Report of the
Public Utilities Commission
of Utah
to the Governor

From January 1, 1926, to and including December 31, 1926

ARROW PRESS, SALT LAKE

COMMISSIONERS

ELMER E. CORFMAN, President
THOMAS E. McKAY
GEORGE F. McGONAGLE
FRANK L. OSTLER, Secretary

Office, State Capitol, Salt Lake City, Utah.

To His Excellency, George H. Dern,
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 Report, covering the year 1926.

COURT CASES

Under date of June 2, 1926, the Supreme Court of Utah rendered its decision in the following case:

T. M. Gilmer, Plaintiff,
vs.
Public Utilities Commission of
Utah, et al., Defendants.

Copy of this decision will be found in another part of this report.

STATISTICS

The following is a summary of the formal cases before the Commission:

Cases pending from 1922	1
Cases pending from 1924	5
Cases pending from 1925	36
New cases filed in 1926	87
Total	129
Cases disposed of in 1926	90
Cases pending from 1924	1
Cases pending from 1925	5
Cases pending from 1926	33
Total	129

The Commission also issued 188 Ex parte Orders, 24 Special Dockets, 10 Grade Crossing Permits, and 28 Certificates of Convenience and Necessity. A list of the foregoing will be found elsewhere in this report.

Very respectfully submitted,
(Signed) E. E. CORFMAN,
(Signed) THOMAS E. McKAY,
(Signed) G. F. McGONAGLE.

(Signed) F. L. OSTLER,
Secretary.

The following is a Statement of the Finances of the Commission from January 1, 1926, to and including December 31, 1926

NAME OF ACCOUNT	Available Balance of Appropriation January 1, 1926		Expenditures from Jan. 1, 1926 to And Inc. Dec. 31, 1926		Credits and Deficit Allowances Jan. 1, to Dec. 31, 1926		Available Balances in Accounts as of Dec. 31, 1926	
	Item	Total	Item	Total	Item	Total	Item	Total
Salaries, Wages, Fees:								
Commissioners	$15,000.00		$12,000.00				$ 3,000.00	
Clerical	8,757.16		10,777.00		$ 2,091.53			
Reporters			2,340.52		5,500.00*		3,231.17	
Total		$23,757.16		$25,117.52		$ 7,591.53		$ 6,231.17**
Office Expenses:								
Office Supplies	54.57		227.11		.10		172.44‡	
Postage	404.61		124.12		9.17		289.66	
Premiums	80.00		50.00				30.00	
Printing	311.97		185.13				126.84	
Telephone and Telegraph	138.34		14.93				123.41	
Rentals	6.00‡						6.00‡	
Subscriptions	10.00‡		10.00				20.00‡	
Total		973.49		611.29		9.27		371.47
Traveling Expenses:								
Commissioners	555.78		397.28				158.50	
Clerical	300.15		170.54				129.61	
Total		855.93		567.82				288.11
Equipment:								
Office Equipment and Books and Maps	68.00		218.00		150.00†			
Total		68.00		218.00		150.00†		
GRAND TOTAL	$25,654.58	$25,654.58	$26,514.63	$26,514.63	$ 7,750.80	$ 7,750.80	$ 6,890.75	$ 6,890.75

Total Balance of Appropriation January 1, 1926	$25,654.58	Total Expenditures for the Year, 1926	$26,514.63
Total Credits and Deficit Allowances, Year 1926	7,750.80	Available Balance, as of December 31, 1926	6,890.75
Total	$33,405.38	Total	$33,405.38

‡Represents overdrawal in sub-account as set up by the Commission, but not in Appropriation.
*Deficit granted by Board of Examiners for Salaries, Clerical, October 18, 1926, $5,500.00.
†Deficit granted by Board of Examiners for Equipment, August 16, 1926, $150.00.
**Available balance in Salaries, distributed: Commissioners, $3,000.00; Clerical, Unexpended Deficit $2,940.54, Credits $290.63.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WILLIAM LUND, for permission to discontinue operation of his automobile passenger, freight and express line between Modena and Enterprise, Utah. } CASE No. 81

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Application having been made by William Lund, for permission to discontinue operation of his automobile passenger, freight and express line between Modena and Enterprise, Utah; account lack of busness;

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

IT IS ORDERED, That the application be granted, and that William Lund be, and he is hereby, permitted to discontinue operation of his automobile passenger, freight and express line between Modena and Enterprise, Utah; that Certificate of Convenience and Necessity No. 17, issued to the said William Lund, in Case No. 81, be, and it is hereby, cancelled and annulled.

Dated at Salt Lake City, Utah, this 3rd day of April, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]
Attest:

(Signed F. L. OSTLER, Secretary.

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 May 10, 1926. Decided May 26, 1926.

Appearances:

Irvine, Skeen & Thurman, Attorneys for Applicant.

REPORT OF THE COMMISSION

By the Commission:

On April 9, 1926, the Salt Lake & Denver Railroad Company filed its petition before the Public Utilities Commission of Utah, setting forth that a certificate of public convenience and necessity was issued to it on the 25th day of February, 1920; that pursuant to the issuance of said certificate and the extensions of time granted thereunder, the applicant, Salt Lake & Denver Railroad Company, has done all things required by it to be done insofar as it has been possible so to do; that it has now pending before the Interstate Commerce Commission an application for a certificate of public convenience and necessity authorizing the construction of a railroad from Craig, Colorado, to Provo, Utah; that pending the final decision on the said application to the Interstate Commerce Commission, it is necessary that further and additional time be granted applicant by this Commission to carry on the construction work under the said certificate heretofore issued by it; and to complete said construction. Applicant prays for an order from this Commission extending the time within which the applicant herein may further prosecute and complete the work contemplated by the said certificate heretofore issued by this Commission.

On May 10, 1926, the matter came on regularly for hearing, before the Commission, at its office at the State Capitol, in Salt Lake City, Utah, on the petition heretofore filed, and after due notice given in the manner and for the time required by law. No protests were

filed or made to the granting of said petition on the part of any interested party.

From the evidence adduced at the hearing, it appears that there is a continuing necessity for the building and operation of a standard gauge railroad over the route applied for by the applicant, in order to serve the territory commonly known as the Uintah Basin, particularly that portion commonly spoken of as Eastern Utah; that said territory is at the present time without any adequate railroad facilities, and the further progress and development thereof will be at a standstill until railroad facilities are available; that at the present time the petitioner has pending before the Interstate Commerce Commission an application for a certificate of public convenience and necessity authorizing and permitting the construction of a line of railroad from Craig, Colorado, to Provo, Utah; that the petitioner represents if such certificate be granted by the Interstate Commerce Commission, it will proceed with due diligence to construct, operate and maintain a line of railroad which it proposes to build to meet the needs and necessities of the Uintah Basin.

From the foregoing facts, the Commission concludes that it will be to the interest of the general public, particularly the people residing in the Uintah Basin, that petitioner be granted further time pending the hearing of its application before the Interstate Commerce Commission; that the petitioner should be granted further time in which to commence, prosecute and complete the work contemplated by the certificate of convenience and necessity heretofore issued to it by this Commission, contingent, however, that a certificate of convenience and necessity issue at the hands of the Interstate Commerce Commission, and for such further time as may be allowed by that Commission and no longer.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest.

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 26th day of May, 1926.

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 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 and conclusions, 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 in which to commence, prosecute and complete the work contemplated by the certificate of convenience and necessity heretofore issued to it by this Commission, contingent, however, that a certificate of public convenience and necessity is issued to it by the Interstate Commerce Commission, and for such time only as may be granted by the said Commission to commence, prosecute and complete the work contemplated by it.

By the Commission:

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the automobile passenger stage line operated by the MOAB GARAGE COMPANY, between Thompsons and Monticello, Utah. } CASE No. 277

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Application having been made by R. C. Clark, Secretary-Treasurer of the Moab Garage Company, to re-

sume operation of automobile passenger and freight stage line betweeen Thompsons and Monticello, Utah;

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

IT IS ORDERED, That the Moab Garage Company be, and it is hereby, granted permission to resume operation of its automobile passenger and freight stage line between Thompsons and Monticello, Utah.

Dated at Salt Lake City, Utah, this 11th day of February, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of November 1, 1922, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 170 (Case No. 548), authorizing G. L. Bracken to operate an automobile stage line, for the transportation of passengers, between St. John and Ophir, Utah.

The Commission now finds that owing to the failure of G. L. Bracken to comply with Chapter 114, Session Laws of Utah, 1925, Certificate of Convenience and Necessity No. 170 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 170 (Case No. 548) be, and it is hereby, cancelled, and the right of G. L. Bracken to operate an automobile passenger stage line between St. John and Ophir, Utah, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 26th day of January, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, 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

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of July 1, 1922, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No 155 (Case No. 555), authorizing J. H. O'Driscoll to operate an automobile stage line, for the transportation of passengers, between Park City and Peoa, Utah, and Peoa and Kamas, Utah.

The Commission now finds that owing to the failure of J. H. O'Driscoll to comply with Chapter 114, Session Laws of Utah, 1925, Certificate of Convenience and Necessity No. 155 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 155 be, and it is hereby, cancelled, and the right of J. H. O'Driscoll to operate

an automobile stage line, for the transportation of passengers, between Peoa and Park City, and Peoa and Kamas, Utah, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 26th day of January, 1926.

(Signed) F. L. OSTLER, Secretary.
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH CENTRAL RAILROAD COMPANY, for a certificate of public convenience and necessity. } CASE No. 580

ORDER

Upon motion of the Commission:

IT IS ORDERED, That the application herein of the Utah Central Railroad company, for a certificate of public convenience and necessity, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 9th day of February, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HYRUM DAVIS, for permission to operate an automobile passenger stage line between Milford and the Utah-Nevada State Line, west of Garrison, Utah.	CASE No. 587

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of December 19, 1922, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 171 (Case No. 587), authorizing Hyrum Davis to operate an automobile stage line, for the transportation of passengers, between Milford, Utah, and the Utah-Nevada State line, west of Garrison, Utah.

The Commission now finds that owing to the failure of Hyrum Davis to comply with Chapters 114 and 117, Session Laws of Utah, 1925, Certificate of Convenience and Necessity No. 171 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 171 (Case No. 587) be, and it is hereby, cancelled, and the right of Hyrum Davis to operate an automobile passenger stage line between Milford, Utah, and the Utah-Nevada State line, west of Garrison, Utah, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 12th day of June, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 Kamas, Utah.	CASE No. 639

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of August 8, 1923, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 190 (Case No. 639), authorizing J. H. O'Driscoll to operate an automobile stage line, for the transportation of passengers and express, between Park City and Kamas, Utah.

The Commission now finds that owing to the failure of J. H. O'Driscoll to comply with Chapter 114, Session Laws of Utah, 1925, Certificate of Convenience and Necessity No. 190 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No 190 be, and it is hereby, cancelled, and the right of J. H. O'Driscoll to operate an automobile stage line for the transportation of passengers and express between Park City and Kamas, Utah, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 26th day of January, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of SAMUEL JUDD and FRANK JUDD, doing business under the firm name of Samuel Judd & Son, for permission to operate an automobile freight and passenger line between St. George, Utah, and the Arizona line.	CASE No. 647

SUPPLEMENTARY REPORT AND ORDER

By the Commission:

Under date of August 8, 1923, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 188 (Case No. 647), authorizing Samuel Judd and Frank Judd to operate an automobile freight and passenger line between St. George, Utah, and the Arizona line.

The Commission now finds that owing to the failure of Samuel Judd and Frank Judd to comply with Chapter 114, Session Laws of Utah, 1925, Certificate of Convenience and Necessity No. 188 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 188 be, and it is hereby, cancelled, and the right of Samuel Judd and Frank Judd to operate an automobile freight and passenger line between St. George, Utah, and the Arizona line, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 26th day of January, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JOHN PILLING, for permission to operate an automobile stage line for the transportation of freight and passengers, from Altonah, via Mt. Emmons and Boneta, to Duchesne, all in Duchesne County, State of Utah.	CASE No. 666

SUPPLEMENTARY REPORT AND ORDER

By the Commission:

Under date of October 31, 1923, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 195 (Case No. 666), authorizing John Pilling to operate an automobile freight and passenger stage line from Altonah, via Mt. Emmons and Boneta, to Duchesne, all in Duchesne County, State of Utah.

The Commission now finds that owing to the failure of John Pilling to comply with Chapter 114, Session Laws of Utah, 1925, Certificate of Convenience and Necessity No. 195 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 195 (Case No. 666) be, and it is hereby, cancelled, and the right of John Pilling to operate an automobile freight and passenger stage line from Altonah, via Mt. Emmons and Boneta, to Duchesne, all in Duchesne County, Utah, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 2nd day of February, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of CHARLES E. DUNCAN, for permission to operate an automobile truck line between Meadow and Fillmore, Utah. } CASE No. 683

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of April 2, 1924, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 201 (Case No. 683), authorizing Charles E. Duncan to operate an automobile truck line between Meadow and Fillmore, Utah.

The Commission now finds that owing to the failure of Charles E. Duncan to comply with Chapter 114, Session Laws of Utah, 1925, Certificate of Convenience and Necessity No. 201 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 201 (Case No. 683) be, and it is hereby, cancelled, and the right of Charles E. Duncan to operate an automobile truck line between Meadow and Fillmore, Utah, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 2nd day of February, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of ANTON L. PETERSON, for permission to operate an automobile passenger stage line between Snowville, Tremonton and Dewey, Utah, and intermediate points.	CASE No. 701

SUPPLEMENTARY REPORT AND ORDER

By the Commission:

Under date of April 14, 1924, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 205 (Case No. 701), authorizing Anton L. Peterson to operate an automobile passenger stage line between Snowville, Tremonton and Deweyville, Utah, and intermediate points.

