salt Lake City to Payson, had filed a waiver in favor of the applicants herein for points south of Provo; that Provo is a point to which much merchandise and other commodities are shipped, by carload lots, and that from said points considerable goods are distributed over the route to the points in question.

The application was protested by the Salt Lake and Utah Railroad Company, who denied that there was any necessity for the operation of a truck line in the vicinity served by its Railroad, namely, from Provo to Payson, Utah, or that the public would be benefited by the operation of such service.

It was claimed in support of the application, that the service to be rendered would be more convenient and less expensive, and that there were some points on said route which were not served immediately by any common carrier.

It appears from the records of the Commission that there was an authorized automobile service for freight and express from Salt Lake City to Payson, upon a finding that there was a convenience and necessity for such additional service. The proof of the assignment to the applicants by the parties who had the certificate of convenience and necessity, was not sufficient to warrant the transferring of such right to the applicants, and the matter was continued for further hearing.

February 15, 1922, the matter was re-opened for the taking of further testimony, which was to the effect that the parties applying had continued to give service as far as Payson, under the so-called Dundas Brother's certificate, and that service had been rendered south of Payson to Eureka and Nephi, with the understanding that action would be taken upon the application heretofore filed.

It further appeared that Dundas Brothers had not given any service for a number of months, but had abandoned the same without the permission of the Commission, and with no alleged excuse for such abandoment; that since the first hearing was had upon the application, the matter of service from Salt Lake City to Provo had been before the Commission, upon the application of H. M. Spencer, and it was fully developed there that the service rendered under the certificate issued some time ago between Salt Lake City and Payson, and especially between Provo and Payson, had been abandoned.

From a consideration of the history and material testimony given in this case, the applicants are entitled to a certificate of convenience and necessity, and it appearing that there still exists a necessity for such service between Nephi, Eureka and Provo, Utah, and intermediate points, the applicants should be authorized to continue the service between Provo, Eureka and Nephi, Utah, and intermediate points.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,

We concur:

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

(Seal)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity

No. 129.

In the Matter of the Application of L. C. MORGAN and JAMES E. CARTER, for permission to operate an automobile freight line between Provo and Eureka, Utah, and between Provo and Nephi, Utah, and intermediate points.	CASE No. 460

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 23rd day of February, A. D. 1922.

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 granted and L. C. Morgan and James E. Carter be, and they are hereby, authorized to operate an automobile freight line between Provo and Eureka, Utah, and between Provo and Nephi, Utah, and intermediate points.

ORDERED FURTHER, That applicants, L. C. Morgan and James E. Carter, 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.

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of BYRON CARTER, for permission to operate an automobile stage line between Helper, Utah, and Kenilworth, Utah.	CASE No. 469.

Submitted Nov. 18, 1921. Decided Jan. 23, 1922.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This application was filed October 7, 1921, and heard at Price, Utah, November 18th. No protests were received, neither did any protestants appear at the hearing.

Applicant alleges that he is a resident of Helper, Utah, and seeks authority to operate an automobile stage line between Helper and Kenilworth, Utah.

Applicant further alleges that no passenger trains are being operated between these two places, and that at present there is no regular service existing for the transportation of passengers between said points.

Mr. Byron Carter appeared in his own behalf, in connection with his son, Farlin Carter. Mr. Byron Carter testified that no stage line is operated between Helper and Kenilworth at the present time; that he had full equipment for operating such stage line, and asked that, if it could be done consistently, he would rather the certificate be issued to his son, Farlin Carter, and that said son would have charge of the stage line and its operations, although he, Byron Carter, would own same.

The Commission has heretofore issued a certificate to Robert Henderson and James Henderson, authorizing service between these points. The holders of this certificate have not recently conducted the operation of said line, nor complied with the rules and regulations, and said certificate is hereby revoked.

While the Commission finds there is necessity for the operation of an automobile stage line between said points,

we believe the certificate should be issued to the owner of the equipment, namely, Mr. Byron Carter.

An appropriate order will be issued.

(Signed) WARREN STOUTNOUR,

We concur:

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
Commissioners.

(Seal)

Attest:

(Signed) T. E. BANNING
Secretary.

ORDER

Certificate of Convenience and Necessity.

No. 125.

At a Session of the PUBLIC UTILITIES COMMISSION of UTAH, held at its office in Salt Lake City, Utah, on the 23rd day of January, A. D. 1922.

In the Matter of the Application of BYRON CARTER, for permission to operate an automobile stage line between Helper, Utah, and Kenilworth, Utah. } CASE No. 469.

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, Byron Carter, be granted a certificate of convenience and necessity, and authorized to operate an automobile stage line for the transportation of passengers between Helper and Kenilworth, Utah.

ORDERED FURTHER, That applicant, Byron Carter, shall file with the Commission a schedule of the arriving and leaving time of his cars from each station, and a schedule of the rates and charges to be assessed.

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 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 November 14, 1921. Decided May 10, 1922.

Appearances:

C. W. Jorgensen, Mayor, and Eli F. Taylor, for Town of Salem.
F. M. Orem, for Salt Lake and Utah Railroad Co.
James P. Gardner, for Utah County.
B. J. Finch, for U. S. Bureau of Public Roads

REPORT OF THE COMMISSION

By the Commission:

At the request of the City Council of Salem, the above entitled matter was re-opened, for the purpose of determining the division of expenses incurred in securing a right-of-way necessary to re-route the State Highway in accordance with the order of the Commission in the above numbered case, issued December 10, 1921.

The case was heard by the Commission, April 4, 1922, at which time the parties in interest presented their views as to the proper division of the cost of securing such right-of-way.

In our Report and Order in this case, dated December 10, 1921, we discussed in detail our conclusions as to jurisdiction and findings of fact. To repeat them here,

would only lengthen this report. Our former opinion and findings of that date are, however, expressly made a part of this Supplemental Report.

After consideration of all matters presented, the Commission is of the opinion that the Salt Lake and Utah Railroad Company should pay 50 per cent of the cost of securing the right-of-way required to carry out our findings and order in this case, the remaining 50 per cent to be borne by the other parties in interest. This order is directed to the Utah State Road Commission.

An appropriate order will be issued.

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

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

(Seal)

GREENWOOD, Commissioner, Dissenting:

I am unable to concur in the order made in this matter, first for the reasons as set out in my dissenting statement made in the original report of the majority, dated December 10, 1921; second, for the further reasons that I cannot bring myself to believe that the law under which the majority of the Commission assumes authority to adopt means and rules by which to secure rights-of-way for state or county roads through a city, or elsewhere, and to direct how said cost of rights-of-way shall be paid for, when such rights-of-way have no connection with the utility in question, does not warrant such an order. As well might this Commission issue an order distributing costs of the road and how and who shall pay for same.

The law relied upon for such authority, is Section 4804, of the Act creating the Public Utilities Commission of Utah, as follows:

> "Whenever the commission shall find that additions, extensions, repairs, or improvements to or changes in the existing plant, equipment, apparatus, facilities, or other physical property of any public utility or of any two or more public utilities ought

reasonably to be made, or that new structure or structures should be erected to promote the security or convenience of its employes or the public, or in any other way to secure adequate service or facilities the commission shall make and serve an order directing that such additions, extensions, repairs, improvements, or changes be made or such structure or structures be erected in the manner and within the time specified in said order. If any additions, extensions, repairs, improvements, or changes, or any new structure or structures which the commission has ordered to be erected, require joint action by two or more public utilities, the commission shall notify the said public utilities that such additions, extensions, repairs, improvements, or changes, or new structure or structures have been ordered, and that the same shall be made at their joint cost, whereupon the said public utilities shall have such reasonable time as the commission may grant within which to agree upon the portion or division of cost of such additions, extensions, repairs, improvements, or changes, or new structure or structures, which each shall bear. If at the expiration of such time such public utilities shall fail to file with the commission a statement that an agreement has been made for a division or apportionment of the cost or expense of such additions, extensions, repairs, improvements, or changes, or new structure or structures, the commission shall have authority, after further hearing, to make an order fixing the proportion of such cost or expense to be borne by each public utility, and the manner in which the same shall be paid or secured."

Section 4811, of the Public Utilities Act, reads as follows:

"1. No track or any railroad shall be constructed across a public road, highway, or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at a grade, without having first secured the permission of the commission; provided, that this sub-section shall not apply to the replacement of lawfully ex-

isting tracks. The commission shall have the right to refuse its permission, or to grant it, upon such terms and conditions as it may prescribe.

"2. The commission shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public road or highway by a railroad or street railroad, and of a street by a railroad, or vice versa, and to alter or abolish any such crossing, and to require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected, or between such corporations and the state, county, municipality, or other public authority in interest.

"3. Whenever the commission shall find that public convenience and necessity demands the establishment, creation, or construction of a crossing of a street or highway over, under, or upon the tracks or lines of any public utility, the commission may by order, decision, rule, or decree require the establishment, construction, or creation of such crossing, and said crossing shall thereupon become a public highway and crossing."

The Supreme Court, in the case of the Denver and Rio Grande Railroad Company vs. the Public Utilities Commission of Utah, reported in 172 Pacific Reporter, Page 479. in construing said section, states:

"This act confers on the commission the exclusive power to prescribe the manner and terms upon which railroad tracks may be constructed, maintained and operated across a public road, highway or street, and the commission must take jurisdiction of an application of a railroad company to cross highway, even though railroad companies have made no application to the local authorities for franchise to cross such highway."

It is obviously clear that these sections and the interpretation of our Supreme Court, are confined to railroad crossings, and, in my mind, fail in any degree or manner, to extend the authority of this Commission to enforce the provisions of the order in this case. The power as set forth in the above quotations is dealing with utilities almost exclusively, not with cities or counties or the state over which the order contemplates authority, and cannot, in my opinion, be interpreted to extend the authority of this Commission over the railroad in question and to compel the same to appropriate its money for the building of the city, county or state road, which does not come in contact with or cross over its roadbed.

If the road in question should be constructed over the railroad track, then, in that event, this Commission, under the law above quoted, may direct how and where the crossing shall be made and the conditions under which it shall be built, and the proportion that the interested parties should pay in its construction; but here we are presuming the right to lay out a highway that has nothing to do with or come in contact with the utility roadbed, and, until it shall, this Commission has no right or authority in making any order concerning the same. Especially is that true when there has been no order requiring an extension, repairs, improvements or changes in the existing crossings in question, which crossings are being left open for the uses and privileges of the traveling public, no new structure to be made to promote security and convenience over the railroad track; or directing any improvement, additions, extensions and repairs, or new structures over the railroad, where joint action is required by two or more public utilities, or otherwise.

This Commission has, as I read the law, authority and a duty to perform in the matter of railroad crossings, but cannot be extended to the laying out and obtaining rights-of-way of county and state highways. This duty and power is vested in the state and county officials, and, if city streets are involved, then, with the city officials. This Commission should be content in dealing with matters that have to do with railroad crossings, but not otherwise.

I am especially interested in the conducting of railroads over highways in a manner as shall best secure the safety and convenience of the traveling public, as they come in contact with railroad beds; but, to enter into the domain of other Commissions, such as state and county,

as well as city, wherein they are prosecuting the labor of building new highways and improving the same, and which do not come in contact with and lead over railroad-beds, I cannot concure in the thought that this Commission should be called upon and respond to the settling of disputed questions as have been injected into this matter.

I offer no objection to the division made in the order, other than the lack of authority for such act under the law on the part of the Commission.

The Federal officials, it would appear, refuse to recommend any appropriation if the improvement of the present road is to be made at grade over the railroad. With such attitude taken, I have nothing to say, and it may be a proper and consistent rule to invoke. Yet, in view of the crossings in question being left open for the public travel at grade, according to the first order issued by the Commission, it clearly seems to me that this Commission has not made any requirements which carries out the view of the Government in its refusal to assist in the improvement or construction of roads which lead over railroad crossings at grade, and it further appears, according to my judgement, that such attitude on the part of the Government, under all and every circumstance, appears harsh and unreasonable.

(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 May, A. D. 1922.

In the Matter of the Application 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 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 respondent, Salt Lake & Utah Railroad Company, bear fifty per cent of the cost of securing the necessary right of way to carry out the Commission's previous order in this case.

ORDERED FURTHER, That the other parties at interest bear the remaining fifty per cent of the expense of securing such right of way.

By the Commission.

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

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

BAMBERGER ELECTRIC RAILROAD COMPANY,
Plaintiff,
vs.
UTAH RAILWAY COMPANY, a corporation, and SALT LAKE & UTAH RAILROAD COMPANY, a corporation,
Defendants,

CASE NO. 471

ORDER

Upon motion of the Complainant and with the consent of the Commission:

IT IS ORDERED, That the above entitled proceedings be and is hereby dismissed without prejudice.

By order of the Commission.

Dated at Salt Lake City, Utah, this 9th day of January, 1922.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of MANOS KLAPAKIS, for permission to operate an automobile stage line between Price, Utah, and Great Western, Utah. } CASE NO. 472

Submitted Nov. 18, 1921. Decided Jan. 27, 1922.

N. D. Papa Dakis, for Petitioner.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This application was filed October 25, 1921, by Manos Klapakis, a resident of Price, Carbon County, Utah, alleging that he is experienced in the operation of automobiles, and seeks permission to establish a stage line under authority of a certificate of convenience and necessity issued by this Commission, operating between the towns of Price and Great Western, Utah.

A hearing was held, November 18, 1921, at Price, Utah. No protests were received by the Commission, neither did any protestants appear at the hearing.

Great Western is a new coal camp, situated north and west of the Town of Price. Great Western will house the operative force of several new mines being opened in that vicinity. No authorized stage line exists between Price and Great Western, and such traffic as exists at the present time is conducted by "for hire" cars, engaged especially for the trip.

The Commission has heretofore authorized Tony M. Perry, of Helper, to conduct a stage line between Helper and Great Western, Utah. The geography of these towns is such that the issuing of a certificate to applicant will not conflict with Mr. Perry's operations.

A stage line is also authorized between Price and Helper, and, in issuing a certificate, applicant is not authorized to conduct this transportation so as to interfere with or deprive the existing Price-Helper Stage Line of patronage.

After full consideration of all the circumstances and facts that may or do have any bearing on this question, we find that the application should be granted, and a certificate of convenience and necessity should be issued to Mano Klapakis.

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. 126.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 27th day of January, A. D., 1922.

In the Matter of the Application of MANOS KLAPAKIS, for permission to operate an automobile stage line between Price, Utah, and Great Western, Utah.	CASE No. 472

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, Manos Klapakis, be granted a certificate of convenience and necessity, and authorized to operate an automobile stage line for the transportation of passengers between Price and Great Western, Utah.

ORDERED FURTHER, That applicant, Manos Klapakis, 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 MANOS KLAPAKIS, for permission to operate an automobile stage line between Price, Utah, and Horse Canyon, Utah.	CASE No. 473

Submitted Nov. 18, 1921. Decided Sept. 11, 1922.

Appearances:
N. D. Papa Dakis, Attorney for Applicant.
Wm. A. Engle, Protestant.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This application was filed October 25, 1921, by Manos Klapakis, alleging that no railroad or stage line existed between Price, Utah, and Horse Canyon, Utah, and asked for authority of this Commission to establish a stage line between these points, in Carbon County, Utah, for the reason that a coal mining town would shortly be established at that point.

The case came on regularly for hearing the 18th day of November, 1921, at Price, Utah. Mr. Klapakis testified as to his financial ability and upon the necessity of establishing the proposed stage line.

Wm. A Engle testified in protest that there was not at the present time any necessity for the operation of such a stage line and that no development had as yet taken place at Horse Canyon, and further that said line would traverse largely the same route over which he was authorized to conduct a stage line, between Price and Sunnyside and that the shortest and best route between Price and Horse Canyon would be via Sunnyside and not the route proposed by applicant. That the establishment of such a stage line would be largely a duplication of the service already given and no public necessity would be served by the granting of a certificate for this service.

The Commission has held this application for some time, awaiting developments in this region and it now concludes that no public convenience and necessity will be

served by the issuing of a certificate at this time. The application should accordingly 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 September, A. D., 1922.

In the Matter of the Application of MANOS KLAPAKIS, for permission to operate an automobile stage line between Price, Utah, and Horse Canyon, Utah. } CASE No. 473

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 Manos Klapakis for permission to operate an automobile stage line between Price, Utah, and Horse Canyon, 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 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

Submitted December 28, 1921. Decided January 14, 1922.

Walter C. Hurd, for Petitioners.

REPORT OF THE COMMISSION

By the Commission:

The applicants represent that they are co-partners, doing a general automobile freight business, under the firm name and style of "Utah Central Truck Line," and that their principle place of business and post office address is 149 Pierpont Street, Salt Lake City, Utah; that they desire permission to haul freight by auto truck between Salt Lake City and Provo, Utah, via the towns of Crescent, Lehi, American Fork, Linden, Orem and Provo, Utah.

Applicants further allege that they have for some time past operated such a truck line between the points mentioned above, under the certificate heretofore issued by the Public Utilities Commission of Utah to Roy H. Dundas, or to the Dundas Brothers Cartage Company, with whom the petitioners were formerly in partnership; that the said Roy H. Dundas has transferred to petitioner all his right, title and interest in and to said franchise and to said business; that the said Dundas Brothers Cartage Company has not operated or attempted to operate any truck line or freight service for at least three months last past; that said Dundas Brothers Cartage Company has disposed of its equipment and is unable to continue to operate; that if granted such permit, the petitioners will operate two auto trucks, which are to leave Salt Lake City each day, except Sundays, at 8 A. M. and 1 P. M.; that they have sufficient rolling stock to take care of the service; that they propose as a charge for handling freight, of fifty cents per hundred pounds, between Salt Lake City and Provo.

The application was opposed by the Denver & Rio Grande Western Railorad Company, Salt Lake & Utah Railroad Company, Los Angeles & Salt Lake Railroad Company and Roy N. Dundas, co-partner of George D. Dundas, operating under the firm name and style of "Dundas Brothers Cartage Company."

A hearing upon the application was begun at the State Capitol, November 15, 1921, and heard in part, and, on motion, continued until December 9, 1921, at which time there appeared the protestants, the common carriers, protesting against the issuing of further certificates, for the reason that there was no necessity for such. The protestants, R. N. Dundas, et al., then asked that some further time be given before submitting the case, upon the ground that they thought it probable that the differences between them and the petitioners could be settled among themselves. Thereupon, the Commission continued the case until December 19, 1921, at which time the protestants, Dundas Brothers, asked to have the case again continued until December 28, 1921.

On December 28, 1921, there appeared the Dundas Brothers Cartage Company and the applicants, who informed the Commission that the matters of difference had been arranged, and that the protestants, the Dundas Brothers Cartage Company, would withdraw all opposition or protest to the issuing of a certificate to the said applicants.

It further appeared that the carriers did not desire to submit any evidence, and that their opposition was withdrawn for the time being.

Under the above statement of facts, and in view of the records, it would seem that a certificate of convenience and neecssity was issued to the Dundas Brothers Cartage Company some time ago, to haul freight from Salt Lake City to Provo, and intermediate points; that the service rendered by the applicants had been by the permission and under the certificate of convenience and necessity so issued to the Dundas Brothers Cartage Company; and that the history of the operation as alleged in the petition of the petitioners in this case, was borne out by the facts, and that the Commission would be warranted to authorize the continuing of the service under the name and style of H. M. Spencer, W. J. West and J. A. McHale, doing business as the Utah Central Truck Line Company, the showing being that these parties are able to and will give the ser-

vice; and that the withdrawal of the Dundas Brothers Cartage Company, leaves the field open for the issuing of a certificate of convenience and necessity to the applicants.

The Commission finds that the petitioners are entitled to a certificate of convenience and necessity authorizing them to contiuue the work of giving servce between the points mentioned; and that the certificate of convenience and necessity heretofore issued to the Dundas Brothers Cartage Company should be transferred to applicants.

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 14th day of January, A. D., 1922.

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

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 be granted and said H. M. Spencer, W. J. West and J. A. McHale be, and they are hereby, authorized to operate an automobile freight line between Salt Lake City and Provo, Utah, and that the certificate of convenience and necessity heretofore issued to the Dundas Brothers Cartage Company be transferred to the applicants in this case.

ORDERED FURTHER, That before beginning operations, H. M. Spencer, W. J. West and J. A. McHale shall file with the Commission a schedule of the rates and charges to be assessed for the transportation of property between all points, which rates will not exceed those formerly assessed and collected by the Dundas Brothers Cartage Company.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of ELMORE ADAMS, for permission to operate an automobile stage line between Deweyville, Tremonton and Garland, Utah.	CASE No. 475

Submitted Nov. 16, 1921. Decided Feb. 23, 1922.

B. H. Jones, for Petitioner.

A. D. McGuire, for W. E. Hadley and C. M. Peterson.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case was heard in connection with the application of W. E. Hadley and C. M. Peterson, for permission to operate an automobile stage line between Deweyville, Tremonton and Garland (Case No. 478), November 16, 1921, at Tremonton, Utah.

It was represented by the evidence in behalf of applicant that for more than five years past, and before the passage of the Public Utilities Act, he had operated an automobile stage line between Deweyville, Tremonton and Garland, Utah, and had devoted his entire time in furnishing such automobile conveyance as would reasonably take care of the traveling public; that for such services he had expended considerable means; that there was a necessity of establishing a service that could be relied upon, and give notice to the traveling public as to the price and the schedule of time; that the applicant had heretofore applied for a certificate of convenience and necessity to the Commission; but, for reasons set forth, had been denied the same; that the traveling public would be better protected, both as to service and the price of the same, by having the matter under the control of the Commission.

After a careful consideration of the facts presented at the hearing, and a consideration of the service heretofore given by Mr. Adams, it would seem to be just and proper to issue to said Elmore Adams a certificate of

convenience and necessity, authorizing him to operate a stage line between Deweyville, Tremonton and Garland, Utah; that the said service so authorized will be in connection with or in addition to the service authorized to be given by W. E. Hadley and C. M. Peterson, as set forth in Case No. 478.

It will be necessary for the applicant to file with the Commission a schedule of rates and time before operating under this authority.

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. 127.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 23rd day of February, A. D. 1922.

In the Matter of the Application of ELMORE ADAMS, for permission to operate an automobile stage line between Deweyville, Tremonton and Garland, Utah.	CASE No. 475.

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 Elmore Adams be, and he is hereby, authorized to operate an automobile stage line for the transportation of passengers between Deweyville, Tremonton and Garland, Utah.

ORDERED FURTHER, That applicant, Elmore Adams, 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 W. E. HADLEY and C. M. PETERSON, for permission to operate an automobile stage line between Garland, Tremonton and Deweyville, Utah.	CASE No. 478.

Submitted Nov. 16, 1921. Decided Feb. 23, 1922.

A. D. McGuire, for Petitioners.

B. H. Jones, for Elmore Adams.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on for hearing at Tremonton, Utah, November 16, 1921, when it was stipulated that the testimony taken would be used in Case No. 475, being the application of Elmore Adams, for permission to operate an automobile stage line between Deweyville, Tremonton and Garland, Utah.

The evidence submitted was to the effect that Deweyville is a station on the Utah Idaho Central Railroad, about four miles from Tremonton and about six miles from Garland; that Garland and Tremonton are progressive cities, and furnish a number of passengers for the above named railroad, whose station is at Deweyville; that there are no regularly established mail routes between said points; that W. E. Hadley, whose residence is Tremonton, operates a garage, and for years has been engaged in the taxicab business, some of which has been to carry passengers between Tremonton, Garland and Deweyville; that said service has been given by Mr. Hadley for a number of years, and before the Public Utilities Commission was created; that Mr. C. M. Peterson, who resides at Garland, has likewise been in the business of carrying passengers by automobile to various points, including to and from Deweyville; that the petitioners, W. E. Hadley and C. M. Peterson, are equipped to give any and all service that

will be required to the traveling public from the points named in the petition.

Elmore Adams appeared and gave testimony to the effect that he lived at Deweyville, and that for some time before the Commission was created, and until at present, he was occupied in transporting the traveling public from and to Deweyville, Tremonton and Garland.

It further appeared that there were a number of others who were occasionally carrying passengers along the same route. It also appeared that there was considerable travel from Deweyville to Tremonton and Garland and return, and that there was need of a service being established, such as is contemplated in the application.

After a careful consideration of all the circumstances and conditions, it appears that a certificate of convenience and necessity should be issued to Mr. W. E. Hadley and Mr. C. M. Peterson, authorizing them to operate an automobile stage line between Garland, Tremonton and Deweyville, Utah.

It may be well to here observe that in issuing such certificate, the authority to so operate a stage line will not be exclusive, but will be given in connection with the authorized service given by Elmore Adams, in Case No. 475. The attitude of the Commission in this matter is predicated upon the facts that both of these parties were giving reasonable service at the time the law was enacted creating this Commission, and have been since, so the service will be restricted to the operations of Messrs. Adams, Hadley and Peterson.

It will be necessary, before operating under this order, that a schedule of rates and time be filed with the Commission.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

A. R. HEYWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 128.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 23rd day of February, A. D. 1922.

In the Matter of the Application of W. E. HADLEY and C. M. PETERSON, for permission to operate an automobile stage line between Garland, Tremonton and Deweyville, Utah.	CASE No. 478.

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 W. E. Hadley and C. M. Peterson be, and they are hereby, authorized to operate an automobile stage line for the transportation of passengers between Garland, Tremonton and Deweyville, Utah.

ORDERED FURTHER, That applicants, W. E. Hadley and C. M. Peterson, 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 Oren Burke and James Rollins for a Certificate of Convenience and Necessity to operate and maintain an automobile freight and passenger service between Milford and Cedar City, Utah.	CASE No. 480.

Submitted January 12, 1922. Decided November 6, 1922.

Appearances:

Mr. James Rollins and his counsel, Mr. Cline, for Petitioners.

Messrs. Reuben J. Shay and G. Hunter Lunt, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard January 12, 1922, at Milford. The applicants represented that they were residents of Minersville, State of Utah; that at the present there is a passenger route maintained by Mortensen Brothers over part of the route asked for, namely between Milford and Parowan; but that the route asked for will take in the towns of Minersville, Parowan, Summit and Cedar City. That the rates between Milford and Cedar City, by reason of a shorter route as contemplated will be much cheaper and much more convenient for the public. That the applicants are familiar with the operation and maintenance of motor truck freight and passenger service; that they are competent, able and willing to give the public an adequate service under the rules and regulations of the Commission, if so authorized.

That it is their intention to organize a corporation for the purpose of handling said traffic.

Protests were filed by J. G. Pace against the granting of the application for the reason that the Pace Transportation Company is operating under and by virtue of a

franchise from the Public Utilities Commission of Utah, and is engaged in the carrying of freight between Lund, Utah, and Cedar City, Utah.

That said service between Lund and Cedar City is adequate and complete.

That said Pace Company would be greatly damaged by the authorizing of the applicants to haul freight over its route to Cedar City; that there is no necessity for such service as is contemplated by the applicants.

Protest was filed by J. David Leigh of Lund, against the application of said James Rollins and Oren Burke for the reason, and upon the grounds that the said J. David Leigh has, for three years last past, and is at the present time engaged in operating an automobile freight line between Lund, Utah, and Parowan, Summit and Enoch, in Iron County, Utah. Said service is being given under the Public Utilities Commission. That there is no need of further and additional service for the reason that all of the freight is adequately taken care of by said J. David Leigh.

B. F. Knell, of Cedar City, also protested against the issuing of said certificate, for the reason that he is operating a passenger auto stage service between Lund and Cedar City; and that if the proposed application is granted, the said B. F. Knell would be handicapped, if not irreparably damaged. That the territory sought to be served by the applicants is adequately taken care of.

The records in the office of the Commission disclose the fact that there is now already authorized service between Milford and Minersville, Beaver, Parowan and Paragonah; that said service is being taken care of satisfactorily for the public and that certificates of necessity and convenience have been issued to the parties now operating; that there is no demand for further service between Milford and Parowan. And it does further appear that there is service being rendered to the public between Paragonah, Parowan and Cedar City by way of Summit and Enoch.

At the time of the hearing in this case, the applicants requested further time in order that they might be able to submit additional testimony. Time was given to the applicants but they have failed to furnish any further evidence, and it is reasonable to presume that they do not care to pursue the matter further.

Upon the testimony given together with the general information in the possession of the Commission—especially the records in their office—it would appear that there is no necessity for authorizing additional service. That the service given is adequate and sufficient; and that the application should be denied.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD.

I concur:

A. R. HEYWOOD.

(SEAL) Commissioner.

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 November, A. D. 1922.

In the Matter of the Application of Oren Burke and James Rollins for a Certificate of Convenience and Necessity to operate and maintain an automobile freight and passenger service between Milford and Cedar City, Utah. } CASE No. 480.

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 Oren Burke and James Rollins for permission to operate an automobile stage line between Milford and Cedar City, Utah, 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 WM. A. ENGLE, for permission to operate an automobile stage line between Price and a Mining Camp near Sunnyside, Utah.	CASE No. 482.

Submitted April 14, 1922. Decided June 8, 1922.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This application was filed November 30, 1921, by William A. Engle, a resident of Price, who desires to initiate and operate an automobile stage line service between Price, Carbon County, Utah, and a town or mining camp to be established at a point about four miles southeast of Sunnyside, the present terminal of the Price-Sunnyside Stage Line.

Since this case was heard, April 14, 1922, Mr. Engle has been granted permission to withdraw from the operation of the Price-Sunnyside Stage Line, and this application is accordingly dismissed.

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 8th day of June, A. D. 1922.

In the Matter of the Application of WM. A. ENGLE, for permission to operate an automobile stage line between Price and a Mining Camp near Sunnyside, Utah.	CASE No. 482.

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, and it is hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES MARTENDALE, for permission to operate an automobile stage line between Fillmore, Utah, and Salt Lake City, Utah. } CASE No. 483.

Submitted Jan. 13, 1922. Decided February 9, 1922.

James Martendale, Petitioner.
Grover A. Giles, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

A hearing was had upon the above entitled application, at Fillmore, Utah, January 10, 1922.

There appeared in opposition to the granting of said application, Joseph Carling.

The petitioner testified that his principal place of business is Fillmore; that he is a farmer, by occupation; that he had been engaged, in connection with Joseph Carling, in operating an automobile stage line between Salt Lake City and Fillmore, Utah; that a contract had been entered into between himself and Mr. Carling, according to which he, the petitioner, had made weekly trips to Salt Lake City and return; that some differences had arisen between the parties, in which the applicant contends that he was instructed to discontinue giving service under the certificate of convenience and necessity issued to Mr. Carling, June 10, 1919.

The opposition to the issuing of a certificate of convenience and necessity to the applicant, James Martendale, was upon the grounds that over two years ago, the protestant, after a hearing, was granted a certificate of convenience and necessity to operate an automobile stage line for the transportation of passengers and express between Salt Lake City and Fillmore; that service under such certificate has been given without interruption, under the orders and instructions of the Public Utilities Commission; that said service has been given under schedules of rates and time now on file with this Commission, which includes trips on Monday, Tuesday and Wednesday, and that when necessity demanded, extra trips have been made, but that the traffic thus far has not justified the giving

of an additional scheduled trip each week; that the protestant has improved and increased his service materially, and is now ready, willing and able to further improve and increase such service whenever the traffic demands.

Protestant further denies that there is a valid contract existing between himself and applicant, James Martendale; that whatever arrangements there may have been between them regarding a second trip during each week, or at any other time, has long been abandoned by the applicant; and that the applicant, for a period of eight months, failed and neglected to recognize applicant's alleged agreement referred to in his petition; that there is no necessity at present for additional service between the points in question; that the principal distance of the route is provided with other services, such as the Los Angeles & Salt Lake Railroad and the Salt Lake & Utah Railroad, which operate and carry express and passengers along most of the route traveled.

After a careful consideration of the showing made in this case, the Commission finds:

1. That since June 10, 1919, there has been an automobile stage line operating between Fillmore and Salt Lake City, for the transportation of passengers and express.

2. That the express and passenger service is confined principally to and from Fillmore; that little service is rendered between intermediate points.

3. That said service so rendered under the order of the Commission, has been satisfactory.

4. That there does not appear to be sufficient traffic to warrant the authorization of an additional service between said points.

5. That the matter of a controversy arising between the applicant and the protestant, cannot be determined by this Commission.

6. That the application should 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 9th day of February, A. D. 1922.

In the Matter of the Application of JAMES MARTENDALE, for permission to operate an automobile stage line between Fillmore, Utah, and Salt Lake City, Utah.	CASE No. 483.

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, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Investigation of the method used by the UTAH POWER & LIGHT COMPANY in determining maximum demands for mine hoists.	CASE No. 484.

Submitted April 12, 1922. Decided April 22, 1922.

J. F. MacLane, for Utah Power & Light Company.

Ray & Rawlings, for the Associate Mining Chapter of Metal Mines.

REPORT OF THE COMMISSION

By the Commission:

March 8, 1921, the Commission issued its order in Case No. 248, an application of the Utah Power & Light Company, for permission to increase its power rates. In said order, the Commission ordered applicant to gather data reflecting conditions governing the use of electric energy in the operation of mine hoists, with a view of determining a fair basis for computing the maximum demand for such type of load. The Commission issued its order, under date of December 2, 1921, entering upon such investigation, to be heard January 4, 1922.

After hearing was had, and before the Commission had rendered its Report and Order, the Utah Power & Light Company submitted modifications of its general rules and regulations, for the consideration of the Commission. In connection with mine hoists, said modifications were approved by counsel for mining interests, they having joined in asking that the changes and modifications be accepted by the Commission. The following are the suggestions submitted:

> 1. Rule No. 6—Strike out "(C) It is designated 'Contract Horsepower' in Schedules Nos. 1 to 5 inclusive of Tariff No. 2."
>
> 2. Rule No. 43—Amend this rule to read as follows:
>
> "Maximum Demand, where hoist motors (motors operating any hoist or crane) are not used, is

the highest average five minute load taken by the consumer as shown by the company's meters. No additional charge will be made for hoist motors hoisting on inclines where the average gradient is less than 45 degrees, nor for direct current hoist motors supplied from motor generator sets owned, equipped and operated by consumer, so as to maintain peaks within the lowest practicable limits. Where hoist motors hoisting on inclines with an average gradient of 45 degrees or over, or hoisting vertically, are used, the maximum demand is the higher of (a) the combined continuous load rating of all hoist motors multiplied by the fraction obtained by dividing the said average gradient by 90, plus the highest average five-minute load as shown by the Company's meters while hoisting operations are being conducted, or (b) the highest average five-minute load as shown by the Company's meters while hoisting operations are not being conducted. If more than one hoist motor is connected and the consumer will provide such physical connection that all motors cannot be operated simultaneously, only the continuous load rating of the largest motor or group of motors that may be operated simultaneously will be considered. Such continuous load rating of hoist motors shall not be used in determining the billing load factor. Peaks due to accident which the consumer could not have guarded against, will be disregarded. Maximum demand for electric interurban and street railway service shall be 70 per cent of the highest average five-minute load taken by the consumer as shown by the Company's meters, at each point of delivery."

3. Rule No. 43-A—Amend the first paragraph of this rule to read as follows, the balance of the rule to remain unchanged:

"43-A. Determination of Contract Horsepower. Except as hereinafter provided, the contract horsepower in Schedules Nos. 1 to 5 inclusive of Tariff No. 2, for any month shall be the monthly maximum demand established in accordance with Rule 43 of the Company's General Rules and Regulations, (not less than the amount stated in the application, until such amount is reduced or the contract cancelled in accordance with Rules 45 or 46.)."

4. Rule No. 45—Insert after "reduction of the minimum bill based on the Consumer's demand" the following clause—"or the amount stated in the application."

5. Rule No. 48—Amend "(C)" of this rule to read as follows:

"Except that consumer's minimum monthly bill under Schedule No. 4-A of Tariff No. 2 shall be based on the then existing contract horsepower."

The Commission has considered the modifications as above outlined, and is of the opinion that they may be accepted and filed as the general rules and regulations governing this class of service. It appears that changes in billing, reflected by the modified rules and regulations, will result in reductions, and further, that at this time, the rules and regulations as proposed, are non-discriminatory, as compared with other classes of customers.

Furthermore, these rules shall be applied to April, 1922, billing. While our order in Case No. 248 reserved jurisdiction to correct all mine hoists billing in accordance with the rules and regulations as finally adopted, yet, it was established at the hearing that a determination such as this, is impracticable.

Said modified rules and regulations may be filed and made effective on less than statutory notice.

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 22nd day of April, A. D. 1922.

In the Matter of the Investigation of the method used by the UTAH POWER & LIGHT COMPANY in determining maximum demands for mine hoists.	CASE No. 484.

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 respondent, Utah Power & Light Company, publish and put into effect the rules and regulations provided in the foregoing report, effective May 1, 1922.

ORDERED FURTHER, That such rules and regulations be applied to all bills rendered for this class of service covering the month of April, 1922.

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 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

Submitted Jan. 12, 1922. Decided Jan. 19, 1922.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on for hearing at Milford, Utah, January 12, 1922, upon proper notice to the public.

There appeared Mr. H. A. Larson, Manager of the Utah Transportation Company, who testified that he desired to discontinue operation of the stage line between Milford and Beaver, and to transfer the same to Mr. L. D. Van Wormer.

It appeared from the showing that the Utah Transportation Company had been operating a stage line between Milford and Beaver, under the direction of the Commission, since 1917; that during such time, adequate service had been given to the public; that there were no obligations existing from the said Company to the public, and that there was no legal reason for not approving of the applications to discontinue operations; that L. D. Van Wormer had been associated for some time with said service as an employee, and had given evidence of being qualified to continue the service; that said Van Wormer owned sufficient rolling stock to continue the operation of said stage line.

Mr. Van Wormer, who asked for the transfer of the stage line, testified that he had had some experience in the operation of automobiles, and that he had at his command sufficient equipment to give reasonable service to the public; that he would continue said service, if so authorized, at the same rate and on the same schedule in effect by the Utah Transportation Company.

There appeared no opposition to such transfer.

The Commission finds:

1. That the application of the Utah Transportation Company to discontinue service, should be granted.

2. That the transfer as applied for should be made.

3. That a certificate of convenience and necessity be issued to L. D. Van Wormer, authorizing him to operate a passenger stage line between Milford and Beaver, Utah, and that the rates being charged at present, together with the schedule of time, be continued and approved until further ordered by the Commission.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

We concur:

A. R. HEYWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Convenience and Necessity No. 124.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 19th day of January, A. D., 1922.

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

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 of the Utah Transportation Company to discontinue its passenger stage service between Milford and Beaver, be, and it is hereby granted.

ORDERED FURTHER, That Applicant, L. D. Van Wormer, be granted a certificate of convenience and necessity, and authorized to operate an automobile stage line for the transportation of passengers between Milford and Beaver, Utah.

ORDERED FURTHER, That applicant, L. D. Van Wormer, shall file with the Commission a schedule of the arriving and leaving time of his cars from each station, and a schedule of the rates and charges to be assessed, which charges shall not exceed those at present charged by the Utah Transportation Company.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

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

Submitted Jan. 24, 1922. Decided March 14, 1922.

Willard Richards, for Salt Lake & Ogden Transportation Company
David L. Stine, for Bamberger Electric R. R. Co.

REPORT OF THE COMMISSION

By the Commission:

This matter came on for hearing before the Commission, Tuesday, January 24, 1922, upon the application and protest of the Bamberger Electric Railroad Company.

The applicant represented that it was an organized corporation, existing under the laws of the State of Utah, for the purpose of operating a motor freight and express line within the State of Utah; that heretofore, on the 6th day of April, 1921, a certificate of convenience and necessity was issued to Bruce Wedgwood and Fred A. Boyd, copartners, authorizing them to operate an automobile express line between Salt Lake City and Ogden; that from said date, and until the present, service as contemplated by said order of the Commission, had been given; that for the purpose of continuing said service, and to be in a position to give more adequate and sufficient service to the public, the Salt Lake & Ogden Transportation Company was organized by the Wedgwood and Boyd interest, and others, for the purpose of taking over and operating said freight and express line; that the matter of transferring said certificate to the Salt Lake & Ogden Transportation Company was communicated to the Commission, September 12, 1921; that the said corporation was equipped with sufficient trucks and rolling stock, and other necessary conveniences to handle, protect, transport and deliver any and all commodities offered for transportation between the points in question; that it is the desire of the Wedgwood

and Boyd interest to have a transfer made, as set out in the application.

The Bamberger Electric Railroad Company, a corporation, organized and existing under the laws of the State of Utah, engaged in the business of common carrier, owning and operating a line of railroad between the cities of Ogden and Salt Lake, and engaged in the transportation of freight, passengers and express between said cities. enters its protest against the issuing of said order of transfer upon the grounds that the Commission is without power to transfer a certificate of convenience and necessity from an individual to a corporation, and that if said Bruce Wedgwood and Fred A. Boyd have discontinued the operation of the motor freight and express line between the points in question, that the said certificate should be cancelled, and that an original application be filed by the petitioner.

Testimony was introduced by the protestant to the effect that there was sufficient service now being offered the public outside of that referred to in the applicant's petition. The purpose to be obtained by the application would simply be the continuation of the service heretofore rendered by Wedgwood and Boyd under a different name and supported by a corporation.

The necessity of such service having heretofore been found, and a certificate issued, such service should be continued until abandoned by the parties giving the same, or cancelled by an order of this Commission. The showing in this case failing to justify the finding of the abandonment or reasons for the cancelling of same, the Commission feels warranted in allowing the Salt Lake & Ogden Transportation Company to continue the freight service heretofore rendered by Wedgood and Boyd.

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 14th day of March, A. D., 1922.

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

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 granted, and that the Salt Lake & Ogden Transportation Company be, and it is hereby, permitted to assume and continue the operation of a freight truck line between Salt Lake City, Utah, and Ogden, Utah, heretofore operated by Bruce Wedgwood and Fred A. Boyd, under Certificate of Convenience and Necessity No. 103, issued by the Public Utilities Commission of Utah, April 6, 1921.