The Commission now finds that owing to the failure of Anton L. Peterson to comply with Chapter 114, Session Laws of Utah, 1925, Certificate of Convenience and Necessity No. 205, should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 205 be, and it is hereby, cancelled, and the right of Anton L. Peterson to operate an automobile stage line, for the transportation of passengers, between Snowville, Tremonton and Deweyville, Utah, and intermediate points, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 2nd day of February, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of G. L. SANDERSON, for permission to operate an automobile passenger stage line between Eureka and the Tintic Standard Mine at Dividend, Utah, and intermediate points. } CASE No. 704

ORDER

Upon motion of the applicant, and with the consent of the Commission:

IT IS ORDERED, That Certificate of Convenience and Necessity No. 211, issued by the Public Utilities Commission of Utah in Case No. 704, June 28, 1924, to G. L. Sanderson, be, and it is hereby, cancelled and annulled, and that the right of said G. L. Sanderson to operate an automobile passenger stage line between Eureka and the Tintic Standard Mine at Dividend, Utah, and intermediate points, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 22nd day of November, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY to adjust rates for rural service out of the Richfield Exchange. } CASE No. 718

ORDER

By the Commission:

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

IT IS ORDERED, That the application of The Mountain States Telephone & Telegraph Company herein to adjust rates for rural service out of the Richfield Exchange, be, and it is hereby, withdrawn, without prejudice.

Dated at Salt Lake City, Utah, this 3rd day of July, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

MUTUAL COAL COMPANY, BRIGHAM CITY FRUIT GROWERS ASSOCIATION, THATCHER COAL COMPANY, J. NEWBOLD,
Complainants,

vs.

DENVER & RIO GRANDE WESTERN RAILROAD CO., OREGON SHORT LINE RAILROAD COMPANY, UTAH IDAHO CENTRAL RAILROAD COMPANY,
Defendants.

} CASE No. 719

Submitted Sept. 30, 1925. Decided February 6, 1926.

Appearances:

E. O. Foubert, for Complainants.

J. A. Gallaher, Geo. Williams, for Denver & Rio Grande Western Railroad Co.

J. A. Howell, F. L. Whitney, for Utah Idaho Central Railroad Co.

REPORT OF THE COMMISSION

By the Commission:

Under date of July 17, 1923, complaint was filed with the Public Utilities Commission of Utah against the Denver & Rio Grande Western Railroad Company, the Oregon Short Line Railroad Company and the Utah Idaho Central Railroad Company, by Merchants' and Manufacturers' Traffic Bureau, for and in behalf of the Mutual Coal Company, Brigham City Fruit Growers Association, J. Newbold and Thatcher Coal Company.

Said complaint alleges:

That several carloads of domestic lump coal were shipped by the Mutual Coal Company from Mutual, Utah, to Brigham City and Logan, Utah, over the lines of the defendants, railroad carriers, during a period of time, covering from July, 1921, to March, 1922.

The freight charges assessed and collected by the defendants were unjust and unreasonable and in violation of Paragraph 1, Section 4783, Compiled Laws of Utah, 1917, which reads as follows:

> "All charges made, demanded, or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded, or received for such product or commodity or service is hereby prohibited and declared unlawful."

That charges assessed and collected by the defendants were in excess of legally published tariff rates, and therefore in violation of Paragraph 2, Section 4787 and Section 4788, Compiled Laws of Utah, 1917, which read as follows:

> "No common carrier shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith, than the rates, fares, and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so speci-

fied, except upon order of the commission as hereinafter provided, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons."

"4788. 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 servicee 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, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals, and charges so specified, nor extend to any corporation or person any form of contract or agreement, or any rule or regulation, or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided, that the commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility."

That shipments covered by this complaint are as follows:

One carload of domestic lump coal, from the Mutual Coal Company, from Mutual, Utah, to Brigham City Fruit Growers' Association, at Brigham City, Utah, October 20, 1921, routed via Denver & Rio Grande Western Railroad to Salt Lake City, Utah, thence Oregon Short Line Railroad to destination;

Eight carloads of domestic lump coal from Mutual Coal Company, from Mutual, Utah, to Brigham City Fruit Growers' Association, at Brigham City, Utah, during the period August, 1921, to and including December, 1921, routed via Denver & Rio Grande Western Railroad to Ogden, Utah, thence Utah Idaho Central Railroad to destination;

Fifteen carloads of domestic lump coal from Mutual Coal Company, from Mutual, Utah, consigned to the Mutual Coal Company at Logan, Utah, during period

August, 1921, to and including March, 1922, routed via Denver & Rio Grande Western Railroad to Salt Lake City, Oregon Short Line Railroad to destination;

One carload of domestic lump coal from Mutual Coal Company, from Mutual, Utah, consigned to J. Newbold, at Logan, Utah, July 30, 1921, routed via Denver & Rio Grande Western Railroad to Salt Lake City, thence Oregon Short Line Railroad to destination;

Two carloads of domestic lump coal from Mutual Coal Company, from Mutual, Utah, consigned to Thatcher Coal Company, at Logan, Utah, July 27, 1921, and August 22, 1921, routed via Denver & Rio Grande Western Railroad to Ogden, Utah, thence Oregon Short Line Railroad to destination;

That all of the above shipments moved at lump coal ratings as provided by Denver & Rio Grande Western Railroad Company Tarriffs Nos. 5372-G, 5372-H, 5660-C and 5660-D, P. U. C. U. Nos. 120, 14, 86 and 8, respectively.

A copy of said complaint was served on each of the defendants, on July 20, 1923. Defendants denied the allegations as set forth in the complaint. Thereupon, the Commission sought to first dispose of the case by informal proceedings, and, failing in that, notice was issued, assigning this case for hearing, on Friday, January 16, 1925, at ten o'clock A. M. All interested parties were notified. The case came on for hearing in accordance with said notice.

At the hearing, the defendants entered an objection to the Commission hearing the complaint of the plaintiffs, for the reason that the Commission is without jurisdiction or authority to hear the same because the complaint was not filed within two years after the cause of action accrued, as required by Section 4838, Compiled Laws of Utah, 1917, viz:

> " * * * All complaints concerning excessive or discriminatory charges shall be filed with the Commission within two years from the time the cause of action accrues * * *."

The evidence shows that shipments of domestic lump coal, as set forth in the complaint, were made; that in each instance the consignee paid the freight charges; that all shipments were billed as domestic lump coal;

that domestic lump coal is coal that has been passed over 1 5-8-inch screens, thus removing the greater proportion of the slack; that all shipments moved at rates provided for lump coal. Complainants contend that run-of-mine coal rates should apply on all shipments of domestic lump coal. Defendants contend that domestic lump coal should bear the same freight charges as lump coal. They also contend that run-of-mine coal is coal just as it comes from the mine, without any preparation.

Defendants also contend that if the Commission assumes jurisdiction, that it is powerless to award reparation in this case, because the complainants, in some instances, are not the damaged parties; that in several instances the coal was sold by at least one of the complainants to stockholders on a basis of cost plus, and that in determining the cost the freight charges as paid were included; that therefore the stockholders or ultimate purchasers, and not the complainants, would be the injured parties.

It appears from the record that there are three questions to be decided, viz:

First: Whether or not the Commission has jurisdiction or authority to hear this case, taking into consideration the filing of the original complaint.

Second: Tariff interpretation to determine the legal rate.

Third: Whether or not the Commission has authority to award reparation, having in mind who are the injured parties.

In consideration of the first question, we find that on July 17, 1923, the Commission received the following letter or complaint:

"Gentlemen:

We are inclosing herewith an informal complaint for the above complainants, covering shipments of domestic lump coal, complete reference being shown in the enclosed list of shipments.

"We contend that the charges collected were unlawful in that they exceeded those properly collectable on the rates legally applicable at the time of movement in the manner that the tariffs were

worded, as more fully outlined in the statement attached.

"A similar complaint was filed by us with the Interstate Commerce Commission June 26th, covering shipments which moved to points in Idaho.

"The question involved being one of tariff interpretation, we wonder if the carriers would be willing to submit this complaint to informal consideration, or if unwilling to do so, if they would be willing to submit same for consideration on a short form docket, such as is being used by the Interstate Commerce Commission on questions of this kind.

Yours very truly,

Mchts. & Mfgrs. Traffic Bureau,
By (Signed) E. O. Foubert,
For Complainants."

Accompanying said letter were exhibits or statements showing the time when the coal moved, the amount and how classified by defendants under their tariff. It is contended that the complainants designated the complaint as an *"informal* complaint."

Section 4838, Paragraph 1, Compiled Laws of Utah, 1917, reads as follows:

"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 date of collection; provided, no discrimination will result from such reparation."

The statute specifically mentions complaint, but does not provide that it shall be a formal or an informal complaint, in other words, the law provides only one kind of complaint.

This Commission has followed the practice, where practicable, to dispose of as many complaints as possible, without holding formal hearings. This is in conformity with the adopted Rules of Practice and Procedure of the Commission.

We think the complaint as filed furnished all of the information necessary to invoke the powers of the Commission and to enable it to hear the matters involved. The designation by the complainants of the papers filed as an *informal* complaint, did not preclude the Commission from hearing and deciding the matter. The complaint must be considered as to its contents and not what its author may designate it.

> "A paper or pleading is what its contents make it, rather than what it is designated by the one who drew it." Capital Water Company vs. Public Utilities Commission (Koelsch, Intervener), 237 Pac., 426.

In consideration of the second question, viz., tariff interpretation, we find:

That the classification of coal, as provided by Denver & Rio Grande Western Railroad Tariffs 5372-G and 5372-H, P. U. C. U. Numbers 120 and 14, respectively, is as follows:

"LUMP COAL

"Lump Coal is coal that will pass over a three (3) *inch round perforated plate.*

"NUT COAL

"Nut coal is coal that has passed through the above Lump Screen and over a screen either one and one-fourth (1 1-4) inch wire mesh or one and five-eighths (1 5-8) inch round perforated plate.

"SLACK COAL

"Slack Coal is coal that will pass through the above Nut Screen.

"MINE RUN COAL

"Mine Run Coal is Lump Coal mixed with smaller sizes and takes Lump Coal rates (except as otherwise provided)."

"NUT RUN COAL

"Nut Run Coal is nut coal mixed with slack coal and takes the nut coal rates (except as otherwise provided).

"NOTE: The above screens will be the only ones recognized."

The Classification of Coal, as contained in D. & R. G. W. R. R. Tariffs 5660-C and 5660-D, P. U. C. U. Nos. 86 and 8, respectively, is as follows:

"SLACK COAL

"Slack Coal rates to apply on all coal that will pass through a 3-4 inch bar screen, or through a 1½ inch mesh, or through the equivalent of either in round or oblong openings.

"NUT COAL

"Nut Coal is coal that will pass through 1½ inch bars or round holes not more than 3 inches in diameter or an equivalent thereof in oblong or square openings, or over the slack screens as described above.

"LUMP COAL

"Lump Coal is a coal that will pass over 3-inch round openings or the equivalent in oblong or square openings or over bar screens 1½ inch openings.

"RUN OF MINE

"A mixture of slack with lump or nut will be considered Run of Mine. Run of Mine will always take lump rate unless specifically provided by Tariff. Billing Agents will apply rates as indicated above."

Defendants contend that mine run coal is coal just as it comes from the mine, without any preparation; that inasmuch as the domestic lump coal passes over plates or screens, the same comes under the classification of lump coal.

Complainants contend that domestic lump coal should take rates provided for mine run coal.

In considering the contention of defendants, the Commission does not find any provision, in any of the tariffs mentioned, for the application of lump coal rates on prepared coal, except on coal that will pass over a three-inch round, perforated plate, etc. No evidence was introduced and no showing was made that the coal in question will pass over a three-inch, perforated plate.

On the other hand, mine run coal is lump coal mixed with smaller sizes and takes lump coal rates (except as otherwise provided). There appears to be no question that the shipments under consideration consisted of lump coal mixed with smaller sizes, i. e., coal that would pass through a three-inch round, perforated plate.

In the tariffs applicable on all shipments in question which moved via the Denver & Rio Grande Western Railroad to Ogden, and Utah Idaho Central Railroad to destination, the descriptions are somewhat different; but there appears to be no question in the minds of the Commissioners as to the application thereunder.

In Interstate Commerce Commission Docket No. 15820, Detweiler Coal Company, et al., vs. Denver & Rio Grande Western Railroad Company, et al., Vol. 96, Pages 87 to 90, inclusive, the same question of tariff interpretation was decided as follows:

> "Defendants argue that if complainants' contention that the mine-run description covers domestic lump is sound, it could be contended with equal force that the mine-run coal description also includes nut coal. But nut coal is coal that passes through the 3-inch round-perforated plate, while some of complainants' coal would pass over such a screen. Because mine-run coal is "lump mixed with smaller sizes" it does not follow of necessity that it must include screenings or slack coal. There is little doubt but that it was the intention of defendants that lump-coal rates should apply on such coal as complainants shipped, but the tariff was not so restricted. Effective May 7, 1922, the tariff was amended so as to provide that mine-run coal should include only coal as it comes from the mine, unscreened, unsized, and without any preparation whatever.
>
> "We informally considered a tariff provision similar to that here involved applying on coal from

Utah to Nevada, and found that the run-of-mine description included coal that would pass over a 1 5-8-inch screen and through a 4½-inch screen. The coal concerned was lump coal (coal that will pass over a 3-inch round-perforated plate) mixed with smaller sizes (coal that passes through the above-described screen and either over a wire-mesh screen 1 1-4 inches or 1 5-8 inches round-perforated plate).

"We find that the rates applicable on the shipments were the rates on mine-run coal; that complainants made shipments as described and paid and bore the charges thereon; that they have been damaged thereby in the amount of the difference between the charges paid and those which would have accrued at the rates herein found applicable; and that they are entitled to reparation with interest."

In consideration of the third and last question, i. e., "Whether or not the Commission has authority to award reparation, having in mind, who are the damaged parties."

The records show that complainants were assessed, and that they actually paid the freight charges. This is sufficient evidence to sustain the Commission in making its findings.

In Oden & Elliott vs. S. A. L. Ry., 37 I. C. C., 345, 348, the Interstate Commerce Commission said:

" * * * the party entitled to recover is he who has either by himself or by another paid and borne the freight charges for the transportation service, irrespective of the title to the property shipped."

Missouri Portland Cement Company vs. Director General, as Agent, 88, I. C. C., 492, 498, supports the above statement.

The Commission finds that the run-of-mine coal rates should apply on all shipments as covered by the complaint, and that defendants should make reparation to the complainants in the amount of the difference between the rates on lump coal and run-of-mine coal, giving due consideration to the weight of shipments, aggregating in the sum of $498.58. Reparation should also cover interest at current rate in effect at time of

payment, from the dates of collection of freight charges to the date of payment of these claims.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 February, 1926.

MUTUAL COAL COMPANY, BRIGHAM CITY FRUIT GROWERS ASSOCIATION, THATCHER COAL COMPANY, J. NEWBOLD, *Complainants,* vs. DENVER & RIO GRANDE WESTERN RAILROAD CO., OREGON SHORT LINE RAILROAD COMPANY, UTAH IDAHO CENTRAL RAILROAD COMPANY, *Defendants.*	CASE No. 719

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

IT IS ORDERED, That defendants, Denver & Rio Grande Western Railroad Company, Oregon Short Line Railroad Company, and the Utah Idaho Central Railroad Company, be, and they are hereby, authorized, directed and required to refund to complainants, through the Merchants' and Manufacturers' Traffic Bureau, $498.58,

in conformity with the Commission's findings and conclusions aforesaid, in amounts as follows:

To Mutual Coal Company	$272.95
To Brigham City Fruit Growers Assn.	170.00
To Thatcher Coal Company	$36.60
To J. Newbold	19.03
	$498.58

together with interest from dates of payment of freight bills to date of refund, at current rate in effect at the time reparation is made.

ORDERED FURTHER, That reparation should be completed on or before April 1, 1926.

By the Commission:

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of the LOS ANGELES & SALT LAKE RAILROAD COMPANY, OREGON SHORT LINE RAILROAD COMPANY, DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, UTAH IDAHO CENTRAL RAILROAD COMPANY, SALT LAKE & UTAH RAILROAD COMPANY, UNION PACIFIC RAILROAD COMPANY, and WESTERN PACIFIC RAILROAD COMPANY, for permission to increase rates for the transportation of plaster within the State of Utah.

CASE No. 737

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of MORTENSEN and RASMUSSEN to withdraw from and W. R. MARTIN to assume the operation of an automobile stage line between Milford and Beaver, Utah.

CASE No. 745

SUPPLEMENTARY REPORT AND ORDER

By the Commission:

Under date of June 16, 1925, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 235 (Case No. 745), authorizing W. R. Martin to operate an automobile passenger stage line between Milford and Beaver, Utah.

The Commission now finds that owing to the failure of W. R. Martin to comply with all of its rules, regulations, requests, Certificate of Convenience and Necessity No. 235 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 235 be, and it is hereby, cancelled, and the right of W. R. Martin to operate an automobile stage line, for the transportation of passengers, between Milford and Beaver, Utah, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 18th day of February, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of LOUIS R. LUND and B. L. COVINGTON, for permission to discontinue operation of their automobile passenger stage line between St. George and Enterprise, Utah.	CASE No. 747

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Application having been made by Louis R. Lund and B. L. Covington for permission to discontinue operation

of their automobile passenger stage line between St. George and Enterprise, Utah, on account of insufficient business to warrant operation of said stage line;

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

IT IS ORDERED, That the application be, and it is hereby, granted, that Louis R. Lund and B. L. Covington be, and they are hereby, authorized to discontinue operation of their automobile passenger stage line between St. George and Enterprise, Utah; that Certificate of Convenience and Necessity No. 222 (Case No. 747) be, and it is hereby, cancelled and annulled.

Dated at Salt Lake City, Utah, this 22nd day of April, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

LOGAN CITY CORPORATION, *Complainant,*
vs.
UTAH POWER & LIGHT COMPANY, *Defendant.*
} CASE No. 751

Submitted January 23, 1926. Decided February 18, 1926

REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of March 10, 1924, an application was field by Logan City, by John A. Crockett, Mayor, for an order adjusting its power rates for electrical power in Logan City, Utah.

Complaint and application for change in rates was filed November 21, 1924, by Logan City, by its Mayor.

Said complaint makes the Utah Power & Light Company the defendant.

On December 10, 1924, amended complaint and application for change in rates was filed.

In accordance with the Rules of Practice and Procedure of the Commission, a copy of the amended complaint was served December 22, 1924, on the Utah Power & Light Company, with an Order to Satisfy or Answer in writing within ten days.

On January 3, 1925, the time in which the Utah Power & Light Company was required to satisfy or answer said complaint, was extended to and including January 10, 1925, on request of the defendant and with the consent of complainant.

Further extension of time, in which to satisfy or answer said complaint, was requested and authorized. Said extension provided to and including January 24, 1925.

Again, on motions of complainant and defendant, time was extended to and including February 3, 1925.

Later, a stipulation was filed, signed by John A. Crockett, Mayor of Logan City, and John F. MacLane, Vice-President and General Manager of the Utah Power & Light Company, requesting that further proceedings in this matter be indefinitely postponed. In accordance with said stipulation, the time in which to satisfy or answer, was continued without date.

Comes now A. G. Lundstrom, the present Mayor of Logan City, in a letter dated January 21, 1926, says:

> " * * * Hence in answer to your letter whether Logan City desires the Commission to proceed with the case at this time, I will say that I believe that we can work out our own problems with reference to the light plant, satisfactorily, but it will of course take a little time to do that, and so far as we are concerned, the stipulation that the case be indefinitely postponed may continue to stand.
>
> "If Logan City should later desire to have some action taken it would probably be done by filing a new or amended complaint; but as to that I could not make any statement at this time."

The Commission, therefore, orders that said case be, and it is hereby, dismissed, without prejudice.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of MYRLE ALLSOP, for permission to operate an automobile truck line, for the transportation of milk, from Crescent and Sandy to Salt Lake City, Utah, via State Street.	CASE No. 753

SUPPLEMENTAL REPORT AND ORDER OF THE COMMISSION

By the Commission:

Application having been made by Myrle Allsop, for permission to discontinue operation of his automobile truck line, for the transportation of milk, from Crescent and Sandy to Salt Lake City, Utah, via State Street, account insufficient business:

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

IT IS ORDERED, That the application be, and it is hereby, granted, that Myrle Allsop be, and he is hereby, authorized to discontinue operation of his automobile truck line, for the transportation of milk, from Crescent and Sandy to Salt Lake City, Utah, via State Street; that Certificate of Convenience and Necessity No. 226, issued to him in Case No. 753, be, and it is hereby, cancelled and annulled.

Dated at Salt Lake City, Utah, this 17th day of May, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

JOHN A. WINDER,
Complainant,
vs.
SOUTHERN UTAH TELEPHONE COMPANY,
Defendant.
} CASE No. 754

Submitted February 11, 1925. Decided April 27, 1926.

Appearances:

LeRoy H. Cox, of St. George, for Complainant.

E. H. Snow, of St. George, for Defendant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, before the Commission, at St. George, Utah, February 11, 1925, upon the complaint of John A. Winder, of Springdale, Utah, for and in behalf of Zion Canyon Telephone Company, and the answer filed thereto by the Southern Utah Telehone Company.

The complaint, in substance, sets forth that the defendant fails and neglects to perform its duty toward the complainant and the public as a connecting telephone line.

It appears from the evidence that the Zion Canyon Telephone Company is the owner of a telephone sys-

tem, and, through the complainant, operates a telephone line from Mt. Carmel through Zion National Park to Springdale, in southern Utah; that the defendant, Southern Utah Telephone Company, owns and operates a telephone system in Southern Utah and has a connecting line with that of the complainant at Springdale; that the use of the telephone by the public over these connecting lines is a very limited one, more especially so beyond Springdale, over the complainant's lines, and the revenues derived by reason of the connecting of the lines of the parties, are wholly insufficient to warrant the employment of a regular telephone operator at Springdale; that no regular telephone operator is employed at Springdale, and the respective parties are dependent upon the storekeeper at said place to operate a telephone, and he operates the same more for the accommodation of the public than for the compensation paid to him therefor; that the telephone at said point is operated during business hours at the store of the operator during the time it remains open for trade; that oftentimes telegraph messages transmitted through telephone service are delayed and conversations over the connecting lines cannot be had because of the store being closed and no operator then being available; that the average monthly receipts of the defendant for a six-month period ending in 1924, at Springdale, were but $12.92 per month, one-fourth of which was paid to the Zion Canyon Telephone Company, that the cost of giving telephone service over these connecting lines is of necessity all out of proportion to the revenues derived, and to require the rate-paying public to pay rates commensurate with the cost of giving better service than has been given over said lines, would be prohibitive.

We think the complaints made against the defendant, Southern Utah Telephone Company, under the conditions and circumstances, are wholly unfounded, and that the complaint herein should be dismissed.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 April, 1926.

JOHN A. WINDER,
Complainant,
vs.
SOUTHERN UTAH TELEPHONE COMPANY,
Defendant.
} CASE No. 754

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

IT IS ORDERED, That the complaint herein of John A. Winder vs. the Southern Utah Telephone Company be, and it is hereby, dismissed.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the DENVER & RIO GRANDE WESTERN RAILROAD COMPANY and BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to cancel joint intrastate rates between said companies.
} CASE No. 775

Submitted January 11, 1926. Decided February 20, 1926
Appearances:

J. A. Gallaher, for Denver & Rio Grande Western R. R. Co.

A. B. Irvine, for Bamberger Electric Railroad Co.

REPORT OF THE COMMISSION

By the Commission:

Under date of February 2, 1925, the Denver & Rio Grande Western Railroad Company and the Bamberger Electric Railroad Company, by their authorized representatives, filed application with the Public Utilities Commission of Utah. Said application requests permission to cancel all joint intrastate rates between said Railroads, as carried in D. & R. G. W. R. R. Tariff No. 4975-D, P. U. C. U. No. 42.

The Commission assigned this case for hearing, at Salt Lake City, on August 26, 1925, at ten o'clock A. M. Copies of said notices were served on all town boards, city councils and other interested parties.

Upon motion of applicants, and with the consent of the Commission, the hearing was postponed until September 1, 1925, at eleven o'clock A. M.

The case came on for hearing on the latter date. No protests, either written or verbal, were made.

The evidence shows that there has been very little movement on the joint rates. Out of nineteen cars of freight interchanged between lines of applicants, in a single year, fourteen of said cars either originated at or were destined Ogden proper. There appears, from the evidence, that there is some movement of plaster from Gypsum and Sigurd, Utah, to various points on the Bamberger Electric Railroad.

The Commission finds:

That to require the Denver & Rio Grande Western Railroad Company to maintain the joint rates in question, would be to order said Company to short haul itself;

That rates on cement plaster, calcined plaster, land plaster, plaster blocks and plaster board, from Gypsum and Sigurd, Utah, to points on the Bamberger Electric Railroad north of Salt Lake City and south of Ogden, Utah; should be published in Denver & Rio Grande Western Railroad Tariff No 4682-J, P. U. C. U. No. 69;

That all joint intrastate rates as carried in D. & R. G. W. R. R. Tariff No. 4975-D, P. U. C. U. No. 42,

in connection with the Bamberger Electric Railroad, should be cancelled;

That the effective date of said cancellation be not less than thirty days' notice to the public and the Commission.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 20th day of February, 1926.

In the Matter of the Application of the DENVER & RIO GRANDE WESTERN RAILROAD COMPANY and BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to cancel joint intrastate rates between said companies.	CASE No. 775

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

IT IS ORDERED, That the rates on cement plaster, calcined plaster, land plaster, plaster blocks and plaster board, from Gypsum and Sigurd, Utah, to points on the Bamberger Electric Railroad north of Salt Lake City and south of Ogden, Utah, be published in Denver & Rio Grande Western Railroad Tariff No. 4682-J, P. U. C. U. No. 69; that all joint intrastate rates as carried in D. & R. G. W. R. R. Tariff No. 4975-D, P. U.