IT IS ORDERED FURTHER, That the said Salt Lake & Ogden Transportation Company, before assuming such operations, shall file with the Commission and post at each station on its route a printed or typewritten schedule naming all its rules and charges governing the transportation of freight, which rules and charges shall not exceed or differ from those made effective and filed with the Commission by Wedgwood and Boyd, and shall also file and post in a like manner a schedule showing the arrival and leaving time of its trucks from each station on its route.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of G. W. BEGEMAN, for permission to operate a truck line between Salt Lake City and Bingham, Utah.	CASE No. 487

Submitted March 2, 1922. Decided April 29, 1922.

Dan B. Shields, for Petitioner.

A. A. Oberg, for Protestants.

REPORT OF THE COMMISSION

By the Commission:

A hearing on the above entitled matter was had before the Commission, January 25, 1922, upon the application of G. W. Begeman, and the protest of the B. & O. Transportation Company and the Los Angeles & Salt Lake Railroad Company.

At this hearing, evidence was offered and the case was submitted thereon. Since that time, however, the Commission has been competently advised that Begeman has withdrawn from the giving of service and has left this vicinity. The petition will, therefore, 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 29th day of April, A. D., 1922.

In the Matter of the Application of G. W. BEGEMAN, for permission to operate a truck line between Salt Lake City and Bingham, Utah.	CASE No. 487

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 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 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.	CASE No. 489

Submitted February 10, 1922. Decided June 5, 1922.

J. S. Woodbury for Iron County Telephone Company.
U. G. Life for the Western Union Telegraph Company.

REPORT OF THE COMMISSION

By the Commission:

This matter came on for hearing, upon motion of the Commission, for the purpose of investigating the manner in which telegrams transmitted by telephone from points on line of the Iron County Telephone Company were handled.

At the hearing, respondent companies, the Iron County Telephone Company and the Western Union Telegraph Company, signified willingness to co-operate to give the public the service desired.

It appears, at this time, that satisfactory service is now being given and the proceedings should, therefore, be dismissed.

The Commission should retain jurisdiction over this matter in case similar complaints should be received in the future.

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 5th day of June, A. D., 1922.

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.	CASE No. 489

This case being at issue upon motion of the Commission, 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 proceedings herein be dismissed.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of H. L. HAYWARD, for permission to operate an automobile freight line between Provo and Eureka, Utah. } CASE No. 490

Submitted Feb. 15, 1922. Decided Feb. 24, 1922.

Lee Baker, for Petitioner.

Chase Hatch, for Protestants.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on regularly for hearing, February 15, 1922, at Provo, Utah, upon the petition of H. L. Hayward and the protest of L. C. Morgan and James E. Carter.

Applicant gave testimony to the effect that he was a resident of Eureka, Utah, and had had some experience in handling automobiles, and was financially able to furnish the necessary equipment for hauling freight and express from Provo to Eureka, and intermediate points; that he had been engaged in such work for some time, and that during said time had hauled considerable freight from Provo to the merchants of Eureka; that there was a necessity of establishing such service; that the service rendered by L. C. Morgan and James E. Carter had not been satisfactory, according to reports; that the merchants of Eureka obtained their wares and merchandise at Provo, and, unless hauled by automobile, they were transported by railroad, which requires a much longer time.

The protestants objected to the issuing of a certificate of convenience and necessity to the applicant upon the grounds, that they had filed an application with the Commission, August 25, 1921, for the same service, in connection with the service to Nephi and intermediate points between Provo, Eureka and Nephi; that before filing such application, they had made arrangements with and had transferred to them by Dundas Brothers, or the Utah Central Truck Line Company, a certificate of convenience and necessity between Provo and Payson; that during the time

since said transfer was made and the application filed, they had operated an automobile freight line between the points in question; that at said time there had been no application filed other than the protestants' and their predecessors in interest, and, relying upon the favorable action of the Commission, had expended considerable means in buying automobiles and establishing warehouses for the purpose of taking care of, hauling and delivering any and all commodities offered for transportation; that the amount of tonnage hauled over the route is not sufficient to justify the giving of service by any other company; that it would materially interefere with and tend to destroy the permanency of the service now being given.

Reports of tonnage hauled over the route were furnished which clearly indicate that there is not sufficient tonnage to justify two companies being employed in hauling freight between the points in question.

After a careful consideration of the matters submitted, it is the decision of the Commission that at present the petition should be denied, for the reason that a certificate of convenience and necessity has, at the present time, been issued to L. C. Morgan and James E. Carter, and that it would appear to be prejudicial to the service itself, as well as damaging to the said Morgan and Carter, to authorize competitive 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

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 24th day of February, A. D., 1922.

In the Matter of the Application of H. L. HAYWARD, for permission to operate an automobile freight line between Provo and Eureka, Utah.	CASE No. 490

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, denied.

By the Commission.

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

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of GEORGE JONES for permission to operate a freight truck line between Ogden, and Brigham, Utah	CASE No. 491

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 without prejudice.

By the Commission.

Dated at Salt Lake City, Utah, this 15th day of February, 1922.

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

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 Marysvale, Utah, and Grand Canyon National Park (North Rim), Zion National Park, Cedar Breaks and Bryce Canyon.	CASE No. 492

Submitted March 30, 1922. Decided April 17, 1922.

C. G. Parry, Petitioner.

George R. Hanks, Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

Hearing upon the above entitled application was had at Marysvale, March 30, 1922.

The applicant, C. G. Parry, appeared and represented that he was engaged in the automobile passenger and garage business ond operated a stage line between Lund, Utah, Zion National Park, Grand Canyon National Park, Cedar Breaks and Bryce Canyon; that such service has been given under the permission of the Public Utilities Commission of Utah, for the past two or three years; that said service is given to meet the requirements and take care of travelers who desire to visit Southern Utah and Northern Arizona, which furnishes very attractive, natural mountain scenery; that the service has been given in connection with the Union Pacific Railroad, which Company has taken considerable interest in attracting tourists to this section of the State; that in conference with the traffic officials of the Denver & Rio Grande Western Railroad Company, it was agreed and concluded that there would be a great number of tourists who would visit the points mentioned in the application, if arrangements could be had to convey them from the terminus of the Denver & Rio Grande Western Railroad, at Marysvale, by automobile and return, thereby furnishing to the tourists over the Denver & Rio Grande Western Railroad the same opportunity as those going over the Oregon Short Line Railroad; that said

Denver & Rio Grande Western Railroad Company agreed to co-operate with the applicant in an endeavor to build up the tourist business in Southern Utah and Northern Arizona.

Petitioner further alleged that he has established a hotel and camp accommodations, and is financially able to provide such equipment as would properly handle the traveling public over the proposed lines; that it is not the intention of the petitoner to interfere with any rights, privileges or opportunities had and enjoyed by any of the automobile stage lines now established over any part of the route, especially the legal traffic and travel between Marysvale and Panguitch.

The application was protested by George E. Hanks, who contended that the granting of such franchise would interfere with and materially damage him in the service that he was at present giving between Marysvale and Panguitch; that he had for some time past been operating a stage line between Marysvale and Panguitch, under the direction and in keeping with the rules and regulations of the Commission; that he was able to take care of all the traffic, and urged that there was no necessity for further and additional service from Marysvale south.

It appears that Marysvale is the terminus of the Denver & Rio Grande Western Railroad, on what is known as the San Pete or Marysvale Branch; that the mail, passenger and freight business is carried on by means of automobile, from Marysvale south.

It would appear from the showing that the purpose of establishing a service such as is contemplated in the application. is to encourage travel over the Denver & Rio Grande Western Railroad to Southern Utah, via Marysvale; that such traffic has not been encouraged heretofore, and that in order to take care of tourists who wish to visit Southern Utah and Northern Arizona, via Marysvale, it would be necessary to establish and maintain just such convenience as is contemplated by Mr. Parry; that it would not interfere with the already existing service, for the reason that the travel taken care of by the proposed service would be entirely new to that section of the country, and further, that without such convenience, there would be no means furnished by which the tourists could visit the points of interest, as heretofore mentioned, and return to the railroad.

Mr. Hanks made a proposition to take care of the tourists from Marysvale to Panguitch and there deliver them over to the applicant, for the purpose of conveying

them around the loop and return to Panguitch. This proposition was not agreeable to the applicant, who said that he was required to enter into an agreement with the railroad to meet all tourists coming over the Denver & Rio Grande Western at Marysvale and transport them to the points of interest, viz., Bryce Canyon, Cedar Breaks, Zion Canyon and the Grand Canyon; that the rates fixed for said automobile trip and entertainment at the camps, would be in connection with the railroad rates; that he was the only person holding the franchise or right-of-way into the National Parks.

It appears from the hearing that there is a necessity for establishing an automobile stage line for tourists who desire to go to the points in question via Denver & Rio Grande Western Railroad, and that such travel would not interfere with the service now being given by the protestant, George Hanks; that in order to equip a stage route, together with camps and entertainment as is proposed, it would require a considerable outlay of money.

Mr. Parry has been engaged in giving just such service from the other side of the mountain, beginning at Lund, a station situated on the Oregon Short Line Railroad, and has had considerable experience, and is no doubt able and will furnish adequate transportation, as well as taking care of the travel at the parks and other places.

After a careful consideration of all the matters submitted in the testimony, it would appear that there is a demand for the establishment of a service as set out in the application; that the applicant is able and has had sufficient experience as to give reasonable hopes of meeting the demands of such service; that a certificate of convenience and necessity should be issued to him, with the understanding that such service is not to interfere with any of the rights, privileges or opportunities given and used by the protestant, George E. Hanks.

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. 135.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 17th day of April, A. D., 1922.

In the Matter of the Application of C. G. PARRY, for permission to operate an automobile stage line between Marysvale, Utah, and Grand Canyon National Park (North Rim), Zion National Park, Cedar Breaks and Bryce Canyon.	CASE No. 492

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 that C. G. Parry be authorized to operate an automobile stage line between Marysvale, Utah, and Grand Canyon National Park (North Rim), Zion National Park, Cedar Breaks and Bryce Canyon, Utah.

ORDERED FURTHER, That applicant, C. G. Parry, 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.

DAVIS COUNTY, a Public Corporation,
Plaintiff,
vs.
THE DENVER & RIO GRANDE WESTERN RAILROAD CO., a Corporation,
Defendant.

CASE No. 493

Reported with Case. No 351.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of TONY FRONIMOS, for permission to operate an automobile stage line between Price and Mohrland,, Utah.

CASE No. 494

Submitted May 13, 1922. Decided June 2, 1922.

Appearances:
George Christensen, for Petitioner.
Stanlislao Silvagni, for Arrow Stage Line.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

Tony Fronimos, applicant, a resident of Price, seeks in his application to initiate a stage line between Price and Mohrland, alleging that the town of Mohrland is an active coal mining town, having more than one thousand population, and that it is necessary for people of this town to go to Hiawatha, some six miles distant, if they desire to travel by stage to Price, or must of necessity hire special automobiles for their transportation.

The application was protested by Stanislao Silvagni, proprietor of the Arrow Stage Line, operating between Price and Hiawatha, alleging that this Commission had heretofore granted a certificate of convenience and necessity to said Arrow Stage Line, and that this stage line makes connection with the daily trains going to and coming from Mohrland to Hiawatha, and that said train gives adequate and good service to the traveling public, and

denies that there is public necessity for the etsablishment of this stage line.

This case came on regularly for hearing at Price, Utah, April 14, 1922, at which time testimony was offered by Tony Fronimos in support of the application, and in protest by Mr. Silvagni. Afterward, on April 22, 1922, protestant, Stanislao Silvagni, submitted a brief.

May 13, 1922, protest was received from the Utah Railway Company, alleging that this carrier serves sufficiently and adequately the public of Hiawatha and Mohrland, two trains per day, except Sundays, being operated.

The evidence shows that the present schedule of Mr. Silvagni is not arranged so as to properly connect with the trains of the Utah Railway. Service to Mohrland may be improved, either by requiring Mr. Silvagni to alter his schedule so as to make proper connection with the Utah Railway trains, or by granting a certificate to Mr. Fronimos. The route traversed by Mr. Fronimos would be largely that now traveled by the stages of Mr. Silvagni.

Considerable testimony was offered as to the possible conflict between the two lines, if a second were established.

On the whole, we believe that the public will be best served by requiring Mr. Silvagni to amend his schedule, leaving Price at 8 A. M., connecting with the Utah Railway trains from Hiawatha to Mohrland; leaving Hiawatha at 10 A. M., immediately after the return of the Utah Railway train from Mohrland to Hiawatha; leaving Price in the afternoon, about 2 P. M., connecting with the Utah Railway train from Hiawatha to Mohrland at 3:30 P. M.; leaving Hiawatha for Price about 6 P. M., after the return of the Utah Railway train from Mohrland to Hiawatha.

With this improvement in the schedule, we believe that the application of Mr. Fronimos should 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 2nd day of June, A. D., 1922.

In the Matter of the Application of TONY FRONIMOS, for permission to operate an automobile stage line between Price and Mohrland,, Utah.	CASE No. 494

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, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

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. 495

Submitted Jan. 27, 1922. Decided March 14, 1922.

Henry D. Moyle, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

The above matter was heard by the Commission, January 27, 1922, when it appeared that the petitioner, James Neilson, had been operating and giving a service of an automobile stage line between Salt Lake City and Brighton, Utah, for the purpose of carrying passengers and express, for a number of years; that such service was continued during the year 1921, and, until there was no necessity for the continuing of the same; that the service given by the applicant has been good.

There appearing no opposition or reason why the applicant should not be given authority to continue the service contemplated by the petition, the Commission is of the opinion, and so finds, that there is a necessity for such service, and that the applicant is entitled to a certificate authorizing him to give such service.

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. 130.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 14th day of March, A. D., 1922.

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. 495

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 James Neilson be, and he 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, James Neilson, 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

ORDER

Certificate of Convenience and Necessity No. 130.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 4th day of April, A. D., 1922.

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. 495

It appearing that on March 14, 1922, the Commission issued its order in the above numbered case, authorizing James Neilson to operate an automobile stage line between Salt Lake City and Brighton, Utah;

And it further appearing that representations having been made to the Commission by Mr. Neilson that by operating said line from Holliday to Brighton, instead of Salt Lake City to Brighton, public convenience and necessity will be served and applicant will be able to offer a lower rate to the traveling public;

And there appearing no reason why applicant should not be permitted to operate his stage line from Holliday to Brighton;

IT IS ORDERED, That the Commission's Order in Case No. 495, dated March 14, 1922, is hereby modified to permit applicant, James Neilson, to operate his stage line between Holliday and Brighton under the terms of the Commission's order of March 14.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the DESERET POWER COMPANY, for permission to file new schedules increasing its rates.	CASE No. 496

Submitted March 23, 1922. Decided April 19, 1922.

H. R. Waldo, for Petitioner.

A. C. Cole, for Town of Delta, Commercial Club of Delta, Town of Hinckley, and other adjacent districts.

REPORT OF THE COMMISSION

By the Commission:

The petition of the Deseret Power Company, filed Janaury 27, 1922, shows that applicant is a corporation, duly organized and existing under and by virtue of the laws of the State of Utah; that it is the owner of a power system supplying the towns of Delta, Hinckley, Deseret and Oasis, and the territory adjacent thereto, in Millard County, Utah; that the property consists of transmission and distribution lines; and necessary utility equipment to render this service; that this property was constructed by applicant and its predecessors, commencing in the late spring of 1918, and has been supplying electric service since completion, about November 1, 1918.

Applicant alleges that the fair value of its property as of December 1, 1921, is $126,968.75, and with a fair allowance for working capital of not less than $5,000, the total value is $131,968.75.

Applicant further alleges that the rates under which petitioner and its predecessors have supplied electric service in this territory up to November 1, 1921, are the rates on file with the Commission, but that since November 1, 1921, applicant has been charging for such service the rates set forth in the schedules attached to the petition

and marked Exhibit "B", and, without any purpose to improperly or unlawfully increase its rates without the sanction of the Commission, had adopted said rates.

Petitioner alleges that operating results for the three year period ending November 1, 1921, have been as follows:

	1918-19	1919-20	1920-21	Total
Gross Rev....	$ 5,111.62	$10,467.27	$14,766.10	$30,344.99
Op. Expenses.	10,413.39	12,881.56	18,935.58	42,230.53
Net Loss	$ 5,301.77	$ 2,414.29	$ 4,169.48	$11,885.54

That upon the basis or results realized, present rates are inadequate and unreasonable; that rates must be increased in order to enable the Company to continue to supply electric service for public use and to allow even a measure of return upon its property; but to allow the full return upon the value of its property, would require rates so high as to be practically prohibitive, and applicant does not desire to establish rates which would accomplish such results. Applicant believes, however, that the schedule of rates attached to the petition, marked Exhibit "C", are in every way just and reasonable, and desires to publish and put into effect said rates, rules and practices. Said rates asked for are established upon the level of rates for the Telluride Power Company, serving in a territory adjacent to that served by this Company, except that applicant desires to establish a five per cent instead of ten per cent discount, for prompt payment, as authorized under rates established for the Telluride Power Company; that said schedule of proposed rates would, in some instances, decrease the present rates, and are alleged to be more equitable than rates now in effect and will encourage the development of additional consumption of energy, and thereby better serve the public; further, if the proposed rates be authorized, the net revenue would only be sufficient to cover a reasonable allowance for depreciation and operation, disregarding any return on the value of the property, used and useful; but it is hoped for sufficient increases in business to enable it to realize some return. On account of the conditions heretofore stated, applicant alleges that an emergency exists, and asks to be allowed to publish and make effective the rates shown in Exhibit "C".

After due notice, the case came on regularly for hearing, before the full Commission, at Delta, Utah, February 11, 1922.

At the beginning of the hearing, Mr. Cole protested the raising of rates and likewise protested the quality of service that was being given in the community.

Mr. H. A. Lawrence, Manager of the Deseret Power Company, offered various exhibits purporting to show construction cost of property, including labor and materials, as per books, as of December 1, 1921, $85,466.56, salaries and expenses of the Company's officials, legal services during organization, securing franchises and miscellaneous other expenses, 10 per cent additional; net loss from operation, exclusive of depreciation, from November 1, 1918, to December 1, 1921, as per books, $11,885.54. With other items, including working capital, purported investment is claimed to be $131,968.73, also exhibits purporting to show a physical inventory of property of the Company, including a small steam generation station of 100 K. V. A. transmission and distribution lines, sub-stations, transformers, meters and general electrical equipment necessary for rendering service to the public; and earnings and expenses of the Deseret Power Company, November 1, 1918, to November 1, 1921. The following is a summary of revenues and expenses:

Total revenues for the three year period	$30,344.99
Total expenses for above three year period	42,230.53
Operating loss, no depreciation included	$11,885.54

It was represented further that some items of indebtedness and expense incurred during this period had not been paid and were not shown on the books. Items had not appeared upon the books until actually paid.

Exhibit "F" is intended to show estimate of revenue and operating expenses of the Deseret Power Company for 1922, based upon the rates initiated by this petitioner, November 1, 1921. A summary of this exhibit indicates an estimated deficit in operation for 1922, $1,020.00, with nothing included for depreciation.

Various other exhibits were offered, tending to show comparison of revenues.

Mr. Lawrence stated that on July 8, 1921, he signed a lease with the Deseret Power Company, whereby he was to take over all holdings, except the steam plant and the

ice plant at Oasis, for a period of ten years, to have the exclusive right to operate the property; that he first became connected with the property, November 1, 1918, and since then, has had general supervision of its operations and accounting, and familiar with expenditures that had been made, except the original investment of both irrigation companies.

Testimony developed that in negotiating the lease, a valuation of $85,000 was placed upon the property, and that the proposed rates were based upon such valuation.

It appeared from the evidence that Mr. Lawrence had never had access to the original books of the two irrigation companies, the owners of the power plant having joined in making the original investment; also that many of the protestants at the hearing were owners of stock in the irrigation companies, and were beneficiaries of moneys received for lease rental.

Various witnesses were heard as to transactions involving the construction of the plant, its probable value and general operation, the quality of the service rendered, salaries paid at various times to individuals in the operation of the plant, and protests against an increase in rates.

After hearing was had, it appeared to the Commission that a more detailed statement of disbursements and expenses should be had, including a general investigation of capital account charges. Accordingly, the Commission directed its accountant to examine the books of the Deseret Power Company, the Melville Irrigation Company and the Deseret Irrigation Company. At the same time, a firm of public accountants, retained by other interests, was engaged in examining the books. As a result of this examination, numerous changes were made in the accounts as presented at the hearing. It was found that in some cases items clearly chargeable to operating expenses had been included in capital accounts, and some capital charges had been included as operating expenses.

Prior to the autumn of 1921, the Deseret Power Company had operated a steam plant as part of the power system. The costs of operating this plant were excessive, and the plant was therefore abandoned. About March, 1922, the Deseret Irrigation Company purchased from the Power Company the steam plant aforesaid, an ice plant, buildings, fixtures and grounds, for the sum of $12,000.00

After a careful consideration of the accounts, we find corrected capital expenditures of the Deseret Irrigation Company for power production purposes to be:

CAPITAL EXPENDITURES OF DESERET IRRIGATION COMPANY BY YEARS

Figures approximate, but believed to be substantially correct.

Year	Amount
1918	$42,943.03
1919	6,866.37
1920	10,684.77
1921	1,164.41
Total	$61,658.58

This total, we believe, very closely approximates actual moneys spent, although the date in some cases of expenditures is not clearly shown. This expenditure may be classified as follows:

Item	Amount
Steam Plant, Building, Machinery and Grounds	$22,325.63
Transmission and Distribution Systems	33,437.45
Labor undistributed	4,847.44
Meter Investment	1,048.06
Total	$61,658.58

CAPITAL EXPENDITURES OF MELVILLE IRRIGATION CO., BY YEARS

Figures approximate, but believed to be substantially correct.

Year	Amount
1919	$12,518.26
1920	10,082.96
1921	1,069.45
Total	$23,670.67

These sums may be classified as follows:

Item	Amount
Transmission and Distribution System	$22,760.67
Meter Investment	660.00
Real Estate	250.00
Total	$23,670.67

CAPITAL EXPENDITURES OF DESERET POWER COMPANY

Figures approximate, but believed to be substantially correct.

Investment as per books of Deseret Power Company, not shown on books of either of the irrigation companies:

Item	Amount
Organization expenses and Franchises	$ 58.54
Furniture and Fixtures	609.50
Meter Investment	4,639.50
Line Material and Supplies	1,311.02
Line Tools	652.60
Labor Contract, Fillmore Line	6,000.00
Total	$13,271.16
Total Investment in Property, as heretofore outlined	$98,600.41
Less Steam Plant, Machinery, Buildings and Grounds, retired through purchase	22,325.63
Cost of Property now in service	$76,274.78

Property cost shown above does not include general overhead expenses, as that term is generally known, nor developmental costs. It may be taken as the bare bones value of the property, after having deducted steam plant; also, no allowance for working capital is included.

Our accountant further finds a corrected income statement for the Desert Power Company, by years:

October 1, 1918, to December 31, 1919		
Revenues	$6,999.02	
Operating Expenses	16,818.21	
Operating Loss		$9,819.19
December 31, 1919, to December 31, 1920		
Revenues	$11,618.64	
Operating Expenses	13,144.06	
Operating Loss		$1,525.42
December 31, 1920, to December 31, 1921		
Revenues	$15,558.75	
Operating Expenses	19,516.64	
Operating Loss		$3,957.89
Total Operating Loss for Period		$15,302.50

On September 19, 1921, Mr. Lawrences' lease with the owners, the irrigation companies, became effective, and from that date on, the operations of the entire system were assumed by him, independently. However, the revenues and expenses from operation, as shown for the above period, 1921, have been made, regardless of this division of the year, in order to show the operating loss to the property service.

The operating losses, as above outlined, do not include the allowance for general depreciation, but only relatively small amounts on furniture, fixtures and trucks. If proper allowance be made for depreciation, as provided by law, operating deficits would be considerably increased. Thus, it is seen that present rates do not provide enther for proper depreciation or any return on the property during the time the steam plant was operated and up to December 31, 1921.

This is property devoted to the public service, and, as such service is vital to the community, it must be permitted under the law to charge rates sufficent to insure the continued operation of the property. Present rates, as we have shown clearly, do not comply with these conditions. Revenues accuring under present rates are not sufficient to pay legitimate operating expenses, nor to replace the component parts of the property when and as the same shall become necessary; nor for the amortiation of abandoned property; nor do they permit any return upon the money invested in the property; and the application of petitioner for increased rates obviously should be granted.

A peculiar situation here presents itself. This property is under lease, as we have heretofore indicated. Many of the owners of shares of this property are patrons of the Company, and have protested any increase in rates, at the same time, expecting to collect lease rental; when, in fact, even operating expenses are not being realized under the present rates. Plainly, an economic situation of this kind is impossible. We are not anxious to increase present burdens upon the consuming public, but there remains no other remedy. Each service must be self-supporting and contribute its just share of revenues to insure the proper conduct of the business. To continue present rates, would simply mean in the end the destruction of the service.

As to increased revenues from proposed rates, additional revenue will approximate $2,394.50, as estimated

by applicant. It appears there will be little increase during the present year in power consumption, so that, after discounts the gross operating revenue will approximate very closely $16,525.15; operating expenses, including depreciation, will approximate $14,560.50; net income $1,964.65. If applied to property valuation, the return is 2.58 per cent. Plainly it is seen that it will require material variation in increased revenues or decreased expenses, or both, to place the return above the test of confiscation laid down by courts of competent jurisdiction. The proposed rates also effect some reductions in power rates which have heretofore obtained. These rates were obviously higher than just and reasonable.

Tariffs in conformity with this order, 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,

(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 19th day of April, A. D. 1922.

In the Matter of the Application of the DESERET POWER COMPANY, for permission to file new schedules increasing its rates.	CASE No. 496

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 granted and the Deseret Power Company be permitted to publish and make effective rates, rules and regulations governing electric service which shall not exceed the rates, rules and regulations of the Telluride Power Company, provided that applicant, Deseret Power Company, may establish a prompt payment discount of five per cent in lieu of ten per cent effective in the schedules of the Telluride Power Company.

ORDERED FURTHER, That such rates, rules and regulations may be made effective upon ten days notice to the public and to the Commission.

ORDERED FURTHER, That schedules naming such rates, rules and regulations shall bear upon the title page the following notation:

"Issued on less than statutory notice, by authority of the Public Utilities Commission of Utah, ordered dated April 19, 1922, Case No. 496."

By the Commission:

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WILLIAM K. WHITE for permission to operate an automobile stage line for the transportation of passengers and express between Fillmore and Cedar City, Utah.	CASE No. 497.

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 without prejudice.

By the Commission.

Dated at Salt Lake City, Utah, this 9th day of March, 1922.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOSEPH H. SPENCER, for permission to operate an automobile stage line between Logan and Garden City, Utah, Laketown, Utah, and intermediate points.	CASE No. 498.

Submitted March 7, 1922. Decided March 17, 1922.

Joseph H. Spencer, Petitioner.
Walters & Harris, for George Q. Rich.

REPORT OF THE COMMISSION

By the Commission:

This matter came on for hearing before the Commission, March 7, 1922, at Logan, Utah, in connection with the application of George Q. Rich, for permission to operate an automobile stage line between Logan, Utah, and Bear Lake, Utah, via Logan Canyon.

Petitioner, Joseph H. Spencer, represented that he is a resident of Pleasant Grove, Utah County, Utah; that he has investigated the section of country through which the route in question extends, and that he is of the opinion that there is a necessity for the establishing of an automobile service between said points; that the only means of travel for the general public at present is by privately owned automobiles or other conveyances; that there are a great many people who desire to visit Logan Canyon and Bear Lake in the summer, for sight-seeing and fishing; that there are a number of private cottages in Logan Canyon, as well as on the shores of Bear Lake; that Garden City and Laketown have a population of approximately four or five hundred each.

It was further alleged by petitioner that he has had some years of experience in the operation of automobiles, and is at the present time possessed of some automobiles, which would be serviceable for giving the service necessary.

It might be well to here observe that the application of George Q. Rich was filed with the Commission some two years ago; but, on account of conditions which were unfavorable to the operation of a stage line in that vicinity, the hearing was postponed from time to time,

and during said time preparations were being made by Mr. Rich, with a view of obtaining permisson to operate a stage line over said route.

The Commission having decided to issue a certificate of convenience and necessity to George Q. Rich for such service, and it appearing that there is not sufficient travel to justify the establishing of two stage lines, the Commission is forced to the conclusion that the application of Joseph H. Spencer should, at present at least, 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 17th day of March, A. D. 1922.

In the Matter of the Application of JOSEPH H. SPENCER, for permission to operate an automobile stage line between Logan and Garden City, Utah, Laketown, Utah, and intermediate points. } CASE No. 498.

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, 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 ELISHA J. DUKE, for permission to operate an automobile stage line between Heber City and Park City, Utah.	CASE No. 499

Submitted March 10, 1922. Decided March 17, 1922.

Elisha J. Duke, Petitioner.

REPORT OF THE COMMISSION

By the Commission:

The above entitled case was heard March 10, 1922, upon the application of the petitioner, there being no opposition in writing or otherwise.

The applicant represented that he was engaged in carrying the United States mail from Heber City to Park City and return; that he had also been engaged in operating a passenger stage line between the same points; that said service of passenger transportation had been given under the direction and by permission of the Public Utilities Commission of Utah; that there was need of the continuance of the service to meet the demands of the traveling public; that he was able and willing to give such service, in a manner and at a rate and time that would be reasonable and sufficient.

The Commission is of the opinion that the petitioner should be authorized to continue to operate such a stage line between Heber City and Park City, for the ensuing year.

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 Convenience and Necessity No. 131

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. 1922.

In the Matter of the Application of Elisha J. Duke, for permission to operate an automobile stage line between Heber City and Park City, Utah.	CASE No. 499

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 Elisha J. Duke be, and he is hereby, authorized to operate an automobile stage line for the transportation of passengers between Heber City and Park City, Utah.

ORDERED FURTHER, That applicant, Elisha J. Duke, 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 Commision.

(Signed) T. E. BANNING,

(SEAL) Secretary.

LION COAL COMPANY, a corporation,
Complainant,
vs.
OREGON SHORT LINE RAILROAD COMPANY, a corporation,
Defendant.

CASE NO. 500

PENDING

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOHN L. WALL, for permission to operate a stage line between Wallsburg, Wasatch County, Utah, and Heber City, Utah.

CASE NO. 501

Submitted March 10, 1922. Decided March 17, 1922.

E. J. DUKE, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

After due notice, the above entitled matter was heard by the Commission, March 10, 1922, upon the petition of the applicant, there being no protests, in writing or otherwise.

It was shown on behalf of the petitioner that he is a resident of Wallsburg, Wasatch County, State of Utah, and at present is operating a stage line and has been so engaged for twelve years past; that he has good equipment of horses, wagons, sleighs and automobiles to handle the traffic on said route during all seasons of the year; that Wallsburg is a point located at such an elevation that the snow at certain times of the year is deep, and that the roads at some seasons of the year are muddy, and that it requires horses with wagons and sleighs, as well as automobiles, to convey passengers over this route; that

the distance between Wallsburg and Heber City is about fourteen miles, and that he expects to charge a fare of $1.00 each way.

It was further shown that there is considerable traffic between the points named, and there is no other means of travel except by private conveyances.

After careful consideration of the showing made by the applicant, the Commission is of the opinion that the convenience for travel would be added to by the establishment of such a service as is contemplated by the applicant; and that a certificate of convenience and necessity should be issued to the said John L. Wall, authorizing him to operate a stage line between Wallsburg and Heber City, Utah.

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. 133.

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. 1922.

In the Matter of the Application of JOHN L. WALL, for permission to operate a stage line between Wallsburg, Wasatch County, Utah, and Heber City, Utah.	CASE NO. 501

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 John L. Wall be, and he is hereby, authorized to operate an automobile stage line for the transportation of passengers between Wallsburg, Wasatch County, Utah, and Heber City, Utah.

ORDERED FURTHER, That applicant, John L. Wall, 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 he 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 P. D. STURN, for permission to resume operation of an automobile stage line between Salt Lake City and Heber City, Utah, via Provo Utah.	CASE NO. 502

Submitted March 10, 1922. Decided March 17, 1922.

P. D. STURN, Petitioner.

B. R. HOWELL and B. W. ROBBINS } for Denver & Rio Grande Western Western Railroad Co.

REPORT OF THE COMMISSION

By the Commission:

The above entitled case was heard March 10, 1922, on the application of the petitioner and the protests of the Denver and Rio Grande Western Railroad Company and the Los Angeles & Salt Lake Railroad Company.

Testimony submitted in behalf of the application was to the effect that Mr. Sturn had heretofore been granted a certificate of convenience and necessity, granting him permission to operate an automobile stage line between the said points, and that such operation had been satisfactory; that the suspension of the service was occasioned by the winter season, but that the travel would require resuming of the service as soon as the roads were open for traffic; that the rates would be the same as those charged last year, less war tax.

The protesting railroads presented the same matters of objection as heretofore made to the Commission.

This service would seem to be a special means offered for people wishing to go into the Duchesne country, as well as to Heber and summer resorts in Provo Canyon, and that there is no thought of rendering service between Salt Lake City and Provo; that such automobile service will furnish an additional opportunity for travel and a more convenient means of going into that section of the country than is afforded by the Denver & Rio Grande Western Railroad.

After the showing made, the Commission is of the opinion that there is a necessity for the operation of the service contemplated by the petitioner between the points named, and that the service has been well rendered; that the petitioner is qualified and able to resume the service for the present year, and is, therefore, entitled to a certificate as asked for.

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. 134

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. 1922.

In the Matter of the Application of P. D. Sturn, for permission to resume operation of an automobile stage line between Salt Lake City and Heber City, Utah, via Provo, Utah.	CASE NO. 502

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 be granted and P. D. Sturn be, and he is hereby, authorized to operate an automobile stage line for the transportation of passengers, between Salt Lake City and Heber City, Utah, via Provo, Utah.

ORDERED FURTHER, That applicant P. D. Sturn, 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

LARS FRANDSEN,
Plaintiff,
vs.
DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, a corporation.
Defendant,

CASE NO. 503

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 12th day of April, 1922.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of of JOHN R. KIRKENDALL, for permission to operate an automobile stage line between the Tintic District and Payson, Utah.	CASE No. 504.

Submitted April 18, 1922. Decided June 27, 1922.

Appearances:

John R. Kirkendall, Petitioner.
E. F. Birch and Ernest Pritchett, for themselves.
B. R. Howell, for Denver & Rio Grande Western R. R. Co.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on regularly for hearing, April 18, 1922, at Eureka, Utah, on the application of John R. Kirkendall, together with the application of E. F. Birch and Ernest Pritchett (Case No. 514), being an application for the same franchise as desired by the applicant herein.

The Denver & Rio Grande Western Railroad Company appeared in protest against the issuing of the said certificate asked for in the application.

The applicant, John R. Kirkendall, represented that he is a resident of Mammoth, Utah, and is at present operating a stage line between Mammoth and Eureka; that there is no stage line whatever operating for the transportation of passengers between the Tintic District and Payson; that on June 16, 1920, (Case No. 315) a certificate of convenience and necessity was granted by the Commission to Bert Lockhart, for the establishment of such esrvice, but that said Bert Yockhart had failed to operate or give service over the route; that the towns of Dividend, Elberta, Goshen, Tintic Standard Mill and Santaquin do not have morning service through Utah County, or evening service to Salt Lake City; that the distance between Eureka and Payson is about twenty-eight miles of dirt road, most of which is over ascending or descending grades; that it is the purpose to make one

trip each way daily as a regular schedule, and additional trips, if the business justifies it; that the said John R. Kirkendall is the holder of a certificate of convenence and necessity for the operation of a stage line between Mammoth and Eureka, which does not give sufficient business for him to operate on that route alone; that the extension of his operation from Eureka to Payson will furnish a remunerative employment in the giving of the service from Payson to Mammoth, via Eureka.

It was further represented by the applicant that terminus of the Salt Lake & Utah Railroad is at Payson, and that the service contemplated would give an opportunity for the traveling public to leave Tintic District and connect with the interurban at Payson, as well as to take the interurban at Payson and reach Eureka at such times and under such conditions as the present carrier does not afford; that a number of people living in the Tintic District who have come from Utah County have desired at times to go down into the valley on business and friendly calls; that the Denver & Rio Grande Western Railroad does not furnish, with the exception of early in the morning, a means of leaving Eureka or by returning to Eureka, only in the late evening; that the Oregon Short Line Railroad, which comes from Salt Lake City at 11 o'clock A. M. and returns in the evening, does not meet the requirements and demands of the people who desire to go to Utah County and return at such times as would be convenient.

Testimony was given in behalf of the application of E. F. Birch and Ernest Pritchett, and was along the lines represented by Mr. Kirkendall. Mr. Birch, however, subsequent to the hearing had herein, on April 28, 1922, filed a withdrawal of his application in favor of John R. Kirkendall, and on May 12, 1922, by an order of the Commission, the application was dismissed.

The protest on the part of the Denver & Rio Grande Western Railroad Company was to the effect that there was already an established service by itself and the Oregon Short Line Railway Company, in and out of the Tintic District, daily passenger trains, which would take care of all of the travel in a manner that was reasonably sufficient for all purposes, without a duplication of the service offered by the applicant, and denied that there was a necessity for further and additional passenger service between the points mentioned to the service now being rendered, for the reason that the service now offered to the public is ample, commodious and efficient, and that

if the said petition is granted, said Company will be subject to unjust and unreasonable competition, and will suffer a great and irreparable injury.

The facts as shown in the hearing would seem to indicate that there are two trains operating daily in and out of Tintic District, the Oregon Short Line Railroad from Salt Lake City to Eureka via Tooele, and the Denver & Rio Grande Western from Salt Lake City to Eureka, through Utah County; that the schedule of the Denver & Rio Grande Western Railroad does not meet the demands or furnish means of transportation convenient and necessary, for the reason that it leaves Eureka early in the morning and returns late in the evening; that there is no means of leaving Eureka for Utah County during the middle of the day; that parties desiring to go down to the valley towns have to wait all day before they can return to Eureka.

It is further alleged that there is a necessity for additional service from Payson to the Tintic District, owing to the fact that the Salt Lake & Utah Railroad, from Salt Lake City through Utah County, terminates at Payson, and that there is no means of reaching the Tintic District only by automobile service; that the said Salt Lake & Utah Railroad furnishes a great convenience to the traveling public from Tintic District and other southern points.

The Commission appreciates the contention of the steam roads that have established means of travel into the Tintic District at great costs, and that it requires great sums of money to maintain and operate the same; also that the revenues accruing by the operation of such conveniences do not furnish any great amount of return; that, upon the advent of the use of automobiles, considerable patronage which went to railroad companies, was taken away.

It is claimed, on behalf of the petitioner, that under present conditions a great number of passengers are carried by automobile from the district in the direction of Payson; so that it would make but little, if any, difference to the railroad companies whether there is an authorized licensed passenger stage service being given between Eureka and Payson, or not.

The matter of establishing an automobile service between the points in question was before the Commission on an application of Bert Lockhart, May 6, 1920 (Case No. 315), when a certificate of convenience and necessity

was issued. The conditions appear to be about the same now as then.

After a careful consideration of the showing made, it appears that a service out of Tintic District to Utah County, to connect with the Payson interurban trains at such times when the Denver & Rio Grande Western Railroad does not furnish means of transportation, will be an added convenience and should be authorized.

The schedules in this case should be fixed so as not to conflict with the schedule fixed by the passenger trains out of the Tintic District.

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. 153.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 27th day of June, A. D. 1922.

In the Matter of the Application of JOHN R. KIRKENDALL, for permission to operate an automobile stage line between the Tintic District and Payson, Utah.	CASE No. 504

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 granted, and John R. Kirkendall be, and he is hereby, authorized to operate an automobile stage line, for the transportation of passengers, between Mammoth and Payson, via Eureka, Utah.

ORDERED FURTHER, That applicant, John R. Kirkendall, before beginning operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commision's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on his line; 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 OREGON SHORT LINE RAILROAD COMPANY, for permission to close its station at Willard, Utah.	CASE No. 505

Submitted April 27, 1922. Decided June 2, 1922.

Appearances:
Dana T. Smith, for Petitioner.
Wm. L. Lowe, for Protestant.

REPORT OF THE COMMISSION

By the Commission:

This matter was brought to the attention of the Commission by letter from the the Superintendent of the Utah Division of the Oregon Short Line Railroad Company, in which it is claimed that the business does not justify the expenditures of maintaining said station; that the station is located some distance from the town which is served directly by another railroad, namely, the Utah Idaho Central Railroad, on whose tracks all industries, with the exception of the canning factory, are located; and that there will be no inconvenience to the patrons of the line, for the reason that conductors will transact the business presented, instead of the agents; that such business, which consists mostly of canned goods, potatoes and sugar beets, can and will be adequately taken care of without a regular agency.

The petition was protested by the Mayor of Willard City, on behalf of its citizens.

A hearing was had upon the above matter at Willard, Utah, April 27, 1922.

Statements and exhibits were submitted on behalf of the Railroad Company, with a view of showing that the business transacted at Willard was not sufficient to pay for the expenses of keeping an agency at that point. Figures were given in evidence, showing the receipts and disbursements in the operation of the railroad station.