C. U. No. 42, in connection with the Bamberger Electric Railroad, be cancelled.

ORDERED FURTHER, That the effective date of said cancellation be not less than thirty days' notice to the public and the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. P. CLAYS, for permission and authority to construct, maintain, conduct and operate a tramway, for the purpose of transporting and conveying ore, rock and freight between Wasatch, a railway terminal in Salt Lake County, State of Utah, and Alta, in the Little Cottonwood Mining District, in Salt Lake County, State of Utah, and also to convey and transport ores, rocks and freight from intermediate points by means of tramway lines.	CASE No. 780

SUPPLEMENTARY ORDER OF THE COMMISSION

By the Commission:

It appearing to the Commission, on proper showing made by the applicant, J. P. Clays, that he has exercised due diligence in seeking to construct a tramway authorized by the Commission's Certificate of Convenience and Necessity No. 228 (Case No. 780);

And it further appearing that he has reasonable assurances that if granted additional time, that the said order can be complied with on or before the 6th day of April, 1927, and the said tramway completed and placed in operation;

Now, therefore, IT IS HEREBY ORDERED, That said Certificate of Convenience and Necessity No. 228 be, and the same is hereby, extended, for the completion of the tramway therein authorized, to and until the 6th day of April, 1927.

Dated at Salt Lake City, Utah, this 24th day of February, 1926.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

THOMAS L. MITCHELL, *Complainant,*
vs.
THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, a Corporation, *Defendant.*
} CASE No. 782

Submitted September 23, 1925. Decided September 30, 1926.

Appearances:

Thomas L. Mitchell, of Salt Lake City, Utah
For Himself, Complainant.

Van Cott, Riter & Farnsworth, of Salt Lake City, Utah, and Milton Smith and E. R. Campbell, of Denver
for Defendant.

REPORT OF THE COMMISSION

By the Commission:

On the 5th day of March, 1925, the complainant, Thomas L. Mitchell, of Salt Lake City, Utah, filed a complaint before the Public Utilities Commission of Utah, in substance stating that he is a lawyer, and has an office at 419 Felt Building, Salt Lake City, Utah; that the defendant, The Mountain States Telephone & Telegraph

Company, is a public utility, owning, controlling, operating, and managing telephone lines for public use within the State of Utah, and its office and post office address is 56 South State Street, Salt Lake City, Utah; that the defendant, after the complainant had paid it in full for telephone services at his law office in Salt Lake City, Utah, for the month of February, 1925, wilfully and wrongfully disconnected complainant's telephone, without telling him, and told everybody who called that his telephone was temporarily disconnected; that complainant was not advised that his telephone had been disconnected until March 2, 1925, before his March bill for telephone service became due, when a client advised him that his telephone was disconnected, and, on the same day, the defendant re-connected his telephone; that meanwhile, complainant could call and talk to others, but others could not call and talk to him over the telephone, and, thereby, complainant was injured in his business and humiliated and embarrassed to his damage in the sum of $500.00.

Wherefore, complainant prayed that the defendant's rules and practices as to discontinuing telephones, be investigated by the Commission, and that the Commission prescribe and enforce just and proper rules and regulations concerning the defendant's telephone service, and for such other relief as may be proper.

On the 19th day of March, 1925, the Commission made and issued its order requiring the defendant to satisfy the complaint.

Thereafter, answer in due time was filed for and in behalf of defendant, which, after admitting that it is a public utility, as alleged in the complaint, denied having discontinued complainant's telephone service in the manner alleged in the complaint, and to justify the disconnecting of complainant's telephone, alleged:

"That on December 31, 1924, and for a long time prior thereto, the defendant furnished telephone service to the law firm of McCarty & McCarty, in Salt Lake City, under the exchange designation and number, Wasatch 5788; that the complainant herein was in some manner associated with the said firm, occupying offices with it in the Felt Building, and exercising joint user of said telephone service by means of an extension telephone of Wasatch 5788, and having a directory listing in the words and figures. "Thomas L. Mitchell, Atty., Wasatch 5788,"

in the directory of telephone users published by the defendant for use in Salt Lake City; that on January 1, 1925, the said law firm of McCarty & McCarty owed the defendant the sum of Thirty-one Dollars and Fifty Cents ($31.50) on account of telephone service furnished to the said firm under the number Wasatch 5788, including the joint use of such service rendered to complainant on extension of Wasatch 5788 and directory listing of complainant as hereinabove described; that on or about January 1, 1925, the law firm of McCarty & McCarty and the complainant requested of the defendant that the complainant be permitted to succeed to the service theretofore rendered to the firm of McCarty & McCarty as hereinabove described; that at that time it was the well established and reasonable rule, regulation and practice of the defendant that every subscriber succeeding to the service of another subscriber was required to assume the payment of all outstanding indebtedness charged against the subscriber, to whose service succession was sought; that at that time it was also the well established and reasonable rule, regulation, and practice of the defendant Company that said Company reserve the right to furnish telephone service to subscribers under exchange designation and number to be determined solely by the said Company; that notwithstanding the existence of the two above stated well established rules, regulations, and practices of the defendant Company, and notwithstanding the strict instructions of the defendant Company to its employees forbidding them to break or violate such well established and reasonable rules, regulations and practices, an employee of the defendant Company, in utter violation of his duties and in direct contradiction to his instructions and entirely beyond the scope of his employment and without any authorization by the defendant company, violated the above said rules, regulations and practices by stating to the complainant and to the firm of McCarty & McCarty that the complainant would, effective January 1, 1925, be permitted to succeeed to the service theretofore rendered to McCarty & McCarty under the exchange designation and number Wasatch 5788, without requiring the complainant to become obligated to the defendant to pay the outstanding indebtedness in the amount of Thirty-one Dollars and Fifty Cents ($31.50) then charged against Wasatch 5788 for service theretofore rendered to the said firm; that beginning January 1, 1925, the complainant was furnished such service under the exchange designation and number Wasatch 5788; that on or about the first day of February, 1925,

the defendant, in accordance with its well established and reasonable rule, regulation and practice, rendered the complainant a statement of indebtedness in the amount of Eleven Dollars and Seventy-five Cents ($11.75) for February telephone service in advance, with a statement thereon that the same was due and payable on or before the Tenth day of February, 1925; that it is the well established and reasonable rule, regulation and practice of the defendant Company to require payment in advance for telephone service on or before the Tenth of the month; that such rule, regulation and practice is necessary for the proper conduct and management of its business; that on or about February 12, 1925, said indebtedness of complainant remaining unpaid, the defendant again requested complainant to pay same; that it is the well established and reasonable practice of the defendant Company to record on its books of account the indebtedness of its subscribers to it under the exchange designation and number as well as under the name of the subscriber; that according to such well established and reasonable practice the defendant's books of account showed a charge on February 12th against Wasatch 5788 in the sum of Thirty-one Dollars and Fifty Cents ($31.50) for service rendered to McCarty & McCarty, as more fully described above, and also a charge in the sum of Eleven Dollars and Seventy-five Cents ($11.75) against Wasatch 5788 on account of the current monthly, to wit: February service rendered to Thomas L. Mitchell under that number; that on or about February 13, 1925, the complainant paid defendant the sum of Eleven Dollars and Seventy-five Cents ($11.75); that the employee of the defendant receiving the said payment of $11.75 credited the same to the first item of outstanding indebtedness against Wasatch 5788, to wit: the item of $31.50; that in so crediting the first item of the outstanding indebtedness charged against Wasatch 5788 with the $11.75 so paid, the said employee of the defendant complied with the well established and reasonable rule, regulation and practice of the defendant, but acted contrary to the special and wholly unauthorized arrangement theretofore made with the complainant by another employee of the defendant hereinabove referred to; that in consequence of the said payment of $11.75 having been credited to the first item of indebtedness, to wit: $31.50 charged against Wasatch 5788, instead of being credited to the current monthly, to wit: February account charged against Wasatch 5788, the defendant, in accordance with the well established and reasonable rule, regulation and

practice, commenced to deny incoming service to the complainant on the night of February 25, 1925, and continued to refuse such incoming service until March 2, 1925; that on March 2, 1925, the complainant protested to the defendant that he was not delinquent in the payment of charges for telephone service and demanded that his service be re-established in full; that thereupon the defendant became aware of the wholly unauthorized arrangement, above referred to, entered into by and between one of its employees and the complainant, whereby the complainant, in succeeding to the service theretofore rendered to McCarty & McCarty and to him under the exchange designation and number Wasatch 5788, was to be permitted to retain such service, exchange designation and number without assuming payment of the outstanding indebtedness charged against said number and subscriber; that thereupon credit of $11.75, theretofore made to the first item of outstanding indebtedness, to wit: $31.50 charged against Wasatch 5788 on account of service rendered to McCarty & McCarty and complainant under the designation Wasatch 5788, was deducted and said payment of $11.75 was credited to the current monthly, to wit: February account of Thomas L. Mitchell and telephone service in full was thereafter, and ever since has been, furnished to the said Thomas L. Mitchell; but that the sum of $31.50, charged against Wasatch 5788 on account of service rendered to McCarty & McCarty and to complainant prior to January 1, 1925, under the designation and number Wasatch 5788, is still outstanding and unpaid.

That said telephone number Wasatch 5788, while in the joint use of said complainant and said McCarty & McCarty, was subject on May 23, 1924, to disconnection for non-payment of indebtedness due to said defendant for telephone service and notice to that effect was duly given; that such number, while in such joint use and for such reason, was also subject to disconnection on August 26, 1924, and on such date was disconnected and the connection was restored on August 27, 1924; that such telephone, while in such joint use and for such reason, was again subject to disconnection on September 23, 1924, and notice to that effect was duly given; that such telephone, while in such joint use and for such reason, was on November 20, 1924, subject to disconnection and notice to that effect was duly given; that said complainant was informed and knew that such telephone number was subject to disconnection on May 23, 1924, September 23, 1924, and Novem-

ber 20, 1924, and that disconnection was made on August 26, 1924.

That on or about December 31, 1924, the said complainant requested said McCarty & McCarty to endeavor to procure for him, the said complainant, said telephone number, 5788, and in compliance therewith said McCarty & McCarty requested said telephone employee as a favor to give to said complainant said telephone number and such telephone employee in granting such favor knew it was against the defendant's regulations.

That said complainant by his said agents procured the said violation of said regulations and such violation caused the very result of which the said complainant now complains.

That in doing the acts and things herein alleged and complained of by complainant, the defendant violated none of the laws of the State of Utah and no rule nor regulation of the Public Utilities Commission of the State of Utah; that the complainant's grievance was caused solely by the wholly unauthorized act of an employee of the defendant in violating a well established and reasonable rule, regulation and practice of the defendant, said rule, regulation and practice being necessary to the proper conduct and management of its business, but not prescribed by law nor any rule or regulation of the Public Utilities Commission of Utah, and said violation being committed by the employee acting wholly beyond the scope of his employment without any authority and in direct contradiction to explicit instructions of the defendant Company to its employees, but that in so acting said employee merely attempted to accommodate and favor said complainant."

The matter came on regularly for hearing, before the Commission, on the complaint and answer, at the office of the Commission, in the State Capitol, Salt Lake City, Utah, on the 8th day of June, 1925. The complainant moved to strike the defendant's answer, upon the ground that it had not been served before filing with the Commission. The motion was denied. The complainant announced at the outset of the hearing that it was not his purpose in making the complaint against the defendant to seek to recover the damages alleged as having been sustained by reason of the wrongs complained of, that redress having been sought against defendant through the medium of the courts, but for the purpose of testing before the Com-

mission the justness and reasonableness of the rules and practices governing defendant's public telephone service.

From the admitted facts and the evidence taken at the hearing, it appears:

1. That the complainant, Thomas L. Mitchell, is a practicing lawyer, and as such was at and during the times complained of herein, maintaining a law office in the Felt Building, Salt Lake City, Utah.

2. That the defendant, The Mountain States Telephone & Telegraph Company, is a corporation, duly organized and existing under and by virtue of the laws of the State of Colorado; that it has, as a foreign corporation, complied with the laws of the State of Utah, and is within the meaning of Title 91, Compiled Laws of Utah, 1917, a "public utility" and a "telephone corporation", doing business as such within this State.

3. That during and upon all the times mentioned and set forth in the complaint of the complainant herein, the defendant was rendering telephone service to the complainant at his law office in Salt Lake City, Utah, under its General Tariff, and the following rules and regulations applicable thereto, to wit:

> "9. For failure to pay exchange service charges, toll or other charges, for any use of instruments contrary to the subscriber's contract or the provisions of the Company's tariffs, or for the use of profane or indecent language from said instruments, the Company reserves the right to temporarily suspend service, or to terminate any contract, without prior notice to the subscriber, and immediately thereupon to sever the subscriber's connections and remove the instruments.
>
> "10. Should service be temporarily suspended for non-payment of charges, reconnection of service will be made only in accordance with the provisions specified in the General Tariff section covering Reconnection Charges.
>
> "11. Should service be discontinued for failure to pay exchange service charges, toll or other charges, such charges must be paid in full before service will again be furnished. When instruments have been removed for non-payment, the contract is considered to have been terminated and charges there-

on, including termination charges, if applicable, are assessed. Reinstallation may be made upon the execution of a new contract for a regular contract term, and payment of a deposit in accordance with the provisions of the General Tariff section covering Deposits, or in case such reinstallation is made within a period of thirty days from the date of removal, the service is restored in accordance with the provisions of the General Tariff section covering Reinstallation Charges."

4. That on the 2nd day of March, 1925, the complainant, in compliance with the rules of the defendant's said tariff, had paid to the defendant all service charges, toll and other charges due and owing from him to the defendant.

5. That some time during February, 1925, the defendant, without notice to the complainant, disconnected the complainant's telephone, so that parties desiring to communicate with complainant by telephone could not do so, but complainant could call and talk with others over his telephone; that while said telephone was disconnected, the defendant informed persons desiring to talk with the complainant, that his telephone was disconnected.

6. That the complainant, at the time said telephone was disconnected, maintained his office in connection with other attorneys, and for some time theretofore the listing of said telephone had been in the name of the other occupants of said office who were delinquent in the payment of the charges made against them by defendant for telephone service; that while the occupants of said office other than the complainant became delinquent in the payment of their telephone charges, the complainant, under the rules and regulations of the defendant, made use of the telephone under defendant's rules and regulations governing "joint user service" only, and under defendant's said rules, the defendant had the right to disconnect the complainant upon nonpayment of charges for service against said occupants' use of the telephone.

7. That by special arrangements made by the Commercial Manager of the defendant Telephone Company with said occupants other than the complainant, and in violation of the established rules and regulations of the defendant, it was agreed to, in December, 1924, that

said telephone as listed in the name of said occupants other than complainant, should not be disconnected, but that service should be continued and billings for complainant's telephone service should be made directly to complainant; that thereafter billings for complainant's extension service were made by defendant directly to complainant, according to said arrangement, notwithstanding the other occupants of said office had failed and neglected to pay for the delinquent service for which they were obligated to the defendant, and until complainant's service, as well as that of the other occupants of said office, was discontinued by the telephone for said office being disconnected, without notice, some time in February, 1925, although the complainant had fully complied with the special arrangements so made with defendant's Commercial Manager, by paying all charges for telephone service made against him in accordance with the billings of the defendant.

The foregoing facts present the question as to whether or not the rules and regulations governing telephone service rendered by the defendant in Utah, are just and reasonable as between the utility and the public it serves. While the facts and circumstances in the instant case are somewhat complicated, on the whole this is but one of many cases where the subscriber for telephone service has complained to the Commission of serious embarrassment and financial loss by reason of telephone service being disconnected by defendant without the subscriber's knowledge. The complainant in this case, properly so, is not seeking at the hands of the Commission redress for the personal wrongs he complains of; but to have the defendant's rules and practices modified in some form so as to preclude the embarrassing situations that continuously arise where well meaning telephone subscribers are subjected to a rule, which in its observance justifies the defendant in disconnecting a telephone for nonpayment of charges without notice to the subscriber.

That the complainant in this instance was made a victim of circumstances through the unauthorized practices of the defendant's Commercial Manager, matters not. The principle involved and its effect are precisely the same. Public service corporations transact their business affairs and render their services to the public through conduct and practices of their employees and agents, and they must be held to be in some measure, at least, accountable therefor. Moreover, in this partic-

ular case, the defendant availed itself of the benefits derived from the arrangement made by its Commercial Manager, and it should be deemed responsible, we think, accordingly. But, aside from that, the Commission feels that these proceedings were instituted by complainant not so much because of his personal grievances against the defendant, but for the more commendable reason that he believes that the rules and regulations complained of are matters that concern all subscribers patronizing the defendant's telephone system in this State. When the complainant as a subscriber assails the rules and regulations as published in defendant's General Tariff for the State of Utah, on file with the Commission, as being unjust and unreasonable, we must necessarily, in a legal sense, regard them as being uniform and not discriminatory in operation between subscribers.

It is said by the defendant's witnesses in this case that the defendant does not, in actual practice, disconnect its subscribers' telephones without first giving them notice that they are in arrears. The question then arises, why the rule that is assailed by the aggrieved party in this case?

If the rule complained of is to be disregarded in the defendant's conduct toward delinquent subscribers, then it would seem that there is no necessity for it. However, just as long as a rule is made and published in connection with defendant's General Tariff as "applying to all subscribers' contracts," as the one now under consideration is, this Commission must regard it as a definite regulation prescribing defendant's law of conduct.

It therefore follows that it makes no difference whether or not in actual practice a subscriber is notified of his delinquency before his telephone is disconnected. So long as the rule stands, it must be tested as to its reasonableness as promulgated, made and filed with this Commission.

But, says the able counsel for defendant:

> "In entertaining jurisdiction of the present proceeding, the Commission must not lose sight of certain fundamentals. The property of the defendant devoted to the giving of telephone service in Utah, is privately owned. The State of Utah, in the exercise of its police power and acting through its Legislature, has delegated to this Com-

mission limited powers of regulation over that property. But the right to manage this property inheres in its ownership. To deprive its owners of this right of management, even under the guise of regulation, is the taking of property in violation of the Fourteenth Amendment."

The defendant cites:

Missouri, ex. rel. vs. Southwestern Bell Telephone Company, 262 U. S., 276.

Great Northern Railway Co. vs. Minnesota, ex. rel, 238 U. S., 340.

Chicago, Milwaukee & St. Paul R. R. Co. vs. Wisconsin, 238 U. S., 491.

People, ex rel, vs. Stevens, 197 N. Y. 1, 90 N. E., 60.

People, ex. rel, vs. Stevens, 203 N. Y. 7, 96 N. E., 114.

Bacon vs. Boston & M. R. R. Co., 83 Vermont, 421, 76 Atl., 128.

Atlantic Elec. Ry. Co. vs. North Carolina Corporation Commission, 206 U. S., 1, P. 20.

Coplay Cement Mfg. Co. vs. Public Service Commission, 114 Atl., 649 (Pa.)

Public Utilities Commission vs. Springfield Gas & Elec. Co., 125 N. E., 891, 291 Ill. 209, 234.

Columbus Gas Light Co. vs. Public Service Commission, 140 N. E., 538 (Ind.).

Alabama Great So. R. R. Co. vs. Public Service Commission, 97 So. 226 (Ala.).

After carefully reading and considering the cases above cited by defendant, we are unable to discern in what way they support its challenge to the jurisdiction or right of this Commission to investigate and determine the reasonableness of its rules attacked by the complainant herein. This Commission has no inclination to interfere with the management of the privately owned property of the defendant, so long as it is privately used. When it devotes its privately owned property to public use, that is a different matter. Then, as we believe, the public has an interest, not only in the matter of rates charged for service, but in all other matters and things that may affect the public interest, more especially with respect to rules and practices governing and controlling the utilities' service to the public.

Fundamentally, if the public has an interest in property used in rendering public service, then the public has the corresponding right to regulate and control its use for the public good, just so long as it is devoted to giving public service. That is the doctrine expounded in the leading case, Munn vs. Illinois, 94 U. S., 113, 24 L. ed. 77. The court decisions relied upon by defendant, above cited, as we read them, contain nothing to the contrary.

True, the regulatory powers of this Commission are limited by statute, but with respect to our authority or jurisdiction to hear and determine cases involving the reasonableness of a public utility's rules governing its services to the public, there can be no doubt but that we are amply clothed with statutory power.

Summarily stated, the provisions of our Public Utilities Act, with respect to the matters involved in the instant case, provides:

Every public utility is subject to the jurisdiction and regulation of the Public Utilities Commission. Every public utility shall furnish, provide and maintain such service as shall promote the safety, health, comfort and convenience of its patrons and the public, and as shall be in all respects adequate, efficient, just and reasonable. All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public, shall be just and reasonable. Whenever the Commission shall find, after hearing, that the rules, regulations and practices or service of any public utility are unjust, unreasonable, unsafe, or improper, the Commission shall determine the just, reasonable, safe and proper rule and regulation, and shall fix the same by its order, rule, or regulation.

As pointed out in the findings, defendant's Rule "9" does not provide for any notice whatever before disconnecting a subscriber's telephone for non-payment of exchange or other service charges. It has been the usual practice of the defendant under said rule to so mechanically disconnect the delinquent subscriber's telephone that while he may continue its use in calling others, others will be unable to call him. It is urged by defendant that this rule is necessary, in order to secure prompt payment on the part of telephone subscribers; that without such a rule, the expenses incident to collecting service charges, usually small in amount, would be

almost prohibitive; that in the absence of this rule, paying subscribers would be penalized by having to bear the burden of the non-paying subscribers; and that is to say, unless some such rule is adopted inducing prompt payment by the subscriber found to be in arrears, the defendant will either have to be deprived of revenues justly earned, or the rate-paying public will have to suffer the injustice of having to pay higher rates in order to make good the losses occasioned by subscribers who fail to pay their service charges.

It must be conceded that a rule which precludes patrons of a public utility from obtaining service without paying for it, enures to the benefit of the utility and its paying patrons alike. With that contention, we are in accord. However, such a rule should not be so constructed as to permit the utility to work unnecessary hardships upon its patrons found to be in arrears. To the extent it may occasion well meaning patrons unnecessary embarrassments and financial losses, it is unreasonable and oppressive and cannot be justified.

The rule of the defendant now under consideration permits the disconnection of the delinquent telephone subscriber, without any notice whatever. One of the reasons assigned by the defendant why such a rule should be sustained as reasonable, is the following:

> "Since telephone charges are payable in advance, since that fact is well established and brought to the attention of every telephone subscriber, since every subscriber is notified that his telephone service is subject to disconnection if the bills are not paid when rendered, and since every person is presumed to know whether he has paid his telephone bill, then what reasonable basis can there be for demanding any notice at all?"

From the standpoint of a cold blooded business proposition, the rule contended for by defendant might be reasonable when applied to a telephone subscriber who might be inclined to beat the utility out of pay for services when performed. As applied to the well meaning subscriber who fully intends to pay and is unconscious of the fact that he is in arrears, such a rule is, in our judgment, not only unreasonable but pernicious in its effect when applied.

It may well be said that telephone subscribers are human. They are, more especially the business and professional class, absolutely dependent upon telephone service in carrying on their daily activities and in the proper discharge of the duties they owe to others as members of society and the business world. If perchance their minds should be so engrossed with other matters, or, through inadvertence, they have overlooked the payment of their telephone bill, why not tell them so? They certainly would appreciate being reminded of the fact quite as much as being disconnected and having to suffer the embarrassment and business losses that oftentimes follow. Either way, the subscriber, sooner or later, is bound to get notice of his delinquency. The only question then is: Which way is preferable?

In the first instance, the subscriber is afforded an opportunity of protecting his interests. In the last, he is subjected to uncalled-for punishment.

Of course, no public utility may be required to render service to its subscribers without pay. It may require payment for services in advance. However, a rule requiring notice to the telephone subscriber before disconnection, where he is in arrears, would not impair the defendant's rights in these particulars. As to what would be a reasonable notice to a delinquent patron or a public utility, before service may be disconnected, will depend somewhat upon the circumstances attending the particular case. In our judgment, no definite standard as to time may be prescribed that would be applicable in all cases. However, the rule should provide for notice, and the public utility should not be permitted to disconnect the subscriber until the fact of his being in arrears is first brought to his attention in such a way that his household or business will have ample time to meet the charges before being disconnected. By that we mean before service is disconnected the defendant in this case should be required, under its Rule 9, to advise the subscriber of his delinquency and of its intention to disconnect for non-payment of charges, and then afford the subscriber or those in charge of and making use of the telephone, ample time to comply with the demand before disconnection is made for non-payment of charges.

An appropriate order will follow.

Further, with respect to the rules and regulations governing the defendant's telephone service, complained

of herein, other than Rule 9, upon the showing made by complainant, no order will be made in this case.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, 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 September, 1926.

THOMAS L. MITCHELL,
Complainant,
vs.
THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, a Corporation,
Defendant.
} CASE No. 782

This case being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigaton of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That Rule 9 of the General Tariff of The Mountain States Telephone & Telegraph Company, a Corporation, doing business in this State as a "public utility" and a "telephone corporation," be, and it is is hereby, made to read as follows:

> "9. For failure to pay exchange service charges, toll or other charges for any use of instruments contrary to the subscriber's contract or the provisions of the Company's tariffs, or for the use of profane or indecent language from said instruments, the Company reserves the right to temporarily suspend service, or to terminate any contract; provided, this shall not apply for non-payment of service charges until the sub-

scriber has first been given notice by the Company that he is delinquent and of the Company's intention to disconnect the telephone and discontinue service, and an opportunity is afforded by the Company to the subscriber or those in charge of the subscriber's telephone to pay such delinquent charges, before disconnecting. Thereupon, the Company may sever the subscriber's connections and remove the instruments."

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

STATE OF UTAH,
Complainant,
vs.
DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, A. R. BALDWIN, Receiver, DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, J. H. YOUNG, Receiver, DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, T. H. BEACOM, Receiver, DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, and LOS ANGELES & SALT LAKE RAILROAD COMPANY.

CASE No. 783

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

SALT LAKE TRIBUNE PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.

CASE No. 784

SALT LAKE TELEGRAM PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
} CASE No. 785

DESERET NEWS PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
} CASE No. 788

Submitted Dec. 11, 1925. Decided March 23, 1926.

Appearances:

Messrs. H. W. Prickett and Milton H. Love, of Salt Lake City, Utah. } for Complainants.

Messrs. J. H. Mooers, of New York City, New York, and A. L. Hammell and E. Stern, of San Francisco, California. } for Defendant.

REPORT OF THE COMMISSION

By the Commission:

These matters came on regularly for hearing, before the Public Utilities Commission of Utah, at Salt Lake City, Utah, on the 13th day of July, 1925.