The protestants represented that about thirty years ago the Railroad Company, or its predecessors in interest, had established a railroad agency and station at Willard, on the present site, which had been donated by its citizens, with the expressed understanding that the Railroad Company would construct and maintain a station for the accommodation and convenience of the citizens of said City; that, relying upon such construction, maintenance and operation, there has been erected a canning factory, which, together with the cultivation of fruit lands and agricultural products, has furnished tonnage for the Railroad Company from said station; that said station had, during the time herein mentioned, furnished a suitable and convenent means for transporting such commodities and receiving such articles of freight and express; and that the discontinuance of said station would result in a great inconvenience, necessitating extra transfers, which would not only be expensive, but would occasion much delay and damage in the handling of perishable products.

Protestants further alleged that there is a considerable volume of business transacted at said station in the consignment of carloads of fruit, such as peaches and prunes, together with a substantial amount of express; that if such convenience is taken away from the shipping public, it would tend to prohibit rather than encourage the growth in the shipping industry, which, under normal conditions, is certain to increase, and which would result in serious damage and loss; that Willard City is located in and surrounded by one of the most productive sections of Utah, for the growing of all kinds of fruit and farm products, including large acreage of beets; that the population of the City is about 1200, having electric lights, water works, school houses and prospects for increasing in importance and population; that there is very little freight hauled to Willard by motor trucks.

The Railroad Company contends that passenger traffic has been reduced by the service given by automobiles and the interurban railroad; that a concrete road, which leads from Ogden to Willard and from Willard on to the north, is being used by carriers and automobile passenger traffic, reducing the patronage of the Oregon Short Line Railroad; that the Utah Idaho Central Railroad Company has an advantage over the petitioner, for the reason that it operates nearer to the city, or through the more residential parts, and that it is more convenient to take the train at the station of the interurban than to proceed

farther west in order to ride on the Oregon Short Line Railroad.

There is no doubt in the mind of the Commission but that the automobile service and the interurban railroad has reduced the patronage for passenger traffic, as well as some express and small freight consignments, and yet, there appears to be some passenger traffic, as well as express, come and go to and from the station in question; that the Oregon Short Line Railroad Company has and does enjoy the patronage of carload lots, almost exclusively, as well as considerable freight less than carload lots.

It would further appear that the revenues at this point are not very lucrative or remunerative to the railroad, and yet, the service given by the railroad in the vicinity of Willard is much more remunerative to the Company, and that, to a reasonable extent, the operation of its system should have some consideration in determining whether or not the railroad should give an agency service at Willard.

It developed in the testimony that there were very promising prospects for more extensive production of commodities to be shipped from that point.

It may well be contended that there has been for the last past period a falling off in railroad traffic, caused, it is claimed, by the decline in the prices of farm products and other articles, products of agriculture, as well as horticulture, especially in beets and grains, which has caused much less money to be handled by the public; and it is further contended that rates, both freight and passenger, have been affected by a decrease in business of the railroads. Might we not, with some degree of assurance, face the future with a hope that business will be stimulated by improved conditions?

If shipping conveniences were such that the shipper could feel an assurance that there would not be extra effort and time in placing the products of the farm upon the market, we are of the opinion that at the present time it would be somewhat prejudicial to the interests of the public, and that the showing would not be sufficient to warrant the Commission in granting the application of the Railroad Company to close the station at this time and remove therefrom the agency.

A proposition was made by the Railroad Company to keep the station open for a number of months during

such time when the quantity of commodities shipped in and out of Willard station is such as would reasonably justify the expense of keeping the station open.

We are of the opinion that the petition should be denied at the present time, and the station kept open for the summer season, at least, and that a report be made for the purpose of showing what amount of business is done at the station, together with the expense of keeping the same open, during which time the Commission will retain jurisdiction of this matter, for the purpose of making further and additional orders, if thought proper.

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 2nd day of June, A. D. 1922.

In the Matter of the Application of the OREGON SHORT LINE RAILROAD COMPANY, for permission to close its station at Willard, Utah.	CASE No. 505.

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 Oregon Short Line Railroad Company for permission to close its station at Willard, Utah, be, and it is hereby, denied.

ORDERED FURTHER, That applicant, Oregon Short Line Railroad Company, keep a detailed record of the expense of maintaining such station and the revenues derived therefrom, which may be submitted by applicant for further consideration by the Commission, if desired.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

CHARLES ANDERSON, et al., *Complainants,* vs. UTAH LIGHT & TRACTION COMPANY, *Defendant.*	CASE No. 506

Submitted May 4, 1922. Decided June 10, 1922.

Appearances:

John E. Pixton, for Complainants.
J. F. MacLane, for Defendant.

REPORT OF THE COMMISSION

By the Commision.

This complaint, filed March 2, 1922, by Charles Anderson, et al., alleges that the defendant, the Utah Light & Traction Company, a corporation of the State of Utah, is engaged in the business of operating and maintaining an electric street railway system in and from Salt Lake City, with lines running to the surrounding towns of Sugar House, Holliday, Murray, Sandy, Midvale, Bountiful and Centerville, and is engaged in transporting passengers over said lines for hire; that the defendant Company has submitted applications at various times for increases in its fares and charges; that this Commission has authorized increases, so at the present time the defendant has in force a cash fare of seven cents, commutation tickets, sixteen for $1.00, and students' tickets, fifty for $2.00; that under the orders of the Commission permitting increases, it has allowed the defendant Company to increase its cash fares from 5 cents to 7 cents; commutation tickets from 4 cents to 6-¼; students' tickets, from 3 cents to 4 cents; and that said increases were justified by the Commission on the ground that all material, such as ties, steel rails, equipment and copper, as well as wages, were higher than ever before; that at the time said orders were made, prices of all commodities used by the defendant Company were abnormally high; that since the issuance

of the above mentioned orders, and particularly during the past year, there has been a decided falling off in prices of all commodities, including a reduction in the cost of materials used by the defendant.

It is further alleged by complainants that on May 1, 1921, the wages of the employes of the defendant Company were cut ten to sixteen per cent, saving the Company at least $120,000 per annum, and that therefore, complainants believe it to be an unjust burden on the general public of this vicinity to allow the defendant Company to continue to collect the rates that were allowed in an emergency, when all costs were abnormal and out of proportion, and ask that the Commission require defendant to discontinue its present fares, and after hearing, be required to reduce its charges to the level of 5 cents cash fares for city lines and each zone of its suburban lines; commutation tickets, good on all lines, fifty for $2.00; students' tickets, fifty for $1.50.

In answer, the defendant Company alleges that the Commission based its decision as to the rates of fare upon the values of the Company's property, used and useful in the street railway service, and the minimum rate of return upon such value, the rate of fare being based upon the assumption of an increase in the number of passengers to be carried over and above the number carried as shown by the then last year's record, and an assumed prospective reduction in operating expenses.

It is further alleged by defendant that the said rate of fare was not based in any way upon the then prevailing high prices of ties, steel rails, equipment and copper, or wages, except the existing scale of wages necessarily entered in the operating expenses of the defendant, and denied that there is or has been a decided material falling off of prices or a general reduction in the cost of most or any substantial number of the materials used by the defendant; but, as a matter of fact, for all substantial purposes, prices of the finished products used in the maintenance and operation of the street railway of the defendant Company in Salt Lake City, are as high as ever. While in some articles there has been a slight decrease in the 1920 peak, it is alleged that 1920 peak prices were not used or considered in any way in the decision of this Commission, and that the average price level of all such materials are, as referred to, at least seventy per cent higher than the prices of the pre-war times.

The defendant admits that on May 1, 1921, the wages of the defendant were cut from ten to fifteen per cent, measured in the unit wage paid from the high point of 1920; but alleges that such unit wages are still on the average over eighty-five per cent above the average pre-war wages prevailing from 1913 to 1917, and, as a matter of fact, the total wages paid in 1921, increased, notwithstanding such cut, over the total wages paid in 1920, due to mandatory orders and requirements of the municipalities in which defendant is operating, for repairs and maintenance, particularly on track and paving.

The defendant denies that it is or will be unjust or any burden upon the general public to permit it to longer continue to collect its present rate of fares, and denies that such fares were emergency fares, although it alleges that it was confronted with a very serious condition at the time such rates of fare were fixed, and still is confronted with a very serious financial condition, and alleges that, unless the present rate of fare is cotinued, present street car service cannot be rendered by defendant or anyone else, and that the present rate of fare, based upon the present volume of business, is entirely inadequate to even support the defendant's operations, to say nothing of permitting defendant a reasonable return upon its investment.

The case came on regularly for hearing, April 12, 1922, at 10 A. M.

Counsel for the complainants stated that he had been unable to get witnesses to testify as to the cost of materials entering in the operation of the street railway business, and submitted to the Commission copies of the "Iron Age", tending to support his allegation that material decreases from the peak of price have been realized in the prices of steel, wire and copper, at points of origin, but stated he had not taken into account increased freight rates to destination.

Mr. Charles Anderson, a witness for the complainants and Mayor of Murray, testified that wages of employes of the neighboring smelter had been materially reduced from the peak of high prices, and that wages of employes of Murray City had been cut, and stated as his opinion that the present rates of fare were a detriment to the community, and many prospective passengers walk rather than pay the increased fare; that if the fares were reduced to five cents, traffic would be increased so that

the gross revenues would be increased rather than diminished, under the five cent fare.

Mr. H. F. Dicke, Manager of the defendant Company, testified, in substance, as to the more recent blanket increases in freight rates applying on all classes of commodities used in the operation of the street car system; that no steel rails had been purchased since 1913; that the average consumption of copper for trolly wire was about two thousand ponds per annum; that the reduction in ties from the high point in 1920 represented a saving to the defendant of about $4,700 per annum.

Witness Dicke testified that because the physical property had not been maintained in recent years, the total amount paid in wages in 1921 amounted to approximately $984,000. as compared with a total of nerly $976, 000 in 1920; that most of the added work during 1921 was for maintenance and repairs to paving; that paving repairs were required by the City Commission of Salt Lake. He also introduced exhibits showing the financial results of operation of the Traction Company's system; that the wage decrease applied to employes would effect a saving of $125,000 per year, as compared with 1920 wages. However, present wage costs represent an increase of $425, 000 per year, as compared with 1913.

Witness Dick further testified that wage increases, alone, represented an increase of approximately 40 per cent of the total operating cost over the year 1913; taxes increased between 40 and 50 per cent over 1913.

The substance of complainants' allegations is that there has been such a reduction in wages and commodity prices that, reflected in the cost of operation of the Utah Light & Traction Company, a reduction in fares is warranted. The evidence of defendant Company, however, tended to show that the few material items specified in which there were reductions did not enter into the operating cost of the Street Railway Company so as to affect its costs materially; and that the reduction in the car men's wages, was, in fact, not effective to reduce operating costs, as yet, because of the heavy burden of maintenance work, particularly paving, required of the Company, having resulted in increasing the number of men on the maintenance payroll to such an extent as to more than offset the unit reduction in wages. In other words, it is clear from the evidence that, so far as the Street Railway Company is concerned, the operating expenses have been almost as high as ever; traffic has decreased, instead

of increased, due to the general financial depression, and the effect of all these conditions upon the Traction Company, as shown by the testimony, was that during 1921, its revenues were insufficient to set up any part of the depreciation reserve required by the order of the Commission in its Case 267, and were further insufficient to earn current bond interest for 1921 out of revenues for that year; that the rate of return upon the value fixed by the Commission, which valuation, by the way, was fixed upon the prewar level of average prices, and not upon the high level of replacement costs, was for the year 1921, 3.46 per cent, and is shown to have increased, due to some operating economies put into effect early in 1922, to 4.36 per cent for the first three months of 1922.

According to the showing, the Company is making less than a fair return upon its investment, and a return so low that any reduction in the rate of fare at present would be, under the law, a confiscation of the Company's property. Some additional reductions have been made, particularly in wages, which will further decrease unit wage scales about $40,000 per annum. Further economies were admittedly possible, particularly in re-routing cars, but the saving in re-routing of the 6th and 9th Avenue lines was prevented by the City authority. If street car fares are to be reduced, it is clear that all reasonable economies must be permitted and encouraged.

The Commission appreciates the attitude of the public mind in the matter of a reduction of the rates of street car service. Many have the idea that wages alone control the change in the rates heretofore allowed by the Commission. That was not the case. The wages of the employes go to make up a large part of the costs of giving service. If at the time and before the rates were raised the Company was earning a reasonable return on the investment, then, in that event, the reduction of rates would seem to be the logical thing to follow the reduction of wages.

An examination of the statement of costs discloses the fact that wage cost is but one element making up the total amount of costs, all of which must be taken into consideration in fixing the rate to be collected from the car rider. The importance of car fare to the people who are forced to pay the same, was and is not overlooked by the Commission, and the amount authorized to collect was reached after a most careful investigation and consideration of all the conditions and circumstances attending the giving of such services.

The showing made by the applicant was limited to a statement of wage reduction which has taken place with the Company, together with the claim that materials are much cheaper, is not sufficient grounds upon which to reduce the present car-fare to five cents.

A consideration of the report of operations which was filed, a copy of which was given to the petitioners, together with the reports filed with the Commission from time to time, does not justify a reduction of rates at the present time. However, the matter of rate fixing by the Commission is always open to further investigation, and when it shall appear that it is reasonable and just to reduce the rates under the cost of giving service, the Commission, under the law, is in duty bound to and will make such reductions as the conditions and circumstances warrant.

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 June, A. D. 1922.

CHARLES ANDERSON, et al., *Complainants,* vs. UTAH LIGHT & TRACTION COMPANY, *Defendant.*	CASE No. 506

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 be, and it is hereby, dismissed.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

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. 507

Submitted May 3, 1922. Decided June 5, 1922.
R. J. SHAY, for Petitioner.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

The application of C. G. Parry, filed February 28, 1922, shows that he was granted a certificate of convenience and necessity by this Commission for the year 1921, authorizing the operation of an automobile stage line between Lund and Zion National Park, Grand Canyon National Park, Cedar Breaks and Bryce Canyon; that applicant, for good and sufficient reasons, discontinued the operation of said stage line about October 15, 1921, and now seeks permission to resume operations, beginning May 15, 1922, and asks the Commission to approve the proposed tariff and schedule marked Exhibit "A"; that said tariff has been approved by the Union Pacific Railroad Company, the Denver & Rio Grande Western Railroad Company and the National Park Service.

The case came on regularly for hearing, May 3, 1922, at Cedar City, Utah.

Counsel for petitioner stated that the application was simply for a renewal of last year's certificate.

There being no protest or objection against petitioner's application from any source, and after full consideration of all material facts, the application should be granted and a certificate of convenience and necessity issued.

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. 146

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 5th day of June, A. D. 1922.

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. 507

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 C. G. Parry be, and he is hereby, permitted to operate an automobile stage line between Lund and Zion National Park, Grand Canyon National Park (North Rim), Bryce Canyon and Cedar Breaks.

ORDERED FURTHER, That applicant, C. G. Parry, before beginning operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on his line; 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 M. W. GEER & SONS for permission to operate an automobile truck, passenger, express and freight line between Thompson and Sego, Utah.	CASE No. 508.

Submitted September 26, 1922. Decided October 11, 1922.

Appearances:

J. S. Corbin for Petitioner.

Geo. J. Constantine for Protestant, American Fuel Company.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on regularly for hearing at Thompson, Utah, on the 26th day of September, 1922, upon the petition of the Petitioners and the protest of the Ballard & Thompson Railroad Company.

The applicants represented that they were a copartnership engaged in an auto-transportation business, and in the hauling of the United States mail between Thompson and Sego, Grand County, Utah; with their principal place of business at Thompson, situated upon the railroad of the D. & R. G. W. Railroad Company. That at the time of the filing of the application, there were no transportation facilities existing between Thompson and Sego, except that which the applicants proposed to furnish; that they are under contract with the United States Government to carry the mail between the points in question; that there is a necessity existing for the giving of such service.

The protestant objected to the issuing of said certificate for the reason and upon the grounds:

First—That the Ballard & Thompson Railway Company, under its charter is authorized to operate as common carrier of freight and express for more than ten years, and has had constructed and in existence a line of railroad from said Thompson to Sego; that on the 23rd

day of August, 1922, it was granted a certificate of convenience and necessity to operate its railroad between the points named as a common carrier of freight, mail, express and passengers; that heretofore it has operated as a plant facility in connection with the mines of the American Fuel Company of Utah, situated in Sego; that since the granting of said certificate of convenience and necessity it has made arrangements to secure equipment to install a gasoline propelled truck on its railroad to carry all freight, express, mail and passengers between the points mentioned; that in addition to said trucks, steam equipment will be secured from the D. & R. G. W. R. R. at which time it will establish a regular schedule and meet all trains at the D. & R. G. W. R. R., at Thompson, except the midnight train, and will handle all freight, express and passengers at reasonable charges to be approved of by the Commission. That it will provide adequate service for the needs of the communities served by it; that there is not sufficient freight, express or passengers to justify the operation of a line from Thompson to Sego in opposition to or in competition with said Ballard & Thompson Railroad Company. That the railroad over which the applicants propose to operate for approximately one mile is private property of the protestants and that there does not exist a necessity for the establishment of the service sought by the application.

The record in this case shows that the application was made February 21, 1922, and was set down for hearing at Price, April 14, 1922, but which was not attended by the applicants, for the reason as claimed by the said applicants that they did not understand that they were to be present or to be represented, but their understanding was that a notice of such hearing should be published in the local papers, and on June 5, 1922, asked for further hearing at which they would be present.

The matter was not again set down for hearing until the 26th of September, 1922.

It appears that, with the exception of the applicant's failure to be present at the first setting, that they had been anxious to have the matter settled by the Commission.

Applicants further testified that they had invested considerable money necessary to give the service; that some two years ago the service of carrying the mail as well as additional service to the public asked for in the application was given, by contract, to said applicants by

said protestants, under which the applicants gave service to the public as well as service to the protestant; and with the understanding that such condition would be continued, that they bid for and receive the contract from the United States to carry the mail the next four years, beginning July 1st, of the present year.

The protestant gave testimony to the effect that the contract that was turned over to the applicants some time ago was without any specified time; for the reason that it was not known to the company at that time just what changes might be made in its mode of procedure in operating their property and carrying on the business that they had established at Sego—claiming that 95 per cent of the tonnage and service outside of the mail carrying, was under the direction of the said railway company and its operations.

It was further claimed by the protestants that they had experienced difficulty at their camp with boot-legging; and it was their intention to do everything and anything that they could to prevent the possibility of liquors being smuggled into the camp where employees could obtain the same. And by being the only carrier of freight and express and passengers, said Ballard & Thompson Railway could more carefully watch and preclude the carrying of undesirable persons or liquor.

There appeared to be no specific charge against the present carrier or applicant, but it was urgently claimed that somebody was responsible for taking intoxicants into the camp.

There is no question but that the company has a right to operate as a common carrier, and would naturally avail itself of the opportunity to function as such.

The question of whether or not the applicant would have a right to carry freight, express and passengers over and upon the premises claimed by the protestants, is not a question that can be settled by this Commission; as there was some testimony to the effect that the road leading to the vicinity of Sego had been traveled for many years by the public; and that if the mail contract which had been awarded to the applicants should be fulfilled, it would be necessary to travel over the property claimed by the protestant.

The question of necessity under the proof would not seem in this case to be very urgent; however, when the history of this issue is gone over and the connection which

the protestants have had in giving service that they have given, it would appear to the Commission that it would be an injustice to deprive the applicants of the opportunity of carrying express, freight and passengers not carried by the Ballard & Thompson Railroad.

It is therefore adjudged and decided that a certificate of necessity and convenience should issue to the applicants, with the understanding that the schedule of rates and time shall be filed immediately with the Commission and before they could be authorized to act under this order.

It was claimed in the hearing that the rates charged by the applicants were excessive. The Commission could not at this time fix the rates but may when they are filed ask to have them modified, if it appears that they are excessive.

An order will issue in keeping with the above findings.

(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. 164

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 11th day of October, A. D. 1922.

In the Matter of the Application of M. W. GEER & SONS for permission to operate an automobile truck, passenger, express and freight line between Thompson and Sego, Utah.	CASE No. 508.

IT IS ORDERED, That the application be granted and applicants, M. W. Geer & Sons, be, and they are hereby authorized to operate an automobile stage line, for the transportation of freight, passengers and express, between Thompson and Sego, Utah.

IT IS FURTHER ORDERED, That before beginning operations, applicants, M. W. Geer & Sons, shall publish and file with the Commission and post at each station on their route a schedule of rates, fares and charges, as provided in Tariff Circular No. 4, and shall at all times operate their line in conformity with the rules and regulations governing such operation heretofore prescribed by 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 W. E. OSTLER, for permission to operate an automobile stage line between Eureka and Silver City, Utah. } CASE No. 509.

Submitted April 19, 1922. Decided April 27, 1922.

W. E. Ostler, Petitioner.

B. R. Howell, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case was heard at Eureka, Utah, April 19, 1922.

The applicant represented that he is a resident of Eureka, Utah, and, at various times during the past few years, had operated an automobile stage line in the Tintic Mining District; that at present there is no regularly operated automobile stage line between Eureka and Silver City, a distance of about five miles apart; that Eureka City forms the trading and business center for the entire district; that, on account of such condition, there is much travel between the points in question, and, consequently, there is a need for the establishment of such a convenience as is contemplated in the service to be given under the application.

It further appeared that the applicant has been operating over the same route, by permission of the Commission, until a short time ago; but was compelled to abandon the service and desired to now resume the same.

The Denver & Rio Grande Western Railroad Company represented that daily service was being given to this district by way of operating a daily passenger train from Salt Lake City to Eureka, via Silver City, and return.

It appeared from the schedule that the railroad mentioned operated only in the middle of the day, and that it was not sufficient to accommodate the persons who wished to go to and from Eureka and Silver City; that on account of the conditions of the County road, passenger automobiles could be easily operated during all times

of the year, and that such a service would furnish a desirable opportunity at almost any time of the day.

After a careful consideration, it would appear that a service between the points in question such as is contemplated by the applicant, would be such an additional convenience and a necessity to the public, without materially detracting from the Railroad Company, that a certificate of convenience and necessity should be issued; and that the applicant appears to be competent and able to render the service satisfactorily.

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. 137

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 27th day of April, A. D. 1922.

In the Matter of the Application of W. E. OSTLER, for permission to operate an automobile stage line between Eureka and Silver City, Utah.	CASE No. 509.

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 granted and W. E. Ostler be, and he is hereby, authorized to operate an automobile stage line, for the transportation of passengers, between Eureka and Silver City, Utah.

ORDERED FURTHER, That applicant, W. E. Ostler, 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 J. LAWRENCE DOTSON, for permission to operate a passenger stage line between Milford and Newhouse, Utah.	CASE No. 510.

Submitted July 5, 1922. Decided July 13, 1922.

Appearances:

J. Lawrence Dotson, Petitioner.
Hyrum Davis, Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case was heard at Milford, Utah, March 25, 1922, at which time there appeared the petitioner and Hyrum Davis, who objected to the application.

The applicant represented that he is a citizen of Milford, Utah, and had been recently awarded the contract of the United States Government to carry the United States mail from Milford to Newhouse, and all points intermediate; that said contract would become operative July 1, 1922, and exist for a period of four years; that in carrying the mail, petitioner was to operate and maintain automobiles, and will thereby have ample, necessary facilities for carrying passengers; that the holder of the present franchise for carrying passengers has been operating a stage line between the two points for several years past, and that there is not sufficient traffic to remunerate the service for carrying passengers between the points in question, outside of what he would receive for carrying the mail.

The protestant, Hyrum Davis, represented that he is at the present time operating a stage line between the points in question, and that he is equipped to take care of the traveling public, and that he desires to continue such operations under the franchise heretofore granted by the Public Utilities Commission; that, if the applicant is allowed to haul passengers, it would do great damage, for the reason that there is not sufficient traffic to pay for the operation of two passenger stage lines between the points referred to.

At the time the hearing was had, there appeared to be some probability of the parties mutually agreeing to

settle the matter between themselves; but it appears from a communication written July 5th by J. L. Dotson, applicant, that the matter remains to be passed upon by the Commission.

Under the rule invoked by the Commission in several cases heretofore considered and decided, the application should 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 13th day of July, A. D. 1922.

In the Matter of the Application of J. LAWRENCE DOTSON, for permission to operate a passenger stage line between Milford and Newhouse, Utah. } CASE No. 510.

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, denied.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

KAMAS TOWN, a Municipal Corporation, *Complainant.* vs. G. W. BUTLER, doing business under the name of Kamas Light, Heat and Power Company, *Defendant.*	CASE No. 511.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of PETER BOSONE for permission to operate an automobile stage line between Helper and Castle Gate and Willow Creek and the properties of the Equitable Coal Co.	CASE No. 512.

Submitted April 14, 1922. Decided Sept. 11, 1922.

Appearances:

Price & Foutz, for Applicant.
Wade & Hansen, for Protestants, Star Stage Line.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This application was filed with the Commission March 10, 1922, seeking permission of the Commission to operate an automobile stage line, Helper to Willow Creek and the properties of the Equitable Coal Co. via Castle Gate, all in Carbon County, Utah, alleging that future public convenience and necessity will require the operation of such stage line, for the reason that it is the intention of the said Equitable Coal Co. to commence the operation of its coal properties.

The application was protested by the Star Stage Line filed March 21, 1922, upon the ground that the said Star Line is now operating a stage line between Price and

Castle Gate via Helper, and upon the further ground that Willow Creek is a part of Castle Gate; and that the properties of the Equitable Coal Co. as yet were not being operated and a stage line between Helper and the points sought to be served in the application could not be operated without interfering with the business of the Star Stage Line Co.

Hearing was had April 14th at Price, at which time witnesses were heard in support of the application to the effect that the proposed mine is about 8 miles from Helper and that a separate service was necessary to properly serve this district. That it was the intention to have Mr. Bosone's son, now attending High School in Salt Lake City, drive the cars and that Mr. Bosone had the financial ability to furnish equipment for the enterprise. It was not his intention to compete with the Star Stage Line now operated by J. H. Wade and J. F. Hansen, but merely to carry passengers to the proposed mine.

Mr. Wade testified in protest to the application that the proposed stage line would traverse largely his present route and that it would mean a duplication of service in the long run, for passengers now transported by the Star Stage would be taken by Mr. Bosone and that there was no public necessity for duplication of the service.

It appears that the district to be served is contiguous to that now served by J. F. Hansen and J. H. Wade of the Star Stage Line and that the route traversed would be largely over that now served by said Hansen and Wade.

The Commission has found that in similar circumstances this kind of situation results in a conflict between the lines, with depreciation of service generally and of no public benefit. After full consideration of the issues raised in this case, it does not appear that the application should be granted and it will accordingly be denied.

An appropriate order will be entered.

(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 September, A. D. 1922.

In the Matter of the Application of PETER BOSONE for permission to operate an automobile stage line between Helper and Castle Gate and Willow Creek and the properties of the Equitable Coal Co.	CASE No. 512.

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 Peter Bosone for permission to operate an automobile stage line between Helper and Castle Gate and Willow Creek and the properties of the Equitable Coal Co., 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 JOHN BOWMAN, for permission to operate an automobile passenger service between Beaver and Parowan, Utah.	CASE No. 513.

Submitted March 24, 1922. Decided April 4, 1922.

O. A. Murdock, Jr., and Sam Cline, for Petitioner.
H. C. Parcell, for Protestant.

GREENWOOD, Commissioner:

The above matter came on for hearing, March 24, 1922, at Beaver City, Utah.

There appeared in opposition to the application, John Mortenson.

Evidence in support of the application was to the effect that John Bowman is a resident of Beaver, engaged in the garage business; that he was informed by a great number of persons that the service rendered by the present stage line from Parowan to Milford, is very unsatisfactory, for the reason that there is not the proper connection for the best convenience at Beaver, for those wishing to travel beyond Beaver to the South and from Parowan to Beaver; that such inconvenience could be removed by the establishing of a service from Beaver to Parowan and return, which would make proper connections with the stage from Milford to Beaver; that it would remove the duplication of service that is now in operation between Beaver and Milford, furnishing a more convenient means of travel.

In opposition to the granting of the application, John Mortenson filed his answer and gave evidence to the effect that for more than five years last past, he had operated a freight, passenger and express automobile stage between Milford and Parowan, under permission granted by the Public Utilities Commission, observing the rates, rules and regulations prescribed and approved by said Commission, and is now able and willing to operate and to furnish such service as will meet the demands and convenience of the traveling public between Parowan and Milford, via Beaver; that such operation has been rea-

sonably good, notwithstanding the roads have at times been almost impassable.

It is true that Mortenson Brothers have operated an automobile passenger stage line between Milford and Parowan for a number of years and, with a very few exceptions, have given service without any complaint; that under the history of the service given by said Mortensen Brothers, there appears to be a continuing necessity and convenience for the operation of the stage from Parowan to Milford. It is true that there might be some duplication of service through the operation of both lines between Beaver and Milford, and yet the expense to the traveling public is no more than would be by changing the operation of the stage line From Parowan to Milford, to Parowan to Beaver.

There does not seem sufficient cause shown by the applicant to warrant the changing of the service or the revoking of the franchise given to Mortenson Brothers. It further appears that there is not sufficient travel to warrant the operation of additional service to that now being furnished.

Under the evidence, circumstances and conditions in this case, we are of the opinion that the application of John Bowman 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 April, A. D. 1922.

In the Matter of the Application of JOHN BOWMAN, for permission to operate an automobile passenger service between Beaver and Parowan, Utah.	CASE No. 513.

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, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of E. F. BIRCH and ERNEST PRITCHETT, for permission to operate an automobile stage line between Eureka and Payson, and intermediate points.	CASE No. 514.

Submitted May 1, 1922. Decided May 12, 1922.

E. F. Birch, and Ernest Pritchett, Petitioners.
B. R. Howell, for Denver & Rio Grande Western Railroad Co., Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The hearing on the above entitled matter was held at Eureka, Utah, April 18, 1922. Subsequently, on May 1, 1922, petitioners filed a motion to withdraw the application.

The withdrawal should be allowed, and an order dismissing the case 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 12th day of May, A. D. 1922.

In the Matter of the Application of E. F. BIRCH and ERNEST PRITCHETT, for permission to operate an automobile stage line between Eureka and Payson, and intermediate points.	CASE No. 514.

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, dismissed.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Approval of the Agreement between the UNION PACIFIC RAILROAD COMPANY and the STATE ROAD COMMISSION OF UTAH providing for construction, maintenance, repair and renewal of a viaduct at Riverdale, Utah.	CASE No. 515.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

IT APPEARING, That the State Road Commission of Utah and the Union Pacific Railroad Company have presented to and filed with the Public Utilities Commission of the State of Utah a copy of a certain contract, which they have agreed to enter into, providing for the abandonment and closing of a certain grade crossing of the State Highway over the right-of-way and tracks of the Union Pacific Railroad at or near Riverdale, Weber County, Utah, and further providing for the construction, in lieu of said grade crossing, and maintenance of a viaduct carrying the State Highway over and across the Weber River and the right-of-way and tracks of the said Union Pacific Railroad at said point, which said copy of contract is by reference made a part of this order;

AND IT FURTHER APPEARING, That this Commission has duly considered the advisability and practicability of closing the present grade crossing and of constructing said crossing so that the said State Highway will cross over the right-of-way and tracks of the Union Pacific Railroad, overhead, on a viaduct, the construction of which is provided for in said proposed contract;

AND IT FURTHER APPEARING, That this Commission has also considered the terms and stipulations contained in said proposed contract in so far as they refer to the installation, operation, maintenance, use and protection of said viaduct, the separation of the grades at such crossing and the proportions in which the expense of the abolition of said grade crossing and the separation of

said grades shall be divided between the parties to said contract;

AND IT APPEARING to this Commission to be practicable to separate the grade at such crossing in the manner proposed in said proposed contract;

AND IT FURTHER APPEARING, That this Commission is fully aware of all things pertaining to the matters aforesaid, necessary for its determination of the things herein contained;

IT IS ORDERED, That the said viaduct constituting said overhead crossing may be installed, operated, maintained, used and protected in the manner and upon the terms provided for in said proposed contract.

IT IS FURTHER ORDERED, That said existing grade crossing is abolished and closed, effective upon the day and date when the said overhead crossing is opened to public travel, in accordance with the terms of said proposed contract; and that the said viaduct constituting said overhead crossing may be installed, operated, maintained, used and protected in the manner and upon the terms, conditions and provisos stipulated in said proposed contract.

IT IS FURTHER ORDERED, That the expense of the separation of the grades at such crossing shall be divided between the Union Pacific Railroad Company and the State of Utah, in the proportion provided in said proposed contract.

Made and entered this 25th day of March, A. D. 1922, at Salt Lake City, Utah.

(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 A. H. BARTON, for permission to operate an automobile stage line between Ophir and Tooele, Utah.	CASE No. 516.

Submitted April 21, 1922. Decided Aug. 12, 1922.

Appearances:
A. H. Barton, Petitioner.
Henry Charles & Sons, Protestants.

REPORT OF THE COMMISSION.

By the Commission:

This application was heard at Salt Lake City, April 21, 1922, the petitioner appearing on his own behalf and the protestants, Henry Charles & Sons, appearing for themselves.

The petitioner represented that his residence was in Tooele City, Utah; that he was engaged in operating a freight automobile stage line between Salt Lake City and Ophir, Utah; that the territorial limits of said stage line are the towns of Tooele, Ophir and Stockton; that there is no person operating a passenger stage line between Ophir and Tooele at the present time; that there was a necessity for the establishment of such service to Ophir, a convenient way of travel between the points named; that it is expected to make connections with the passenger stage line now operating between Tooele and Salt Lake City, thereby providing passenger transportation from Ophir to Salt Lake City and return, for which the petitioner contends there is a public demand.

Protestants, Henry Charles & Sons, appeared and opposed the granting of such permits upon the ground and for the reason that they were engaged in the hauling of passengers from St. John to Ophir; that they were carrying the U. S. mail between said points; that the Commission had heretofore granted them the right to carry passengers and that, in keeping with such franchise,

they had continued to operate and expected to operate in the future; that the granting of the petition of applicant would greatly damage said protestant, for the reason that there is not sufficient travel to justify the operation of two stage lines between said points; and that the hauling of passengers from Tooele to Ophir would greatly damage said protestant; that there is now already a service being furnished for the traveling public to Stockton from Salt Lake City and other points by steam railroad, the Los Angeles & Salt Lake Railroad, that carries passengers to Stockton, and the protestants carry them from St. John to Ophir.

After carefully considering the conditions and circumstances and the necessities of the traveling public, there does not seem to be a sufficient or urgent necessity for establishing a stage line between Tooele and Ophir at this time. Therefore, the application is denied, and an order will issue in keeping therewith.

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 12th day of August, A. D. 1922.

In the Matter of the Application of A. H. BARTON, for permission to operate an automobile stage line between Ophir and Tooele, Utah.	CASE No. 516.

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, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. M. DESPAIN, for permission to operate a truck line for the transportation of freight between Salt Lake City and Wasatch, Utah.	CASE No. 517

Submitted April 21, 1922. Decided May 1, 1922.

N. A. Robertson, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

The above entitled matter was heard before the Commission, April 21, 1922.

There were no protests to said application, in writing or otherwise.

It appeared from the evidence that the applicant was engaged as forwarding agent for a number of mining companies operating at Alta, Utah, and that in connection therewith, petitioner has been engaged in transporting freight between Salt Lake City, Sandy and Wasatch, Utah; that various mining companies located at Alta receive merchandise and other supplies at Wasatch, such merchandise and supplies being purchased from Salt Lake; that the quickest and best method of transportation for such articles is by truck, which calls at the wholesale house, picks up the merchandise and delivers it at Wasatch, which is twenty-two miles from Salt Lake City; that there is a necessity for such service as is contemplated in the application, namely, the operation of a truck line for the transportatoin of freight between Salt Lake City, Sandy and Wasatch; that the applicant is equipped with sufficient rolling stock to take care of the supplies and merchandise used by said mining companies, and is financially able to secure any additional equipment which may be required in the rendering of adequate and sufficient service.

It was further alleged by petitioner that the only established freight service between Salt Lake City and Wasatch at the present is that rendered by the Denver &

Rio Grande Western Railroad Company; that the service rendered by said Railroad is not sufficient as to the matter of convenience, to take care of the necessary transportation of said merchandise and supplies, as to meet the urgent demands of the mining companies in the operation of their properties; that there appears to be no regular schedule under which said Railroad Company operates its trains between the points in question; but that its operation is regulated by the number of carloads of ore to be shipped from Wasatch to Salt Lake City, or points beyond; that great inconveniences have been experienced by the mining companies on account of having to wait for the shipment of necessary merchandise and supplies in the working of their mining properties; that it is the purpose of applicant, if granted authorty, to operate a schedule of two round trips per week and collect therefor 50c per 100 lbs., between Salt Lake City and Wasatch, and 25c between Sandy and Wasatch; and further, that if there is a demand for more frequent delivery of goods between said points, the applicant will make special trips to meet any and all such requirements, when notified by shippers.

It is not the purpose or intent of applicant to interfere with the transportation of local freight from Salt Lake City to Sandy, in competition with the B. & O. Transportation Company, nor between Wasatch and Alta, in competition with the Little Cottonwood Transportation Company.

From the showing made, it appears that there is a need of the establishing of the service referred to in the application; that the applicant is able, competent and prepared to give such service, and that a certificate of convenience and necessity should be issued, authorizing J. M. Despain to operate a truck line for the transportation of freight between Salt Lake City and Wasatch, Utah, and Sandy and Wasatch, Utah.

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 Convenience and Necessity No. 138.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 1st day of May, A. D., 1922.

In the Matter of the Application of J. M. DESPAIN, for permission to operate a truck line for the transportation of freight between Salt Lake City and Wasatch, Utah.	CASE No. 517

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 J. M. Despain be, and he is hereby, authorized to operate an automobile truck line for the transportation of freight between Salt Lake City and Wasatch, Utah, and Sandy and Wasatch, Utah.

ORDERED FURTHER, That applicant, J. M. Despain, 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 the CITY OF FAIRVIEW, UTAH, for permission to increase its rates for residence lighting service. } CASE No. 518

Submitted May 17, 1922. Decided November 2, 1922.

Appearances:
Peter Sundwell, Jr., Mayor, for Applicant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Fairview, Utah, May 17, 1922, at which time there were present the Mayor and members of the City Council, as well as some other citizens.

Officials of the City of Fairview represented that the municipality owns and operates a municipal electric light plant used for supplying the residents of said city for light and power purposes; that the rate for residence service at present is 7c per K. W. H.; that it is desired to establish a system of discount of 10 per cent on prompt payment of all bills to the patrons; that the revenue collected from the light plant is not sufficient to permit them to grant this discount, and that it will be necessary to charge 8 cents per K. W. H., as well as to add an increase to the flat rate of approximately 10 per cent.

It is further desirable that the municipality be authorized to require all electric light patrons to install meters which will tend to greater economy in the use of energy and would result in the greater efficiency of lighting service.

Under a misunderstanding that the interest had been paid upon the bonds from the rates collected for services instead of assessing annually the property of the city to pay not only the interest upon the bonds but to create and establish a sinking fund with which the bonds should be paid upon maturity.

Some opposition was represented on the part of a number of the citizens, but directed more toward the service rendered than to the rates.

The financial statements offered by the city officials not being sufficient to technically show the results of the operation of the plant, the Commission required that a

financial statement be made and filed and considered in passing upon the question raised by the application.

It was claimed by the officials of the town that no depreciation reserve had been set aside to take care of replacements. That is, amounts which might have gone to make up the depreciation account had been spent for replacements instead of using some of the same to meet yearly interest upon the bonds, the plant, no doubt, would now be in a much better condition, but that there is now a great need for replacements occasioned by the neglect of keeping up the natural wear and tear of the plant and in order to obtain sufficient means to put the plant in proper condition to give adequate service and to meet other expenses as well the advance of rates is necessary.

The following statement is made from the account submitted by the Electric Company for the year 1921, with the exception that the valuation of the plant is claimed to be $25,727.00 which forms the basis of said statement.

If mistakes have been made in the past, it is essential that they be corrected. The continuity of the service is paramount and in the interest of adequate service it now becomes necessary to set aside amounts for replacement that will insure the continued operation of the plant.

It appears that the value of the depreciable physical property is approximately $25,000.00. After carefully considering the amount urgently needed for replacements and renewals, we find that a sum not less than $1,979.00 per annum should be set aside for this purpose.

With increases and discounts allowed, as set forth in the application, gross revenues based on 1921 business, will be approximately as follows:

Gross revenue for 1921, under present schedules		$4,484.94
Plus 10% as per application		448.49
Gross revenue		$4,933.43
Less 10% prompt payments on bills		493.34
Corrected gross income		$4,440.09
Operating expenses for 1921	$3,121.66	
Depreciation as above	1,979.00	
Total Operating expenses	$5,100.66	

It is estimated that there will be a saving of about $300.00 in operating expenses, principally in reduced cost of collecting monthly bills.

Corrected net operating income.... $360.57* (Red)

The question of meter system was presented and discussed, and it clearly appears that the meter system is the only just and equitable means of measuring electrical energy.

The opposition to the allowing of the advance rates under the application was directed to the manner of giving service rather than to the rates themselves. The advantages referred to by the Mayor will be an improvement in the giving of service to the public and will no doubt meet the objection raised at the hearing.

There has been some difficulty experienced in obtaining financial statements from many of the local service corporations. No doubt for the reason, first, that accounts and statements have not been carefully kept, and further, in municipally owned utilities, changes are made of the management which often occasions insufficient management and a lack of keeping accounts.

In the collection of the depreciation reserve which is very liberal in this case, it will be necessary for the managers and officers to see to it that a separate amount, as prescribed by this Commission, be kept and amount so collected used for no other purpose than for revenues and replacements, so that an account may be given at any time called for.

The increase as asked for is urged for the reason that there are certain conditions which seem to be necessary for the welfare of the service. It might further be observed that this is a municipal system owned by the inhabitants of Fairview City, operated, managed and conducted by the individuals of its choice who are responsible to the people as well the Commission for a proper and judicious management of the system.