Upon consent of the parties interested being given, the several cases were combined for one hearing.

The respective complaints of the complainants allege, in substance, that they are newspaper publishers at Salt Lake City, Utah, and that the defendant is a common carrier of express, over the railroads operating within the State of Utah; that on March 1, 1925, the defendant, without just cause or for any reason therefor, increased its express rates for carrying newspapers within the State of Utah, from one-half cent to one cent per pound. Complainants pray that the defendant be required to reestablish the old rate of one-half cent per pound, and also that the defendant be required to refund to the complainants, respectively, the excesses paid by them over the old rate of one-half cent per pound, on all intrastate shipments.

The answer of the defendant, briefly stated, admits the rate increase as alleged in the complaint; that on March 1, 1925, its classification No. 29 became effective and applied to intrastate traffic in the State of Utah, and that it established a rate on newspapers of one cent per pound, the rate prior thereto having been one-half cent per pound.

Further answering the complaint, the defendant affirmatively alleges "that as a result of a general express investigation conducted by the Interstate Commerce Commission, in 1920, and known as Express Classification, 1920 (59, I. C. C. Rpts., 265) the Interstate Commerce Commission approved and authorized an express rate on newspapers of one cent per pound, and since that date, said rate of one cent per pound has applied on all newspapers carried in interstate commerce throughout the United States and on intrastate traffic in most of the states. That the effect of Classification No. 29 as applied to intrastate traffic in the State of Utah, is to establish a rate on newspapers on the same basis as the interstate rate applying thereto, and results in uniform rates in state and interstate commerce. That the filing of Classification No. 29 and the new schedule of rates for application in Utah, effective March 1, 1925, was done pursuant to the recent express investigation known as Express Rates, 1922, 83 I. C. C. 606, 89 I. C. C. 297, which was a cooperative investigation conducted by the Interstate Commerce Commission and participated in by the state regulatory commissions, one of the prime objectives of which was to establish a uniform and nondiscriminatory schedule of express rates for application on all express traffic throughout the United States, on both

interstate and intrastate traffic. That the rate on newspapers moving in intrastate commerce in the State of Utah, contained in Classification No. 29, is a just, reasonable and non-discriminatory rate."

From the evidence adduced at the hearing, and after due investigation, the Commission finds:

1. That the complainants, Salt Lake Tribune Publishing Company, Salt Lake Telegram Publishing Company, and the Deseret News Publishing Company, respectively, are engaged in publishing at Salt Lake City, Utah, daily newspapers, including Sunday editions, with the exception of the last named complainant, its paper being issued on week days only.

2. That the newspapers published by the complainants are, and have been for many years last past, distributed throughout the states of Utah, Idaho, Nevada and Wyoming, through the medium of mail, express, railroad baggage, and automobile truck service. Prior to March 1, 1925, the newspapers were carried from Salt Lake City to distributing points in said states largely by means of defendant's express service. Since March 1, 1920, largely through facilities offered by railroad baggage and automobile truck service.

3. That prior to March 1, 1925, the intrastate express rate for carrying of newspapers in Utah, was one-half cent per pound; since March 1, 1925, one cent per pound.

4. In 1922, the Interstate Commerce Commission, upon its own motion, commenced a general investigation of express rates throughout the United States (Express Rates, 1922, 83 I. C. C., 606, 89 I. C. C., 297, Case No. 13930).

After numerous hearings, in which five representatives from state commissions, one from each express zone, sat in conference with the Commission, a decision was reached, May 17, 1924, upon which a general express rate revision was ordered, to become effective throughout the United States, March 1, 1925. Among the objects sought to be attained at said investigation and hearing, was the harmonizing of express rates and the establishment of a uniform classification of the same throughout the United States, both as to interstate and intrastate commerce. The Interstate Commerce Commission had

theretofore approved a compromise agreement entered into between protesting daily newspapers and the express companies, in Case No. 11416, Express Classification, 1920, 59 I. C. C., 265, under which the rate on daily newspapers carried interstate, had been increased from one-half cent to one cent per pound between points where the first-class rate did not exceed $4.50 per 100 pounds, shippers estimated weights.

No order was made by the Interstate Commerce Commission, affecting intrastate express newspaper rates. The Commission, however, said in Case No. 13930, supra, wherein certain daily newspapers had protested the express rate increase (established in Case No. 11416, supra,) on interstate newspapers, from one-half cent to one cent per pound, as being too high, that "a rate of but one cent a pound, or $1.00 per 100 pounds, for an express service would not appear to be high in itself, when a haul of as much as 500 miles may be involved. The record does not disclose the average haul or the weighted average haul. Notwithstanding the merit in some of the protestants' contentions, we do not view the situation as one which, at least in this record, would justify us in condemning the present rate, especially as the protestants are able to make use of lower rates for a baggage service with which no dissatisfaction is indicated. However, the question is one to which the express carriers might well give careful consideration with a view to taking voluntary action along lines which we have previously suggested, in their own interest as well as the interest of shippers."

5. On March 2, 1925, the defendant, American Railway Express Company, filed with the Public Utilities Commission of Utah its Express Classification No. 29 (P. U. C. Utah No. 69), effective March 1, 1925, applicable to intrastate traffic in the State of Utah, wherein the rate on newspapers was increased from one-half cent to one cent per pound.

6. On February 19, 1925, the Public Utilities Commission of Utah, upon the application of the defendant, made and entered the following order with respect to defendant's said Express Classification No. 29, to wit:

> "Application having been made by the American Railway Express Company, by George S. Lee, its Traffic Manager, for permission to file new schedule, effective March 1, 1925, which is the re-

sult of the Express Rate Case recently before the Interstate Commerce Commission;

"And there appearing no reason why authority should not be granted;

"IT IS ORDERED, That authority be granted, and that the proposed rates be filed with the Commission, to become effective March 1st, subject to investigation and suspension."

6. That the Utah intrastate, and also the interstate railroad rate generally throughout western territory, for newspapers when shipped as baggage, is ninety cents per 100 pounds. The Utah intrastate rate when carried by automobile truck, is fifty cents per 100 pounds.

7. That the California intrastate express rate for newspapers, for any distance, is eighteen cents per 100 pounds; Colorado, 50 cents per 100 pounds.

8. That the approximate newspaper tonnage shipped by express, annually, by the complainant, Salt Lake Tribune Publishing Company, prior to March 1, 1925, was: Intrastate, 778,140 pounds; interstate, 789,245 pounds; The Salt Lake Telegram Publishing Company, intrastate, 222,268 pounds; interstate, 55,764 pounds; the Deseret News Publishing Company, intrastate, 457,277 pounds; interstate, 36,107 pounds.

9. The average distance hauls, intrastate and interstate, when the newspapers are carried by express, are about the same for each newspaper. The average intrastate haul for the three newspapers is about 88 miles; for the interstate haul, about 227 miles.

10. When the complainants avail themselves of express service for the distribution of their newspapers, they first bundle, wrap and address them, then haul them by motor trucks to the railroad stations, where they are delivered to the defendants at its express rooms, if time permits. From the express rooms, express rooms, if time permits. From the express rooms, they are placed on hand-trucks and taken to the express cars and loaded for transit. No particular space in the express cars is assigned to newspapers, but they are usually placed on top of heavier articles, for better carriage and convenience of unloading. When time is limited, as is usually the case, the complainants take the newspapers directly to the railroad station loading plat-

forms and leave them there or on the platform trucks for loading on cars. Oftentimes they are loaded directly into the express cars by the complainants' employees.

At destination points, newspapers are unloaded from express cars by dropping them to the station platforms, or upon hand-trucks. They are given no further attention or express service at destination points; except in cases of inclement weather, they are sometimes taken at agency stations and placed in the express rooms. In receiving newspapers for shipment, they are neither weighed nor receipted for by the Express Company in the course of its service. Newspaper shipments are accounted for to the Express Company by the consignors. Losses or damages in the course of newspaper shipments by express, are sustained by the shipper.

From the facts found, it does not appear that the defendant, the American Railway Express Company, has been able to assign any just and reasonable reason for increasing its express rates for newspapers in Utah territory, from one-half cent to one cent per pound. The defendant's Official Express Classification No. 29, P. U. C. U. No. 69, was permitted to be filed with the Public Utilities Commission of Utah, subject to investigation and suspension, for the purpose of fixing express rates in Utah so that they would be in conformity with the general rate structure fixed and finally determined by the Interstate Commerce Commission, in its general express rate investigation, held on its own motion in Cases 83 I. C. C. 606 and 89 I. C. C. 297, which resulted, generally speaking, in express rate reductions throughout the United States, including Express Zone 4, of which Utah is a part.

The newspaper rate of one cent per pound, as fixed by the Interstate Commerce Commission in said cases, was the result of a compromise agreement entered into between the representatives of the newspapers and the defendant, American Railway Express Company, without investigation on the part of the Commission as to the reasonableness of a one hundred per cent increase. At the same time, the Interstate Commerce Commission, speaking with respect to the newspaper rate thus established, took occasion to say that:

> "A rate of but one cent a pound, or $1.00 per 100 pounds, for an express service would not appear to be high in itself when a haul of

> as much as 500 miles may be involved. The record does not disclose the average haul or the weighted haul * * *. However, the question is one to which the express carriers might well give careful consideration with a view to taking voluntary action along lines which we have previously suggested, in their own interest as well as the interest of the shippers."

Rates for a public utility service must necessarily in every case depend, in a very large measure, upon the character of the service and the assumed responsibility of the utility in connection therewith. In the case under consideration, it would seem that the defendant might well have first heeded the suggestion of the Interstate Commerce Commission before arbitrarily seeking to increase its newspaper rate one hundred per cent. Measured from the standpoint of service, the transportation of newspapers by express, might quite properly be placed in a class of is own. There is no other commodity rate, express "first class," with which newspapers are comparable, from the standpoint of service. The liability for losses and damage to newspapers while in the express service, is always sustained by the shippers. Not theoretically so under rules promulgated by the defendant; but, as the evidence shows, when tested by results in actual practice.

Viewed from a revenue standpoint, since the 100 per cent increase was established, the newspaper traffic has largely turned to automobile truck and railroad baggage service, resulting in corresponding losses of revenue, to be sustained by the defendant. Rate increases for public utility service are made upon the theory that they will enable the utility to earn a fair return on its capital investment or property devoted to the giving of the public service, yet, at the same time, conditions oftentimes arise where an increase of rates will defeat the very object of affording additional revenues to the utility. The present case seems to afford ample grounds for making the assertion.

As a matter of fact, neither person nor property is dependent upon railway service alone in this day and age for prompt and efficient transportation. There is the automobile service on land and ships both by sea and air, all formidable competitors to the railway express. It is not to be wondered at that the Interstate Commerce

Commission, in the Express Rate Cases, suggested that the question was one to which the express carriers might well give serious consideration, in their own interest as well as the public, before advancing their newspaper express rates 100 per cent.

But, assuming that the Interstate Commerce Commission had, after full investigation, reached the conclusion that a charge of one cent per pound was a just and reasonable interstate rate "when a haul of as much as 500 miles may be involved," that would not be saying that one cent per pound is reasonable where the average haul intrastate would be only eighty-eight miles, more especially where it is shown, as it has been in this case, that similar service may be had by automobile and railroad baggage, both equally efficient, convenient and available for a much less charge.

In view of the fact that the investigation made by the Interstate Commerce Commission in the express rate cases, supra, resulted, generally speaking, in rate reductions throughout the country, it might reasonably be presumed that the defendant was justified in a 100 per cent rate increase on newspapers, had the Commission made a finding to that effect, based on its own investigation, rather than a compromise agreement of which it seems to have expressed some doubt as to the reasonableness of the rate agreed upon.

So too, it may be reasonably presumed that from the express rate reductions in interstate commerce, that the defendant has been earning a reasonable return on its capital investment, and that a rate increase of 100 per cent on any commodity, before being permitted, should be thoroughly investigated from the standpoint of its reasonableness in the territory to which it is to be applied.

Furthermore, our Public Utilities Act. Subdivision 1, Section 4830, Compiled Laws of Utah, 1917, provides:

> "No public utility shall raise any rate, fare, toll, rental, or charge or so alter any classification, contract, practice, rule, or regulation as to result in an increase in any rate, fare, toll, rental, or charge under any circumstances whatsoever, except upon a showing before the Commission (Utah) that such increase is justified."

The foregoing provision of our statute, it will be seen, precludes the defendant's Official Express Classification No. 29 from becoming legally effective, with respect to any rate incresae, until after a showing is made by the defendant before the Commission that the increase is justified. We think the provision of our statute above referred to, should be strictly observed and complied with on the part of every public utility seeking to increase its rates for service in Utah.

Judging from the brief and argument filed by the defendant's counsel in this case, the defendant was laboring under the impression that because of our ruling at the hearing that the burden was on the complainants to prove the allegations of their complaint, that the complainants were required to affirmatively show that the defendant's rate increases are excessive and unreasonable. Such was not the case. Our ruling was in conformity with Subdivision (b) of Paragraph 4, Rule 6 of the Rules of Practice and Procedure of the Public Utilities Commission of Utah, which, among other things, provides:

> "The complainant must establish the facts upon which he bases his complaint, unless the defendant admits the same."

Under this rule, we required the complainants to open the case and establish the fact that there had been an express rate increase for carrying newspapers, since March 1, 1925.

Under the provisions of the statute, it then became the duty of the defendant to show and the Commission to find that the rate increase was justified.