After a careful consideration of all the evidence and showing made it appears that the petition should be granted.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,

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 7th day of November, A. D., 1922.

In the Matter of the Application of the CITY OF FAIRVIEW, UTAH, for permission to increase its rates for residence lighting service.	CASE No. 518

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 granted, and applicant, the City of Fairview be and it is hereby authorized and permitted to publish and put into effect increased rates for electric service which will not exceed those set forth in the foregoing report.

ORDERED FURTHER, That such increased rates may be made effective upon ten (10) days' notice to the public and the Commission, such notice being given by publishing and filing in the manner heretofore prescribed by the Commission, a schedule naming such increased rates, rules and regulations.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the ARROW AUTO LINE and MIKE SERGAKIS, for permission to operate an automobile stage line between Price and Sunnyside.	CASE No. 519

Submitted April 14, 1922. Decided April 24, 1922.

Stanislao Silvagni, for Petitioners.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This action was filed March 30, 1922, alleging that the Arrow Auto Line is a co-partnership, composed of Angelo Peperakis and Stanislao Silvagni, and the said Arrow Auto Line is now operating under a certificate of convenience and necessity granted by the Public Utilities Commission of Utah to said Arrow Auto Line, authorizing automobile stage service between Price and Hiawatha, Utah, and is desirous, in connection with Mike Sergakis, of extending the service between Price and Sunnyside, Utah, succeeding Wm. A Engle, present possessor of said certificate of convenience and necessity.

After hearing, there appearing no reason why the petition should not be granted, and no protests, the conclusion is that a certificate of public convenience and necessity should be issued to the said Arrow Auto Line and Mike Sergakis.

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. 136.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 24th day of April, A. D., 1922.

In the Matter of the Application of the ARROW AUTO LINE and MIKE SERGAKIS, for permission to operate an automobile stage line between Price and Sunnyside.	CASE No. 519

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 that the Arrow Auto Line and Mike Sergakis be, and they are hereby, authorized to operate an automobile stage line for the transportation of passengers, between Price and Sunnyside, Utah:

ORDERED FURTHER, That applicants, Arrow Auto Line and Mike Sergakis, 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, which rates and fares shall not exceed those formerly charged by W. A. Engle, 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 SALT LAKE & UTAH RAILROAD COMPANY temporarily to decrease passenger train service between Salt Lake and Payson and between Salt Lake and Magna.	CASE No. 520

Submitted April 22, 1922. Decided April 29, 1922.

D. T. Lane, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

In a petition filed March 29, 1922, the Salt Lake & Utah Railroad Company, a common carrier by railroad, represented that for several years last past it has operated between Salt Lake City and Payson, Utah, a passenger train service, as set out in the petition, to-wit:Nine passenger trains each way per day, and upon the Magna Branch of said Railroad, a passenger service consisting of six trains each way per day.

Petitioner alleged that passenger traffic, due to present economic conditions, has decreased to such an extent that public convenience and necessity does not at the present time require passenger train service as at present rendered; that the expense of operating passenger service upon present schedules is not justified by the revenue received therefrom, and asked to change the schdule of passenger service between Salt Lake City and Payson, so as to give a service of eight passenger trains each way per day, for the main line, and four passenger trains each way per day, upon the Magna Branch.

It was further alleged by petitioner that the proposed schedules eliminate only such trains as carry a very small amount of passenger traffic, or such traffic as will be fully served by the proposed schedules; that the adoption of the proposed schedules would materially reduce present losses; that the said petitioner will hold itself in readiness to resume such additional service as will be entirely adequate, when conditions justify the greater service.

This case came on regularly for hearing at Provo, Utah, April 20, 1922.

No protests were filed, neither did any protestants appear at the hearing.

Petitioner offered numerous exhibits showing comparative yearly statement of operating income, comparative statement of freight and passenger revenues, passenger earnings, number of passengers carried, by years, and by trains during certain periods, and other evidence in general support of the petition, and the case submitted thereon.

Later, under date of April 21, 1922, petitioner submitted a letter to the Commission, suggesting further modification of the service on the Magna Branch, wherein the first train on Sunday morning is omitted, an additional train serving the Magna Branch, Saturady evening. We believe this is an improvement, and should be made effective.

We are of the opinion, after full consideration of all material facts having any bearing upon the petition, that the present schedule should be modified to conform to the prayer of this petition. The Commission, however, reserves jurisdiction to make further modification upon the Magna Branch, should conditions justify same.

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 29th day of April, A. D., 1922.

In the Matter of the Application of the SALT LAKE & UTAH RAILROAD COMPANY temporarily to decrease passenger train service between Salt Lake and Payson and between Salt Lake and Magna.	CASE No. 520

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 petitioner, Salt Lake & Utah Railroad Company, be permitted to temporarily decrease its passenger train service between Salt Lake City and Payson, Utah, retaining a service of eight passenger trains each way per day.

ORDERED FURTHER, That petitioner be permitted to temporarily reduce its train service between Salt Lake City and Magna, Utah, retaining four passenger trains each way daily, except Sunday, when but three passenger trains each way will be operated, an additional train being operated Saturday night.

ORDERED FURTHER, That the Commission expressly retain jurisdiction over the service between Salt Lake City and Magna.

ORDERED FURTHER, That such reduced service may be made effective on 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 W. A. ENGLE, for permission to discontinue operating the stage line between Price and Sunnyside.	CASE No. 521

Submitted April 14, 1922. Decided April 22, 1922.

W. A. Engle, Petitioner.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

This case came on regularly for hearing at Price, Utah, April 14, 1922.

W. A. Engle testified that he intended engaging in business elsewhere, and, for that reason, asked that he be permitted to surrender his certificate of convenience and necessity in favor of the Arrow Auto Line and Mike Sergakis.

He testified that said Mike Sergakis had been a driver in his employ for some time; that he was familiar with the operation of automobiles, and was reliable.

After full consideration of all material facts that may or do have any bearing upon this question, the application of petitioner 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 22nd day of April, A. D., 1922.

In the Matter of the Application of W. A. ENGLE, for permission to discontinue operating the stage line between Price and Sunnyside.	CASE No. 521

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 that W. A. Engle be, and he is hereby, authorized to discontinue operating the automobile stage line between Price and Sunnyside, Utah.

By the Commission.

(Signed) T. E. BANNING,

(SEAL)

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the CAMERON TRUCK LINE, for permission to operate an automobile freight and express line between Panguitch and Marysvale, Utah.	CASE No. 522

Submitted May 18, 1922. Decided June 2, 1922.

Philo Cameron, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case was heard at Marysvale, Utah, May 18, 1922, at which time there appeared no protestants.

Petitioner represented that he is a resident of Panguitch, which is fifty-five miles south of Marsvale; that there is no licensed automobile freight line between the points mentioned, and that there is a necessity for the establishing of an automoble freight line from Marysvale to Panguitch; that he is equipped with automobiles to haul the express and freight for shippers between the points mentioned; that there were others who had been hauling with automobile trucks, and some freight had been carried over the road by horse teams; that the tonnage and nature of the freight to be hauled is such as to require a direct and quick transportation of the same from the railroad to the south, including Panguitch and intermediate points; that the purpose of seeking to establish the service is to give a more regular and efficient means to the merchants and other business institutions for the hauling of their freight.

The evidence was to the effect that the applicant is competent and able to give the necessary attention and service to the business, and is equipped with sufficient rolling stock, and, if the tonnage should increase, he would increase the capacity of his motor trucks.

The showing would seem to indicate that there is a necessity for the establishing of such service as it contem-

plated by the applicant, and that a certificate of convenience and necessity should be issued to the applicant, granting him permission to operate an automobile freight and express line between Panguitch and Marysvale, Utah.

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. 144.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 2nd day of June, A. D., 1922.

In the Matter of the Application of the CAMERON TRUCK LINE, for permission to operate an automobile freight and express line between Panguitch and Marysvale, Utah.	CASE No. 522

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 Cameron Truck Line be, and it is hereby, permitted to operate an automobile freight and express line between Panguitch and Marysvale, Utah.

ORDERED FURTHER, That applicant, Cameron Truck Line, before beginning operation, shall file with the Commission and post at each station on its route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and showing arriving and leaving time from each station on its line; 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 JOHN RASMUSSEN, for permission to operate an automobile stage line between Magna and the Arthur Mill.	CASE No. 523

Submitted May 9, 1922. Decided May 29, 1922.

Wm. Roger, for Petitioner.
H. R. Shaul, for employees of Utah Copper Co.
McCarty & McCarty, for J. C. Denton.
Fred Kessler, for himself.

REPORT OF THE COMMISSION

By the Commission:

The above entitled case was heard by the Commission, at its office in Salt Lake City, May 9, 1922, upon the application of John Rasmussen, together with the protests of J. C. Denton and Fred Kessler.

The petitioner represents that there is no established stage line or passenger train service between Magna and Arthur Mill; that there are a great number of men who are employed at the Arthur Mill who reside at Magna, at about two miles distance; that he has been employed in the past in the transporting of a number of working men between Arthur and Magna, upon a schedule that would enable the employees to arrive at the mill in time for work; that during the last year there have been a few, comparatively speaking, who have been employed at said mill; but that the mill at Arthur has been opened up, which will require the operation of some means to haul the employees of said mill from their homes to their employment; that the petitioner owns three passenger trucks, capable of transporting, collectively, one hundred passengers, and that he can and will accommodate all employees of the Arthur plant while two shifts are operating, and, should the Arthur Mill run full time, thereby making three shifts, additional trips will be scheduled to accommodate employees on night shift.

The protests were on the grounds that a better service would be given if exclusive right to haul passengers be-

tween the points mentioned were not given to anyone; that a number of employees owned cars and were in the habit of taking others with them to work; that exclusive right would materially interfere with the method of traveling between said mill, and Magna; that the means heretofore adopted for travel between the two points by the men employed at Arthur Mill would better meet the convenience, conditions and desires of working men.

It appeared that the petitioner, Mr. Rasmussen, was pretty well employed and had been for some time, in taking care of a part of the transportation, and until it is further shown that the conditions are such that exclusive right to haul the men to and from their work would be an added convenience and necessity, 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 29th day of May, A. D., 1922.

In the Matter of the Application of JOHN RASMUSSEN, for permission to operate an automobile stage line between Magna and the Arthur Mill.	CASE No. 523

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 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 TOOELE MOTOR COMPANY, for permission to operate an automobile stage line between Tooele and Saltair, Utah.	CASE No. 524

Submitted May 9, 1922. Decided June 2, 1922.

John J. Gillett, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

This case was heard by the Commission at Salt Lake City, May 9, 1922.

There were no protests filed or made at the hearing.

Petitioner represented that its place of business is at Tooele City, Utah; that it desires to operate a passenger stage line between Tooele and Saltair, during the summer season, May 30th to the first Monday in September; that there is no automobile service between Tooele and Saltair at the present time; that there is a public demand for such a service, which will furnish a more direct means of transportation to and from Saltair; that quite a large number of people of Tooele go to Saltair for amusement during the summer months, and that to go to Saltair from Tooele requires traveling on the railroad to Salt Lake City and back to Saltair, which is much longer and requires more money than the route contemplated in the application; that the Tooele Motor Company is an institution that has been in that section of the country; that the Company is fully equipped to take care of the traveling public.

After considering the application, together with the testimony submitted and representations made, we are of the opinion that an order should be issued authorizing the applicant to transport passengers from Tooele to Saltair; provided, however, the service so authorized shall not interfere with any of the rights now maintaining.

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 Convenience and Necessity No. 142.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 2nd day of June, A. D., 1922.

In the Matter of the Application of the TOOELE MOTOR COMPANY, for permission to operate an automobile stage line between Tooele and Saltair, Utah.	CASE No. 524

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 Tooele Motor Company, be, and it is hereby, permitted to operate an automobile stage line between Tooele and Saltair, for the transportation of passengers.

ORDERED FURTHER, That applicant, Tooele Motor Company, before beginning operation, shall file with the Commission and post at each station on its route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on its line; 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 J. F. HANSEN and J. H. WADE, for permission to operate an automobile stage line between Castle Gate and Willow Creek, Utah.	CASE No. 525

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of W. D. ALLEN, for permission to operate an automobile truck service between Salt Lake City and Bingham, Utah.	CASE No. 526

Submitted May 12, 1922. Decided May 31, 1922.

Appearances:

Dan B. Shields, for Petitioner.
B. R. Howell, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on for hearing, at Bingham, May 12, 1922, on the petition of W. D. Allen and protest of the Denver & Rio Grande Western Railroad Company.

It was represented by the petitioner that the town of Bingham is situated in Salt Lake County and has a population of about thirty-five hundred people; that it is dependent entirely upon freight service for its various commodities of necessity; that the service now furnished is inadequate to meet the demands since the withdrawal of the service given by G. W. Begeman; that the truck used by the said G. W. Begeman was the property of the applicant and is now in the possession of the said W. D. Allen; that he is able to furnish an automobile truck service for the transportation of freight between the points, and furnish all necessary equipment to meet the requirements of the trade; that he will run daily, leaving Salt Lake City at 9 A. M., arriving Bingham at 12 o'clock, noon; return, leave Bingham at 2:30 P. M., arrive Salt Lake City at 6 P. M.; that the common carrier, the Denver & Rio Grande Western Railroad Company, does not give adequate service, especially for perishable goods; that the service to be given is more direct and efficient; that such a service is necessary and is desired by many citizens of Bingham, especially those who are in the business of furnishing the necessities to the inhabitants thereof.

The application was protested by the Denver & Rio Grande Western Railroad Company, on the ground that service additional to that now being given by the Railroad Company is unnecessary.

It further appears from the records that the B. & O. Transportation Company received a certificate of convenience and necessity to operate a freight line between the points mentioned, and that it has continued from said time to give such service, until when interfered with by the acts of the applicant and his partner, G. W. Begeman, who made application for the purpose of receiving a certificate of convenience and necessity and thereafter withdrew. The matter has been before the Commission heretofore, and it appeared that the B. & O. Transportation Company employed one Mr. Mitchell, who worked with said G. W. Begeman in giving service; that said service was adequate until the B. & O. Transportation Company released the said Mr. Mitchell from further hauling, at which time Mr. Begeman continued, without permission of the Commission, to give service, until he discontinued to operate, under the protests made to the Commission by the B. & O. Transportation Company.

It clearly appeared that the Railroad Company did not furnish sufficient transportation facilities to meet the requirements of the urgent demands of said mining camp, and that the requirement for service is increasing, on acaccount of the revival of activities and the return of a great number of employees who are engaged in mining work.

The service given by Mr. Begeman since his association with Mr. Mitchell, was unauthorized, and likewise the service given by Mr. Allen, the applicant, and yet, there was a desire expressed by some of the merchants of Bingham to allow the applicant to continue his service.

After a careful consideration of all the circumstances and conditions submitted in this case, together with the records showing the history of the service as disclosed by the files in this matter, we are of the opinion that there is a necessity for considerable hauling of commodities between Salt Lake City and Bingham; that the service of the applicant, together with his predecessor in interest, Mr. Begeman, has been satisfactory on the part of some of the shippers; and that a certificate of convenience and necessity should be issued to the applicant, authorizing him to give service as applied for, but not the exclusive right,

for the reason that the B. & O. Transportation Company's permission has not been revoked and that it is willing and ready to render such service as will meet the requirements made of it. It is expected that the applicant will immediately file his schedule of rates and time.

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. 141.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 31st day of May, A. D., 1922.

In the Matter of the Application of W. D. ALLEN, for permission to operate an automobile truck service between Salt Lake City and Bingham, Utah.	CASE No. 526

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 granted and W. D. Allen be, and he is hereby, permitted to operate an automobile truck service between Salt Lake City and Bingham, Utah.

ORDERED FURTHER, That applicant, W. D. Allen, 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)

TINTIC SCHOOL DISTRICT, *Complainant*, vs. MAMMOTH MINING COMPANY, *Defendant*.	CASE No. 527

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

CITY OF DUCHESNE,
Complainant,
vs.
DODGE STAGE LINE,
Defendant.
CASE No. 528

Submitted May 25, 1922. Decided July 10, 1922.

Apearances:
R. R. Hacket, for Complainant.
B. W. Dalton and Dan B. Shields for Defendant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on for hearing at Price, Utah, May 25, 1922, upon the complaint of the people of Duchesne, as expressed in a resolution adopted at a mass meeting held March 23, 1922, together with a protest and denial of the matters set out in said resolution.

At the time of the hearing, there was no one present to represent the citizens of Duchesne. It was afterwards learned, however, that on account of the weather conditions, they were unable to come to Price, and the Commission received a communication from Mr. L. A. Hollenbeck, stating the reasons why they were not there, and also renewing some of the complaints expressed in the resolution, which forms the complaint in this case.

The resolution referred to expressed a vigorous complaint against the Dodge Stage Line for its inadequate service and total want of service to the people of Duchesne and Duchesne County, for weeks at a time during the winter of 1921 and 1922; that there was an abandonment of the Helper-Castle Gate-Duchesne road, and had given only a partial service on the Price-Myton road, because of the heavy fall of snow, and the excessive mud, which had made said road impracticable for either wheel vehicles or for sleighs.

The Dodge Stage Line, in answering the matter stated in the resolution, represents that it has been engaged in the automobile stage business for more than eight years past, operating in and around Carbon County, Duchesne and Uintah Counties, and has for some time been operating under a certificate of convenience and necessity issued by

the Public Utilities Commission of Utah, from Price and Helper into the Uintah Basin; that the service so rendered has been given with the very best efforts that could be put forth under all the circumstances and conditions; that it continued its operation over the Helper-Castle Gate-Myton-Duchesne road for one month after the United States Mail trucks had been pulled off by the order of the Government, and operated over the Price-Myton road; and that during this time the defendant operated the same with horses, sleighs and automobiles; that such mode of travel was continued as long as it was practicable and possible, all of which was for one month greatly to the inconvenience of the traveling public, and at great expense of the stage line.

In support of its contention, the defendant, the Dodge Stage Line, introduced a letter written to the Motor Vehicle Service of the Post Office Department of Washington. The following is quoted therefrom:

> "With reference to your letter of the 7th instant, in which information was requested as to whether the road from Price to Duchesne, via Helper and Castle Gate, was actually open and whether the trucks had recently made an effort to travel this road, you are informed that on December 21, 1921, we made our final effort on this road and managed, with the aid of seventeen men, working all day, to put six trucks across the top, four incoming, loaded with trucks and two outgoing, loaded with parcel post and first-class mail. That was the last day, so far as I have been able to ascertain that trucks crossed over this winter, as it snowed hard that night and next day.
>
> * * *
>
> "We left Price at 5:45 by train for Helper, expecting to leave there at 7 A. M. but delays caused us to wait until nine o'clock. We started with four horses hitched to a light spring wagon. The road from Helper to Castle Gate was good, but from Castle Gate on up the canyon they were very rough and frozen hard, but we could have used a truck for perhaps eight miles from Helper. At the Cottonwood corral we had to abandon the wagon and hitched onto a bob-sled. We finally reached the lower station on this side at 12:30, after traveling through more than five feet of snow in several places. About two miles above the station we crossed

two snow slides twenty feet deep. At this point where there were no drifts or slides we were traveling over four feet of snow. Through the drifts the snow measured at least ten feet to the road bed. As we neared the summit the depth of the snow increased rapidly until as we crossed the top, a distance of one mile, the snow was five and a half feet, on the level and ranged from that figure to fifteen feet, in several of the drifts. The driver, who has made a number of trips across this winter, figures that the average depth across the top is ten feet. On March 1st he made a trip from the station on this side to the station on the other side, seven miles, and it took ten head of horses and two full days to make the trip. The driver also told us that after he left the road only two wagons made the trip and they had to take off the wheels and use poles underneath for skids. It took eight head of horses to pull over each wagon.

"I might state that during the trip we had five terribly close calls to sliding over the edge onto the floors of the canyon many hundreds of feet below. * * * Even though the trip was extremely dangerous, I enjoyed it immensely as I saw more snow than I ever dreamed existed in one spot before. * * * The road at this hour is absolutely closed to all means of transportation with the exception of bob-sleds and pack horses, and has been since the 22nd day of December, 1921, and will be, in my judgment, at least sixty days and perhaps longer. * * * Figuring on the basis of $15.00 for each four-horse outfit, it would take from $90 to $150 daily to handle all of out mail and for six months this would total $21,600 in addition to our regular truck expenses.

"In closing permit me to express the opinion that the party who informed the Department that the Helper-Castle Gate-Duchesne road was open to travel for Government trucks, was either very poorly informed himself or else had utter disregard for the truth, and as practically everyone in this county is aware of the facts in the case, I am inclined to believe the latter opinion correct."

Other testimony was given concerning the condition of the road over the pass, which would clearly indicate that efforts were put forth by the Dodge Stage Company

to keep open the traffic between Helper and Duchesne via the mountain pass.

The question of why the said stage line did not operate over the mountain from Helper to Duchesne, was gone into in other cases heard at this time, and, while the Commission appreciates the condition and the inconvenience suffered by the people of Duchesne and other points in the Uintah Basin, we are of the opinion that the Dodge Stage Line has been giving as good service as could be reasonably expected with such conditions maintaining, and to cancel their right and give it to others, would, under the hearing, be of no benefit to the people of Duchesne. It would appear that it is a condition, rather than a disposition of anyone to avoid and neglect to do what should be done in order to carry out the meaning of the law under the circumstances and the orders, rules and regulations of the Commission.

Other testimony was given to the effect that the Dodge Stage Line Company has given the best services from the railroad into the Basin for a long time, and further, that the conditions of the roads everywhere were being something unprecedented. Even the officials of Price testified to the effect of the roads being in such condition that delivery vehicles could not operate within the city; and that automobiles were hauled off the streets with horse teams.

It might be well here to observe that the Commission has received word from various parts of the State during the last winter, of the unusual conditions which have prevented the operation of both passenger and freight stage lines.

From a fair and impartial consideration of all the facts, conditions and circumstances shown to have existed, we are of the opinion that the complaint, which asks for the giving of the franchise to others rather than to continue it to the Dodge Stage Line, has not been made out, and the complaint should be dismissed.

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 10th day of July, A. D., 1922.

CITY OF DUCHESNE, *Complainant,* vs. DODGE STAGE LINE, *Defendant.*	CASE No. 528

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 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 J. F. TOLTON and other merchants of Beaver City, for permission to operate an automobile truck line between Milford and Beaver, Utah.
CASE No. 529

Submitted May 5, 1922. Decided June 13, 1922.

Appearances:
J. F. Tolton, for Petitioners.
Sam Cline, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Beaver City, May 5, 1922, upon the application of J. F. Tolton and other merchants of Beaver City, and protest of the Milford-Beaver Truck Company.

The application for permission to establish and operate trucks for the transportation of freight from Milford to Beaver, also includes an attack upon the present rates now charged and collected by the Milford-Beaver Truck Company, a corporation, which, for several years past, has been engaged in transporting freight for the petitioners from Milford to Beaver and return.

The petitioners claim that the rate charged by the said Milford-Beaver Truck Company, of 40 cents per hundred pounds, is a rate based on war prices and was advanced from the rate of 35 cents per hundred pounds, upon the application of said Company; that in keeping with the decline of costs of living, labor and general overhead expenses, the petitioners and shippers herein ask that their freight rate be reduced to 30 cents per hundred pounds, and that in the event of the refusal of the said Truck Company to so reduce its rates, that the petitioners be permitted to operate an automobile truck line between Milford and Beaver, for the purpose of hauling their own freight.

In answering the contention of the petitioners, the Truck Company alleges that for several years past it has been engaged in carrying freight from Milford to Beaver and return, having a franchise so to do; that soon after it

began operating at the rate of 35 cents per hundred pounds, the fact was disclosed that said Company was not making any return on its investment; but, on the contrary, was continually going behind, and petitioned the Commission for permission to raise the rates to 45 cents per hundred pounds; that upon a hearing and investigation, the Commission allowed said corporation to advance the rates to 40 cents per hundred pounds; that since said advance, which was June 14, 1920, the cost of living, labor and general overhead has not declined to any extent; that the cost of operation and maintenance is as great now as at any time since the Company commenced to operate, excepting the price of gasoline, which has slightly decreased; that it has at all times given satisfactory service; that there is not sufficient business, nor has there been, to keep said corporation busy or to operate at its full capacity, and that an additional truck line would interfere greatly with the operations of the Company, and that neither could possibly operate without loss of money, and that the service would be unsatisfactory to the general public, and, until there is a greater volume of business, the revenues to the Company will not pay more than the expense of maintenance and operation.

The following statement, marked Exhibit "A," was introduced, showing the total receipts and expenses of operation for the year 1921:

Total Receipts and income for year 1921....$7,619.18

Expenses of Operation and Maintenance for Year 1921.

Gasoline	$ 837.25
Oil	141.26
Grease	26.50
Tires	164.30
Storage	216.00
Repairs on trucks, parts and labor.	427.35
Sundries	27.75
Insurance	32.50
Licenses for cars	75.00
Bookkeeper	540.00
2 driver's helpers	1,897.75
Unloading at Beaver	540.00
Taxes	160.00
Interest	270.00
Manager's salary	1,800.00
	$7,155.66

Valuation of trucks Jan. 1, 1921	$2,550.00		
Depreciation at 20 per cent..	510.00	510.00	
		$7,665.66	
Entire cost and expenses for year..			$7,665.66
Total income			7,619.18
LOSS FOR YEAR 1921........			$ 46.48

The above statement was attacked by the petitioner on the grounds that the amounts of expenses as set out were exhorbitant and unnecessary; that the items of salaries to drivers, manager and bookkeeper, and especially the item of interest, could not be reasonable operating expense charges.

The following is a report of the operations of the Company for the year 1921 and the first four months of 1922, obtained by the Commission's Auditor:

> "During my work I found that a number of items were not recorded on the books, which apparently were supposed to have been entered by a former bookkeeper. According to my understanding, Mr. Sherwood advised that the item of interest, $270.00, as shown in his Exhibit "A," submitted to the Commission, was what he calculated as his return on his investment. Excluding this item, $270.00, from Exhibit A, his own figures would show the following returns:
>
> | | |
> |---|---|
> | Gross income for 1921................ | $7,619.18 |
> | Operating expenses, taxes and depreciation .... | 7,395.66 |
> | Net Income .... | $ 223.52 |
>
> $223.52 is about 9.9 per cent return on a valuation of $2,250.00.
>
> The 1921 operations, as they appeared to me from the books and records, after having made a check of all available vouchers, invoices, etc., are:
>
> | | |
> |---|---|
> | Gross income for 1921 .... | $7,032.56 |
> | Actual operating expenses paid out, taxes and depreciation .... | 5,686.71 |
> | Net Income .... | $1,345.85 |

The manager's salary, included in the above expenses, amounts to the sum of $1,470.00. This amount also includes his time spent as a driver. He claims he should have drawn out $1,800.00 If the difference between these amounts, or $330.00, be deducted from the above net income, the amount of the net income would be $1,015.85 for the year 1921.

The operations for the first four months of 1922, as they appeared to me are:

Gross revenue	$1,084.01
Operating expenses actually paid out, and 1/3 of the year's taxes, insurance and depreciation	1,096.73
Operating Loss	$ 12.72

The manager's salary included in the above expenses amounts to the sum of $400.00, or $100.00 per month. Had the manager drawn $150.00 per month, the operating expenses would amount to $212.72."

There is no doubt that the operations for the first four months for the year 1922 would not be a fair basis upon which to base the operations for the rest of the year, for the reason that conditions existed that the Company did not make the number of trips, or carry as much tonnage over the road as it did in 1921, comparatively.

Basing the conclusions upon the operations for the year 1921, at a reduction of 5 cents per hundred weight, or a rate of 35 cents per hundred, the gross revenue to the truck line would be $6,153.49, while the operating expenses would be $6,016.71, or a net income of $136.78, which would amount to a return of about 6 per cent on the valuation of $2,250.00. This is after allowing the depreciation as claimed, bookkeeper's salary, driver's salary, expense of unloading at Beaver and manager's salary of $1,800.00.

In view of the showing, together with the consideration of the employment of Mr. Sherwood at what is considered a very good salary, and other expenses, we are of the opinion that the freight from Milford to Beaver City can be hauled at a rate of 35 cents per hundred.

It might be observed in passing that the roadway from Milford to Beaver is one of the best roads in the State over which freight trucks operate; and when other roads are impassable, on account of mud and snow, the Beaver road is open for traffic, and furnishes a reasonable opportunity for giving service the year round.

We find, therefore, that the rates should be reduced to 35 cents per hundred weight, and that the petition of the applicant to operate a truck line over the route, should be denied, for the reason that there is not sufficient tonnage in transit from Milford to Beaver to justify the operating of two freight lines.

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 13th day of June, A. D. 1922.

In the Matter of the Application of J. F. TOLTON and other merchants of Beaver City, for permission to operate an automobile truck line between Milford and Beaver, Utah.	CASE NO. 529

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 J. F. Tolton and other merchants of Beaver City, for permission to operate an automobile truck line between Milford and Beaver, Utah, be, and it is hereby denied.

ORDERED FURTHER, That the Milford-Beaver Truck Company be, and it is hereby, required to publish and put into effect rates for the transportation of freight between Milford and Beaver, Utah, which shall not exceed thirty-five cents per hundred pounds.

ORDERED FURTHER, That such reduced rates be made effective not later than July 1, 1922, by publishing and filing with the Commission a schedule naming such reduced rates, which schedule shall be published in conformity with the Commission's Tariff Circular No. 4.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the application of CHRIS ANDERSON, et al., for permission to operate an automobile stage line between Helper and Roosevelt, via Duchesne and Myton and between Heber and Roosevelt, via Duchesne and Myton, Utah. } CASE No. 530

Submitted May 25, 1922. Decided June 21, 1922.

Appearances:

Chris Anderson, for Petitioners.
B. W. Dalton and Dan B. Shields for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on for hearing at Price, Utah, May 25, 1922, upon the application of the petitioner and protest of the Dodge Stage Line, by its Manager, J. W. Johnston.

The testimony of the applicant in the case of James C. Huey and Peter Catalina (Case No. 551) was received in this case, in so far as statements made therein would be material.

Mr. Anderson represented that his principal place of business was at Duchesne; that there is a necessity for the operation of a stage line between Helper and Roosevelt, Utah, and between Heber and Roosevelt; that the applicants herein have equipment sufficient to operate such line and sufficient horses and sleighs and wagons to transfer passengers over the part of the road whenever it is impracticable to operate automobiles; that they are willing and prepared to give the traveling public the best service possible at all times of the year; that the Dodge Stage Line is the holder of a certificate of convenience and necessity to operate such line from Price via Helper, Duchesne, Myton, Roosevelt and Vernal, and return, but have failed during the bad weather, between February 1st and the present time, to give service to the traveling public over said route, and have failed to make such efforts as they should have done to keep the way open so that they could operate over the mountain between Helper and Duchesne.

Considerable testimony was given in Case No. 551, application of James C. Huey and Peter Catalina, also in Case No. 528, complaint of the City of Duchesne vs. Dodge Stage Line, directed to the same issues that are raised in this case.

As in said cases, we have considered in this case the conditions and circumstances shown to have existed during the times complained of when the Dodge Brothers Stage Line failed to carry passengers from Helper over the mountain direct to Duchesne; and, predicating our decision upon the testimony, we are forced to the same conclusion in this case as we were in the cases referred to, viz. No. 551 and 528.

From all the conditions and circumstances shown, we are of the opinion that the showing is in favor of allowing Dodge Brothers to continue to give the service from Helper and Price into the Uintah Basin, as set forth in the certificate of convenience and necessity issued some time ago. We appreciate the fact that the conditions are such that it makes it very difficult to give a direct service to the people of Duchesne and vicinity at certain seasons of the year.

It was the intention, and so expressed in the order heretofore made by the Commission, that the traffic should be operated directly between Helper and Duchesne whenever reasonable and practicable, and that every reasonable effort should be made by the Dodge Stage Line to give such service, and we are of the opinion that efforts have been made as was contemplated by the Commission, that the traffic must be carried from Helper to Duchesne whenever the roads are open or can, with reasonable effort, be kept open.

The application, so far as pertains to the service between Heber and Duchesne, will be allowed, as Mr. Anderson has given satisfactory service over that route for some time; but that part of the application which refers to the service between Helper, Duchesne, Myton and Roosevelt, will be denied.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

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

(SEAL)

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

ORDER

Certificate of Convenience and Necessity
No. 152

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 21st day of June, A. D. 1922.

In the Matter of the Application of CHRIS ANDERSON, et al., for permission to operate an automobile stage line between Helper and Roosevelt, via Duchesne and Myton and between Heber and Roosevelt, via Duchesne and Myton, Utah.	CASE No. 530

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 Chris Anderson, et al., for permission to operate an automobile stage line between Helper and Roosevelt, via Duchesne and Myton, be, and is hereby, denied.

ORDERED FURTHER, That the application of Chris Anderson, et al., for permission to operate an automobile stage line between Heber and Roosevelt, via Duchesne and Myton, be and is hereby denied.

ORDERED FURTHER, That applicants, Chris Anderson, et al., be, and are hereby, granted a certificate of convenience and necessity and authorized to operate an automobie stage line between Heber and Duchesne, Utah.

ORDERED FURTHER, That applicants, Chris Anderson, et al., before beginning operations, shall file with the Commission and post at each station on their route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on their line; 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 CLARK ELECTRIC POWER COMPANY for permission to amend its schedules for electric service. } CASE No. 531

Submitted July 12, 1922. Decided August 21, 1922.

Pierce, Critchlow & Marr, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case came on regularly for hearing before the Commission at Tooele, Utah, June 7, 1922, upon the petition of the applicant, there being no opposition or objections to the same, in writing or otherwise.

The testimony presented by the Power Company was to the effect that said Company was a corporation organized and existing under the laws of the State of Utah, and engaged in the business of generating, distributing and selling electric energy for lighting, heating and other purposes in the County of Tooele, State of Utah; that schedules of rates, rules and regulations are on file with the Commission and are known as "Applicant's Tariff No. 1," which became effective June 1, 1918; that no changes have been made in said rules and regulations or rates since the issuance of said tariff, except that there was added to Tariff No. 1, on November 15, 1918, a certain rate or schedule designated as "Sheet No. 6-A"; that the applicant asks authority to make certain changes and modifications in said rules and regulations in order that its practice may be in accordance with present standards and conditions, and conform, so far as possible, with the rules and regulations approved and established by the Commission for other utilities furnishing similar services, and to the end that the applicant may be authorized to make such changes as is desirable, asks to cancel its present tariff and to substitute in liue of such rules and regulations certain rules and regulations contained in its proposed Tariff No. 3.

Said proposed change, as contained in Tariff No. 3, does not contain the schedule of applicant's rates; but that it is desired that in lieu of the rates changed by Tariff No. 1, applicant submits for the approval of the Commission its proposed Tariff No. 2. That the said proposed Tariff No. 2, and the rates and charges therein are the same as applicant's present rates, excepting only that portion of the rate sheet or schedule designated in sheet No. 2 in said Tariff No. 1 establishes a flat rate for lighting services in Tooele City, and is omitted from said Tariff No. 2. Also that the portion of the rate sheet or schedule designated as sheet No. 3 in said Tariff No. 1, which establishes a flat rate water heating service is omitted from the proposed No. 2, and also excepting the special contract with the Salt Lake Chemical Company, as set forth in sheet No. 4, which is omitted.

In Tooele City, the applicant has appoximately 600 customers for lighting services, but ninety-five are customers under the flat rate; and it is desirable that said flat rate lighting schedule be discontinued, for the reason that said rate is unjust and unreasonable to the applicant's customers who pay a rate for service per kilowatt hour; that said flat rate is unequal and discriminatory and is wasteful and uneconomical in that it encourages needless waste of the available supply of electric energy which might otherwise be beneficially employed for power purposes; that the applicant be authorized to cancel the flat rate schedule for water using service, and of discontinuing service thereunder for the reason that the revenue for service in said schedule is considerably less than five mills per kilowatt hour of the energy as furnished and some considerably less than the cost of producing it; that the use of electrical energy for water heating purposes in the localities served is not practicable or in accordance with the economic principles in that the cost for such purposes of electric energy is prohibitive as compared with the cost of coal or wood.

Tabulated sheets were introduced by the applicant in support of its contention and allegations set forth in its application clearly supporting the contention and justifying, in the minds of the Commission, the changes asked for in said application.

There would seem to be no increase of rates or modifications of rules and regulations which are inconsistent with the conditions and circumstances under which the

Company operates and gives service to the consumer; that the consumer now using energy under a flat rate is discriminatory and no doubt uneconomical, and to require the consumers to pay for energy under the meter system is just and proper in this case.

The question of rates for water heating could not reasonably be cancelled entirely, for, in such event, customers would be without service. The standard of rates under the meter system should be established and a service offered thereunder, leaving the matter to such class of consumers, unless the matter involves and contemplates questions that should be further submitted to the Commission.

And after a careful consideration of the testimony as given at the hearing, the Commission is of the opinion that the changes and modifications asked for should be granted, except the elimination of rates to water heating customers heretofore given.

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 21st day of August, A. D. 1922.

In the Matter of the Application of the CLARK ELECTRIC POWER COMPANY for permission to amend its schedules for electric service.	CASE No. 531.

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 that applicant, Clark Electric Power Company, be permitted to publish and put into effect revised rules governing the furnishing of electric service.

ORDERED FURTHER, That applicant be permitted to discontinue its present flat rate for lighting service.

IT IS FURTHER ORDERED, That applicant shall publish and file with the Commission a meter rate covering the furnishing of electric energy for water heating.

ORDERED FURTHER, That the changes herein authorized may be made effective upon ten days' notice to the public and to the Commission.

IT IS FURTHER ORDERED, That publication naming such changes shall show in connection therewith the following notation:

> "Issued by authority Public Utilities Commission of Utah, Order Case No. 531, dated August 21, 1922."

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of CHARLES G. CRAM, for permission to operate an automobile truck line between Marysvale and Kanab, Utah.	CASE No. 532

Submitted May 18, 1922. Decided June 2, 1922.

Charles G. Cram, Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case was heard May 18, 1922, at Marysvale, Utah.

There were no protests to the application, in writing or otherwise.

The applicant represented that he is a resident of Kanab, Kane County, Utah, and is engaged in the business of hauling freight by automobile between Marysvale and Kanab; that such service will furnish a convenience and necessity to the people residing in Southern Utah; that Kanab is the capital of Kane County, with a population of about twelve hundred people; that there is no railroad or other established service by which the commodities necessary for the general public, can be hauled; that all freight carried by the railroad ends at Marysvale, and from that point must be carried in motor trucks or by team to Kanab; that there is no authorized regular service established for the convenience of shippers between said points: that the applicant has been asked by a number of shippers to establish a permanent service, to take care of the transportation of the commodities referred to; that he desires to render such service to the public, by making two trips from Marysvale to Kanab every eight days,. which he believes will take care of the tonnage to be hauled outside of those who do, their own hauling; that the service contemplated by the petitioner would be limited to about nine months of each year, for the reason that the roads between the points named are, during the three months of winter, almost impassable.

From a consideration of the representations made, together with general information concerning the location, geography and requirements, the Commission is of the opinion that there exists a necessity for the establishing of such convenience as is to be given by the applicant, and that the applicant is willing and able to render such service and is entitled to a certificate of convenience and necessity.

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. 143

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 2nd day of June, A. D. 1922.

In the Matter of the Application of CHARLES G. CRAM, for permission to operate an automobile truck line between Marysvale and Kanab, Utah.	CASE No. 532

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 Charles G. Cram be, and he is hereby, permitted to operate an automobile truck line between Marysvale and Kanab, Utah.

ORDERED FURTHER, That applicant, Charles G. Cram, before beginning operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on his line; 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. C. DENTON, for permission to operate an automobile stage line between Garfield and Saltair.	CASE No. 533

Submitted May 9, 1922. Decided May 29, 1922.

McCarty and McCarty, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

This case came on for hearing before the Commission, at Salt Lake City, May 9, 1922.

There were no protests offered, in writing or otherwise.

It appears from the testimony that the applicant is a resident of Garfield, Utah, and has been engaged in the business of operating passenger touring cars; that he owns sufficient automobile equipment to take care of the traveling public between the points mentioned in his application; that the town of Garfield has a population of over one thousand people, and that in the near future the population will increase to nearly five thousand; that at present there is no regular direct railroad facility between Garfield and Saltair; that the convenience now offered for the traffic between the two points named is a railroad from Garfield to Salt Lake City and from Salt Lake City to Saltair, thereby requiring the traveling of a circuitous route, at considerable expense, in order to reach Saltair, where many of the inhabitants of Garfield go for entertainment during the summer season; that a great many of the residents of Garfield have advocated the establishing of an automobile service; that it is the intention of the petitioner to operate an automobile stage line for the transportation of passengers between the points in question, making a round trip on Tuesday, Thursday and Saturday of each week, with as many additional trips as the traveling public may demand.

From the representations made, it would appear that there is a necessity for the establishing of a more con-

venient means of transportation between Garfield and Saltair; that the applicant, J. C. Denton, is equipped and willing to undertake the giving of such service; that there is no reason urged against the same; and that applicant is entitled to a certificate of convenience and necessity, as prayed for in his petition.

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. 140

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 29th day of May, A. D. 1922.

In the Matter of the Application of J. C. DENTON, for permission to operate an automobile stage line between Garfield and Saltair. } CASE No. 533

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 J. C. Denton be, and he is hereby, permitted to operate an automobile stage line between Garfield and Saltair, Utah.

ORDERED FURTHER, That applicant, J. C. Denton, 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 the BINGHAM STAGE LINE COMPANY, for permission to operate an automobile stage line between Bingham and Saltair.	CASE No. 534

Submitted May 12, 1922 Decided June 6, 1922.