From the record here and the facts found, we cannot do otherwise than conclude that the rate increase complained of was purely an arbitrary one, not justified upon any reasonable showing made before us by the defendant. It, therefore, follows that the defendant's express rates assailed by the complainants, were, are, and for the future will be, unjust, unreasonable and excessive to the extent that they exceed one-half cent per pound for the carriage of newspapers, intrastate; that the complainants have been damaged to the extent that they paid and bore the defendant's express charges on shipments of their respective newspapers since the filing of defendant's Official Express Classification No. 29 (P.

U. C. U. No. 69), March 2, 1925, insofar as they exceed a just and reasonable rate, which we find to be one-half cent per pound; and that the complainants are entitled to reparation, with interest, accordingly.

The exact amount of reparation due the several complainants, cannot be determined from this record.

The complainants should prepare a statement from the record of their shipments, showing the amount of excess charges paid and borne by them, respectively, since March 1, 1925, serve the same upon the defendant, and file a duplicate thereof with the Commission, whereupon we will consider the entry of a further order awarding them reparation.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 23rd day of March, A. D. 1926.

SALT LAKE TRIBUNE PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
} CASE No. 784

SALT LAKE TELEGRAM PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
} CASE No. 785

DESERET NEWS PUBLISHING COMPANY, *Complainant,* vs. AMERICAN RAILWAY EXPRESS COMPANY, *Defendant.*	CASE No. 788

These cases being at issue upon complaints and anwers 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 each of the complainants, viz: the Salt Lake Tribune Publishing Company, Salt Lake Telegram Publishing Company, and the Deseret News Publishing Company, be, and each of them is hereby, awarded reparation, with interest, at the hands of of the defendant, American Railway Express Company, on all newspaper shipments made by them through the medium of the defendant's intrastate express service in the State of Utah, since the 2nd day of March, 1925, to the extent that the charges paid therefor exceeded one-half cent per pound.

IT IS FURTHER ORDERED, That the American Railway Express Company amend its tariff by restoring rate on newspapers of one-half cent per pound, to become effective April 5, 1926, on one day's notice to the Commission and the public. Said amendment should contain the following provision:

> "Issued on one day's notice to the Commission and the public, by authority of Public Utilities Commission of Utah, Cases Nos. 784, 785 and 788."

IT IS FURTHER ORDERED, That each of the complainants prepare a statement from the record of their shipments, showing the amount of such excess charges paid and borne by them, respectively, since March 2, 1925, to and including April 4, 1926; serve the same upon the defendant, American Railway Express Company;

and file a duplicate thereof with this Commission, on or before April 15, 1926.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

SALT LAKE TRIBUNE PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
CASE No. 784

SALT LAKE TELEGRAM PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
CASE No. 785

DESERET NEWS PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
CASE No. 788

SUPPLEMENTAL ORDER OF THE COMMISSION

By the Commission:

In accordance with the Commission's order of March 23, 1926, in the foregoing cases, complainants have caused to be filed statements of shipments of newspapers, showing the amount of excess charges paid and borne by them since March 2, 1925, to and including April 4, 1926. Said statements have been verified by the defendant and found to be correct.

IT IS THEREFORE ORDERED, That defendant, American Railway Express Company, make reparation to the Salt Lake Tribune Publishing Company in the amount of $3,581.75; Deseret News Publishing Company, $3,-061.62; and the Salt Lake Telegram, $426.53, with interest at six per cent from October 1, 1925, to date of payment of reparation.

ORDERED FURTHER, That reparation shall be completed on or before July 1, 1926.

Dated at Salt Lake City, Utah, this 13th day of May, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

SALT LAKE TELEGRAM PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
} CASE No. 785

See Case No. 784.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of M. C. GODBE, for permission to operate a railroad car loading trap over a specially constructed railroad spur, built at the expense of the applicant, near Mile Post 17.37 on the Newhouse Branch of the Union Pacific Railroad near Frisco, Utah.
} CASE No. 786

ORDER

Upon motion of the Commission:

IT IS ORDERED, That the application herein of M. C. Godbe, for permission to operate a railroad car loading trap over a specially constructed railroad spur, built at the expense of the applicant, near Mile Post 17.37 on the Newhouse Branch of the Union Pacific Railroad near Frisco, Utah, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 9th day of February, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

DESERET NEWS PUBLISHING COMPANY,
Complainant,
vs.
AMERICAN RAILWAY EXPRESS COMPANY,
Defendant.
} CASE No. 788

See Case No. 784.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of LOUIS F. WINSCHELL, for permission to operate an automobile stage line between Logan, Utah, and the principal camp of the Utah Power & Light Company near Plymouth, on the Bear River.
} CASE No. 789

ORDER

Upon motion of the applicant, and with the consent of the Commission:

IT IS ORDERED, That Certificate of Convenience and Necessity No. 230, issued to Louis F. Winschell, in Case No. 789, be, and it is hereby, cancelled and annulled; that said Louis F. Winschell be, and he is hereby, granted permission to discontinue operation of his automobile stage line between Logan, Utah, and the principal camp of the Utah Power & Light Company near Plymouth, on the Bear River.

Dated at Salt Lake City, Utah, this 20th day of August, 1926.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

PROVO CITY, a Municipal Corporation, *Complainant,*

vs.

UTAH VALLEY GAS & COKE CO., a Corporation, *Defendant.*

CASE No. 802

PENDING

In the Matter of Investigation and Suspension Docket No. 26, suspending increased rates on milk and cream between all stations on the DENVER & RIO GRANDE WESTERN RAILROAD and the RIO GRANDE SOUTHERN RAILROAD as carried in D. & R. G. W. Local and Joint Tariff No. 382, P. U. C. U. No. 86.

CASE No. 804

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WILLIS THOMAS, for permission to discontinue operation of automobile stage line between Spring Lake, Santaquin, Goshen and the Tintic Standard Mines.	CASE No. 810

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Application having been made by Willis Thomas, for permission to discontinue operation of automobile passenger stage line between Spring Lake, Santaquin, Goshen and the Tintic Standard Mines; account lack of business;

And there appearing no reason why the application should not be granted:

IT IS ORDERED, That the application be, and it is hereby, granted, that Willis Thomas be, and he is hereby, authorized to discontinue operation of his automobile passenger stage line between Spring Lake, Santaquin, Goshen and the Tintic Standard Mines; and that Certificate of Convenience and Necessity No 248, issued to said Willis Thomas in the Commission's Case No. 810, be, and it is hereby, cancelled and annulled.

Dated at Salt Lake City, Utah, this 18th day of March, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of EUGENE HARMSTON and FLOYD E. HARMSTON, doing business as Harmston Bros., LESTER MULLINS, PAUL WILKINS and C. E. JOHNSON, and H. S. SOWARDS and JESSE EVANS, doing business as Sowards & Evans, and ROBERT L. JOHNSTON, for permission to operate an automobile freight line between Price and Vernal, Utah, and intermediate points.	CASE No. 814

In the Matter of the Application of P. W. HARPER, for permission to operate an automobile freight line between Salt Lake City and Vernal, Utah, and intermediate points, via Heber, Fruitland, Duchesne, Myton and Roosevelt, Utah.	CASE No. 870

In the Matter of the Application of DENNIS BOWTHORPE, for permission to operate an automobile truck line between Salt Lake City and Vernal, Utah, via Kamas, Talmage, Bonita, Mountain Home, Altona, Mount Emery, Blue Bell, Cedar View, Neola, White Rocks, Lapoint and Haden, Utah.	CASE No. 871

In the Matter of the Application of ROBERT M. LUCAS and O. V. McGREW, for permission to operate an automobile freight truck line between Price, Duchesne, Myton, Roosevelt, Vernal, and all intermediate points.	CASE No. 834

In the Matter of the Application of the Sterling Transportation Company, for permission to operate an automobile freight truck line between Salt Lake City, Utah, and Vernal, Utah. } CASE No. 885

Submitted August 16, 1926. Decided October 2, 1926.

Appearances:

Thomas W. O'Donnell, Attorney, of Vernal, Utah, and Ray O. Dillman, Attorney, of Roosevelt, Utah.	for Applicants, Eugene Harmston, et al., and Eastern Utah Transportation Co., Cases Nos. 814 and 885.
Robert H. Wallis, Attorney, of 304 Boston Building, Salt Lake City, Utah.	for Applicant, P. W. Harper, Case No. 870.
Dennis Bowthorpe, of Holliday, Salt Lake County, Utah.	for Himself, Applicant in Case No. 871.
H. L. Pratt, Attorney, of Price, Utah.	for Applicants, Robert M. Lucas and O. V. McGrew, Case No. 834.
Irvine, Skeen & Thurman, Attorneys, 1401 Walker Bank Bldg., Salt Lake City, Utah.	for Sterling Transportation Co., Applicant, Case No. 885.
B. L. Dart, Attorney, of Myton, Utah.	for various carriers by automobile in the Uintah Basin.
Ernest H. Burgess, of Roosevelt, Utah, County Attorney.	for Duchesne County.
Story & Crow, Attorneys, 1007 Boston Bldg., Salt Lake City.	for Protestant, Salt Lake & Utah Railroad Co.

Leonard E. Gehan, of Salt Lake City, Utah, Agent.	for Protestant, American Railway Express. Co.
VanCott, Riter & Farnsworth, Attorneys, Walker Bk. Bldg., Salt Lake City, Utah.	for Protestant, Denver & Rio Grande Western R. R. Co.
Walter C. Hurd, Attorney, Utah Savings & Trust Bldg., Salt Lake City, Utah.	for Protestant, Utah Central Truck Company.
Tom Firth, of Duchesne, Utah, President.	for Duchesne Commercial Club.
J. S. Early, of Salt Lake City, Utah, Executive Secy.	for Utah Manufacturers Assn. and Utah Shippers Traffic Assn.
Jacob Rasmussen, et al.	for various business men, farmers, and stockgrowers of the Uintah Basin.
Chas. A. Root, Attorney, Deseret News Bldg., Salt Lake City, Utah.	for Protestant, Union Pacific Railroad.

REPORT OF THE COMMISSION

By the Commission:

These matters came on regularly for hearing, after due notice given, before the Public Utilities Commission of Utah, upon the several applications and the protests made thereto, first at Roosevelt, Utah, on the 17th day of September, 1925, and secondly at the office of the Commission, in the State Capitol, Salt Lake City, Utah, on the 7th day of May, 1926, and said hearings having been continued from time to time by the Commission, were not concluded, until a final hearing was held at Vernal, Utah, on the 22nd day of June, 1926, when all matters were finally submitted and taken under advisement by the Commission.

For the purpose of the hearings, it was agreed on the part and in the behalf of all the interested parties, that the several cases should be combined and that the evidence taken, insofar as the same is found relevant, can be considered in passing upon the merits of each case. Practicably speaking, all questions involved concern the transportation needs of the Uintah Basin in Eastern Utah.

During the progress of the proceedings before the Commission, many of the applicants who were in the first instance opposed to each other, have become united, so that it is now pretty generally conceded that the interests of the public throughout the Uintah Basin, and of the State as a whole, will be best subserved by establishing two automobile routes, one leading over the public highway from Vernal and out of the Basin, through Daniels and Provo Canyons, to the State Highway, on Provo Bench, and then over said State Highway to Salt Lake City; the other over the public highway leading from Vernal to Duchesne, thence through Willow Creek Canyon to Castle Gate, and from there to Price, Utah.

From the evidence taken at the hearings, the Commission finds:

1. That the Uintah Basin is a vast territory, with a population of approximately 20,000 people; that it is possessed with vast resources, mining and agriculture; that it is without railroad transportation and its cities, towns, and communities are absolutely dependent upon automobile transportation, both passenger and freight, to meet the needs of traffic in and out of the Uintah Basin; that at the present time, there are two main connecting highways, one through the Basin to Price, and one through Daniels Canyon to Heber City, both serving the Uintah Basin, far distant from the railroad; that there is no well organized and dependable freight service at the present time over either of said highways.

2. That the applicant Eastern Utah Transportation Company is a corporation, duly organized and existing under and by virtue of the laws of the State of Utah, with its principal office or place of business at Roosevelt, Duchesne County, Utah.

3. That the said applicant proposes to render daily automobile truck service, for hire, over the public highways between Vernal and Price, via Duchesne, Utah,

including intermediate points, and it owns sufficient freight trucks and automobile equipment to give efficient and dependable service over said route.

4. That the applicant Sterling Transportation Company is a corporation, duly organized and existing under and by virtue of the laws of the State of Utah, with its principal office or place of business at Salt Lake City, Utah.

5. That it proposes to render daily automobile truck service, for hire, over the public highway between Salt Lake City and Vernal, via Duchesne, Utah, including intermediate points within but not without the Uintah Basin beyond Heber City, in Wasatch County, Utah, and it owns sufficient freight trucks and automobile equipment to give efficient and dependable service over said route.

6. That each of the aforesaid applicants have filed herein their time and rate schedules, applicable to the service proposed to be rendered by them, respectively.

7. That the protestants Henry I. Moore and D. P. Abercrombie, Receivers for the Salt Lake & Utah Railroad Company, operate an electric railroad, carrying passengers and freight, for hire, between Salt Lake City and Payson, Utah, including all intermediate points.

8. That the protestant Denver & Rio Grande Western Railroad operates a standard gauge railroad between Salt Lake City, Utah, and Denver, Colorado, and it carries passengers and freight, for hire, and serves all intermediate points. Said protestant also operates a branch line of railroad from Provo to Heber City, Utah.