DAN B. SHIELDS, for petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case was heard at Bingham, Utah, after due notice was given.

There was no opposition or protest.

The petitioner represented that he is the President and General Manager of the Bingham Stage Line Company, now operating the line between Bingham Canyon and Salt Lake City; that the town of Bingham is without amusements of any sort during the summer months; that very often the Company has applications by the citizens of Bingham to furnish a stage direct to Saltair, Utah's bathing and pleasure resort; that an automobile service from Bingham Canyon to Saltair would be a great convenience to the public, as it would cut off a considerable distance of travel and expense; that the present means of reaching Saltair pavilion is from Bingham to Salt Lake City, and from Salt Lake City to Saltair, which is necessarily a circuitous route; that the applicant is well equipped to take care of the traveling public between the points in question.

Petitioner further represented that the service of two round trips per week will meet the requirements at present; that if the demand is sufficient, the service may be increased; that it is the intention to convey passengers only from Bingham Canyon to Saltair, and in no way to interfere with any service given between Magna, Garfield, or other intermediate points.

It is obvious that such a service as asked for in this petition would be an additional convenience to the people of Bingham, and ought to be permitted; that the petitioner is able and willing to undertake the establishment of such service; and that a certificate of convenience and necessity should be issued 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. 148

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of June, A. D. 1922.

In the Matter of the Application of the BINGHAM STAGE LINE COMPANY, for permission to operate an automobile stage line between Bingham and Saltair.	CASE No. 534

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 Bingham Stage Line Company be, and it is hereby, permitted to operate an automobile stage line between Bingham and Saltair.

ORDERED FURTHER, That applicant, Bingham Stage Line Company, before beginning operation, shall file with the Commission and post at each station on its route a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on its line; 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 ASA E. TOPHAM, for permission to operate an automobile stage line between Paragonah and Cedar City, via Parowan, Summit and Enoch. } CASE No. 535

Submitted May 3, 1922. Decided June 29, 1922.

Appearances:
Asa E. Topham, Petitioner.
N. C. Parcells, for Protestant.

REPORT OF THE COMMISSION

STOUTNOUR, Commissioner:

The applicant, Asa E. Topham, whose principal place of business and post office address is Paragonah, shows that he has the mail contract, beginning July 1, 1922, for the above named route, and is depending on revenues from passengers to help defray expenses during the contract period, and alleges there is a necessity for a passenger service between the above mentioned points, and asks that a certificate be issued to applicant for the operation of a passenger stage line between the above said points.

This application was protested by Andrew Corry, filed April 27, 1922, protestant alleging that he is at present conducting an authorized automobile passenger and express stage line between these points, and has so operated this line for several years last past; that, while it is true he will not handle the mail between these points, yet it is his intention to continue the operation of a stage line for the carrying of passengers and express; therefore, there is no necessity for additional service upon the said route.

Protestant further alleges that the mail must be given preference over passengers; that this requirement is an inconvenience to the traveling public, and, therefore, he is in a position to give better service to the traveling public.

This case came on regularly for hearing at Cedar City, Utah, May 3, 1922.

Asa E. Topham testified that he had secured the contract for transporting the mail between Paragonah and Cedar City, and asked to carry passengers as well; that it was his intention to carry passengers and mail in one vehicle, as had been the practice of protestant, Andrew Corry in past years. Further, he expected to have ample equipment and furnish additional cars, as the necessity of the business required.

Andrew Corry, protestant, testified that it was his intention to furnish touring cars and maintain passenger service, and stated that a touring car service would be a great improvement over his former service, wherein mail and passengers were transported in a truck.

It is apparent that a stage line operating touring cars offers better facilities than a truck transporting passengers and mail, and it is the convenience and necessity of the public that must govern, not the private interests of the respective parties. While Mr. Corry apparently never considered this better service while he had the mail contract, it is being offered now to the public, and they are entitled to the better method of transportation.

It appears that there is not sufficient travel for establishing additional service, and before the application could be granted, the certificate of Mr. Corry would need to be set aside, and there is no reason shown to exist to warrant such action by the Commission.

The application of Mr. Topham will accordingly 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 29th day of June, A. D. 1922.

In the Matter of the Application of ASA E. TOPHAM, for permission to operate an automobile stage line between Paragonah and Cedar City, via Parowan, Summit and Enoch.	CASE No. 535

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, 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 DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, for relief from the Commission's Tentative General Order governing clearances.	CASE No. 536

Clearance Permit No. 6

REPORT AND ORDER

By the Commission:

The Denver & Rio Grande Western Railroad Company, in an application filed February 20, 1922, asks relief from the provisions of the Commission's Tentative General Order requiring an overhead clearance of twenty-two feet from the top of the rails of the spur track serving an ore loading trestle which the said Denver & Rio Grande Western Railroad intends erecting at Park City, Utah.

The Commission, having caused investigation to be made, finds:

That the method of loading cars prohibits the use of other than open top cars. The proposed structure consists of a frame driveway, from which ore is to be dumped from wagons or trucks through a trap in gondola cars standing upon the spur track underneath the trestle. The carrier company operating over this spur is the applicant in this case, and on account of the method of use of the trestle, we believe the application should be granted.

IT IS THEREFORE ORDERED, That applicant, Denver & Rio Grande Western Railroad Company, be, and is hereby, granted relief from the Tentative General Order dated September 1, 1917, regarding clearances, in so far as the same applies to overhead clearances, and is authorized to maintain an overhead clearance at this loading trestle of eighteen (18) feet. It is noted that the side clearance shown on the drawing is a total of sixteen (16) feet. The standard clearance is seventeen (17) feet, and must be adhered to.

ORDERED FURTHER, That no locomotives or box cars shall be permitted to pass under said trestle where the above clearances are maintained.

The Commission reserves the right to issue any further orders as regards clearance that may be necessary to adequately afford protection.

Dated at Salt Lake City, Utah, this 22nd day of April, 1922.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. W. BLAZZARD, for permission to operate an automobile stage line between Kamas and Park City, Utah.	CASE No. 537

Submitted June 14, 1922. Decided July 6, 1922.

Appearances:
J. W. Blazzard, Petitioner.
J. H. O'Driscoll, Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Kamas, Utah, June 14, 1922, in connection with the application of J. H. O'Driscoll, for permission to operate an automobile stage line between Park City and Peoa, Utah, via Kamas (Case No. 555).

The applicant represented that he is a resident of Kamas, Summit County, Utah, and is at the present time operating a stage line between Kamas and Park City; that there is sufficent business for the installation of a passenger stage service between the points; that he had sufficient equipment to handle the traffic and take care of the traveling public; that the schedule set out in the application would be the most convenient to meet the demands of the publc, and that a rate of $1.25 each way would be charged.

A petition was filed as Exhibit "A" and signed by a number of business men who are citizens and tax-payers of Kamas, Summit County, Utah, stating that they favored the application of J. W. Blazzard; that he owns sufficent equipment to operate the line and is capable to serve the public in a satisfactory manner.

J. H. O'Driscoll, whose application is for the same run, represented that his post office address is Kamas, and that after July 1st he would be engaged in transporting United States Mail between Park City and Peoa; that there is no established service for the transportation of passengers or express between Park City and Peoa, via

Kamas; that the applicant, J. W. Blazzard, who is now engaged in transporting the United States Mail between Park City and Peoa, had never been authorized by the Public Utilities Commission of Utah, to transport passengers between these points; that the distance between Park City and Peoa is twenty-two miles; that he is equipped to carry passengers and serve the traveling public, and will operate one round trip daily, except Sundays, between the points named, at the rate of $1.25 between Park City, and Kamas, $1.75 between Park City and Peoa, and 50 cents between Peoa and Kamas.

The records in the office of the Commission disclose the fact that one James R. Burbidge was, on June 25, 1920, granted a certificate of convenience and necessity to operate an automobile freight and express line between Park City and Kamas, Utah; that said service was given in conjunction with the carrying of the mail; that on August 1, 1921, Mr. Burbidge wrote the Commission that he would like to be released from giving service under said contract, and would like to transfer with his mail route said passenger line to J. W. Blazzard, of Kamas. No formal change was made, for the reason that no application was filed with the Commission, as instructions given September 17, 1921. Mr. Blazzard, however, testified that the change had been made, and he had proceeded to perform the service up until the present time, and expected to continue such service of hauling passengers and express in keeping with the understanding had with James R. Burbidge and the public, and understood that the Commission had recognized such service; that the mail contract awarded for the next four years had been given to the petitioner, James H. O'Driscoll; but that he, J. W. Blazzard, desired to operate the passenger and express service, notwithstanding he did not expect to carry the United States Mail after July 1st; that it would be a great damage to him if he were refused the application. The matter of carrying U. S. Mail is not a question for the Public Utilities Commission to consider.

The purpose of operating under the Public Utilities Act is to establish services which will take care of the traveling public, and to combine the two, mail and passengers, has not always been satisfactory. The time schedule of the mail is arranged by the postoffice department, and sometimes it happens that the carrying of mail with passengers is not satisfactory to the traveling public.

It is evident that Mr. Blazzard was on the ground carrying passengers and express, and has prepared himself for the giving of that service, while he was technically unauthorized to give the service. It appears that he took up the labor and service that was being given by Mr. Burbidge, and that there is some proof to the effect that he was giving satisfactory and sufficient service. It is true that in some cases, as in this, that mail contracts have been taken at a much lower figure than they should have been, for the reason that they expected to carry passengers and express, all of which tends to make such bids to the Government for the giving of mail service unreasonably low.

Under the showing it would appear that Mr. Blazzard is entitled to favorable consideration of the Commission, and, in view of his having given service for some time and has been careful in the giving of such service, we are of the opinion that the application 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. 154

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of July, A. D. 1922.

In the matter of the Application of J. W. BLAZZARD, for permission to operate an automobile stage line between Kamas and Park City, Utah.	CASE No. 537

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 granted, and that J. W. Bazzard be, and he is hereby, authorized to operate an automobile stage line between Kamas and Park City, Utah.

ORDERED FURTHER, That applicant, J. W. Blazzard, before beginning operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on his line; and shall at all times operate in accordance with the rules and regulations prescribed by the Commision 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 J. SPENCER, for permission to resume operation of his stage line between Salt Lake City and Pinecrest, Utah. } CASE No. 538

Submitted May 10, 1922. Decided May 27, 1922.

Howard J. Spencer, Petitioner.

REPORT OF THE COMMISSION

By the Commission:

The above entitled case came on for hearing, May 10, 1922, before the Commission, at its office in Salt Lake Lake City.

There were no protests, in writing or otherwise.

The applicant represented that he had operated a passenger service between the points in question for the year 1921, under the direction of the Commission; that on September 6, 1921, service was discontinued, as there was no further need of such service, but that there would be a demand and necessity for the resumption of such service during the present year, beginning about May 30th and ending about September 5th; that there were no complaints made against the service given last year by the applicant; that he has sufficient equipment and is in a position to adequately transport the public between Salt Lake City and Pincrest; that the schedule of rates will be the same as last year.

After an inquiry into the matters involved in the case, the Commission is of the opinion that Mr. Spencer has given reasonably adequate service in the past and that there will be a necessity for the resumption of the same.

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 Convenience and Necessity
No. 139

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 27th day of May, A. D. 1922.

In the Matter of the Application of HOWARD J. SPENCER, for permission to resume operation of his stage line between Salt Lake City and Pinecrest, Utah.	CASE No. 538

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, and it is hereby granted, and that Howard J. Spencer be permitted to resume operation of his stage line for the transportation of passengers between Salt Lake City and Pinecrest, Utah.

ORDERED FURTHER, That applicant, Howard J. Spencer, 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 GARFIELD COUNTY TELEPHONE COMPANY for permission to establish exceptional rates.	CASE No. 539

Submitted May 18, 1922. Decided August 29, 1922.

Appearances:
Benjamin Cameron, for Petitioner.
Fred B. Jones, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This case was heard at Marysvale on the 18th day of May. There appeared at the time Benjamin Cameron, manager of said Company; also Mr. Fred B. Jones, district manager for Utah of the Mountain States Telephone and Telegraph Company. There was no opposition to the petition by writing or otherwise.

The petitioner represented that it was a Company operating in the State of Utah, beginning at Marysvale and running south to Panguitch, in Garfield County, and from Panguitch branching off and intercepting other towns and ranches. The operation of said line had been going on for some 15 years; that it is connected with the Mountain States Telephone Company at Marysvale. That the present system of rates is based upon the air-line system, which is made not on the mileage or pole-line system but a direct line from point to point. That under this system of rates the petitioner had not been receiving its portion of the rates, for the reason that on the pole-line system, greater distances were necessarily used in sending telephone messages than the air-line system. That for years past the returns or earnings of the Company were very nominal; so much so that replacements and up-keep of the system were neglected, and therefore the service was not as adequate as it should be. That it was absolutely necessary to establish the exception rates as asked for.

It was claimed by the petitioner that the rates would not necessarily be advanced, only in certain cases, and that to a very small extent.

Mr. Jones, Utah Manager for the Mountain States Telephone and Telegraph Company, represented that it was his opinion that the exceptional rates should be granted, notwithstanding that it would in a degree result in making a division between the Mountain States Telegraph and Telephone Company and the applicant in favor of the applicant; but there were certain considerations and conditions which would be modified, altered and changed thereby, which his company would not object to.

That the toll rates of the Mountain States Telephone Company used in this territory are direct rates and are computed in accordance with air-line distances from the originating point to the terminating point. That said direct rates, when used for inter-company business, did not provide sufficient revenue for a number of its connecting companies; and in order to obtain an increase in their proportion of the inter-company charges, it appeared to be desirable to use other line rates, because that method is the only one which it seems to be the natural one to produce the desired results. Exception rates will produce in this case the desired results to the connecting companies and will be satisfactory in place of other line rates. And while exception rate treatment would increase the tariff costs to the company somewhat, the exception rate treatment is much simpler and more economically handled from the traffic standpoint of connecting companies. The increase in revenue provided not only covers the additional revenue desired by the connecting Company and also the revenue which will be sufficient to cover the amounts which the connecting company desires for business. It appears that the proposed exception rates are in each instance less than the sum of the local rates of the respective companies, and while greater revenue will accrue to the Garfield County Telephone Company, no increase will be made in the charges to the public.

It was clearly shown that the applicant has been giving service to its subscribers, which have not resulted in receiving sufficient returns for the up-keep of his system in a manner that would insure proper service, and that the establishing of the rates asked for will, by means of dividing the toll rates which come over the Mountain States Telephone and Telegraph Company, increase the revenue to applicant.

We are, however, convinced that the service has been given to the public by the applicant for a return revenue which would not pay for the cost of giving the same; and under all the circumstances disclosed by the showing,

together with the attitude of the Mountain States Telephone and Telegraph Company, as evidenced by their manager, the authorization for exception rates should be granted.

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 29th day of August, A. D. 1922.

In the Matter of the Application of the GARFIELD COUNTY TELEPHONE COMPANY for permission to establish exceptional rates. } CASE No. 539

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 Garfield County Telephone Company be, and it is hereby permitted to establish and put into effect the exception rates named in its application.

ORDERED FURTHER, That such rates may be made effective on 10 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 STATE ROAD COMMISSION for separation of grades at two crossings of the State Highway and the Los Angeles & Salt Lake Railroad in Juab County.	CASE No. 540

Submitted Aug. 10, 1922. Decided Aug. 11, 1922

Appearances:

H. C. Means, for State Road Commission.
J. B. Finch, for United States Bureau of Public Roads.
Dana T. Smith, for Los Angeles & Salt Lake R. R. Co.
John Bunnell, W. G. Orm and Geo. Francome, for Juab County.

REPORT OF THE COMMISSION

By the Commission:

The application of the State Road Commission for a hearing on the separation of crossings over the Los Angeles & Salt Lake Railroad, in Juab County, was filed April 29, 1922.

After due notice, the application came on for hearing at Nephi, June 12, 1922. Some evidence was submitted by both parties, and the Los Angeles & Salt Lake Railroad Company then asked for two weeks' time in which to prepare further evidence in opposition to the application of the State Road Commission, if it should desire to protest.

No further hearings have been held upon the application. An agreement was entered into between the Los Angeles & Salt Lake Railroad and the State Road Commission of Utah, whereby the Railroad Company agrees to pay the sum of $8,000 toward the cost of diverting the highway in question, and granting the State Road Commission an easement over their right-of-way where the State Highway will be upon the Railroad Company's property.

The payment of this sum is conditional upon the north crossing involved in this case being closed to future

traffic, and that part of the present road which is to be replaced by the re-located highway, will be abandoned. In this connection, a new crossing will be established, leading from the re-located road to the Railroad Company's Juab station ground.

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 11th day of August, A. D. 1922.

In the Matter of the Application of the STATE ROAD COMMISSION for separation of grades at two crossings of the State Highway and the Los Angeles & Salt Lake Railroad in Juab County.	CASE No. 540

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 road referred to in the foregoing be approved, and the Los Angeles & Salt Lake Railroad Company pay the sum of $8,000.00 toward the cost of diverting the highway in question, and grant to the State Road Commission an easement over their right-of-way where the proposed highway is upon the Railroad Company's property.

ORDERED FURTHER, That the north crossing involved in this case be closed to future traffic, and the present road which is to be replaced by the re-located highway, be abandoned.

IT IS FURTHER ORDERED, That a new crossing at grade be established over the rails of the Los Angeles & Salt Lake Railroad, leading from the new highway to the Railroad Company's Juab station ground.

ORDERED FURTHER, That in constructing such new grade crossing, the Railroad Company comply with the rules and regulations of the Public Utilities Commission governing side and overhead clearance and such other rules as have been promulgated by the Commission.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

GREENWOOD, Commissioner, Concurring.

While concurring in the report of the Commission in this case to the extent and so far as it has any bearing upon the question of a settlement connected with the crossings of the railroad by the State Highway, I am, however, of the opinion that the Commission has no jurisdiction concerning the building of a State Highway which does not come in contact with or pass over a common carrier's railroad bed; for the reason that under the law the Commission has no control or authority or power in the building, construction and maintenance of highways only at such points where public highways come in contact with railroads by crossing the same. In this case it did not appear under the showing made, together with the conditions surrounding the crossings maintained at the present, that the separation of grades should be ordered.

(Signed) JOSHUA GREENWOOD,

(SEAL) Commissioner.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of B. W. DALTON, for permission to operate a radio telephone system in San Juan, Grand, Emery, Carbon, Utah and Salt Lake Counties, in the State of Utah.	CASE No. 541

Submitted May 26, 1922. Decided Sept. 7, 1922.

Appearances:

B. W. Dalton, for Petitioner.
J. N. Corbin, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This cause was heard at Price the 25th and 26th days of May, 1922. There appeared at the hearing, petitioner and one J. N. Corbin, Manager of the Midland Telephone Company, who made protest to the granting of said application. The petitioner represented that there was no direct communicating line or source of telephonic communication between the towns and cities of Blanding, Monticello, Moab, Thompson, Sego, Green River and Price, Provo and Salt Lake City.

That there were at least 10,000 people in the towns of Blanding, Monticello, Moab, Sego and Green River that have no direct telephonic communication with the cities and towns of Price, Provo and Salt Lake City. That there is urgent need of communication by telephone or other-wise, between the points named. That the public generally residing in the places set out are greatly handicapped for want of telephone communication; and this application is made for the purpose of connecting the towns first above mentioned with the cities of Price, Provo and Salt Lake, and is not made with a view of becoming competitors of any established modes of telephone communication which renders adequate service, but is solely for the purpose of establishing a system of communication between the points where it is necessary.

The opposition to the application was upon the grounds, 1st, That it could not be made a success; 2nd, for the reason that if the Midland Telephone Company was granted permission to construct a line between Green River and Price as requested in Application Case No. 544, it would greatly hamper said company in raising money to build said line, and be a means of defeating the proposed extension, which would be a great hindrance and damage to said Telephone Company.

Other testimony was introduced to the effect that the service contemplated by the petitioner was practical and feasible and could be made of great convenience to the public generally; and that the expense of installing would not be as great as was estimated by the protestant, Mr. Corbin.

As to the objections raised by the Midland Telephone Company, especially upon the ground that the establishment of the proposed service would be of great damage and inconvenience and retard the building of a telephone line to connect with Price, does not seem to the Commission well taken; neither does the contention submitted by the protestant that it would not justify the investment of the petitioner.

The only objecion that could be consistent, and one upon which the Commission would feel called upon to act, is the question as to whether such a service is necessary, and would add to the convenience and necessity of the people in getting in communication with those parts of the State now, at the present time having no such convenience.

On July 1, 1922, an order issued from this Commission authorizing the Midland Telephone Company to complete and construct a telephone line between Green River and Price and maintain such line and operate the same for the purpose of carrying on a general telephone business.

The files with the Commission also show that the Eastern Utah Telephone Company was granted a certificate of necessity and convenience to construct and operate and maintain a telephone line between Price and Green River; but that up to the present time such construction has not been completed, established or maintained by said Company; and there remains a break in the line of communication between Green River and Price.

The use and service of the radio system of communication is new. In fact, this is the first application that

has been made to the Commission for a certificate to establish such system of communication.

And under the present existing conditions, it would seem that the application should be granted.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
Commissioner.

I concur:

(Signed) A. R. HEYWOOD,
Commissioner.

(SEAL)

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

STOUTNOUR, Commissioner, Dissenting:

From the transcript of the evidence before me, it does not appear that the applicant has any real conception of the cost of installing eight or nine broadcasting stations, such as the proposed service would require, nor of the cost nor difficulty of operating them after they are built. Neither has applicant's financial ability to carry forward the enterprise been demonstrated in evidence.

Furthermore, it would be necessary for the applicant to secure a license from the Federal Government. This has not been done, and further, there is a physical telephone system, operated by the protestant to this application, connecting the various towns with Thompson and Green River. Also, the Commission has recently issued a certificate of convenience and necessity to the protestant in this case, authorizing a line connecting Green River and Price.

The district in question is at present sparsely settled and doubtless the present service over the physical line is not what the inhabitants believe they are entitled to, but it is a service that can be improved as necessity requires.

Until such time as something more tangible is presented to the Commission, I am of the opinion no public necessity is served by granting a certificate.

(Signed) WARREN STOUTNOUR,
Commissioner.

ORDER

Certificate of Convenience and Necessity
No. 162

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, A. D. 1922.

In the Matter of the Application of B. W. Dalton for permission to operate a radio telephone system in San Juan, Grande, Emery, Carbon, Utah and Salt Lake Counties in the State of Utah.	CASE No. 541

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, B. W. Dalton be, and he is hereby, authorized to construct, operate and maintain radio telephone stations for the purpose of transmitting communications between the towns and cities of Blanding, Monticello, Moab, Thompson, Sego, Green River, Price, Provo and Salt Lake City, Utah.

ORDERED FURTHER, That applicant B. W. Dalton shall immediately proceed with the installation of such stations and shall complete such installation within six months from the date of this order.

ORDERED FURTHER, That before rendering service to the pubic from such radio stations, applicant shall publish and file with the Commission, the schedule showing all rates, rules and regulations governing the transmitting of messages from such radio stations.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of CEDAR CITY, a Municipal Corporation, for permission to construct and operate a municipal lighting plant.	CASE No. 542

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of W. EARL MARSHALL, for permission to operate a freight line between Marysvale and Panguitch. } CASE No. 543

Submitted May 18, 1922. Decided June 5, 1922.

W. Earl Marshall, Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Marysvale, Utah, May 18, 1922, upon the petition of W. Earl Marshall.

There was no opposition to said petition. Others who are engaged in hauling freight between the points named, were present and offered no objections to the application, for the reason that the service was confined to the hauling of gasoline and oil, which was not a desirable commodity to haul with other freight.

Petitioner represented that he lives in Panguitch, and has been engaged in delivering gasoline and coal oil to stores and garages; that he is fully equipped to haul said gasoline and coal-oil, being the owner of a gasoline tank mounted on a motor truck; that it is not his intention to haul any other freight but gasoline and coal oil; that Marysvale is the end of the Denver & Rio Grande Western Railroad, and that all freight, such as gasoline and oil, is hauled by truck or team to Panguitch and places south; that there is a necessity for the establishing of a service as is contemplated by Mr. Marshall.

From the showing made, it would seem to be necessary to authorize the establishing of a service such as is asked for by the petitioner.

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. 145

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 5th day of June, A. D. 1922.

In the Matter of the Application of W. EARL MARSHALL, for permission to operate a freight line between Marysvale and Panguitch.	CASE No. 543

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 that W. Earl Marshall be, and he is hereby, permitted to operate an automobile freight line between Marysvale and Panguitch, Utah.

ORDERED FURTHER, That applicant, W. Earl Marshall, before beginning operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and showing arriving and leaving time from each station on his line; 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 MIDLAND TELEPHONE COMPANY, for permission to construct a telephone line between Green River and Price, Utah.	CASE No. 544

Submitted May 26, 1922. Decided July 1, 1922.

Appearances:

J. N. Corbin, for Petitioner.
J. Rex Miller, for Eastern Utah Telephone Co.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner.

The above entitled case was heard at Price, Utah, May 26, 1922.

There were no protests offered to the petition, in writing or otherwise.

The petitioner represented that it is a corporation, duly organized and existing under the laws of the State of Colorado, and authorized to do business in the State of Utah, that its principal office in Colorado is at Grand Junction, and at Moab, in Utah; that a certified copy of its articles of incorporation was filed with the State of Utah; that in 1914, the County Commissioners of Grand County, Utah, granted a franchise to construct a telephone line along the highway known as the Midland Trail, from a point where the highway crosses the Colorado-Utah State line, to Green River, Utah, which franchise was duly assigned to the petitioner; that in 1915, the petitioner constructed a telephone line from Mack, Colorado, westerly as far as Cisco, Utah; and, in 1916 and 1917, completed the line to Green River, and has since operated said plant; that in 1920, arrangements were made to finance the construction of a line between Green River and Price, Utah; but, understanding that authority had been granted to others to construct the line, no other effort was made until at present; that means of telephone communication between points in Colorado and Utah west of Green River

are wanting and a necessity exists for such communication; that such connection between Green River and Price will not only give communication between those points, but will also connect by telephone a number of points in Grand and San Juan Counties as far down as Bluff and as far east as Mack, Colorado; that said construction would not come in competition with any other telephone line or system.

The files on record with the Commission show that the Eastern Utah Telephone Company was granted a certificate of convenience and necessity, April 29, 1920, to construct, operate and maintain a telephone line between Price and Green River, Utah. No construction, maintenance or operation was established by the said Company.

The Eastern Utah Telephone Company was represented by J. Rex Miller and Mr. M. M. Due, who gave evidence in support of said petition, waiving any and all objections to granting said certificate, and emphasizing the necessity for the construction of said line from Green River via Woodside, Wellington and Price.

It is very clear that there exists a necessity for the proposed construction, and that a certificate of convenience and necessity should be issued, with such regulations and requirements as are demanded under the rules governing such constuction.

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. 156

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. 1922.

In the Matter of the Application of THE MIDLAND TELEPHONE COMPANY, for permission to construct a telephone line between Green River and Price, Utah.	CASE No. 544

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 Midland Telephone Company be, and it is hereby, authorized to construct, operate and maintain a telephone line through Price and Green River, Utah, via Woodside and Wellington.

ORDERED FURTHER, That in the construction of such line, applicant, Midland Telephone Company, shall conform to the rules and regulations heretofore issued by the Commission governing the construction of such line.

ORDERED FURTHER, That the construction of said line shall be pursued in due diligence and the line be open to the service of the public at as early a date as consistent with proper construction.

By the Commission.

(Signed) T. E. BANNING,

(SEAL Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WELLS R. STREEPER, for permission to operate an automobile freight line between Salt Lake City, Ogden and intermediate points, in the State of Utah.	CASE NO. 545

Submitted August 8, 1922. Decided Oct. 2, 1922.

Appearances:

Van Cott and Armstrong for Petitioner.
Allen and McCarty for Protestant, Salt Lake-Ogden Transportation Company.
Geo. H. Smith for Protestant, Oregon Short Line Railroad Co.
Van Cott, Riter & Farnsworth for Protestant, Denver & Rio Grande Western Railroad Co.

REPORT OF THE COMMISSION

By the Commission:

This case was heard June 26, 1922, by the Commission on the application of the petitioner, together with the protests of the Salt Lake-Ogden Transportation Company, the Oregon Short Line Railroad Company and the Denver & Rio Grande Western Railroad Company.

The petitioner represented that he was a resident of Salt Lake City, and requested that the Public Utilities Commission issue an order authorizing him to establish an automobile freight line between Salt Lake City, Ogden and intermediate points; that from May, 1920, until about the 22nd day of April, 1922, he was engaged in carrying merchandise, fresh and cured meats, fruits and vegetables for twenty-five or more of the leading wholesale houses, jobbers and manufacturers and commission merchants of the cities of Salt Lake and Ogden and intermediate points by means of motor trucks, as well as from Salt Lake City to Provo, Brighton and other points, such services being performed under special or private contracts with the jobbers and wholesalers; said service being limited to those shippers who made said special

agreements as distinguished from the business of a common carrier. Petitioner further represented that in the service so rendered he would pick up the goods and wares to be transported at the shipper's place of business and deliver them as directed by the shipper; thus eliminating extra haul to and from the railroad stations. Further that said applicant interviewed his former employers and other business firms and houses in Salt Lake City and Ogden and intermediate towns, and from them learned that they desired that he should continue the service; that he is familiar with the operation and maintenance of motor freight or automobile truck service, and if granted permission can furnish a service under the control and regulation of the Commission which will greatly improve the transportation traffic and interchange of business between the points named by facilitating and maintaining quick delivery of commodities.

Petitioner alleges he was the pioneer in the development of this class of service in the State of Utah, and in the prosecution of said service has incurred great expenditures of effort and capital in the necessary equipment and facilities for handling and developing said service. That on the 22nd day of April, 1922, he was by order of the District Court enjoined and restrained from engaging in or transacting business of transporting freight and other property for compensation between the cities of Salt Lake and Ogden until such time as he shall have applied for and obtained from the Public Utilities Commission a certificate of necessity and convenience authorizing him to continue said service. While such service may be more or less competitive, petitioner alleges there is a reasonable necessity in order to meet the demands of the general public for a more prompt and better service than is now being given; and he expects in the near future, if given such authority to organize a corporation for the purpose of more fully and efficiently giving a service as will meet the requirements of the public.

Some petitions as well as communications were submitted and filed favoring the granting of said application, as well as favorable testimony tending to support the allegations of the said petitioner.

The Denver & Rio Grande Western Railroad opposed the application upon the ground that it furnishes a daily freight service between Salt Lake City and Ogden, and intermediate points; and that its freight service is main-

tained and affords a full, convenient and sufficient means of transporting of commodities between the points in question and intermediate towns; and that there does not exist a necessity for any such additional service as is contemplated by the application.

The Oregon Short Line Railroad Company urged its protest against the authorization of the further service than now exists, for the reason that it is grossly unjust and inequitable to allow the petitioner to enter into competitive service with the already existing carriers by making free use of the public highways without paying any taxes whatsoever on any right of way, while the other carriers, the railroads, have expended large amounts of money in providing rights of way, and are required to pay enormous taxes annually for the keeping up of said highway to be used by the petitioner; and further that there exists no necessity for the establishment of such service for the reason that the various common carriers now operating have ample facilities to render all services demanded and required by the public. That said protestant is a railroad company operating over the territory in question.

The Salt Lake-Ogden Transportation Company opposes the issuance of a certificate of necessity and convenience to the applicant upon the ground and for the reason that it is a corporation duly organized and existing under the laws of Utah, and succeeded to all the rights and privileges of the firm of Wedgwood and Boyd who received a certificate of convenience and necessity from the Public Utlities Commission on the 6th day of April, 1921, and since that time, it and its predecessors have conducted the business of transporting freight, merchandise and other commodities between the cities of Salt Lake and Ogden as a common carrier. Said service has been given by means of autos operated over the State Highway, and it has transported any and all freight and commodities tendered to it, and has likewise established depots for the taking care of such freight as has been proffered to it for transportation. That it has invested an amount approximately $26,250.00 for motor trucks, trailers and depot equipment, and that during some portions of the time of its operation has been operating at a loss in part for the reason that the petitioner, Wells R. Streeper, in violation of law and without authority of the Utah Commission engaged in at prices much lower than the published prices of the said protestant, large amounts of freight

between the points in question which freight the said company was entitled to transport over said route.

That during all of the times and since granting the said certificate to the protestant and its predecessors in interest, they have furnished, full, adequate and complete services to all of the towns between Salt Lake City and Ogden, including each of said terminal points, and is now in a position to furnish further conveniences that will meet any and all reasonable demands of the shipping public. Protestant alleges there exists no necessity for the establishment of such service as is asked for by the petitioner. That it would be unfair, unjust and result in irreparable damage to said protestant if the petitioner is allowed to enter into competition with it. Further that the said protestant, during the time that petitioner was operating, illegally over the road was hauling at reduced rates and thereby gained advantage of the shippers over it for the reason that it charged and collected the published rates which had been fixed and approved by the Commission.

During the hearing there appeared certain shippers who contended that the Salt Lake-Ogden Transportation Company was not giving adequate and efficient services, especially some of the shippers of fresh meats and canned goods from factories between the points of Ogden and Salt Lake City. The principal ones of these appeared to be located some distance from the highway, and it requires some trouble and effort to pick up such commodities at the place of origin and carry them on to their destination. It was also claimed that the service given by the Salt Lake-Ogden Transportation Company was not satisfactory to some of the purchasers of fresh meats at Ogden, first for the reason that the meat was late in the day in being delivered; second, that the handling of the same was not satisfactory.

To the above contention the Salt Lake-Ogden Transportation Company represented that they were willing to give to the complaining parties the same cordial and adequate service that was being tendered to the general public, that the canning factories referred to were some three miles away from the highway and that in order to make the schedule as published, the time would not allow them to travel such a distance for the picking up of small amounts as had been offered. In the case of shipments of meat from the Cudahy Packing Company, located some distance from the highway, said transportation company was willing by refrigerator cars and otherwise to properly take

care of and handle its commodities between its plant and Ogden. As to the handling of the meat as complained of by some of the shippers at Ogden, it would guarantee to handle it in such a way as to meet any reasonable demand under the circumstances.

In view of the situation and conditions shown, it would seem that there is not, at the present time, a necessity for the establishing of a competitive additional automobile freight line between Salt Lake City and Ogden. It would appear that the existing carriers can furnish ample, sufficient and adequate service to meet the reasonable demands of the shippers. It is true that some specific cases, such as the canning factory and the Cudahy Packing Company, present conditions somewhat awkward to handle, and still it would hardly appear to be the logical thing to allow competitive service under the circumstances to meet these special cases. However, it seems to the Commission that these shippers can be taken care of by the already existing carriers, who contend that they are able and willing to render such services. It is expected of carriers that they will give such service to the public as will reasonably meet the demands of shippers. For it becomes the duty of the carrier to see to it, and the Commission will insist upon it, that every reasonable effort that can be put forth by carrier should be called out and enforced.

After a full and careful consideration of all the testimony, including all of the petitions, communications and information furnished by the petitioners and others, we are of the opinion that the conditions do not warrant the authorization of additional competitive service at this time as is contemplated by the applicant. The petition therefore 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 2nd day of October, A. D. 1922.

In the Matter of the application of WELLS R. STREEPER, for permission to operate an automobile freight line between Salt Lake City, Ogden and intermediate points, in the State of Utah.	CASE NO. 545

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 Wells R. Streeper for permission to operate an automobile freight line between Salt Lake City, Ogden and intermediate points, in the State of Utah 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 ROBERT CORMANI, for permission to assume operations of the White Star Stage Line between Helper and Rains, Utah. } CASE No. 546

Submitted May 26, 1922. Decided June 10, 1922.

Henry Ruggeri, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above entitled case came on for hearing, at Price, Utah, May 26, 1922.

It appeared from the evidence that a certificate of convenience and necessity had heretofore been issued to the White Star Stage Line, which was owned and controlled by Robert Cormani, Mrs. W. C. Comstock, formerly Mrs. Joe Cormani, and Luke Cormani; that they had jointly operated a service between Helper and Rains for some time, and had given reasonable service, which appeared to be satisfactory to the traveling public; that it is the desire of Mrs. Comstock and her son, Luke Cormani, to withdraw from the partnership and transfer all their rights and interest in the business to Robert Cormani, son of Mrs. Comstock, and asked that the certificate of convenience and necessity be changed so as to show that the White Star Line is under the control, management and ownership of said Robert Cormani; that they voluntarily make such transfer and assignment of all the rolling stock and other privileges or rights in any way connected with the giving of the service.

Mrs. Comstock and Luke Cormani personally appeared and made statements in support of the allegations of the petition.

It appearing that Robert Cormani is competent to look after the business, and that good service had been given under his management, and that he is able and willing to continue the same, an order will issue, trans-

ferring to said Robert Cormani the right, responsibility and privilege of operating a passenger stage line service between Helper and Rains, Utah.

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. 149

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. 1922.

In the Matter of the Application of ROBERT CORMANI, for permission to assume operations of the White Star Stage Line between Helper and Rains, Utah. } CASE No. 546

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 that Robert Cormani be, and he is hereby, permitted to assume operations of the White Star Stage Line between Helper and Rains, Utah.

ORDERED FURTHER, That applicant, Robert Cormani, before beginning operation, shall, as provided by law, file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares, which rates and fares shall not exceed those at present charged by the White Star Stage Line, together with a schedule showing arriving and leaving time from each station on his line; 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 PETER LABOROI, for permission to assume the operation of the Spring Canyon Auto Line between Helper and Rains, Utah.	CASE No. 547

Submitted May 26, 1922. Decided June 10, 1922.

Henry Ruggeri, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Price, Utah, May 26, 1922, at which time all parties interested were present.

It was represented that the petitioner was one of the parties of the original application of the Spring Canyon Auto Line, which was granted permission to operate a stage line between Helper and Rains, Utah, and intermediate points, May 10, 1918 (Case No. 36); that the other two petitioners of the original application were H. M. Eda and F. L. Williams; that since said permission was granted, they have operated between the points in question; that the said H. M. Eda and F. L. Williams ask that all of their right, title and interest in and to the said certificate of convenience and necessiay be transferred to Peter Laboroi, and that he be authorized to continue the operation of said stage line; that he is supplied with automobiles and other equipment to serve the public, and financially able to meet any and every demand required in the operation of said service that they have operated under the name of the Spring Canyon Auto Line.

It was further represented that the travel from Helper to Rains and intermediate points has been sufficient to employ the activities of the Spring Canyon Auto Line, as well as the White Star Line; that during the period between 1918 and the present time, the Spring Canyon Auto Line had continued to give service and take care of the traveling public, in connection with the other line.

It further appeared that Peter Laboroi, is able and capable of continuing the service, and that there is no

objection to the withdrawal of H. M. Eda and F. L. Williams, both of whom appeared at the hearing and, under oath, made statements in support of the application.

The Commission is of the opinion, and, therefore, finds that the application should be granted, and that the Spring Canyon Auto Line be controlled, owned and operated by the said Peter Laboroi.

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. 150

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. 1922.

In the Matter of the Application of PETER LABOROI, for permis- mission to assume the operation of the Spring Canyon Auto Line between Helper and Rains, Utah..	CASE No. 547

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 that Peter Laboroi be, and he is hereby, permitted to assume the operation of the Spring Canyon Auto Line between Helper and Rains, Utah.

ORDERED FURTHER, That applicant, Peter Laboroi, before begining operation, shall, as provided by law, file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares, which rates and fares shall not exceed those at present charged by the Spring Canyon Auto Line, together with a schedule showing arriving and leaving time from each station on his route; 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 ORDER

In the Matter of the application of G. L. BRACKEN, for permission to operate an automobile stage line between St. John Railroad Station and Ophir, Utah. } CASE No. 548

Submitted June 30, 1922. Decided July 13, 1922.

Appearances:

Wm. S. Marks, for Petitioner.
Henry Charles, Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

From the showing it appeared that the petitioner was awarded a contract by the United States Government to carry the mail between St. John and Ophir, Utah, and that it had been customary for some time past to carry passengers, as well as the mail; that with the understanding that the passenger traffic would be given to the said G. L. Bracken, the bid for such work was made lower than otherwise; that the said petitioner was able and willing to take care of the traveling public between the points in question, and to transport them at the price heretofore charged; that there was not sufficient travel to justify anyone else than the mail carrier to give service to the public as a common carrier.

The protestants, Henry Charles and Sons, represented that for some time they had been engaged in the business of operating an automobile passenger stage line between St. John and Ophir, and at the same time they had been carrying the United States Mail under contract of the Government; that a certificate of convenience and necessity had been issued to them by the Public Utilities Commission, under whose direction and instruction they had operated and given passenger service to the traveling public; that they were equipped to continue said service, and were opposed to the application being granted to the petitioner, G. L. Bracken, for the reason and upon the grounds that they were authorized to give such service,

and that the establishing of another service between the two points for passenger traffic would be a great damage to them; that there has not been and would not be in the future sufficient traffic over the route to justify the establishing of two common carriers.

There seems to be no disagreement as to the facts in the case, and the representations of the protestants are born out by the record in the office of the Public Utilities Commission, that Henry Charles and Sons have given good service, and there is no reason shown why the certificate issued to them should be revoked. So, under the showing made, the Commission is forced to deny 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

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 13th day of July, A. D. 1922.

In the Matter of the Application of G. L. BRACKEN, for permission to operate an automobile stage line between St. John Railroad Station and Ophir, Utah.	CASE No. 548

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, denied.

By the Commission.

(Signed) T. E. BANNING,

(SEAL Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of G. L. Bracken for permission to operate an automobile stage line between St. John Railroad Station and Ophir, Utah. } CASE No. 548

Submitted June 30, 1922. Decided July 13, 1922.

Appearances:

Wm. S. Marks, for Petitioner.
Henry Charles, Protestant.

SUPPLEMENTAL REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

On July 13, 1922, the Commission issued its Report and Order in the above entitled matter denying the applicant permission to operate an automobile stage line between St. John and Ophir, for the reason that it appeared that public convenience and necessity were served by the operations of a stage line by Henry Charles and Sons.

Since issuing its report and order, Henry Charles and Sons have been authorized to discontinue operatons of their stage line (Authority A-60, dated Sept. 14, 1922,) and at this time there appears to be no established service between these points, and applicant represented that he had been awarded the contract for carrying the U. S. Mail between St. John and Ophir, and was of necessity required to make regular trips and was equipped to transport passengers in addition to his operations as Government mail carrier. On September 16th, this applicant requested the Commission to give further consideration to this matter.

It appears that in view of the changed conditions, the former order issued by the Commission should be revoked and the application of G. L. Bracken for per-

mission to operate an automobile stage line between St. John and Ophir, should be granted.

An appropriate order will be issued.

(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. 170

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, on the 1st day of November, A. D. 1922.

In the Matter of the Application of G. L. Bracken for permission to operate an automobile stage line between St. John Railroad Station and Ophir, Utah. } CASE No. 548

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

IT IS ORDERED, That the application be granted, and applicant, G. L. Bracken be and he is hereby authorized to operate an automobile stage line for the transportation of passengers between St. John, Utah, and Ophir, Utah.

IT IS FURTHER ORDERED, That before beginning operatons said G. L. Bracken shall publish and file with the Commission a schedule of his rates, fares and charges, together with a schedule showing time of operation, such schedule to be prepared as prescribed in the Commission's Tariff Circular, No. 4.

ORDERED FURTHER, That said G. L. Bracken shall at all times operate his stage line in conformity with the rules and regulations governing such operations heretofore prescribed by the Commission.

(Signed) T. E. BANNING,

(SEAL Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of application of CEDAR CITY for reduction in electric rates for street lighting.	CASE No 549

ORDER

Upon motion of the petitioner and with the consent of the Commission:

IT IS ORDERED, That the proceedings in the above entitled matter be, and is hereby, dismissed.

By order of the Commission:

Dated at Salt Lake City, Utah, this 27th day of June, 1922.

(Signed) T. E. BANNING,

(SEAL Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of SAMUEL JUDD and FRANK JUDD, for permission to operate an automobile stage line between Enterprise and St. George, Utah.	CASE No. 550

Submitted June 20, 1922. Decided July 13, 1922.

Appearances:
George R. Lund, for Petitioners.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

After proper notice, this case was heard at St. George, Utah, June 20, 1922.

There were no protests to the petition.

The petitioners represented that they are citizens of St. George, and had been awarded the contract for the carrying of the mail from Enterprise to St. George; that after July 1, 1922, there will be no stage line between the points in question to meet the demands of the traveling public; that there now exists a stage line between the railroad at Modena and Enterprise, and that it is the purpose and object of the establishing of said stage line to connect it with the stage at Enterprise and carry passengers down to St. George and intermediate points; that said stage will be operated three times a week, Monday, Wednesday and Friday.

After a careful consideration of the representations made, we are of the opinion that there exists a necessity and convenience for the establishing of a passenger stage line between the points named, and that the applicants are able and willing to furnish said service, and should be given a certificate, as asked for in their application.

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. 158

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 13th day of July, A. D. 1922.

In the Matter of the Application of SAMUEL JUDD and FRANK JUDD, for permission to operate an automobile stage line between Enterprise and St. George, Utah.	CASE No. 550

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 that applicants, Samuel Judd and Frank Judd, be, and they are hereby, authorized to operate an automobile stage line between Enterprise and St. George, Utah.

ORDERED FURTHER, That applicants, Samuel Judd and Frank Judd, before begining operation, shall file with the Commission and post at each station on their route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on their line; 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 C. HUEY and PETER CATALINA, for permission to operate an automobile stage line between Price and Vernal, Utah, via Helper and Duchesne.	CASE No. 551

Submitted May 25, 1922. Decided June 12, 1922.

Appearances:

R. R. Hackett, for Petitioners.

B. W. Dalton and Dan B. Shields, for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Price, Utah, May 25, 1922, upon the application of James C. Huey and Peter Catalina and protest of J. W. Johnstun, Manager of the Dodge Stage Line.

The applicants represented that the service given by the Dodge Stage Line is not in accordance with the demand of the public; that for some time prior to the making of the application, a large number of business men, including store-keepers, mercantile companies and drug companies, have requested the petitioners to establish a stage line, as above set forth; that there is no railroad connection between Helper, Duchesne and Vernal, or Price and Vernal; that the petitioners have facilities to operate on schedule between the above named places, and will fill any and all schedules according to the rates and rules filed with the Commission.

The protestant, J. W. Johnstun, Manager of the Dodge Stage Line, objected to the issuing of a certificate as applied for, for the reason and upon the grounds that there is at the present time, and has been, a duly authorized passenger stage line, operating between Price, Helper, Duchesne, Vernal and intermediate points, under a certificate of convenience and necessity issued by this Commission, and denies that such stage line has failed to

render proper and convenient service to the traveling public between the points mentioned, or has failed to do everything that is reasonable, in order to meet the demands of the traveling public; that, with the exception of a few days, it has operated daily a special automobile to connect with Myton and Duchesene, to take care of the travel in and out of Duchesene; that for a short period of time during the early spring, it was practically impossible for any automobile to travel from Helper to Duchesne, direct, and cross the high mountain known as the high point on the road; but that several attempts have been made, not only by the stage line, but by the Government officials who had in charge the carrying of the United States Mail from Helper into the Uintah Basin; that during nine months or more of the year, the roads from Helper to Duchesne have been operated over by the said Dodge Stage Line, and that it has been the intention and is the intention of said Company to operate over this line in preference to any other; but on account of the conditions of the road, it has been compelled to operate via Nine Mile to Myton, and from there to Vernal, and give the special service above referred to, from Myton to Duchesne.

Testimony was submitted concerning the condition of the road from Helper to Duchesne. The Government official stated that he had, after a number of efforts, failed to make the divide in question, and asked to route the mail from Helper via Price and Myton via Nine Mile; that the roads could not be traveled by automobile, and that horses with sleighs might, at great expense, keep the road open; but that, even then, it would be an undesirable road to travel during certain months of the year.

Testimony tended to show that the roads throughout Carbon County were the worst they had been for many years, being so bad that delivery wagons could not be operated in the City of Price, on account of the mud; that the depth of the snow on the hill and the mountain was much greater than it had been formerly known to be.

Some documentary testimony was filed to the effect that the present company operating into the Uintah Basin, had been entirely satisfactory, with the exception of some complaints which came from Duchesne and near points.

It is true that during the time when the road is not open from Duchesne to Helper, the inhabitants of that city suffer a great deal of inconvenience, by having to

travel a longer distance to reach the railroad and to receive their mail, express and freight.

Testimony was to the effect that the rate to carry people from Price to Helper was the same as when carried from Helper to Duchesne, direct. An inconvenience to passenger traffic was felt, on account of the increased distance traveled; that during the time complained of, the operations were from Helper to Price and from Price to Myton, via Nine Mile, and to Vernal and intermediate points; that a special service was given by the Dodge Stage Company from Myton to Duchesne and return.

After a careful and complete consideration of all the conditions and facts that have any bearing on this case, it clearly appears that the Dodge Stage Line has been rendering good service and reasonably taking care of the traveling public from the railroad into the Uintah Basin; that every reasonable effort has been made by the Manager of the Dodge Stage Line to operate over the hill between Helper and Duchesene; but this year, especially, the snow has been so deep and the roads in such condition, that it could hardly be expected to keep the traffic open as would be most desirable for the people of Duchesne and vicinity.

We are 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 10th day of June, A. D. 1922.

In the Matter of the Application of JAMES C. HUEY and PETER CATALINA, for permission to operate an automobile stage line between Price and Vernal, Utah, via Helper and Duchesne.	CASE No. 551

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, denied.

By the Commission:

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of FRANK SALVINO, for permission to operate an automobile stage line between Scofield and Colton, Utah,	CASE No. 552

Submitted May 25, 1922. Decided June 28, 1922.

Henry Ruggeri, for Petitioner.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

Testimony was taken on behalf of the applicant, at Price, Utah, May 25, 1922, in which it was represented that public service demands an automobile stage line between the points in question: that there is no such convenience offered, with the exception of the service tendered by the Denver & Rio Grande Western Railroad, which operates a daily mixed train for passengers and freight; but that such service is not sufficent to meet the demands of the traveling public; that the mining camps located at Scofield, Winter Quarters and Clear Creek, employ a number of men, who have their families and make their homes at these different places.

The application was protested by the Denver & Rio Grande Western Railroad Company, contending that it owns and operates a steam railroad, running from Colton to Scofield; that it maintains a passenger service by means of a mixed train leaving Scofield at 7:15 A. M., daily, except Sunday, and arriving at Colton, 8:25 A. M., and returning leaving Colton at 12:45 P. M., daily, except Sunday, and arriving at Scofield at 2:05 P. M., that there is no public demand or necessity for such service as is contemplated by the petitioner; that there is no demand upon the part of the traveling public or the people who reside at the places named in the petition; that the opera-

tion of the train by the Railroad Company is done without much remuneration to the Company, and that the traffic, especially the passenger train, does not furnish sufficient revenue for the service, and that the proposed automobile passenger service would subject said Railroad Company to unjust and unreasonable competition, and would cause the same to suffer a great and irreparable injury.

The Commission has received protests to the granting of a certificate from a number of the citizens, to the effect that the automobile service is not necessary, and, if granted, will be a detriment to the town of Colton, contending that the railroad is giving first-class service and all that is needed; that the proposed service will last, as it has heretofore, during a short period of the summer season; that the service will be necessarily irregular, as it is impracticable during certain times to go over the road with any ease or safety; that the operation of an automobile stage line has been attempted heretofore, but has not been satisfactory, and further, that the cost of operation has been so great that parties giving he same have been forced to suspend operation, as the service cannot compete with the railroad, especially as to rates; that the rates will be very much higher than the railroad rates; that it was unfair to the railroads now giving service, and would tend to impair said service, and may occasion said railroad to discontinue its passenger traffic, all of which would be a great and irreparable damage to the mining camps of Scofield, Winter Quarters and Clear Creek.

It appears, according to the history of automobile service from Colton to Scofield and Winter Quarters, that there has been several attempts to give automobile service, but none have been successful, and, under the conditions existing, together with the showing and protests of the Railroad Company, also the protest entered by a number of the leading citizens of Scofield and other places in that vicinity, and in the absence of any demand on the part of the public, all of which strongly argues that there is no direct necessity for the establishing of the service such as is contemplated by the applicant, the Commission is of the opinion that unnecessary competition, by way of a duplication of service, should not be encouraged, and, if it is encouraged, it should be on the demand of the public, rather than by the application of some corporation or individual who desires to experiment on giving the service.

There does not appear to be sufficent showing to warrant the Commission in authorizing the service referred to in the application, and the application should 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 28th day of June, A. D. 1922.

In the Matter of the Application of FRANK SALVINO, for permission to operate an automobile stage line between Scofield and Colton, Utah, } CASE No. 552

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 denied.

By the Commission:

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the matter of the Application of the TOWN OF PARAGONAH for permission to increase its schedule of rates for electric lighting and electric power. } CASE No. 553

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HAROLD SOYKA, for permission to operate an automobile stage line between Richfield and Fish Lake, Utah.	CASE No. 554

Submitted May 23, 1922. Decided June 20, 1922.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

A deposition was taken in the above entitled matter, at Richfield, Utah, May 23, 1922, and is filed herewith as testimony in the case, from which it appears that Fish Lake is a very popular summer resort, located in the mountains east of Richfield, and to which a great many people go for vacations and pleasure during the summer months; that one Harry Wilcox was granted a certificate of convenience and necessity to haul passengers from Richfield to Fish Lake and return; that he operated the same during the year 1921; but discontinued giving such service and has not made application for a resumption of such service, and that he has left the State; that the applicant has had considerable experience in operating an automobile for general service in Richfield and surrounding territory; that he is connected with the Southern Hotel at Richfield, and works with his father; that a number of people have inquired as to whether or not there would be a service given between the points in question; that the applicant is well acquainted with the road, and has run over the same very frequently; that he is financially able, in connection with his father, to furnish sufficient rolling stock or automobiles to take care of the travel.

The deposition of the applicant was taken at Richfield, for the reason that he was anxious to know whether or not he would obtain a certificate and start to give the service at an early date.

There seems to be no reason why a certificate of convenience and necessity should not issue.

The applicant stated that the service would commence about June 15th and continue until the close of the season at Fish Lake; that the rate charged would be $5.00 from Richfield to Fish Lake and $4.00 from Fish Lake to Richfield. The difference in fare is accounted for from the fact that from Richfield to Fish Lake is almost one continual climb, and is approximately a distance of thirty-seven miles; while the return trip is down grade.

The application 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. 151

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 20th day of June, A. D. 1922.

In the Matter of the Application of HAROLD SOYKA, for permission to operate an automobile stage line between Richfield and Fish Lake, Utah.	CASE No. 554

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 that Harold Soyka be, and he is hereby, permitted to operate an automobile stage line between Richfield and Fish Lake, Utah, for the transportation of passengers.

ORDERED FURTHER, That applicant, Harold Soyka, before beginning operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on his line; 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. H. O'DRISCOLL, for permission to operate an automobile stage line between Park City and Peoa, via Kamas. } CASE No. 555

Submitted June 14, 1922. Decided July 1, 1922.

Appearances:
J. H. O'Driscoll, Petitioner.
J. W. Blazzard, Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard in connection with the application of J. W. Blazzard (Case No. 537), June 14, 1922, at Kamas, Utah, testimony being the same as that given in Case 537.

In view of the conclusion reached, that the applicant, J. W. Blazzard, should be allowed to continue giving passenger and express service between Park City and Kamas, for the reasons set out in said case, and there not being sufficient travel to warrant the operation of two automobile stage lines between Kamas and Park City, we are of the opinion that the application of Mr. O'Driscoll as far as it refers to carrying passengers and freight between Kamas and Park City, should be denied; but that the travel between Kamas and Peoa should be taken care of by said J. H. O'Driscoll, and that all traffic between Peoa and Park City, but not traffic from Kamas to Park City or Park City to Kamas, so that people traveling between Peoa and Kamas or direct from Peoa to Park City, or from Park City, direct, to Peoa, could be hauled by applicant, J. H. O'Driscoll, with the understanding that he shall not interfere in any manner with the travel from Kamas to Park City, or Park City to Kamas.

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. 155

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. 1922.

In the Matter of the Application of J. H. O'DRISCOLL, for permission to operate an automobile stage line between Park City and Peoa, via Kamas.	CASE No. 555

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 J. H. O'Driscoll, for permission to operate an automobile stage line between Peoa and Park City, and Peoa and Kamas, be granted.

ORDERED FURTHER, That applicant, J. H. O'Driscoll, before beginning operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on his line; and shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

ORDERERD FURTHER, That Applicant, J. H. O'Driscoll, shall not transport passengers between Park City and Kamas, or in any way interfere with the operation of the stage line of J. W. Blazzard.

By the Commission:

(Signed) T. E. BANNING,
Secretary.

(SEAL)

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of P. M. PAYNE, for permission to operate an automobile stage line between Delta, McCornick, Holden and Fillmore, Utah. } CASE No. 556

Submitted July 5, 1922. Decided July 11, 1922.

Appearances:

T. M. Ivory, for Petitioner.
Earle Veile, Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Delta, Utah, on request of the Commission and by consent of the parties concerned.

The application was contested by Earl Veile, of Fillmore and the Los Angeles & Salt Lake Railroad Company.

The petitioner gave testimony to the effect that he is a resident of Fillmore, Millard County, Utah; that he was awarded a contract for carrying the United States Mail between the towns in question, and began to serve July 1, 1922; that he is familiar with the operation and maintenance of motor vehicle passenger service, that he is able and willing to give to the traveling public adequate and sufficient convenience for traveling over the route in question; that the fact of his having the mail contract, will enable him to more efficiently give service; that he understands that one Earl Veile was his predecessor in the carrying of the mail, and likewise furnished passenger service for the convenience of the public, and that it was his understanding that the passenger service would go with the carrying of the mail.

The protestant, Earl Veile, represented that he is the holder of a certificate of convenience and necessity that had been issued to him by the Public Utilities Commission of Utah; that in keeping with such authorization, he had for some time past given service to the traveling public; that it was his intention, notwithstanding he ceased to operate the United States Mail the last day of June, 1922,

and had made preparation to continue hauling of passengers from Fillmore to Delta, and from Delta to Fillmore that he claimed such right and expected to continue in the business of transporting passengers from Delta to Fillmore and intermediate points.

The protestant Railway Company represented that there would be no necessity for establishing the service as contemplated by the applicant for the reason that it was soon to build and maintain a branch line from Delta to Fillmore, which would be sufficient to take care of the needs of the traveling public.

At the close of the testimony, the applicant moved to amend his complaint by adding the authority to operate a passenger service between Fillmore and Kanosh, taking in the intermediate points, there being no one engaged in furnishing such service referred, the amendment was allowed. There was no objection offered or question raised as to the amendment.

We have here in part the same question that has been before the Commission in several cases lately, and adhering to former decisions upon that point, the Commission is compelled to deny the application as to that part of the request for authority to operate a passenger service between Fillmore and Delta.

As to a certificate to operate between Fillmore and Kanosh and intermediate points, it was shown that there is no one authorized to give such service between said points, namely, Fillmore and Kanosh, and it appearing that such a service would be a convenience to the general public, the Commission is warranted under the circumstances to issue such certificate to the applicant, by the applicant complying with the rules and regulations of the Commission.

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.

CORRECTED ORDER

Certificate of Convenience and Necessity No. 157

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. 1922.

In the Matter of the Application of P. M. PAYNE, for permission to operate an automobile stage line between Delta, McCornick, Holden and Fillmore, Utah. } CASE No. 556

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 P. M. Payne for permission to operate an automobile stage line for the transportation of passengers between Delta, McCornick, Holden and Fillmore, Utah be, and is hereby, denied.

ORDERED FURTHER, That applicant, P. M. Payne be and he is hereby authorized to operate an automobile stage line for the transportation of passengers between Fillmore and Kanosh and intermediate points.

ORDERED FURTHER, That applicant, P. M. Payne before begining operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates and fares and showing arriving and leaving time from each station on his line; 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 LAWRENCE ORTON for permission to operate a stage line between Panguitch and Henrieville, Utah.	CASE No. 557

Submitted July 27, 1922. Decided October 11, 1922.

Appearances:

Lawrence Orton for himself.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The petitioner represents and gave testimony to the effect that he is a resident of Garfield County; that he is under contract with the United States to carry the mail between Panguitch and Henrieville; that for some time past he has been engaged in driving the United States Mail between said points as well as carrying passengers under a certificate issued to Geo. Church of Panguitch, Utah; that he is able to handle mail in compliance with the contract of the United States and also passengers between Panguitch and Henrieville, and is equipped with the necessary cars to accommodate the traveling public.

It further appears from the records that Mr. Geo. Church was engaged in transporting the United States Mail from the points in question up to July 1st of the present year and in connection with the said service he also carried passengers, but that for sometime past has failed to keep the passenger schedule and give service to the traveling public and upon his own application he has been allowed to discontinue such service, and the certificate of convenience and necessity has been revoked and set aside, so there is no authorized service being given to the public between points mentioned in the applicant's petition; and it further appearing that there is a necessity for the furnishing of the service whereby the traveling public may be transported from Panguitch to Henrieville; and it further appearing that the applicant is competent, able and willing to give the required service, it is the opinion of the

Commission that he should be granted the permission and be authorized under a certificate of necessity and convenience, as asked for in the petition.

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. 165

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 11th day of October, A. D. 1922.

In the Matter of the Application of LAWRENCE ORTON for permission to operate a stage line between Panguitch and Henrieville, Utah. } CASE No. 557

IT IS ORDERED, That the application be granted and applicant, Lawrence Orton, be, and he is hereby authorized to operate an automobile stage line, for the transportation of freight, passengers and express, between Panguitch and Henrieville, Utah.

IT IS FURTHER ORDERED, That before beginning operations, applicant, Lawrence Orton, shall publish and file with the Commission and post at each station on his route a schedule of rates, fares and charges, as provided in Tariff Circular No. 4, and shall at all times operate the line in conformity with the rules and regulations governing such operation heretofore prescribed by the Commission.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of application of B. L. COVINGTON, for permission to assume the operation of Joseph J. Milne freight line between St. George and Lund, and St. George and Modena, Utah.	CASE No. 558

Submitted June 20, 1922. Decided July 11, 1922.

Appearances:

Judge D. H. Morris, for Petitioner.
Joseph J. Milne for Himself.
George R. Lund, for W. H. Marshall.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at St. George, June 20, 1922, at which time there appeared Joseph J. Milne, who represented that he had been engaged jointly with W. H. Marshall in hauling freight from the points in question; but that he desired to relinquish said right in favor of B. L. Covington, the applicant herein. There also appeared W. H. Marshall, who stated that he had no objections to offer, as long as it did not interfere with his right to the franchise and authority to haul freight between the points named in the petition.

The applicant represented that he had purchased the trucks heretofore used by Joseph J. Milne, who had decided to retire from the truck business; that W. H. Marshall was joint owner in the franchise with Joseph J. Milne, and had done practically nothing by way of hauling freight between the two points during the last six months.

Under the conditions and circumstances existing, and it appearing that the applicant has been recommended to be a person capable of taking up the labor of Mr. Milne, and that there are no objections made or offered by any of the parties concerned, the Commission is of the opinion that an order should be entered, authorizing said B. L. Covington to operate a freight line between St. George and

Lund, and St. George and Modena, and that in said operation, he takes the place of Mr. Joseph J. Milne. It should be understood, however, that the substituting of Mr. Covington for Mr. Milne does not change the relationship of said service to any and all rights that may belong to said Marshall.

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 11th day of July, A. D. 1922.

In the Matter of application of B. L. COVINGTON, for permission to assume the operation of Joseph J. Milne freight line between St. George and Lund, and St. George and Modena, Utah.	CASE No. 558

This case being at issue upon petition on file, and the Commission having on the date hereof, made and issued its 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, B. L. Covington, be, and he is hereby, permitted to assume the operation of the freight line between St. George and Lund and St. George and Modena, Utah, heretofore operated by Joseph J. Milne.

ORDERED FURTHER, That applicant, B. L. Covington, before beginning operation, shall file with the Commission and post at each station on his route, a schedule as provided by law and the Commission's Tariff Circular No. 4, naming rates, rules and regulations which said rates, rules and regulations shall not exceed those formerly in effect governing the operation of this line, and shall at all times operate such truck line in accordance with the rules and regulations of the Commission governing such operation.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

WILLIAM LUND, *Complainant,* vs L. E. PADDOCK, *Defendant.*	No. 559

In the Matter of the Application of L. E. PADDOCK for permission to operate an automobile stage line between Modena and Enterprise, Utah.	CASE No. 568

Submitted September 17, 1922, Decided October 13, 1922.

These two cases were heard jointly.

Appearances:

Judge D. H. Morris for Mr. Lund,
Geo. R. Lund for L. E. Paddock.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at St George, Utah, on September 17, 1922, in connection with the Case No. 568, which is an application for permission to operate a stage line between Modena and Enterprise.

In case No. 559, the complainant, Wm. Lund, represents that he is the proprietor of the stage line between Enterprise, Washington County, and Modena, in Iron County, Utah; that a franchise was granted by the Utilities Commission, to said firm and that since the issuance of said franchise, it has performed the duties accordng to the rules and regulations of the Commission, satisfactorily to the shipping public. That in connection with the carrying of the United States Mail, since the first day of July, 1922, between the towns of Enterprise and Modena, the defendant has been carrying passengers between the towns in question to the injury of the complainant and contrary to the rules and regulations governing automobile stage lines.

Complainant asks that the defendant be restrained from carrying passengers between said towns and that an order issue in conformity with such facts.

The testimony, however, failed to show that the defendant had been carrying passengers for hire or consideration. It developed, however, in the testimony of the defendant that the defendant had carried some passengers, but had done so in some instances at the request of the complainant. That the complainant did not furnish a suitable conveyance for passengers and for such reasons some came to him and asked to be carried over the road; that he did not make a business of carrying passengers, but had done so in cases of emergency.

The defendant also in his petition asks for a certificate to carry passengers over said road, alleging that he had the mail contract and made trips over the road every day, except Sundays; that he was prepared and equipped to carry the traveling public in suitable conveyances; and that he is the only one who has to make round trips daily.

After a consideration of the matters submitted, the Commission is of the opinion that the complaint has not been sustained.

That as to the second matter, viz., the application of Mr. Paddock for a certificate, his showing is not sufficient to revoke the certificate heretofore issued to Mr. Lund and his company. And the application should therefore be denied.

An appropriate order will issue.

(Signed) JOSHUA GREENWOOD,
Commissioner.

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

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

WILLIAM LUND, *Complainant,* vs L. E. PADDOCK, *Defendant.*	CASE No. 559
In the Matter of the Application of L. E. PADDOCK for permission to operate an automobile stage line between Modena and Enterprise, Utah.	CASE No. 568

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 of William Lund vs. L. E. Paddock be and it is hereby dismissed.

ORDERED FURTHER, That the application of L. E. Paddock for permission to operate an automobile stage line for the transportation of passengers between Modena and Enterprise 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 ANDREW CORRY for permission to withdraw from and MILTON L. DAILEY to assume the operation of the Stage Line between Paragonah and Cedar City, Utah. } CASE No. 560

Submitted September 15, 1922. Decided October 11, 1922.

Appearances:

Mr. Parcell for Andrew Corry and Milton L. Daily.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above matter was heard at Cedar City on the 15th day of September, 1922. Mr. Corry represented that he had been employed in the service of transporting passengers between Paragonah and Cedar City, and that since he had discontinued the operation of the United States Mail between said points, he desired to withdraw from the giving of said service and recommended that Milton L. Dailey be given the certificate of necessity and convenience to operate said passenger service between said points.

It appeared from the evidence that Mr. Corry had given satisfactory service and that all matters pertaining to said service were cleared up; that there were no outstanding obligations to the public and that he was entitled to be released.

It was reported by Mr. Milton L. Dailey that he had been employed by Mr. Corry, and was competent to give the service, and had sufficent rolling stock to take care of the traveling public; that it was his intention to operate under the same schedule as to rates and time as heretofore charged and operated by Mr. Corry.

There was no opposition filed or represented. It appears from the testimony that there is a necessity for such service, and that the applicant, Mr. Milton L. Dailey is competent to give such service to the public and that he should receive a certificate of necessity and convenience

to operate a passenger stage line between Cedar City and Paragonah, Utah.

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. 167

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 11th day of October, A. D. 1922.

In the Matter of the Application of ANDREW CORRY for permission to withdraw from and MILTON L. DAILEY to assume the operation of the Stage Line between Paragonah and Cedar City, Utah.	CASE No. 560

IT IS ORDERED, That the application be granted and Applicant, Andrew Corry be permitted to withdraw from and Milton L. Daily be permitted to assume the operation of an automobile stage line between Paragonah and Cedar City, Utah.

IT IS FURTHER ORDERED, That before beginning such operations Applicant, Milton L. Dailey, shall publish and file with the Commission, and post at each station on his route, a scedule of his rates, fares, and changes, such schedule to be published in the manner prescribed in the Commission's Tariff Circular No. 4, and shall at all times operate his stage line in conformity with the rules and regulations governing the operations 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 WILLIAM H. MARSHALL for permission to withdraw from and A. R. BARTON, to assume the operation of a freight line between Lund and St. George, and Modena and St. George, Utah.	CASE No. 561

Submitted September 16, 1922. Decided October 16, 1922.

Appearances:

George R. Lund, for Petitioner.
Judge D. H. Morris for Protestant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at St. George on the 16th day of September, 1922, upon the application and the protest of B. L. Covington. Mr. Geo. R. Lund appeared for the petitioner, and Judge D. H. Morris for the protestant.

The petitioner represented that he had been operating an auto freight truck between Lund, Utah, and St. George, and Modena, and St. George, Utah, in connection with Joseph R. Milne, under a permit issued by the Public Utilities Commission of Utah. That they had operated the same jointly; that Joseph J. Milne had transferred his permit to one B. L. Covington, and that the petitioner had sold his equipment to A. R. Barton, who is desirous of operating said service.

Said Marshall therefore asks to be released from further responsibility of said service.

The protest of B. L. Covington was upon the ground and for the reason that the said W. H. Marshall had forfeited any and all rights under the original franchise, for the reason that he had failed to give such service as is required under the law.

Testimony was given by Joseph J. Milne to the effect that Mr. Marshall had not given service as contem-

plated by the Utilities' rules and regulations, and was not upon the road at times with any means of giving service for two and three weeks.

Other testimony was submitted to the effect that Mr. Marshall had failed to keep the schedule under which they were operating.

In reply, Mr. Marshall contended that he had given beingrepaired or when the roads were impassable; and being repaired or when the roads were impassible; and that whenever he was unable to go or send his truck he notified Mr. Milne or Mr. Covington who had recently been rendering service, and made it satisfactory with both or either of them.

The service in this matter was given satisfactorily by the partnership. The differences and disputes between the partnership were brought to the attention of the Commission on complaint, with a request that the franchise be withdrawn from Mr. Marshall for neglect to do his part and the Commission held that the Complaint was not sustained. And there having been no order revoking Mr. Marshall's part of the service and the certificate having been the same as formerly—the Commission could not at this time sustain the protest of Mr. Covington and refuse to grant to Mr. Barton the right of giving the service in connection with B. L. Covington.

And from the showing made it becomes the duty of the Commission to issue an order releasing Mr. Marshall from further service and substitute Mr. A. R. Barton, and thereby issue to said A. R. Barton a certificate of necessity and convenience to haul and transport freight between Lund and St. George and Modena and St. George in connection with B. L. Covington.

An appropriate order will issue.

(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 November, A. D. 1922.

In the Matter of the Application of WILLIAM H. MARSHALL for permission to withdraw from and A. R. BARTON, to assume the operation of a freight line between Lund and St. George, and Modena and St. George, Utah.	CASE No. 561

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 granted, and applicant, A. R. Barton, be and he is hereby authorized to assume and continue the service heretofore given by W. H. Marshall.

ORDERED FURTHER, That before beginning such operations, said A. R. Barton shall publish and file with the Commission, and post at each station on his route a schedule naming all rates, charges and regulations, such schedule to be prepared in the manner heretofore prescribed by the Commission, and shall at all times operate his line in conformity to the rules and regulations governing such operation prescribed 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 a Certificate of Convenience and Necessity to exercise the Rights and Privileges conferred by franchise granted by the Town of Soldier Summit, Utah.	CASE No. 562

Decided September 1, 1922.

REPORT OF THE COMMISSION

By the Commission.

In an application filed July 13, 1922, the Utah Power & Light Co., a corporation of the State of Maine, represents it has secured from the Board of Trustees of Soldier Summit, Utah, a franchise 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 Soldier Summit, 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 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 Soldier Summit, Utah.

2. That in the construction of such electric lines, applicant, the Utah Power and 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,
Secertary.

ORDER

Certificate of Public Convenience and Necessity No. 161.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of September, 1922.

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 Soldier Summit, Utah.	CASE No. 562

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 applicant Utah Power & Light Company, be, and it is hereby authorized to construct, operate and maintain electric transmission and distribution lines in the town of Soldier Summit, Utah.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant Utah Power & Light Company, shall conform to the rules heretofore issued by the Commission governing such construction.

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 City of Helper, Utah. } CASE No. 563

Decided September 21, 1922.

REPORT OF THE COMMISSION

By the Commission:

In an application filed July 13, 1922, the Utah Power & Light Company, a corporation of the State of Maine, represents it has secured from the Board of Trustees of the City of Helper, Utah, a franchise 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 City of Helper, 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 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 City of Helper, 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,
JOSHUA GREENWOOD,
Commissioners.

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

ORDER

Certificate of Public Convenience and Necessity No. 163.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 21st day of September, 1922.

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 City of Helper, Utah.	CASE No. 563

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 applicant, Utah Power & Light Company be, and it is hereby authorized to construct, operate and maintain electric transmission and distribution lines in the City of Helper, Utah.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant, Utah Power & Light Company, shall conform to the rules heretofore issued by the 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 BALLARD & THOMPSON RAILROAD COMPANY for a certificate of convenience and necessity to operate its railroad as a common carrier of freight and passengers between Thompson and Sego, Utah.	CASE No. 564.

Submitted August 16, 1922. Decided August 23, 1922.

Messrs. Dey, Hoppaugh & Mark, for Petitioner.

REPORT OF THE COMMISSION

By the Commission:

The above matter came on regularly for hearing on August 16, 1922. There appeared Messrs. Dey, Hoppaugh & Mark in behalf of the petitioner, there being no protest in writing or otherwise.

The petitioner represented and testified to the effect that it was a corporation duly organized under the laws of the State of Utah; that its principal place of business was at Salt Lake City; that in the year 1911, said organization was effected for the purpose of operating a line of railway from Thompson, a station on the main line of the Denver & Rio Grande Raliroad Company in Grand County, Utah, to Sego, formerly called Ballard, in Grand County, Utah; that said corporation constructed at said time, and ever since operated a line of railroad between said points, being five and one-fourth miles in length, together with the necessary switches; that the said railroad served the coal mines of the American Fuel Company in Sego as a plant facility; that under the articles of incorporation of said company, it is authorized to transact a general railroad business including the transportation of freight, passengers, mail and express matter, as a common carrier; that it is proposed by said company to operate between the stations of Thompson and Sego; that there is no public utility corporation or other means of transportation than said company's railroad; that it is of a standard

gauge, properly constructed to operate as a common carrier for freight and passengers; that the needs of the coal mines of Sego and of the residents in the vicinity of Sego make it a necessity that your petitioner be allowed and permitted to operate its road as a common carrier between the points above named.

Under the showing made, it would appear that there is a necessity for the operation of such road as referred to in the applicant's petition, and that it should be authorized to operate as a common carrier, and that said petitioner is entitled to a certificate of convenience and necessity accordingly to so operate and maintain said road as a common carrier within the State of Utah.

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. 159.

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. 1922.

In the Matter of the Application of the BALLARD & THOMPSON RAILROAD COMPANY for a certificate of convenience and necessity to operate its railroad as a common carrier of freight and passengers between Thompson and Sego, Utah.	CASE No. 564.

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 Ballard & Thompson Railroad Company be, and is hereby, authorized to operate its railroad as a common carrier between Thompson and Sego, Utah.

IT IS FURTHER ORDERED, That before beginning such operation, applicant shall comply with the laws of the State of Utah and rules of this Commission regarding filing of schedules, and so forth.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

CULLEN HOTEL COMPANY, a corporation, et al., *Complainants,* vs. UNION PACIFIC RAILROAD COMPANY and OREGON SHORT LINE RAILROAD COMPANY, *Defendants.*	CASE No. 565.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of FRED KOPP, for permission to operate an automobile truck line for the transportation of milk and cream from Lindon and intermediate points to Salt Lake City, Utah. } CASE No. 566.

Submitted August 17, 1922. Decided August 28, 1922.

Appearances:

Fred Kopp, Petitioner.
Walter C. Hurd, for Utah Central Truck Co.
Ralph H. Jewell, for Salt Lake & Utah Railroad Co.
Charles A. Root, for Los Angeles & Salt Lake Railroad Co.
L. E. Gehan, for American Railway Express Company.

REPORT OF THE COMMISSION

By the Commission:

This case was heard August 17, 1922, before the Commission upon the petition of the applicant together with the protests of the Los Angeles & Salt Lake Railroad Company, the Denver & Rio Grande Western Railroad Company, the American Railway Express Company, the Salt Lake & Utah Railroad Company and the Utah Central Truck Company.

The petitioner represented that his place of business was Pleasant Grove; and that he desired to engage in the hauling of milk and cream from Lindon and certain intermediate points to Salt Lake City; that there was at the present time fifty producers of milk and cream located at or near Lindon and intermediate points between there and Salt Lake City, who were shipping their products to a market at Salt Lake City. Said milk and cream are shipped by express over the line of the Denver & Rio Grande Western Railroad, the Los Angeles & Salt Lake Railroad and the Salt Lake & Utah Railroad. That the present rates charged by the carriers are excessive, so much so that the producers of milk and cream cannot market their products at a reasonable profit.

The petitioner represented that he was equipped to handle the milk and cream by truck direct from the points of production to the market in Salt Lake City at a rate that would be of considerable saving to the producers; and that public convenience and necessity required establishing of transportation of the kind contemplated, which would be more economical and result in a reasonable profit to the producers of milk and cream. And upon such a showing and condition that he be authorized to operate a truck line for the transportation of milk and cream from Lindon and certain intermediate points to Salt Lake City.

The protest of the Central Truck Line Company was upon the grounds and for the reason that the said protestant is operating a daily automobile truck service for the transportation of freight of all kinds from Salt Lake City, Utah, to Provo, Utah, under the authority of the Public Utilities Commission of Utah, and denies that there is a necessity for the proposed service in said territory; that the said protestants are fully equipped to properly and efficiently handle all freight along its route including milk and cream; that the only reason that could be considered for the establishing of the proposed service is found in the rate. The applicant proposes to haul the milk and cream from the producer to the market for 20 cents per can, while the rate charged by the common carriers is 25 cents, (the existing rate which has heretofore been allowed by the Commission).

While this is not necessarily a rate case, however, the question that might appeal to the Commission is the matter of reduction of rates, some testimony was allowed to go into the record. The figures presented by the applicant based upon the rate of 20 cents per can tend to show or to raise the question as to whether or not the protestant could give an adequate and sufficient service the year round at such figures.

While it appears the farmer or the producer of milk and cream receives a small price for his product, yet the rates charged would only be a small proportion of the cost from the producer to the consumer.

Rates charged by common carriers may be questioned by shippers at any time, and it is the duty of the Commission, either upon complaint or its own motion, to investigate and determine that common carriers rates are reasonable, and for that purpose hearings are had from time to time.

In this case, we have the question of necessity and convenience to predicate our decision upon. And from the showing there would seem to be no immediate necessity for the establishing of further service than is now being given in the territory in question by the common carriers. Under all the circumstances and conditions it would appear that 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 28th day of August, A. D. 1922.

In the Matter of the Application of FRED KOPP, for permission to operate an automobile truck line for the transportation of milk and cream from Lindon and intermediate points to Salt Lake City, Utah. } CASE No. 566.

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, 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, a corporation, for permission to cross at grade of streets and public highways intersecting its proposed Fillmore Branch extending between the Town of Delta and the City of Fillmore in Millard County, Utah, with a standard gauge railroad track.	CASE No. 567.

Submitted July 21, 1922. Decided July 26, 1922.

Appearances:

Mr. J. T. Hammond for the Los Angeles & Salt Lake R. R. Co.

Mr. H. C. Means for the State Road Commission of Utah.

Mr. B. J. Finch for the U. S. Bureau of Federal Roads.

REPORT OF THE COMMISSION

GRADE CROSSING PERMIT No. 67

By the Commission:

In an application filed July 18, 1922, the Los Angeles & Salt Lake Railroad Company, a corporation engaged in transporting persons and property for hire as a common carrier within the State of Utah, represents that it is about to begin the construction of a standard gauge single track branch railroad from its main line at Delta, Utah, to Fillmore, Utah, in Millard County, a distance of 31 miles; that in the construction of such branch line, it is necessary to cross various streets and highways, both State and County, such streets and highways being described and set forth in particular in the application. Certified copies of certain franchises granted by the Board of County Commissioners of Millard County, Utah, and by the Board of Trustees of the Town of Delta, Millard County, Utah, were attached to the application.

Applicant asks the Commission to grant it authority under Section 4811, Compiled Laws of Utah, to cross all such streets and highways at grade.

The Board of County Commissioners in a telegram dated July 19, 1922, waived all rights to be present at the hearing or make protest against the application.

The case came on for hearing before the Commission at 10 o'clock A. M., July 21, 1922, notice of such hearing having been given by telephone.

It appeared from the showing that the proposed crossings are for a branch line of railroad extending from the town of Delta to the City of Fillmore, in Millard County, Utah, and is the only practical method by which said track can be constructed; and that the separation of grades over said crossing is not at this time necessary; that the said track will be constructed to meet, as near as practicable, the lines of the streets and highways. Crossings and standard warning signs will be so located as to warn the traveling public of the existence of the railroad track; that the purpose of the building of said branch is to meet the demands of the public traffic and the development of a section of country lying between the two points, namely, Delta and Fillmore.

The contour of the country is such that an approaching train from any point on the route, and especially at this point, where the crossings of the highway will be made by the railroad, can be seen at a long distance so that there is no immediate danger in the operation of trains over the highways in question at grade.

It is further represented that there would be but one train a day each way for some time to come; that there were no hills or mountains or other conditions which make it difficult to operate trains in a manner that would be dangerous to traffic crossing at grade the said railroad track.

The Commission finds that the application should be granted with the express understanding that said crossings shall be built according to the rules and regulations heretofore prescribed by the Commission, or that may hereafter be made, and that it reserves jurisdiction to make any further orders that it might see fit in regard to the matter. And it is so ordered.

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

STOUTNOUR, Commissioner, Dissenting.

This is an application to cross streets and highways at grade under Section 4811, Compiled Laws of Utah, and is incident to the construction of a single track branch line of railroad by the Los Angeles & Salt Lake R. R. Co., between Delta, Utah, and Fillmore, Utah.

In this application, no mention is made or action sought by the carrier for authority to construct such line under Section 4818, Compiled Laws of Utah, as amended by Chapter 14, Special Session Laws of 1919.

Application had however been made to the Interstate Commerce Commission for authority to make this extension. It has not been decided that the Interstate Commerce Commission has exclusive jurisdiction in these cases and it appears from the data before the Commission that traffic over this branch line will be largely intrastate in its character.

Before this grade crossing permit should issue, the Commission should have passed upon the primary issue which necessarily must arise under the aforesaid law. This the Commission has not done.

(Signed) WARREN STOUTNOUR,

Commissioner.

In the Matter of the Application of L. E. PADDOCK for permission to operate an automobile stage line between Modena and Enterprise, Utah. } CASE No. 568.

Reported with Case No. 559.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

B. L. COVINGTON,
Complainant,
vs.
WM. H. MARSHALL,
Defendant.
CASE No. 569.

Submitted Sept. 16, 1922. Decided October 11, 1922.

Appearances:

Judge D. H. Morris, for Complainant.
Geo. R. Lund, for Defendant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter came on for hearing at St. George, Utah, on the 16th day of September, 1922, upon the complaint of the complainant and the answer of the defendant.

The complainant contended and the testimony was to the effect that B. L. Covington was and is conducting an auto freight truck line between St. George and Lund and Modena and St. George; that W. H. Marshall is joint owner in a franchise to operate a truck line between the points named above; and that said Marshall, since the 21st day of September, 1921, has only made five trips for freight between St. George and Lund, and only four trips from Modena to St. George. That the defendant failed to perform the obligations of said franchise since the latter part of April, 1922, and he has sold his truck and has retired from the business.

Complainant asks that the operation of the franchise allotted to the defendant, heretofore, be forfeited, and that the complainant be awarded the sole franchise to haul freight between the above named points.

The defendant answering said complaint contends and testifies that he operated a truck freight service between the points in question with Joseph J. Milne; that the operation while jointly under a partnership was carried on

independently of each other—each owning his own truck, and neither participating in the earnings of the other. That there was no definite understanding as to the exact number of trips which each should make, but that trips were largely governed by the amount of freight that was to be handled; that he has given service in connection with Mr. Milne and others—successors to Mr. Milne—at a time and under conditions which resulted in taking care of all and any freight to be carried over the road. That recently he had disposed of his truck and had taken steps to transfer his right to A. R. Barton. That at times when he was unable to furnish a truck on the road for the purpose of hauling freight, he consulted with his partners and made arrangements with them to do so. The question here raised was similar to the one in Case No. 565, and was decided adversely to the contentions therein made by the complainant.

The showing does not appear to be sufficient to sustain the allegations of the complaint, and therefore the decision of the Commission is for the defendant.

No cause of action has been sustained.

(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 10th day of August, 1922.

B. L. COVINGTON,
Complainant,
vs.
WM. H. MARSHALL,
Defendant.

CASE No. 569.

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 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 R. J. FARNSWORTH to transfer to CHARLES STARR authority to operate an automobile passenger line from St. George and Cedar City in Connection with W. H. MARSHALL.	CASE No. 570.

Submitted Sept. 16, 1922. Decided October 11, 1922.

Appearances:

R. J. Farnsworth, for the Petitioner.
Geo. R. Lund, for the Applicant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard in part at Cedar City on the 15th of September, 1922, and completed at St. George on September 16, 1922.

The testimony was to the effect that some years ago, R. J. Farnsworth and W. H. Marshall were given a certificate of necessity and convenience to operate a passenger stage line between St. George and Cedar City; that since said time they had given service to the public and were still in the possession of the license and certificate to so operate.

R. J. Farnsworth desired to discontinue his connection with the partnership and the giving of the service, and recommended that Charles Starr be made a part of the partnership instead of himself.

Mr. Marshall was present and stated that it was entirely satisfactory to him, and raised no objections to it.

Under the showing made, it appears that the applicant, Charles Starr, should be given the certificate of necessity and convenience to carry passengers between Cedar City and St. George in connection with W. H. Marshall, and that he be substituted in such service for R. J. Farnsworth, who is hereby released from any further responsibility to carry passengers between said points.

It appeared at the hearing that Farnsworth had cleared up everything so that he is not in any way obli-

gated to the public by outstanding tickets or other obligations connected with the giving of service.

An appropriate order will issue.

(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. 166.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 11th day of October, A. D. 1922.

In the Matter of the Application of R. J. FARNSWORTH to transfer to CHARLES STARR authority to operate an automobile passenger line from St. George and Cedar City in Connection with W. H. MARSHALL. } CASE No. 570.

IT IS ORDERED, That the application be granted and applicant, R. J. Farnsworth, be permitted to withdraw from and Charles Starr be permitted to assume the operation of an automobile stage line between St. George and Cedar City, Utah.

IT IS FURTHER ORDERED, That before beginning such operations, applicant, Charles Starr, shall publish and file with the Commission, and post at each station on his route, a schedule of his rates, fares and charges, such schedule to be published in the manner prescribed in the Commission's Tariff Circular No. 4, and shall at all times operate his stage line in conformity with the rules and regulations governing the operations 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 CARBON COUNTY RAILROAD COMPANY, for permission to construct, operate and maintain a line of railroad from the main line of the Denver & Rio Grande Western Railroad to the coal mines in Carbon County, Utah.	CASE No. 571

Submitted August 15, 1922. Decided August 24, 1922.

Dickson, Ellis & Adamson, for applicants.

REPORT OF THE COMMISSION

By the Commission:

Hearing on the above application came on before the Commission at Salt Lake City, Utah, August 15, 1922. There appeared at said hearing the applicant by its attorney, there being no other appearances in opposition of same either in writing or otherwise.

Said applicant represented that it was a corporation duly organized and existing under the laws of Utah with its principal place of business at Salt Lake City, Utah; that the object of said corporation is to construct, own, operate and maintain a railroad for the public convenience of the persons and property within the County of Carbon, State of Utah.

It was represented by applicant that the territory to be served is not traversed by any railroad; that the Utah Coal & Coke Company, a corporation of Utah has large and valuable deposits of bituminous coal, located at and near the southeasterly terminus of the proposed new line of railroad; that said Coal & Coke Company is now developing large coal properties which it expects to operate extensively. Further, that at the present time said Coal & Coke Company has no adequate means of transporting the products from its property or transporting the necessary supplies to such property, and that the applicant, the Carbon County Railway Company, promoted by the identical interests owning and controlling said Utah Coal

& Coke Company, is formed and organized as an independent corporation for the purpose of enabling it to secure rights of way across Government land under acts of Congress. Applicant alleges that there exists a public necessity for the construction and operation of the proposed new line of railroad. Maps were introduced showing the location of the proposed railroad.

For the reasons above set forth, the petitioner asks that the Public Utilities Commission of Utah grant unto said petitioner a certificate of public necessity and convenience for the construction, maintenance and operation of a line of railroad to be operated as a common carrier of freight and passengers between a junction with the main line of the Denver & Rio Grande Western Raliroad at a point located 517 feet easterly from mile post 13 and the mines, the mining property lying in a general southeasterly direction approximately four and one-half miles from said Denver & Rio Grande Western junction point, making a distance of 4.79 miles.

The testimony submitted clearly supported the allegations of the applicant's petition; and under said showing the Commission finds that the petitioner is entitled to a certificate of necessity and convenience to build, maintain and operate a railroad as a common carrier between the points described in the petition and set out in the map filed with the Commission for the purpose of transporting freight and passengers in intrastate traffic.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
WARREN STOUTNOUR,
JOSHUA GREENWOOD,

Commissioners.

Attest:

(Signed) T. E. BANNING,

Secretary.

ORDER

Certificate of Convenience and Necessity
No. 160

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 24th day of August, A. D. 1922.

In the Matter of the Application of CARBON COUNTY RAILROAD COMPANY, for permission to construct, operate and maintain a line of railroad from the main line of the Denver & Rio Grande Western Railroad to the coal mines in Carbon County, Utah.	CASE No. 571

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 that applicant, Carbon County Railroad Company be, and it is hereby, authorized to construct, operate and maintain a line of railroad from the main line of the Denver & Rio Grande Western Railroad to the coal mines of the Utah Coal & Coke Company in Carbon County.

ORDERED FURTHER, That in the construction of such line, applicant, the Carbon County Railroad Company, shall conform to all rules and regulations heretofore issued by the Commission governing clearances, safety devices, etc.

IT IS FURTHER ORDERED, That applicant, Carbon County Railroad Company, shall begin construction work within a reasonable time and shall pursue the same in a diligent manner and complete such construction without unnecessary delay.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOSEPH BLOOMFIELD and others for electric service. } CASE No. 572

Submitted August 23, 1922. Decided November 3, 1922.

Appearances:

Scott S. Smith for Joseph Bloomfield, et al.
P. M. Parry for the Utah Power & Light Co.

REPORT OF THE COMMISSION

By the Commission:

The record in this case discloses that Joseph Bloomfield and others residing near Woods Cross, Utah, made an application to the Utah Power & Light Company for residence electric service.

After some negotiation, it appeared that the terms and conditions under which the Utah Power & Light Company was willing to render service to the said Joseph Bloomfield and others were not acceptable. Thereupon, the said Joseph Bloomfield, et al., requested the Commission to investigate the proposed rules and conditions and to determine just and reasonable rules under which the electric service should be rendered.

The Commission accordingly entered an order setting the above case for hearing and investigation upon the 3rd day of August, 1922. At the hearing, there was submitted a detailed estimate of cost by the Utah Power & Light Company for the proposed extension on Paige's Lane, near Centerville, Utah, of approximately 3800 ft., of single phase 2300 volt primary line and a thousand feet of secondary line and connections to nine residence lighting consumers.

The total estimate of cost to serve the foregoing customers was $1,107.05. Exception was taken to this estimate; that it was unreasonably high, and that numerous items, totaling some $300.00 were included that should be excluded, and that a reasonable estimate of cost would

approximate $801.50, and that upon this estimate as a basis under the "Two to one" extension rules, the consumer's deposit should be computed.

Public utilities should be required to render service to consumers under conditions that are just and reasonable to the consumer and to the utility. The financial integrity of the utility, and hence its ability to render continuing and adequate service, depends upon the revenues derived from the rates applied to all of the consumers. If the revenues derived from a particular consumer in relation to the special investment made to serve him is not a reasonable amount, then and in that event such consumer becomes a burden upon the general consuming public and constitutes unlawful discrimination. Hence it is that consumers located at a too great distance from existing lines or having peculiar conditions of taking service are required to share in the special investment made to serve them. Part or all of the investment made by the consumer to give him service is returned within a reasonable time depending upon the amount and kind of service taken.

However, in its general obligation to serve the public in return for which the utility under the law must be allowed just and reasonable rates, the utility itself must make general investments without regard to a particular consumer. These investments are and should be included in the rate base upon which general rate schedules are constructed. This kind of an investment should not be included as a part of the cost required of a particular consumer. Included in the present estimate is the cost of meters for house service, which should come in general investment costs.

In line with the foregoing, this cost should be excluded and the general estimate reduced by $72.00. The other items going to make up the estimate are items which everybody familiar with electric construction knows must, in a general way, be included; neither can we say that the estimate submitted for this extension is unreasonable in amount. This is an estimate and the amount finally retained by the company from the consumer will be based upon the actual cost ascertained after the work is finished. This detailed cost, the Commission will check, so that the question raised by complainants that the estimate is exorbitant is in its final analysis not controlling.

The Power Company has offered to utilize the labor of these prospective consumers in the construction of the

extension in so far as they are fitted for the task at hand, or on the other hand is willing to let the contract for the work to any competent contractor, so that it does not appear that an injustice will be done, or is intended. To insure the safety of both the public and employees, certain standards of construction must be insisted upon; to do otherwise would be against good public safety. These prospective consumers, unfortunately, live at a considerable distance from existing lines, in a neighborhood sparsely settled at this time, and earnings accruing from this line at best for a considerable time into the future must be meager.

An appropriate order will issue.

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
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 7th day of November, A. D., 1922.

In the Matter of the Application of JOSEPH BLOOMFIELD, and others for electric service.	CASE No. 572

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 respondent, Utah Power & Light Company, eliminate from its estimate the cost of house meters, amounting to Seventy-two Dollars ($72.00) and upon application construct said extension in accordance with its standard rule governing extensions to new consumers.

IT IS ORDERED FURTHER, That upon the completion of said extension, respondent, Utah Power & Light Company, submit to the Commission a detailed statement showing the amount actually expended in such construction.

By the Commisssion.

(Signed) T. E. BANNING,

(SEAL) Secretary.

C. E. SMITH, et al.,
Complainants,
vs.
THE BEAR CANYON PIPE LINE, COMPANY, a corporation,
Defendant.

CASE No. 573

PENDING.

In the Matter of the Application of the PROVO TRANSFER & TAXI COMPANY, for permission to operate a truck line between Provo, Eureka and Nephi, Utah and intermediate points.

CASE No. 574

PENDING.

F. B. HAMMOND,
Complainant,
vs.
BLUE MOUNTAIN IRRIGATION CO., a corporation,
Defendant.

CASE No. 575

PENDING.

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for an investigation and order covering a crossing of the State Highway over the Oregon Short Line Railroad near Brigham, Utah.

CASE No. 576

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of IRON COUNTY RAILROAD COMPANY for a certificate of public convenience and necessity.	CASE No. 577

ORDER

Upon motion of the applicant, and with the consent of the Commission:

IT IS ORDERED, That the proceedings in the above entitled matter be, and the same are hereby, dismissed.

By the Commission.

Dated at Salt Lake City, Utah, this 30th day of October, 1922.

(Signed) T. E. BANNING,

(SEAL) Secretary.

In the Matter of the Application of SALT LAKE CITY, a Municipal Corporation, for permission to construct a public highway across the tracks of the Bamberger Electric Railroad Company.	CASE No. 578

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of NEPHI CITY for authority to amend its rules for electric service. } CASE No. 579

Submitted October 12, 1922. Decided November 29, 1922.

Appearances:
P. N. Anderson, for Applicant.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

The above matter was heard at Nephi City on the 12th day of October, 1922.

Proof of publication and notice was submitted, but there was no opposition in writing or otherwise.

It appeared from the evidence that Nephi City is a municipal corporation, and the owner of a power plant which it maintains and operates for generating electricity and supplying it to the inhabtants of said city.

That for the purpose of modifying and changing the rules regulating the giving of service and especially in the matter of collecting bills, the applicant asks for an order permitting it to adopt the following rule, to wit:

RULE

"The owner of any premises whereupon electric service by Nephi City, corporation, shall be furnished, shall be primarily liable for the charges thereof, whether it be used by such owner or his tenants, unless, such owner shall give written notice to the City Linemen of Nephi City of his intention to lease or rent his premses and request that his liability for such service cease. Such notice to be filed with the City Recorder.

That previous to supplying any electric service to any person upon premises not owned by such person may be or leased by him, a deposit of a sum equal to three months charge for service as required by said person may be demanded in advance to supplying any such service as a

guarantee of the payment of charges to accrue. But such advancement shall not relieve such person from paying the monthly charge to become due for such service and upon failure of paying such monthly charges the said deposit may be applied to the payment thereof, provided, that if such service be discontinued at any time and there remains any portion of said deposit in favor of such person, then the same shall be refunded to him."

The claim and contention of the City for establishing and enforcing the above rule is that they have experienced some difficulty and loss in collecting from subscribers who are tenants and live in rented homes; that the rule if invoked, will insure the City against any such loss heretofore sustained by it, viz., in making, under certain circumstances, the owner of the premises, where electric services are furnished, primarily liable for charges thereof, whether it be used by such owner or his tenant; unless such owner shall give written notice to the City or its agents as set forth in the rule.

A careful consideration of this part of the proposed rule would seem to involve a principle which this Commission would have no authority to handle.

The second part of the proposed rule requires subscribers who are renting or leasing homes to deposit a sum equal to three months charges to guarantee payment of the monthly charges.

The purpose of this part of the rule would seem to be to make the City safe in furnishing service to tenants, or what may be termed transients. The rule is necessary under the judgment of the City Officials, and the Commission agrees with such attitude under the showing, with the exception that it should be modified so as to read "That previous to supplying any electric service to any person, upon premises not owned by such person, but rented or leased by him, a deposit of a sum equal to two month's charges for services as requested by said person may be demanded in advance to supplying any such service, instead of three months. We think such modification should be made for the reason that a deposit of a sum equal to two months charges will sufficiently secure the City, if the other rules and regulations concerning collections are enforced.

It is therefore concluded by the Commission that the first part of the rule as above referred to should not be

approved and that the latter part may be approved by modifying and changing the time of three months to two months.

An appropriate order will be issued.

(Signed) JOSHUA GREENWWOD,
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 December, A. D., 1922.

In the Matter of the Application of NEPHI CITY for authority to amend its rules for electric service. } CASE No. 579

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 of Nephi City, for permission to establish and make effective a rule requiring the owner of the premises primarily liable for charges for electric service rendered tenants of such property, be and it is hereby, denied.

ORDERED FURTHER, That applicant, Nephi City, be, and it is hereby authorized to establish and put into effect a rule providing for a deposit of a sum equal to two month's charges for electric service, when applicant is occupying premises as a tenant or under lease, such deposit to be made before service is rendered.

IT IS FURTHER ORDERED, That such rule may be made effective on 30 days' notice to the public and the Commission, such notice to be given by publishing and filing such rule in the manner heretofore prescribed by the Commission.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of the UTAH CENTRAL RAILROAD COMPANY, for a certificate of public convenience and necessity. } CASE No. 580 √

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of GEORGE E. BALLINGHAM for permission to operate an automobile stage line between Grouse Creek and Lucin, Utah.	CASE No. 581

Decided October 21, 1922.

REPORT OF THE COMMISSION

By the Commission:

On August 22, 1922, Geo. E. Ballingham filed an application with the Commission for authority to operate an automobile stage line between Grouse Creek and Lucin, Utah, representing that he has the contract for transporting the U. S. mail between these points.

Applicant further represents that there is no established transportation service between Grouse Creek and Lucin, Utah; that the distance is approximately thirty one miles and that applicant has ample equipment to carry passengers and express and has secured the services of efficient drivers to operate such cars.

Applicant desires to operate one round trip daily, except Sundays, and establish a fare of $1.50 for the transportation of passengers one way and a rate of 35c per hundred pounds for the transportation of express.

Grouse Creek is located north of Lucin on the line of the Southern Pacific Railroad, and does not have railroad facilities, and the Commission's records indicate that no stage line has ever been established between these points.

It is the opinion of the Commission that no formal hearing need be held upon this application and that public convenience and necessity require the establishment of transportation facilities between these points, and that applicant should be granted an opportunity to establish stage service as outlined in his petition.

He should be required to comply with all the Commission's rules and regulations regarding the filing of tariffs, etc., before beginning such operations.

An appropriate order will be issued.

(Signed) A. R. HEYWOOD,
JOSHUA GREENWOOD,
WARREN STOUTNOUR,

(SEAL) Commissioners.

Attest:

(Signed) T. E. BANNING,

Secretary.

ORDER

Certificate of Convenience and Necessity
No. 169

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 21st day of October, A. D., 1922.

In the Matter of the Application of GEORGE E. BALLINGHAM for permission to operate an automobile stage line between Grouse Creek and Lucin, Utah. } CASE No. 581

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 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 Geo. E. Ballingham be, and he is hereby, authorized to operate an automobile stage line between Grouse Creek and Lucin, Utah.

ORDERED FURTHER, That before beginning such operation, applicant should file with the Commission a schedule showing the rates, fares and charges and regulations as well as arriving and leaving time from each station, said schedule to be filed in the manner prescribed in the Commission's Tarff Circular, No. 4.

Applicant shall at all times operate his stage line in conformity with the rules and regulations of this Commission governing such operation.

By the Commission.

(Signed) T. E. BANNING,

Secretary.

In the Matter of the Application of E. L. VEILE, for permission to operate an automobile stage line between Fillmore and Beaver, Utah. } CASE No. 582 √

PENDING.

In the Matter of the Application of ABE MEEKING, Jr., for permission to operate an automobile stage line between Salt Lake City and Ogden, Utah, and intermediate points. } CASE No. 583 √

PENDING.

In the Matter of the Investigation of the service rendered by the Salt Lake-Ogden Transportation Company. } CASE No. 584 √

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES F. MITCHELL for a Certificate of Convenience and Necessity authorizing him to operate an automobile line for carrying freight between Salt Lake City and Bingham Canyon, Utah.	CASE NO. 585

Submitted October 5, 1922. Decided October 30, 1922.

Appearances:

James A. Stump for James F. Mitchell,
Dan B. Shields for Protestant W. D. Allen.

REPORT OF THE COMMISSION

By the Commission:

This case came on regularly for hearing before the Commission at the Capitol Building, October 5, 1922, upon the application of the applicant and the protest of W. D. Allen.

The applicant represented that he was a resident of Bingham Canyon, Utah, and was engaged in the business of carrying freight by automobile truck between Salt Lake City, Utah, and Bingham Canyon, Utah; that business conditions have improved in said mining camp to the extent that there is a reasonable need of two automobile truck lines, and at present there is but one certificate of convenience and necessity issued by this Commission to operate and give such service between the points in question. That it was the desire of the merchants and business men of Bingham Canyon to have competition in the matter of carrying freight in order that the service might be improved. That the applicant has an automobile truck for carrying freight and if found necessary would procure additional trucks to the extent of satisfying the demands of the traffic. That the said petitioner was an experienced automobile driver and had considerable knowledge of operating the same for hauling freight.

The protestant, W. D. Allen, appeared and represented that he was the holder of Certificate of Convenience and Necessity, No. 141, issued by this Commission on the 31st

day of May, 1922; that such certificate authorizes him to operate an automobile freight line between Salt Lake City and Bingham Canyon. That he filed his schedule of rates and charges and complied with all the requirements and regulations of the Commission, and is at the present supplying a service between the points in question by operating a regular daily freight truck; that he has two automobile trucks operating and is able, as occasion shall demand, to furnish others; that he is meeting all the requirements and transporting all freight offered in keeping with his schedule of rates; that the applicant, James F. Mitchell, has, in violation of law and without authority of this Commission, operated a truck and interfered with the rights of the protestant and to his damage; that there is no need of a competitive service; and if other services are authorized it will materially damage and hamper protestant.

Considerable testimony was taken in this case, which was to the effect that there had been some rivalry in the hauling of merchandise and freight from Salt Lake City to Bingham Canyon, but without going into the history of this service as it appears upon the records of the Commission, the protestant, Allen, was given a Certificate of Convenience and Necessity to haul freight between the points named; and has continued to give satisfactory service as far as appears by the evidence, and the reports made to the Commission.

The Complainant, Mitchell, has been engaged in operating an auto freight at intervals in connection with the B. & O. Company who, at one time operated a freight service but has since been relieved of said operation and voluntarily withdrew from giving such service.. And during the time that Mitchell was working for said Company he became acquainted with a number of business firms in Bingham and received their good will, and on account of such service received the patronage of some of the business men and continued giving such service after his connection with the B. & O. Company was severed, and without being authorized to so do by the Commission.

The question for the Commission to decide in this matter is:

First—As to whether or not the protestant, Allen, is carrying out the rules and regulations of the Commission and giving a service to the public under the schedule of rates and time.

Second—Whether or not the service being given by the protestant is adequate and sufficient.

Third—As to whether or not it would be an advantage in meeting the requirements, demands and conveniences of the shippers of Bingham Canyon to allow competitive service to be given.

After the hearing at Salt Lake City on October 5th, it was thought wise to further look into the conditions maintained at Bingham with reference to freighting facilities and for that purpose the Commission on the 25th day of October, 1922, re-opened the matter and proceeded to take further testimony. The parties being present, some additional testimony was given.

After a careful consideration of this matter, the Commission feels justified in finding that the service rendered by Mr. W. D. Allen has been such as to meet the present demands of the shippers.

That the amount of tonnage to be shipped and the service to be rendered is not of a nature and extent as to authorize a competitive service; that no complaints have been made to the Commission, the rules and regulations and orders of the Commission have been carried out, and the services given under the schedule of rates and time as filed with the Commission and published. And so long as such service is given by Mr. Allen, he should be protected in his investment and privilege of rendering said service to the public.

In thus concluding, the Commission does not assume the attitude of encouraging monoply but of establishing a dependable service upon which the public can rely. And the service rendered by the protestant would seem to meet every reasonable demand of the shipper.

Under the conditions the Commission is of the opinion that the application should be denied.

An appropriate Order will be issued.

(Signed) A. R. HEYWOOD,
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 2nd day of November, A. D. 1922.

In the Matter of the Application of JAMES F. MITCHELL for a Certificate of Convenience and Necessity authorizing him to operate an automobile line for carrying freight between Salt Lake City and Bingham Canyon, Utah.	CASE NO. 585

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 James F. Mitchell for permission to operate a motor truck freight line between Salt Lake City and Bingham Canyon, Utah, be and it is hereby denied.

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

In the Matter of the Application of BERNARD CASTAGNO, for permission to operate an automobile freight line between Salt Lake City and Grantsville, Utah.	Case No. 586

PENDING

In the Matter of the Application of HYRUM DAVIS for permission to operate a passenger stage line between Milford and the Utah-Nevada State Line west of Garrison, Utah.	CASE No. 587

PENDING

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of L. D. VAN WORMER relinquishing his present permit and JOHN MORTENSEN and J. C. RASMUSSEN applying for permission to operate a daily auto stage line between Milford and Beaver, Utah.	CASE No. 588

Submitted September 19, 1922. Decided October 26, 1922.

Appearances:

Mr. Van Wormer for himself.
Mr. Mortensen for himself.

REPORT OF THE COMMISSION

GREENWOOD, Commissioner:

This matter was heard at Milford on the 19th day of September, 1922, L. D. Van Wormer testified that he had been operating an auto stage line between Milford and Beaver under the authority of the Public Utilities Commission, but desired to withdraw from further service, and recommended that the transfer be made to John Mortensen and J. C. Rasmussen, and a certificate issue to them for the carrying of passengers between Milford and Beaver.

It was represented by John Mortensen and J. C. Rasmussen that they had been operating a stage line between Milford and Parowan for about two years; that the operation of said line was through Beaver, and that they traveled over the same line of road from Milford to Beaver in giving the service from Milford to Parowan. That they had made arrangements with Mr. Van Wormer to take over his rolling stock and desired a certificate from the Commission authorizing them to give the service to the traveling public by operating a passenger stage line between Milford and Beaver; that they were equipped to give such service; and that such service could be given more adequately and more conveniently by joining the two routes together and making a complete daily service to or from Milford and Parowan and intermediate points and return.

It was shown that they were competent and careful men, and had given good service for a number of years.

Considering the matter it would appear that the applicants for a certificate would be suitable persons to receive the franchise and give such 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

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of November, A. D. 1922.

In the Matter of L. D. VAN WORMER relinquishing his present permit and JOHN MORTENSEN and J. C. RASMUSSEN applying for permission to operate a daily auto stage line between Milford and Beaver, Utah.	CASE No. 588

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 granted, and applicant L. D. Van Wormer be permitted to discontinue, and applicants, John Mortensen and J. C. Rasmussen be permitted to assume operations of an automobile stage line between Milford and Beaver, Utah.

ORDERED FURTHER, That before beginning such operations, John Mortensen and J. C. Rasmussen shall publish, in the manner heretofore prescribed by the Commission, a schedule naming all rates, fares and charges together with a schedule showing the time of operation of all cars, and shall post such schedules at all points on said route, and file the same with the Commission, and shall at all times operate such stage line in conformity with the Commission's Rules and Regulations, governing the operations of stage lines.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) 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 November, A. D. 1922.

In the Matter of the Application of JAMES MOSS and SONS for permission to operate an automobile freight and passenger line between Payson and Nephi, Utah.	CASE No. 589

This case being called for hearing October 24, 1922, and applicant failing to appear to prosecute same:

IT IS ORDERED, That the application herein be and it is hereby dismissed.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

In the Matter of the Application of A. E. HOOPER, for permission to operate an automobile stage line between Mammoth and Eureka, Utah.	CASE No. 590 √

PENDING

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the Dixie Power Company, a corporation, for permission to serve Summit, Iron County, Utah, with electric service. } CASE No. 591

Decided October 20, 1922.

REPORT OF THE COMMISSION

By the Commission:

In the application filed September 18, 1922, the Dixie Power Company petitions the Commission for authority to construct, operate and maintain distribution lines for electric service in the village of Summit, Iron County, Utah.

Petitioner represents that it holds a blanket franchise from Iron County permitting it to erect poles upon the public highway and that transmission lines now pass through the village of Summit; no electric service now being rendered in this village.

The Commission is familiar with the conditions existing in this territory, and without the necessity of a formal hearing is of the opinion that the application should be granted and the Dixie Power Company be permitted to render electric service in Summit, Iron County, Utah.

In erecting its distribution system, applicant should conform to the rules and regulations governing the construction of such lines.

An appropriate order will be issued.

(Signed) JOSHUA GREENWOOD,
A. R. HEYWOOD,
WARREN STOUTNOUR,
Commissioners.

(SEAL)

Attest:

(Signed) T. E. BANNING,
Secretary.

ORDER

Certificate of Public Convenience and Necessity No. 168

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 20th day of October, 1922.

In the Matter of the Application of the DIXIE POWER COMPANY, a corporation, for permission to serve Summit, Iron County, Utah, with electric service.	CASE No. 591

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 applicant, The Dixie Power Company, be, and it is hereby authorized to construct, operate and maintain distribution lines for the purpose of rendering electric service in the village of Summit, Iron County, Utah.

ORDERED FURTHER, That applicant shall in the construction of such distribution system conform to the standard of construction heretofore prescribed by the Commission.

IT IS FURTHER ORDERED, That before rendering such service applicant shall file with the Commission a schedule naming all rates, rules and regulations applying in the village of Summit.

By the Commission.

(Signed) T. E. BANNING,
Secretary.

(SEAL)

INTERSTATE SUGAR COMPANY and JAMES J. BURKE, Receiver,
Complainants,
vs.
DENVER & RIO GRANDE RAILROAD COMPANY, et al.,
Defendants.

CASE No. 592 ✓

PENDING.

PEOPLES SUGAR COMPANY,
Complainant,
vs.
THE DENVER & RIO GRANDE RAILROAD COMPANY, et al.,
Defendants.

CASE No. 593 ✓

PENDING.

In the Matter of the application of WILLIAM H. MARSHALL to Withdraw and F. N. FAWCETT to assume the operations of the automobile stage line between Cedar City and St. George, Utah.

CASE No. 594✓

PENDING.

In the Matter of the Application of the UTAH IDAHO CENTRAL RAILROAD COMPANY for reparation against the Utah Power & Light Company. — CASE No. 595

PENDING.

MORTON SALT COMPANY, ..*Complainants*,
vs.
WESTERN PACIFIC RAILROAD COMPANY, et al., *Defendants*. — CASE No. 596

PENDING.

In the Matter of the Complaint of J. H. MANDERFIELD, et al., vs. The Mountain States Telephone & Telegraph Company. — CASE No. 597

PENDING.

APPENDIX I

Part 2—Ex Parte Orders Issued.

During the period covered by this report, the Commission acted upon 193 applications to publish rates upon less than statutory notice. These applications were in the major part for permission to effect reductions in the existing rates or fares. These ex parte orders may be classified by railroads, as follows:

Name	Number
Denver & Rio Grande Western Railroad	72
Bingham & Garfield Railway Company	7
J. E. Fairbanks (Agent)	1
F. W. Gomph (Agent)	4
J. W. Kelly (Agent)	1
Little Cottonwood Transportation Company	1
J. G. Maguire (Agent)	1
Oregon Short Line Railroad Company	30
J. A. Reeves (Agent)	16
Los Angeles & Salt Lake Railroad Company	28
Southern Pacific Railroad Company	1
Tooele Valley Railroad Company	2
Utah Idaho Central Railroad Company	7
Utah Railway Company	2
Western Pacific Railroad Company	7
Bamberger Electric Railroad Company	1
Salt Lake & Utah Railroad Company	10
Salt Lake, Garfield & Western R. R. Company	2

AUTOMOBILE STAGE LINES

The Commission issued twelve ex parte automobile orders.

These may be classified as follows:

Permission to change schedule, discontinue operations, etc.

APPENDIX I.

Part 3—Special Dockets—Reparation

Number		Amount
36	Wm. M. Roylance Co. vs. Denver & Rio Grande Western Railroad Company	$143.11
37	Wm. M. Roylance Co. vs. Denver & Rio Grande Western Railroad Company	242.04
38	Amalgamated Sugar Co. vs. Utah Idaho Central Railroad Company	134.68
40	Utah Idaho Sugar Company vs. Los Angeles & Salt Lake Railroad Company	750.38
41	John H. Seeley & Sons vs. Denver & Rio Grande Western Railroad Company	14.42
42	Portland Cement Co. vs. Denver & Rio Grande Western Railroad Company	202.96
43	Portland Cement Co. vs. Denver & Rio Grande Western Railroad Company	190.00
44	C. H. Reilley vs. Utah Gas & Coke Co.	21.21
45	J. D. Jerkes vs. Utah Gas & Coke Co.	5.92
46	E. D. Hoge vs. Utah Gas & Coke Co.	2.00
47	Garfield Smelting Co. vs. Bingham & Garfield Ry. Co.	420.58
48	O. F. Peterson vs. Utah Gas & Coke Company	.70
49	Morgan Canning Company vs. Utah Idaho Central R. R. Company	1,178.28
50	International Smelting & Refining Co. vs. Goshen Valley Railroad Company, et al.	719.41
51	Job White vs. Utah Gas & Coke Company	9.23
52	Woodruff Margetts Coal Co. vs. Denver & Rio Grande Western Railroad System, J. H. Young, Receiver	61.11
53	Utah Steel Corporation vs. Denver & Rio Grande Western Railroad System, et al.	98.24
54	Milstein & Co. vs. Denver & Rio Grande Western R. R. Co.	74.06
55	Ezra P. Thompson vs. Utah Gas & Coke Co.	9.25

APPENDIX II

Part 1—Grade Crossing Permits

The Commission issued ~~12~~ 17 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	No.
Denver & Rio Grande Western R. R. Co.	4
Farmers Mill & Elevator Company	1
Los Angeles & Salt Lake Railroad Co.	4
Salt Lake & Utah Railroad Company	2
Western Pacific Railroad Company	1

APPENDIX II

Part 2.—Certificates of Convenience and Necessity

Certificates of Convenience and Necessity issued as follows:

Certificate No.	Case No.	Classification
124	485	Automobile
125	469	Automobile
126	472	Automobile
127	475	Automobile
128	478	Automobile
129	460	Automobile
130	495	Automobile
131	499	Automobile
132 Not used	Geo. L. Rich Case 359.	3-17-22.
133	501	Automobile
134	502	Automobile
135	492	Automobile
136	519	Automobile
137	509	Automobile
138	517	Automobile
139	538	Automobile

Certificate No.	Case No.	Classification
140	533	Automobile
141	526	Automobile
142	524	Automobile
143	532	Automobile
144	522	Automobile
145	543	Automobile
146	507	Automobile
147 Not used		
148	534	Automobile
149	546	Automobile
150	547	Automobile
151	554	Automobile
152	530	Automobile
153	504	Automobile
154	537	Automobile
155	555	Automobile
156	544	Telephone
157	556	Automobile
158	550	Automobile
159	564	Steam Railroad
160	571	Steam Railroad
161	562	Electric
162	541	Radio Telephone
163	563	Electric
164	508	Automobile
165	557	Automobile
166	570	Automobile
167	560	Automobile
168	591	Automobile
169	581	Automobile
170	548	Automobile

APPENDIX II

Part 3.—General Orders

PUBLIC UTILITIES COMMISSION OF UTAH

Tariff Circular No. 4

Governing the Filing of Tariffs by Automobile Passenger and Freight Lines.

All tariffs shall be printed on white paper of good quality of size 8½x11 inches, from type of size not less than 6 point full face. Hectograph, mimeograph or similar process may be used. All tariffs shall contain the following information:

The title page shall bear in the upper right hand corner the letters P. U. C. U. and shall be numbered consecutively, beginning with No. 1, thus: P. U. C. U. No. 1. When a tariff cancels a previous issue, the P. U. C. U. No. of cancelled tariff shall be shown in smaller letters directly beneath the current number, thus:

P. U. C. U. No. 3.

Cancels P. U. C. U. No. 2.

The notation "No supplement to this tariff may be issued except for the purpose of cancelling the tariff," shall be shown in the upper left hand corner of the title page. The name of the corporation, or person, owning or operating the passenger stage line, and the location of principal or general office, together with the title "Passenger Tariff No........., naming rates for the transportation of passengers between all points on the line of the...................stage line," shall be shown in the center of the title page.

On the lower part of the page shall be shown on the left:

ISSUED........................and on the lower right:
(Month) (Day) (Year)

EFFECTIVE........................Directly beneath
(Month) (Day) (Year)

the effective date shall be shown the name, title and address of the officer or owner issuing the tariff, thus:

Issued by......................
Name

....
Title

....
Address

Where a line operates during a portion of the year only, the date of expiration must be shown beneath the effective date of the tariff, thus: "Expires..............."

All following sheets shall be numbered consecutively, and shall show the name of the corporation or person issuing the tariff, P. U. C. U. number, date issued, date effective, name, title and address of officer or owner issuing the tariff, and when cancelling a former sheet, must show the number of sheet cancelled.

Sheet No. 1 shall show "Table of Contents," which shall definitely show sheet number of tariff upon which rates, rules and regulations, etc., are published. If sufficient space is available, sheet No. 1 may also show the names of stations between which rates named apply. Where a stage line operates between two points only, the list of stations may be omitted, provided title page names stations between which rates apply.

Each consecutive sheet shall show in the order named the following: "Rules and Regulations," "Passenger fares," "Excess Baggage Rates," "Express Rates." When the stage line picks up passengers or property at points other than its established depot, this must be stated in "Rules and Regulations," and the limits within which such pick-up and delivery service is rendered must be clearly defined. All rates and fares must be clearly set forth in dollars and cents per passenger, or per hundred pounds, as the case may be, between all points. Where any fares or rates are named in cents per mile, a table showing the distance between all points where such rates are to be applied, shall be published on sheet or sheets immediately following the last sheet naming rates or fares.

A schedule showing the time of arrival and departure of all cars from each station, and the location of the station, depot, or ticket office in each city or town on the line or route, shall follow the sheet naming distances.

Passenger fares, express rates and excess baggage charges may be published in one tariff. Freight rates shall be named in a separate tariff, which must be published in like manner, modifying the wording to cover freight charges.

Copies of all effective tariffs shall be kept on file for public inspection at each station, depot or ticket office of the issuing carrier, and two copies shall be filed with the Public Utilities Commission at least 30 days prior to the effective date thereof, unless the Commission by order permits the filing of such tariff on less than 30 days notice.

All passenger and freight automobile lines, operating under the jurisdiction of the Public Utilities Commission of Utah, are hereby required to publish tariffs in conformity with this circular and to file such tariffs with the Commission within 30 days from the date hereof.

Dated at Salt Lake City, Utah, this 24th day of May, 1922.

By the Commission.

(Signed) T. E. BANNING,

(SEAL) Secretary.

APPENDIX III

COURT DECISIONS

IN THE SUPREME COURT OF THE STATE OF UTAH

UTAH HOTEL COMPANY,
Plaintiff,
vs.
PUBLIC UTILITIES COMMISSION OF UTAH, and UTAH POWER & LIGHT COMPANY,
Defendants.

THURMAN, J.:

This is a proceeding in certiorari, under the Public Utilities Act, to review certain proceedings of the defendant Commission in the matter of the application of the defendant power company to increase its steam service rates.

The material facts are, that plaintiff for several years last past has been engaged in the hotel business in Salt Lake City, and prior to April 1, 1916, was also engaged in generating light and heat for its own use and retailing the surplus to affiliated buildings and interests. During all of said time the defendant power company was a public service corporation engaged in the business of manufacturing, vending and distributing to the public electricity, electrical energy and steam for heat, light and power.

On April 1, 1916, the plaintiff and power company entered into two written agreements, as parts of the same transaction, by which the plaintiff agreed to sell to the power company its plant, equipment and property theretofore used in connection with its business of generating light and heat, for a consideration of $214,300, payable in equal annual installments covering a period of fifteen years. It was agreed that the power company might anticipate the payment of any installment and also that the plaintiff might declare the contract forfeited on the happening of certain contingencies enumerated therein. In the event of forfeiture the title and possession of the property was to revert to the plaintiff.

In the second agreement the power company agreed to deliver to plaintiff, for its own use and for certain of its customers, electric energy and steam heat for certain purposes at "wholesale," up to a certain amount, for the flat sum of $55,000 per annum, payable in equal monthly installments. The two contracts covered the same period of time, were interdependent and neither would have been executed without the other. They are hereafter referred to as one contract. In pursuance thereof the power company entered into possession of the property and both parties, except as hereinafter stated, have complied strictly with the terms of the agreement.

On April 6, 1921, the power company, by its application filed with the defendant Commission, asked for an increase of rates for its steam heating service in an amount greatly in excess of the contract rate agreed upon by the parties. Plaintiff protested said application and in answer thereto set up and relied upon said agreement, contending that it was of such a nature and the consideration therefor was such as to bring the contract within the terms of the proviso to Sec. 4787, Subdv. 3, Comp. Laws, Utah, 1917, which provides, among other things, that nothing in the act shall be construed to prevent the carrying out of contracts for public utility service theretofore made "founded upon adequate consideration and lawful when made."

After considering the application of the power company, the protest and answer of the plaintiff thereto, and evidence and arguments in support of the respective contentions of the parties, the Commission arrived at the conclusion that the contract relied on by plaintiff was valid when made and was supported by a lawful consideration, but that the Commission was not bound by the date of the contract in determining the adequacy of the consideration but might consider the question of adequacy as of the date when the hearing was had in 1921. Considering the matter from that point of view the Commission concluded that the consideration was inadequate and for that reason held that the contract was discriminatory and preferential. Plaintiff was therefore placed upon the standard schedule for light, heat and power, but the Commission after investigating the value of what it termed a special consideration paid by the plaintiff in excess of that paid by the public generally, allowed plaintiff an annual credit throughout the life of the contract in the sum of $5,683.41.

In the foregoing brief statement of the facts we have omitted as immaterial many details, our purpose being to simplify the questions to be determined by the court.

Plaintiff applied for a rehearing before the Commission and the application was denied.

As stated in the beginning the case is before us on a writ of review.

Plaintiff's principal contention is that the contract between it and the defendant company entered into April 1, 1916, whereby defendant agreed to supply plaintiff with electrical energy and steam heat during the life of the contract for a flat sum per annum was founded upon an adequate consideration and lawful when made; that the rate fixed by the Commission for steam heat service and which the plaintiff is now required to pay is more than double the rate agreed upon by plaintiff and defendant, and that any interpretation of the statute which undertakes to justify such increase renders the statute obnoxious to both the Federal and State Constitutions in that it impairs the obligations of a contract and deprives plaintiff of its property without due process of law.

The defendant power company's reply to this contention is best stated in its brief filed in the case:

> "There is no question that the contracts between the Hotel Utah Company and the Utah Power and Light Company were valid when made and were based upon an adequate consideration as that term is defined and established by legal decisions extending from time immemorial to the present date, but these decisions were applied to contracts between individuals in which the state or society had no concern. The basis of the Public Utilities Act is the regulation of utility service in the interest of society as a whole, and is entirely in derogation of purely private rights, secured by contract or otherwise, of individual members of society whenever such rights are in conflict with the major public interest. It is in the light of this controlling purpose of the law that all of its provisions are to be construed, and when it exempts, or rather permits the commission to exempt, from the application of the standard rule of uniformity of rates and service, in accordance with regularly filed and published schedules, 'contracts heretofore made based upon adequate consideration and valid

when made,' the application of such exemption is to be construed in the light of the interest of the public in securing service, and not in the light of private interests of either of the contracting parties."

In the same connection defendant contends that the question before the court was authoritatively settled by the decision of this court in U. S. Smelting and Mining Co. v. Utah Light and Power Co., 197 Pac. 902. The decision in that case has acquired a unique distinction in the case at bar in that both parties quote excerpts from it and profess to rely on the doctrine therein enunciated in support of their respective contentions. The plaintiff in the instant case was also one of the plaintiffs in the case referred to and defendant power company now makes the point that the questions involved in the present case are *res adjudicata.* Whatever merit there may be in this contention, in view of the fact that the Commission expressly reserved the plaintiff's case for further consideration, we are not inclined to enter upon a close investigation to determine whether or not the particular questions involved were either expressly or impliedly reserved. It is of far more consequence to the parties litigant and to the people of the commonwealth that the principal question presented here be determined on its merits, especially if it be found, as contended by defendant, that the rule of *stare decisis applies.* If the questions involved have been heretofore adjudicated and determined by decisions of this court such decisions should be loyally adhered to or for cogent reasons be overruled and a different rule announced for cases of this kind. The paramount question therefore is, are the issues involved in the case at bar authoritatively settled by former decisions of this court? The cases referred to are as follows: Salt Lake City v. Utah Light & Traction Co.,—— Utah——, 173 Pac. 556; Union Portland Cement Co. v. Public Utilities Commission of Utah—— Utah——, 189 Pac. 421; U. S. Smelting, Ref. & Min. Co. v. Utah Power & Light Co., supra, and Utah Copper Co. v. Public Utilities Commission and Utah Power & Light Co., 59 Utah 191, Pac. 203, 627.

These cases were decided in the order above named. The last case cited has just been forwarded to the publisher. It will not be necessary to review any of the cases at great length, except the Smelting Co. case, relied on for certain purposes by both plaintiff and defendant. A brief reference to the other cases will be sufficient.

In Salt Lake City v. Utah Light & Traction Co., supra, the defendant owning and operating a street railway system in Salt Lake City and vicinity applied to the Public Utilities Commission for an increase of fares for transportation on its railway system for the alleged purpose of meeting the increased costs and expenses of operating its railway. A hearing was had before the Commission, and evidence was taken both for and against the application. The Commission granted the application in part and authorized the defendant to raise its fares in certain particulars. The case came before this court on a writ of review under the Public Utilities Act which provides for that form of procedure. The principal question involved was the power of the Commission to set aside and annul certain contracts between plaintiffs and defendant in the form of franchise ordinances. The holding of the court is clearly reflected in the first paragraph of the syllabus:

> "Since Const. art. 12, Sec. 8, providing no law shall grant the right to operate a street railway within any city without its consent, does not, in express terms, delegate the power to fix rates, a franchise ordinance, made pursuant thereto, fixing passenger rates, and accepted by a street railway company, although it constitutes a binding contract between the parties, is subject to the rate-making power of the state."

In Union Portland Cement Co. v. Public Utilities Commission, supra, plaintiff applied to this court for a writ of prohibition restraining the defendant Commission from assumng to exercise jurisdiction to pass upon the reasonableness or unreasonableness of certain contracts fixing rates for public utility service, which contracts were entered into before the passage of the Public Utilities Act. The question presented was not determined by the court for the reason that the act provided a plain, speedy and adequate remedy by writ of review. The position of the court on the merits of the case, however, was clearly foreshadowed in the opinion as published in the Pacific Reporter at pages 595-6, citing a recent decision of the Supreme Court of the United States in line with defendant's contention in the instant case.

In Murray City v. Light & Traction Co.,—— Utah ——, 191 Pac. 421, one question involved was the right

of defendant railway company to increase its fares in disregard of a contract evidenced by a franchise ordinance. The opinion, as far as that feature of the case is concerned, is sufficiently reflected in the first headnote of the syllabus:

> "Power to fix fare to be received by a street railway or its proprietary companies having been retained by the state by the Public Utilities Act, such power can be exercised by it whenever the necessity requires, despite ordinance of city granting railway right to operate over a street; such action not impairing obligation of a contract."

The U. S. Smelting & Mining Company case, heretofore cited, is undoubtedly the nearest approach to a case in point of any case thus far decided by the court. As before stated, in its different aspects, it is relied on by both plaintiff and defendants, and especially by defendants who regard the case as conclusive of the question before the court. Its importance, therefore, demands a more extended review. That case, like the case at bar, came before this court on a writ of review, as provided in the Public Utilities Act. Several parties, including the plaintiff in the case at bar, filed separate applications for the writ but by stipulation the cases were heard together and submitted at the same time. Each of the parties plaintiff represented to the court that it had entered into a special contract with the enactment of the Public Utilities Act and that the Commission had assumed jurisdiction to increase said contract rates in violation of the Federal and State Constitutions against impairing the obligation of contracts and depriving persons of property without due process of law. The case was ably argued by many of the most eminent lawyers of the state and comprehensive briefs were filed covering practically every phase of the questions involved. The identical question presented in the prsent case was the principal question before the court in the case now under review. The principal and only substantial grievance complained of by all the parties plaintiff was that the order of the Commission increasing rates for service above the rates agreed upon in their contracts with the power company was in disregard of their constitutional rights. Each of the plaintiffs claimed that its particular contract was excepted from the operation of the Public Utilities Act by the proviso to Sec. 4787, subdv. 3, heretofore referred to, which provides, inter alia, that nothing in the act shall be construed "to prevent the carrying out

of contracts for * * * public utility service heretofore made founded upon adequate consideration and lawful when made."

The Commission having found that the contract relied on was not founded upon an adequate consideration, in view of the object and purpose contemplated by the utilities act, the phrase "founded upon adequate consideration and lawful when made" became the rallying point around which the forensic battle waged. The plaintiffs all contended, in effect, that the term "adequate consideration" meant such a consideration as would uphold a contract in equity if the contract were assailed for want of consideration. This court, however, in an elaborate and well considered opinion, held, in substance, that an adequate consideration under the utilities act meant "such a consideration as when added to or considered in connection with the reduced rate agreed upon will make such rate non-preferential and non-discriminatory." It is not necessary in this opinion that any attempt should be made to further explain or define the meaning of the term "adequate consideration" as used in the act. Its meaning as determined in the case under review is not challenged by plaintiff in this proceeding.

After some further elaboration of the term "adequate consideration" and illustrating its meaning by pertinent examples the court proceeds to a consideration of the constitutional questions involved. After referring to the constitutional provision invoked by plaintiff, to wit, Art. 1, Sec. 18 of the Utah Constitution and Art. 1, Sec. 10 of the Federal Constitution, the court, at page 907 of the Pacific Reporter above referred to, says:

> "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 contractual, 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: * * * "

The cases are numerous and need not be cited in this opinion. After citing the cases the court then proceeds to dispose of the identical question presented here:

> "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 obligation 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 Legislature to regulate rates 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."

The court then refers to C. R. I. & P. Ry. Co. v. Taylor, 192 Pac. 349, one of the cases before cited, and

quotes therefrom pertinent excerpts, one of which we here reproduce:

> "As neither the state nor the municipality can surrender by contract the govermental power to guard the safety, morals, health, and good order of society, a contract purporting to do so is void ab initio, and, being void, it is impossible to speak of laws in conflict with its terms as impairing the obligations of a contract."

The court also refers to Producers Transportation Co. v. R. R. Comm. 251 U. S. 228, and quotes from the opinion as follows:

> "That some of the contracts before mentioned were entered 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 of the power to regulate the carrier's rates and practices."

In connection with the excerpt last quoted, which relates to transportation service, the opinion of this court continues:

> "The right and duty of the state to regulate the rates of public utilities in the public interest is as much an atribute 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 cited."

Reference is made to many other cases, all to the same effect. The opinion concludes by affirming the order of the Commission.

The writer is convinced that enough has been said to illustrate the views of this court in respect to the question presented for our consideration. There is one case, however, which has not been reviewed. The case of Utah Copper Co. v. Public Utilities Commission and Utah Power & Light Company, supra, is the very last expression of the court. The opinion, which was mailed to the publishers during the present month, January, 1922,

contains the following paragraph pertinent to the question now under review:

> "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 contractional 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." (Citing the Utah cases.)

Whatever may be said concerning the merits of these decisions as correct expositions of the law there is no escape from the conclusion that they determine the constitutional question presented here and are therefore *stare decisis*. They hold without qualification or evasion that in the fixing of rates for public utility service under the Utah Public Utilities Act the Commission is not limited or controlled by the provisions of antecedent contracts, but is at liberty to disregard such contracts altogether if they come in conflict with what the Commission finds to be a reasonable rate under the conditions existing at the time of making the investigation. The doctrine proceeds upon the assumption that the making of public utility rates is a governmental function within the police power of the state, and that those matters which pertain to the peace, good order, and general welfare of society cannot be made the subject of binding contract as against the state. It is inconceivable that the people of either the nation or the state in framing their constitutions contemplated that the hands of the government could be tied by means of private contracts in matters pertaining to the general welfare of those for whom such governments were established. To so interpret the constitution, either state or federal, would be in effect to deprive such governments of their sovereign power and subject them to the control of private parties, in which case the general welfare of the people would become subservient to the interests of those who believe it right to exploit the sovereign powers of the state for the gratification of private greed.

These observations are entirely impersonal. There is nothing in the record in this case impeaching the good faith of plaintiff, notwithstanding our opinion that its

constitutional rights have not been infringed in the matter complained of.

Plaintiff calls the attention of the court to the following cases from other jurisdictions: City of Superior v. Douglas Co. Tel. Co. (Wis.) 122 N. W. 1023; Gas Co. v City of Adrian, (Mich.) 106 N. W. 1020; City of Morehead v. Union Heat, L. & P. Co., 225 Fed. 920. These cases lend considerable support to plaintiff's contention that contracts in cases of this kind as well as in other cases should be construed as of the time they were entered into rather than of a subsequent date. It would be a useless consumption of time and space to give these cases an extended review. They are not only in direct conflict with the decisions of this court to which we have called attention, but to recent decisions of the Supreme Court of the United States, in which the identical question presented here was adjudicated and determined. (Union Dry Goods Co. v. Georgia Pub. Ser. Corp., 248 U. S. 372; Kansas City B. & N. Co. v. Kansas City, L. & P. Co. 275 Mo. 529, affirmed by U. S. Supreme Court, Mem. Dec. Sup. Ct. advance opinions, May 1, 1920.)

It follows from what has been said in the preceding pages that the order of the Commission authorizing the power company to increase its rates in the instant case should be affirmed

In connection with the order increasing the rate, it will be remembered that the Commission also ordered the power company to allow the plaintiff an annual credit during the life of the contract between the parties in the sum of $5,683.41, on account of what plaintiff, by virtue of said contract, had paid more than other consumers of the same class. As to whether or not the Commission had jurisdiction to determine the amount of the excess paid by the plaintiff and direct it to be applied as a credit on plaintiff's account with the power company we deem it prudent to withhold our opinion. The question of jurisdiction was not raised by plaintiff either in the pleadings or the argument and for that reason we do not feel authorized to discuss the matter at length. The power of the Commission to fix and establish rates and in connection therewith to determine all questions of fact, is thoroughly settled by previous decisions of the court. Whether the Commission also has power to determine the amount a party has been damaged, where the Commission in the rightful exercise of its jurisdiction in fixing rates finds it necessary

to supersede the provision of an existing contract presents another and different question. In any event it is better that the question be reserved in the present case than that an unqualified order be made affirming the order of the Commission.

But one question remains. Plaintiff complains that the Commission did not expressly find whether or not plaintiff is to be supplied with service at "wholesale" as provided in the contract and that the findings as to the rate to be paid by plaintiff is uncertain and indefinite. After a careful examination of the findings, both in the original report and upon rehearing before the Commission, we are forced to conclude that plaintiff's objection and criticism in this regard is well founded. This may be a matter of some importance to the plaintiff and we know of no reason why the Commission should not make an express finding as to whether or not the service should be furnished at wholesale price, or at least make the rate to be paid by plaintiff definite and certain.

It is therefore ordered that the order of the Commission, except as to the question reserved, be affirmed and that the cause be remanded to the Commission for further findings in accordance with the views expressed in the opinion. (Hotel Utah, Co. v. P. U. C. U., 204 Pac. 511.)

All concur.

IN THE SUPREME COURT OF THE STATE OF UTAH

BAMBERGER ELECTRIC RAILROAD COMPANY, WEBER COUNTY, MRS. WILLARD J. BROCKBANK and MURRAY JACOBS,
Plaintiffs,
vs
THE PUBLIC UTILITIES COMMISSION OF UTAH,
Defendant.

FRICK, J.:

The plaintiffs filed an application in this court praying for a writ of review against the Public Utilities Commission of Utah, hereinafter called Commission. In the application various grounds are alleged why the Commission acted without or in excess of its authority or jurisdiction in making a certain order in which the Commission ordered a certain railroad crossing vacated and discontinued, to which crossing more particular reference will hereinafter be made.

A writ as prayed for was duly issued and the Commission has duly certified the proceedings to this court.

The questions arising upon the application have been duly argued and submitted on behalf of the plaintiffs by their respective counsel and on behalf of the Commission by the Attorney General of this State.

The circumstances upon which the proceedings of the Commission are based, briefly stated, are as follows:

On July 28, 1921, the Commission, upon its own motion or initiative, issued the following order:

> "It appearing that on July 5, 1921, an accident occured at a grade crossing over the tracks of the Bamberger Electric Railroad Company about three miles south of Ogden, Utah, commonly known as Jacobs Crossing,
>
> "And it further appearing that said grade crossing is claimed to be dangerous to traffic,
>
> "Now, therefore, upon motion of the Commission,

> "It is ordered that the Commission institute an investigation, with a view of eliminating the danger of said crossing."

The Commission further ordered where the hearing would be had and that notice be duly served and published as required by statute.

The order and the proceedings based thereon were conducted pursuant to Comp. Laws, Utah, 1917, Sec. 4812, which reads as follows:

> "The Commission shall investigate the cause of all accidents occurring within this state upon the property of any public utility, or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to persons or property, and requiring, in the judgment of the Commission, investigation by it, and shall have the power to make such order or recommendation with respect thereto as, in its judgment, may seem just and reasonable; provided that neither the order or recommendation of the Commission nor any accident report filed with the Commission shall be admitted as evidence in any action for damage based on or arising out of the loss of life or injury to person or property in this section referred to. Every public utility is hereby required to file with the Commission, under such rules and regulations as the Commission may prescribe, a report of each accident so occurring of such kinds or classes as the Commission may from time to time designate."

Notice of the order was duly served and published as provided in the order, and the parties without filing pleadings of any kind, appeared before the Commission, and a somewhat protracted hearing was had, at which much evidence was produced, to which reference will hereinafter be made, and which, it seems to us, went far beyond anything contemplated by the Commission in its order.

After the evidence was completed, two of the Commissioners, constituting a majority, made findings and entered an order, which, so far as material here, is as follows:

> "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 therto, 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, parallel 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."

One of the Commissioners dissented from the findings and from the order upon the ground that the evidence does not warrant the finding that the crossing is a public crossing, and further, that the Commission is without jurisdiction.

The plaintiffs, in due time, and in accordance with the statute, made application for a rehearing, which was denied, and hence this application for a writ of review.

The plaintiffs assail the jurisdiction of the Commission upon various grounds. The principal and most important ground, however, is that the evidence is conclusive that the crossing in question is a private crossing and is maintained for the convenience and benefit of plaintiffs Brockbank and Jacobs.

The crossing was originally put in by the railroad company for the convenience of Brockbank and one Jarrell, who was the predecessor in interest of the plaintiff Jacobs. We shall hereinafter only refer to Jacobs, since he has

succeeded to all the rights of Mr. Jarrell and hence the latter requires no further consideration in this opinion.

We remark that although the proceeding was instituted by the Commission, upon its own motion, pursuant to the provisions of Sec. 4812, which we have herein set forth in full, nevertheless the Commission's jurisdiction is now sought to be sustained by the Attorney General, under the provisions of Sec. 4811, which we here insert in full.

> "No track or any railroad shall be constructed across a public road, highway, or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade without having first secured the premission of the Commission; provided, that this sub-section shall not apply to the replacement of lawfully existing tracks. The Commission shall have the right to refuse its permission, or to grant it upon such terms and conditions as it may prescribe.
>
> "The Commission shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public road or highway by a railroad or street railroad, and of a street by a railroad, or vice versa, and to alter or abolish any such crossing, and to require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected, or between such corporations and the state, county, municipality, or other public authority in interest.
>
> "Whenever the Commission shall find that public convenience and necessity demands the establishment, creation, or construction of a crossing of a street or highway over, under, or upon the tracks or lines of any public utility, the Commission

> may by order, decision, rule or decree require the establishment, construction, or creation of such crossing, and said crossing shall thereupon become a public highway and crossing."

Quite apart from the fact that the section was not applicable to "existing tracks" at the time of the passage of the Act, March, 1917, a more cursory reading of Sec. 4811 will, we think, convince anyone that its provisions relate entirely to public crossings. Such was the construction given it by the Commission itself, and hence it made a finding that the crossing in question is a public crossing.

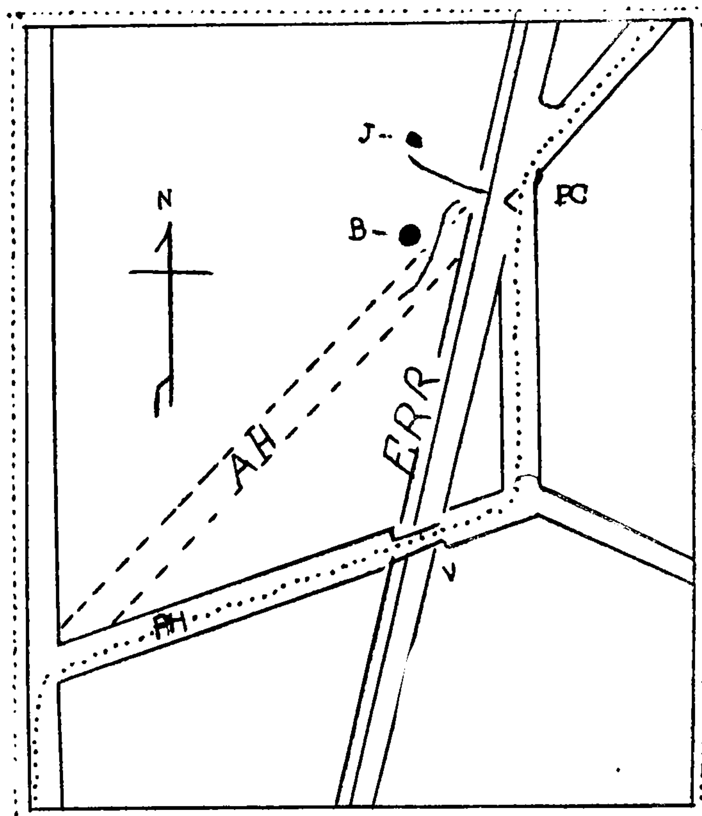
The plaintiffs, however, contend that the crossing in question is a mere private crossing, and that for that reason the Commission had not the power to direct that it be discontinued, and hence the order made by it is in excess of its jurisdiction. To that effect is the holding of the Supreme Court of Kansas, under a statute similiar to ours. (Union Pacific R. R. Co., v. Utilities Com; 98 Kas. 667, 158 Pac. 863.) For the reasons hereinafter stated, however, it is not now necessary to decide, and we do not decide, what jurisdiction or power the Commission has over private crossings in so far as it may affect only the public utility.

In this connection the Attorney General, however, contends that in view that the Commission has found that the crossing in question is a public crossing, if that finding is supported by any substantal evidence, the finding is binding upon us. While it is true that where there is a conflict in the evidence relative to any material fact, or where conflicting inferences may be drawn from the evidence with respect to such fact, we ordinarily, are bound by the findings of the Commission, yet where, as here, the evidence is without dispute respecting the character and use of the crossing in question, then the question of whether such crossing is a public or private crossing is a legal one, and must be determined from the undisputed evidence. The finding of the Commission in this case is therefore a mere conclusion of law, deduced from the undisputed facts.

In view of what has just been said, it becomes necessary for us to review the evidence, and from it determine whether in law the crossing in question is a public or private crossing. It is necessary to do this in order to de-

termine whether the Commission had jurisdiction to make the order in question.

In order to help the reader to a better understanding of the real situation and to make clearer the character and purpose of the crossing in question we here insert a sketch of the crossing and the immediate surroundings.



The broken parallel lines marked "AH" on the sketch indicate the original highway as it was located and used before and at the time the electric railway marked "ERR" was constructed, which highway was vacated and abandoned by the county commissioners of Weber County. The parallel lines, including the dotted lines, marked "PH" indicate the highway as it was located after the original highway marked "AH" was vacated and abandoned. The point marked "V" indicates the overhead crossing over the railroad tracks which is

twenty-one feet above the top of the rails. The original highway was abandoned and the present one established in order to avoid the original grade crossing at the point marked "PC." The point marked "PC" is the crossing in question, which was constructed and is maintained by the railroad company for the use and benefit of the plaintiffs Brockbank and Jacobs. The small black square marked "B" indicates the home of the plaintiff Brockbank, while the other small black square marked "J" indicates the home of plaintiff Jacobs. The lines from the crossing "PC" to "B" and "J" merely show the roads leading from the crossing to the houses of Brockbank and Jacobs. The other lines on the sketch have no material bearing upon the question involved here and need no special mention.

The evidence is undisputed that at a large expense to the railroad company it acquired sufficient land by purchase to locate the present highway marked "PH;" that upon acquiring the land and after constructing the overhead crossing and placing the new highway in a condition for public travel the county commissioners of Weber County passed a resolution vacating and abandoning the old highway, including the point where the railroad crosses at "PC," and at the same time the commissioners accepted and established the new highway marked "PH" as a public highway. The evidence also shows, as indicated by the overhead crossing, that the railroad tracks are laid in a somewhat deep cut at the point of the overhead crossing, which cut extends northerly towards the crossing marked "PC." However, at the place where the crossing is located there is a fill and the tracks were elevated considerably above the natural surface of the ground. The plaintiffs Brockbank and Jacobs, however, demanded a passable crossing at that point so they would have convenient ingress and egress to and from the public highway as located after the original was vacated and abandoned. To accomplish that purpose the railroad company filled in dirt west of the crossing and also east of the tracks so as to make the crossing passable for Brockbank and Jacobs. The crossing as constructed, that is, the railroad tracks, are, however, still higher than the roadway on both sides of the tracks so that in going over the crossing from either side it is necessary to ascend to pass over the tracks.

After the original highway was vacated and abandoned the commisioners of Weber County conveyed by quit-claim deed the strip of ground occupied by the old

highway to the respective owners of the adjacent lands and in the same manner conveyed the strip inside of the railroad right of way, including that part where the crossing marked "PC" is located, to the railroad company and the title to that strip is now vested in the railroad company and in the respective parties aforesaid. Weber County disclaims all right or interest in or to any part of the abandoned highway, including that part which constitutes the crossing, and has done so during all of the time since the old highway was abandoned and the new one established, which was more than ten years preceding the hearing.

It was also made to appear that plaintiffs Brockbank and Jacobs have somewhat extensive orchards on their farms from which they produce considerable fruit for market, and that during every season those who may desire to purchase fruit from them use the crossing in question to pass to and from their farms and that the crossing can be and is used at any time by anyone who may desire to call at their homes and transact any business with them; that it is not and cannot be used for any other purpose, since there is no outlet therefrom; that they themselves use it constantly as a matter of convenience to pass to and from their homes to the public highway; that their children pass over the crossing in question in going to and in returning from the public school, which is located near the public highway some distance northerly from the crossing in question; that Jacobs owns an orchard lying east of the railroad track at the point marked "X" on the sketch which is reached by him by passing over the crossing in question.

It was also shown that within the last two years two accidents had occurred at the crossing in question by collisions between trains on the electric railroad and automobiles in attempting to cross the railroad track at the crossing marked "PC." In the first accident two persons were killed in attempting to cross the tracks with an automobile, one of whom was Mr. Brockbank, the husband of Mrs. Brockbank, who now owns and occupies the farm, and at the second accident four persons were killed while attempting to cross the railroad tracks in an automobile. The first collision occurred between the automobile and a trolley car passing southerly, while the latter collision occurred between the automobile and a trolley car passing northerly. In the later accident the persons who were killed were leaving the farms of plaintiffs Brockbank and Jacobs, where they had called on business.

It was also shown that for the convenience of Brockbank and Jacobs and the railroad company, cattle guards were placed on both sides of the crossing to keep cattle from straying onto the railroad right of way and tracks. There is no evidence, however, respecting the number of cattle that pass from time to time over the crossing. The evidence is clear, however, that the general public has not used the crossing and that it was not intended as a crossing for general use, although it can be used by anyone who desires to transact business with Brockbank and Jacobs.

The evidence is also to the effect that while the crossing is dangerous it is no more so than many of the other private crossings, more than fifty in number between Salt Lake City and Ogden.

Both Mrs. Brockbank and Mr. Jacobs vigorously o[illegible] to the abandoning or changing of the crossing in ques[illegible] Both contend that it would seriously inconvenience t[illegible] and would greatly decrease the value of their farms. [illegible] fact, Jacobs testified that it would depreciate the value of his farm to the extent of $10,000.00.

The evidence is also to the effect that if the crossing were discontinued as ordered by the Commission and plaintiffs Brockbank and Jacobs were compelled to pass southerly along the railroad right of way to the overhead crossing, while they would escape the danger incident to the present crossing, nevertheless their children, in passing to and from school, would encounter great danger from the numerous automobiles which constantly pass to and fro over the present highway and that it would increase the distance to school practically one-half mile and would in many other respects greatly inconvenience them and affect the value of their fruit farms.

We have been thus specific respecting the evidence for two reasons: (1) To show the character and use of the crossing and (2) that if the crossing be held a public crossing as the Commission found plaintiffs Brockbank and Jacobs have such an interest in its maintenance as may entitle them to compensation under our Constitution in case they would suffer substantial damages by reason of having the crossing discontinued without their consent.

The question therefore is, Is the crossing a public or a private crossing?

If it is possible to make evident the real intention of the parties to a transaction by their acts and conduct, it seems to us that there is no room for any doubt that in this case all the parties concerned, including Weber County,

manifestly intended to vacate and abandon the old highway as it then existed and in its place to locate and establish a new one. This intention was manifested in many ways. The old highway was formerly vacated, which was followed by conveying the strip of ground over which it passed and by a complete abandonment of its use. Moreover, a new highway was located, constructed, and thereafter used instead of the old one. Again, that portion which is now occupied by the crossing in question was included in the order of vacation and the ground was conveyed to the railroad company which now has title thereto subject to the rights of those using the crossing. The crossing was thereafter constructed by virtue of an agreement between Brockbank and Jacobs and for their convenience and benefit and for the convenience and benefit of anyone who might use it as hereinbefore stated. Can anyone [illegible]t that if Brockbank and Jacobs should desire to [illegible]e along the margin of their lands and thus shut off [illegible]ess and egress to and from their farms that the public or anyone else could legally complain? Again, if by agreement between Brockbank and Jacobs on the one hand and the railroad company upon the other the railroad company would fence along the easterly margin of its right of way and place a gate there with a lock to which only Brockbank and Jacobs had keys, so that they alone could pass over the crossing, could anyone of the general public complain? The real test of whether a roadway or crossing is private or public consists in that any one of the public having the right of passage may compel its remaining open and unobstructed.

It is quite true, as suggested by the Attorney General, that a road or crossing may be public although it is and can be used by a few persons only. It is, however, also true that under such circumstances anyone who has occasion to use the crossing can successfully complain of its obstruction and can require it to be kept open for passage. Where the crossing is private, however, as in the case at bar, the public have no right to complain if it is fenced in and locked gates are constructed so as to exclude everyone except the persons for whose benefit it was created and is maintained. That is precisely what, under the undisputed evidence, may be done with the crossing in question and the public would have no legal cause for complaint.

The Attorney General, however, cites and relies upon the following, among other cases, which, he insists, sustain his contention that the crossing in question is a

public crossing and not a private one: St. P. M. & M. Ry. Co. v. City of Minneapolis, 44 Minn. 149, 46 N. W., 324; Galveston, Etc., Ry. Co. v. Baudat, 21 Tex. Civ. App. 236. Union Pac. Ry. Co. v. Lee, (Tex.) 7 S. W. 857; Ill. Cent. R. R. Co. v. The People, 49 Ill. App. 538; Morgan v. Railroad Co., 96 U. S. 716; Wilson v. Hull, 7 Utah 90; Schettler v. Lynch 23 Utah 305; Johnson v. Supvrs. of Clayton Co. 61, Ia. 89; Masters v. Holland, 12 Kas. 23; Nichols v. The State, 89 Ind., p. 299; Los Angeles Co. v. Reyes, (Cal.) 32 Pac. 333. There are a number of other cases cited, but in view that they merely reiterate the doctrine stated in the foregoing cases it is not necessary to cite them here.

In St. P. M. & M. Ry. Co. v. City of Minneapolis, supra, the gist of the decision is stated in the headnote in the following words:

> "Where a railway company laid its track over a traveled street or road used by the public as a highway, which had not theretofore been legally laid out as such, and the public thereafter continued to use the crossing as a highway for many years, without interference by the railway company, which, on the contrary, kept the same in proper repair for public use, and planked the same, and built cattle-guards on each side thereof, *held* sufficient evidence of a dedication thereof for public use as a highway."

In Galveston, etc., Cy. Co. v. Baudat, supra, it is held that where a road is continuously used by the public for a long period of time, in that case fifty years, a dedication for public use and an acceptance by the public may be implied. There can be no such implication in the case at bar without doing violence to the manifest intention of the parties, as that intention is reflected from their acts and conduct hereinbefore set forth.

In Union Pac. Ry. Co. v. Lee, supra, it is held:

> "Where the owner of land allowed a road thereon to be used his customers going to and from his mill, and by the general public in passing from certain villages, and when such owner required a railway company to make a crossing on such road, which was subsequently used, to the knowledge of the railway company, for a considerable time by the public, such acts are evidence of a dedication of the road to the public."

In Ill. Cent. Ry. Co. v. The People, supra, it is said:

> "Proof of parol dedication must clearly show an intention on the part of the land owner to dedicate, but the proof may consist of acts of the owner mutually indicative of such intention or his acquiescence in the use of the land in question, and under circumstances which would reasonably forbid such acquiescence if there was no such intention."

In Morgan v. Railroad Co., supra, the following language quoted from the case of the City of Columbus v. Dahn, 36 Ind. 330 is adopted and approved:

> "The question whether a person intends to make a dedication of ground to the public for a street or other purpose must be determined from his acts, and statements explanatory thereof, in connection with all the circumstances which surround and throw light upon the subject, and not from what he may subsequently testify as to his real intent in relation to the matter."

In Wilson v. Hull, the decision is clearly reflected in the second headnote, which reads as follows:

> "Where there was evidence that in 1869 the road in dispute was laid out by the Territorial surveyor four rods in width upon the line between two sections, and that from time to time fences were erected along it a great portion of its length, that the public traveled a portion of the road all the time and the other portion a part of the time, and some of the residents upon or near it, with the expressed consent of the road supervisor, paid their road taxes in making improvements; *held* that a finding that the road was a highway would not be disturbed."

In Schettler v. Lynch, supra, this court, in the course of the opinion, states the law thus:

> "A dedication may be either express or implied. It is express when there is an express manifestation on the part of the owner, of his purpose to devote the land to the particular public use, as in the case of a grant evidenced by writing. It is implied when the acts and conduct of the owner clearly manifest an intention on his part to devote the land to public use. Whether the dedication be express or implied, an intention of the owner to

appropriate the land to the public use must appear. It is always a question of intention. In neither case is any particular formality or form of words necessary. If the intention to dedicate is manifest it is sufficient."

The decisions quoted from clearly illustrate that the undisputed facts take the case at bar far outside of the principles announced in those cases. It is not necessary to quote further from the decisions.

Nor is it necessary to discuss at length the contention of the Attorney General that in view that the Commission is given full power to investigate accidents, as provided in Sec. 4812, supra, and "to make such order or recommendation with respect thereto as in its judgment may seem just and reasonable" it had the power to make the order in question here. The Attorney General has manifestly overlooked the fact that it is Sec. 4811 which makes specific provision respecting the power and authority of the Commission over crossings. It needs no citation of authorities that where a specific power is conferred by statute upon a tribunal, board, or commission with limited powers, the powers are limited to such as are specifically mentioned. Any other rule would make an autocrat of a utilities commission, and every utility, as well as every private owner, would be subject to any order the Commission might make simply because some accident had occurred. Such is not the purpose of the statute, and if it were it could not be upheld wherever the orders of the Commission would affect private interests, as in the case at bar, and where damages would result to such private interests by reason of the orders of the Commission. That such is the law is clearly held in the cases cited by the Attorney General from Connecticut and New Hampshire, to wit: New York, etc., Ry. Co. v. Railroad Commrs. 58 Com. 532; New York, etc., Ry. Co. v. Railroad Commrs., 62 Conn. 527, and in Leighton v. Railroad, 72 N. H. 224.

In the case last cited it is clearly pointed out that although the State, under the police power, may change, discontinue or alter public highways and crossings without the consent of those who may be affected by such change, yet where private interests are affected and damages result to such interests from such change, discontinuance or alteration compensation must be made to the parties damaged. This court is committed to that doctrine.

See Tuttle. v. Sowadzki, 41 Utah 501, 126 Pac. 959 See also 1 Elliott, Roads & Streets, 3d ed. Sec. 461.

Under the undisputed facts of this case we are forced to the conclusion that the crossing in question was manifestly intended as a private crossing for the convenience and benefit of the plaintiffs Brockbank and Jacobs and not for the convenience and benefit of the public generally, and therefore comes within the category of private crossings. So far as the crossing was used by those who had occasion to use it in their intercourse with Brockbank and Jacobs, the use was permissible merely. The rule in that regard is well stated by the Supreme Court of Michigan in the case of Stickney v. Township of Sodus, 131 Mich. 510, where it is said: "A mere permissive use of a private road by the general public, however long continued, will not make it a public highway." While it may be that an individual, under certain circumstances, by long and continued use, may acquire some rights to use the private roads, that, however, would not make the road a public road or highway. We are, therefore, not now concerned with, nor do we pass upon, the question as to what the powers of the Commission may be over public utilities in case of accidents under section 4812, when no private interests are affected.

Nor do we pass upon the question of whether the Commission has power or jurisdiction to regulate private crossings in so far as the rights of the public utility are concerned. Indeed, even if we had the power in this proceeding to do that, which, for obvious reasons, we do not have, it would be unfair and unjust to both the Commission and the parties to this proceeding should we attempt it. As we have seen, this proceeding is not based upon any complaint by anyone and the Commission acted solely upon its own initiative and upon the sole thought that the crossing in question is a public crossing. What order, therefore, the Commission would have made if it had found the crossing to be a private crossing (as it manifestly is) if it would have made any order, and to what extent the interested parties might have acquiesced in such an order, are matters of mere conjecture, if indeed one may venture to conjecture upon matters so uncertain and speculative.

This proceeding was instituted and conducted by the Commission upon the theory that the crossing is a public crossing and it has not considered its powers nor its duties with regard to private crossings. The Commission should therefore be given a free hand to determine for itself

whether it has any power or jurisdiction in proceedings of this kind over private crossings, and, if so, what those powers are, and, in connection with that, to determine for itself what order it should make as a private crossing, if it decides to make any. This court may only review the Commission's powers after it has acted and may not anticipate its actions.

In view of what has been said it becomes our duty, as provided in Comp. Laws Utah 1917, Sec. 4834, to set aside and annul the order of the Commission hereinbefore set forth. It is therefore ordered that the order aforesaid be, and the same is hereby, set aside and annulled. Plaintiffs to recover their costs of this proceeding.

We concur: ....

....

GIDEON, J. (Concurring in part.)

I concur with the conclusion that the crossing in question must, under the evidence, be held to be a private crossing. However, the question still remains: Does that fact alone deprive the Commission of jurisdiction or authority to make any finding or order regarding the maintenance, or, if advisable, the abolishment of the crossing?

The Commission found that "said crossing is dangerous to traffic and should be abolished." Concede that the latter part of that finding is a conclusion. The finding of fact that the crossing is dangerous is there. It will not, I assume, be claimed by counsel or anyone that that finding has no support in the evidence. If it has, then such finding is conclusive and binding upon this court. The power or juridiction of the Commission is not, nor can it be, limited by the theory upon which the investigation was initiated. It is likewise of no consequence whether the proceedings were instituted by the Commission on its own motion or by others. The question is the power of the Commission under the facts proven.

Comp. Laws of Utah, 1917, Sec. 4798, defining the jurisdiction of the Commission, is:

> "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 and convenient in the exercise of such power and jurisdiction."

Admittedly, the plaintiff is a public utility. Also, it is subject to the supervision of the Commission.

Sec. 4812, copied in full in the opinion of the court, makes it the duty of the Commission to investigate all accidents occurring within the state upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation. Power is also given the Commission to make such order or recommendation with respect thereto as in its judgment may be just and reasonable. It is further provided in that section that such orders or recommendation, or any report filed, shall not be admitted as evidence in any action for damages based or arising out of the loss of life or injury to person or property. It is pertinent to inquire what the function of any order or recommendation would be if the Commission is powerless to enforce such order after making it.

It is no answer to the order of the Commission that if the parties saw fit they could close this particular crossing to the public. Grant that such is their right. They have not done so, and, from their position as indicated by this record, it is reasonably inferable that they have no present intention of so doing.

The Commission was created with one of its expressed purposes to protect the public—those who ride upon trains and those who travel over roads leading across railroads.

It is, in my judgment, wholly immaterial whether the parties owning lands adjacent to and to which the road gives ingress and egress are inconvenienced by the orders of the Commission. It is within the power of the Commission to so direct the utility that its operation shall not be dangerous to the public. If in complying with the order of the Commission the utility takes or damages private property, it necessarily follows that compensation must be paid to the injured party.

The testimony, in my judgement, abundantly supports the finding that this crossing is dangerous.

The Commission should, and presumably will, exercise its authority with due regard to the law and the rights of

all parties, but with the paramount idea of protecting the public from accidents. It might well be that the physical surroundings are such at or near the crossing in question that an under-track passage or subway could be constructed at a reasonable cost and without inconvenience to any of the parties interested.

The plaintiff in this case is a railroad corporation and as such is endowed with the power of eminent domain. Private property can be taken by it, or damaged, as may be necessary, for the convenient and safe operation of its road.

This crossing being a private roadway, I agree with the opinion of the court that the Commission is not vested with power to order a new roadway to run south over the premises of the owners to the public highway. Nor has it power to direct either the plaintiff or Weber County to bear any part of the expense of constructing and maintaining such roadway; but that it does have power, if found necessary for the public safety, to order this crossing closed I entertain no doubt. As I understand the order of this court, it annuals the order of the Commission in toto. The Court's order is based upon want of jurisdiction of the Commission for the reason that the crossing in question is a private crossing. The author in 2 Elliott, Railroads 3d ed. Sec. 805, in discussing the jurisdiction of railroad commissions, says: "If jurisdiction over the general subject is conferred, then authority over branches and details of that subject is conferred by necessary implication." Supporting the views herein expressed see also In re Canadian Pac. R. R. Co. 32 Atl. 863; N. Y. & N. E. R. R. Co.'s Appeal from Railroad Commission, 62 Conn. 627; N. Y. & N. E. R. R. Co., v Bristol, 151, U. S. 556; American Rapid Tel. Co. v. Hess, 13 L. R. A. 454.

For the reasons indicated I do not concur in that part of the order annulling the finding of the Commission that the crossing in question is dangerous and should be abolished.

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