9. That the protestant Union Pacific Railroad Company, as a connecting carrier with the Oregon Short Line Railroad Company, operates a standard gauge, steam railroad from Salt Lake City to Park City, Utah, serving all intermediate points; that said railroads are a part of the Union Pacific System, which includes the Los Angeles & Salt Lake Railroad, operating a standard gauge railroad between Salt Lake City, Utah, and Los Angeles, California, one line via Provo, Utah.

10. That each of said protestants give efficient and dependable passenger, freight, and express service daily over their respective lines, the express service

being rendered largely by the protestant herein, American Railway Express Company.

11. That the protestant Utah Central Truck Company is an "automobile corporation," within the meaning of the Public Utilities Act of Utah, duly authorized to operate an automobile freight line over the public highway between Salt Lake City and Provo, Utah, and as such is giving daily dependable truck service over the public highway between said points.

12. That the applicant Dennis Bowthorpe (Case No. 871) proposes to operate an automobile truck line, for hire, over the public highway from Salt Lake City to Vernal, Utah, serving Talmage, Bonita, Mountain Home, Altona, Mount Emery, Blue Bell, Cedar View, White Rocks, Lapoint, and Haden, Uintah Basin points. Said applicant proposes to operate one light truck or automobile in rendering the proposed service. No time or rate schedule has been filed with the Commission, for the service proposed to be given by him.

13. The applicant P. W. Harper (Case No. 870) has withdrawn his application herein in favor of the applicants in Case No. 814, and likewise applicants Robert M. Lucas, et al., (Case No. 834) have withdrawn their application in favor of Case No. 885.

From the foregoing findings of fact, the Commission concludes and decides that the application of Eugene Harmston and Floyd E. Harmston, doing business as Harmston Bros., Lester Mullins, Paul Wilkins, and C. E. Johnson, all of Roosevelt, Utah, and H. S. Sowards and Jesse Evans, doing business as Sowards and Evans, and Robert L. Johnston, all of Vernal, Utah, now centered in the application of the Eastern Utah Transportation Company, a corporation, existing under and by virtue of the laws of Utah, for permission and a certificate of public convenience and necessity to establish, maintain and operate an automobile freight or truck line, for hire, over the public highways between Vernal and Price, Utah, via Duchesne, Utah, including all intermediate points, should be granted, and that a certificate of public convenience and necessity should issue therefor to the said Eastern Utah Transportation Company; that the application of the Sterling Transportation Company, a corporation, under and by virtue of the laws of Utah, to establish, maintain, and operate an automobile freight or truck line, for hire, over the public highways between

Vernal and Salt Lake City, via Duchesne, Utah, should also be granted, and a certificate of public convenience and necessity should issue therefor permitting it to serve all points within but not without the Uintah Basin, that is to say, that it should not receive freight at Heber City, Utah, destined to Salt Lake City or intermediate points beyond Heber City nor at Salt Lake City when destined to Heber City or to intermediate points between Salt Lake City and Heber City, it being the intention of the Commission that the service of the Sterling Transportation Company shall not conflict with the rail and truck service now being rendered between Salt Lake City, Provo, and Heber City, Utah, but to be confined to traffic destined in and out of the Uintah Basin, only.

The Commission believes that the best interests of the public, both within and out of the Uintah Basin, will at this time be best subserved by the operations of the proposed services of the Eastern Utah Transportation Company and the Sterling Transportation Company, alone. Therefore, all other applications herein should and will be denied.

For many years there has been great need of well organized and dependable truck service in and out of the Uintah Basin, to serve the public needs.

After careful study, the Commission is convinced that efficient and dependable truck service, such as is now being offered by the Eastern Utah Transportation Company and the Sterling Transportation Company, will, in the absence of railroad facilities, in some measure help to solve the transportation problems that have so long confronted the agricultural, mining, and business interests, and retarded the growth and development of that wonderful section of Utah.

The rate and time schedule of these applicants, respectively, will be approved as filed with the Commission.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificates of Convenience and Necessity
Nos. 273 and 274

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, 1926.

In the Matter of the Application of EUGENE HARMSTON and FLOYD E. HARMSTON, doing business as Harmston Bros., LESTER MULLINS, PAUL WILKINS and C. E. JOHNSON, and H. S. SOWARDS and JESSE EVANS, doing business as Sowards & Evans, and ROBERT L. JOHNSTON, for permission to operate an automobile freight line between Price and Vernal, Utah, and intermediate points.	CASE No. 814
In the Matter of the Application of P. W. HARPER, for permission to operate an automobile freight line between Salt Lake City and Vernal, Utah, and intermediate points, via Heber, Fruitland, Duchesne, Myton and Roosevelt, Utah.	CASE No. 870
In the Matter of the Application of DENNIS BOWTHORPE, for permission to operate an automobile truck line between Salt Lake City and Vernal, Utah, via Kamas, Talmage, Bonita, Mountain Home, Altona, Mount Emery, Blue Bell, Cedar View, Neola, White Rocks, Lapoint and Haden, Utah.	CASE No. 871
In the Matter of the Application of ROBERT M. LUCAS and O. V. McGREW, for permission to operate an automobile freight truck line between Price, Duchesne, Myton, Roosevelt, Vernal, and all intermediate points.	CASE No. 834

In the Matter of the Application of the STERLING TRANSPORTATION COMPANY, for permission to operate an automobile freight truck line between Salt Lake City, Utah, and Vernal, Utah.	CASE No. 885

These cases being at issue upon application 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 and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application herein of P. W. Harper, for permission to operate an automobile freight line between Salt Lake City and Vernal, Utah, and intermediate points, via Heber, Fruitland, Duchesne, Myton, and Roosevelt, Utah, be, and it is hereby, denied.

ORDERED FURTHER, That the application herein of Dennis Bowthorpe, for permission to operate an automobile truck line between Salt Lake City and Vernal, Utah, via Kamas, Talmage, Bonita, Mountain Home, Altona, Mount Emery, Blue Bell, Cedarview, Neola, White Rocks, Lapoint, and Haden, Utah, be, and it is hereby, denied.

ORDERED FURTHER, That the application of Robert M. Lucas and O. V. McGrew, for permission to operate an automobile freight truck line between Price, Duchesne, Myton, Roosevelt, Vernal, and all intermediate points, be, and it is hereby, denied.

ORDERED FURTHER, That the Eastern Utah Transportation Company, a corporation, be, and it is hereby, granted permission to operate an automobile freight line (under Certificate of Convenience and Necessity No. 273), between Vernal and Price, Utah, via Duchesne, Utah, including all intermediate points.

ORDERED FURTHER, That the Sterling Transportation Company be, and it is hereby, authorized to operate an automobile freight line (under Certificate of Convenience and Necessity No. 274) between Vernal and Salt Lake City, Utah, via Duchesne, Utah, serving all points within but not without the Uintah Basin; that is to say, that it shall not receive freight at Heber City,

Utah, destined to Salt Lake City or intermediate points beyond Heber City, Utah, nor at Salt Lake City when destined to Heber City or to intermediate points between Salt Lake City and Heber City, Utah.

ORDERED FURTHER, That the Eastern Utah Transportation Company and the Sterling Transportation Company before beginning operation, shall file with the Commission and post at each station on their routes, schedules 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 lines; and shall at all times operate in accordance with the Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of the DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, et al., for an increase in their revenues. } CASE No. 816

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

SUPPLEMENTARY ORDER

Certificate of Convenience and Necessity No. 256

(Cancels Certificate of Convenience and Necessity No. 252.)

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 20th day of January, 1926.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the County of Tooele, Utah. } CASE No. 820

It appearing in the above entitled matter that the publication of franchise issued October 6, 1924, by the Board of County Commissioners of Tooele County to the Utah Power & Light Company, was not in accordance with the law, and that thereafter a new franchise, identical in terms with the above-mentioned franchise, was issued December 7, 1925, in lieu thereof, by the Board of County Commissioners of Tooele County to the Utah Power & Light Company.

IT IS ORDERED, That the original order of the Commission, dated August 21, 1925, be, and the same is hereby, amended so as to include and be held applicable to the franchise issued December 7, 1925, by the Board of County Commissioners of Tooele County to the Utah Power & Light Company.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]
Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, a Corporation, for permission to operate an automobile passenger stage line between Salt Lake City and Ogden, Utah. } CASE No. 823

Submitted May 26, 1926. Decided August 14, 1926.

Appearances:

A. B. Irvine, } for Bamberger Electric Railroad Co.

Wilson McCarthy,	for Salt Lake-Ogden Transportation Co.
H. L. Mulliner,	for Davis County School Board, County Farm Bureau, Taxpayers' Association, and incorporated cities and towns.
J. W. Ellingson and Jess S. Richards,	for Ogden Chamber of Commerce.
L. E. Gehan,	for American Railway Express Co.
VanCott, Riter & Farnsworth,	for Denver & Rio Grande Western R. R. Co.
John F. McLane,	for Utah Light & Traction Co.

REPORT OF THE COMMISSION

By the Commission:

On July 17, 1925, the Bamberger Electric Railroad Company, a corporation of the State of Utah, filed an application with the Public Utilities Commission of Utah, the substance of said application being as follows:

That applicant, Bamberger Electric Railroad Company, a corporation, is, by its charter, authorized to act as a common carrier of passengers and freight; that it was organized primarily for the purpose of serving the territory from Salt Lake City to Ogden, and built its first railroad in the year 1889, which road has been continuously in operation since said date; that originally applicant served the public in the territory adjacent to its railroad, using steam as motive power; but as conditions changed and the public to be served required interurban electric service, applicant changed its char-

acter of service and built and equipped an electric interurban railroad between Salt Lake City and Ogden, Utah, serving both of said cities and all of the intermediate points; that as said territory has been developed, the facilities offered by applicant to the public have been increased and enlarged and improved from time to time, so that it has at all times been equipped and prepared to offer service of the character required by the public and in excess of the requirements of the public.

That applicant, for the purpose of qualifying itself to meet all of the demands of the public served by it, has expended large sums of money in the acquisition of rights-of-way and in building and constructing a double track interurban line between Salt Lake City and Ogden, and has constructed elaborate terminal facilities in each of said cities, the aggregate investment for said terminal facilities in Salt Lake City and Ogden being $1,093,406.00; that in addition to said terminal facility investments in said cities, applicant has expended in constructing passenger station facilities in intermediate cities, the sum of $59,398.00, making a total investment for passenger terminal facilities of $1,152,804.00.

That applicant is informed that a portion of the public residing in Salt Lake City and Ogden, and in some of the intermediate cities, are of the opinion that the passenger business between said cities requires additional service, and that such additional service should be furnished by automobile busses to be operated over the State highways between said cities and intermediate points; that applicant is better qualified to render such service than any other individual or corporation, by reason of the fact that applicant is already organized and equipped to furnish such service and has trained employees who are familiar with the requirements of the public, and has already constructed elaborate terminal facilities, and is financially able to furnish all of the passenger bus service that would be necessary to fully and completely take care of all persons who desire to avail themselves of such service.

That in addition to being in a position to furnish bus service, applicant is, by reason of its ownership of said interurban railroad, in a position to supplement said bus service with electric interurban service, so as to take care of all of the demands of the public, not

only for the ordinary service required, but during such time as mass transportation is necessary.

That if a certificate of public convenience and necessity is granted to applicant to operate said bus line, it will immediately make available for such service all of its terminal facilities, and will, in addition thereto, provide such other terminal facilities as will best suit the convenience and necessity of the public to be served, and will establish such schedules of operation and at such rates as may be required by the Public Utilities Commission of Utah.

Applicant prays that it be granted permission to operate an automobile stage line between Salt Lake City and Ogden, Utah, and intermediate points, for the transportation of passengers, express, and baggage.

This case came on regularly for hearing, before the Commission, at its office in Salt Lake City, January 27, 1926.

Written protests were filed by various citizens of Davis County, Davis County (by its Board of Commissioners), Davis County School Board, Davis County Farm Bureau, Bountiful City, Town of Centerville, Farmington City, Kaysville City, Town of Layton, Town of Clearfield, and the unincorporated settlement or townsite known as Val Verda, these protests in substance alleging:

That there is no public convenience or necessity to be served by the said proposed service; but, on the other hand, the convenience and necessity of the public will be jeopardized, injured and adversely affected thereby; that the said protestants and substantially all other persons in and between Salt Lake City and Ogden City are adequately and conveniently served and their necessities and conveniences fully met by the service now rendered by the electric railways and the steam railways operating in this territory; that the service now given is more frequent, more rapid, safer to passengers, travelers on the highways and the public, more convenient, and, as protestants believe, more reasonable and economical than the service proposed to be given.

The Salt Lake-Ogden Transportation Company, holders of Certificate of Public Convenience and Necessity No. 103, issued by this Commission, for the haulage of

freight by auto truck, between Salt Lake City and Ogden, Utah, protested only in case the applicant was permitted to haul express, the term "express" being subject to great latitude and liable, in the opinion of the protestant, to interfere with the protestant's right to transport freight between the said points.

The Utah Light & Traction Company filed a petition in intervention, setting forth that said Company owns and operates the street railway in Salt Lake City; that in conjunction with said railway, intervenor operates an electric railway between Salt Lake City and Centerville, an intermediate point; that said bus line would parallel its Salt Lake-Centerville line and reduce the already inadequate revenue of intervenor's existing service. Intervenor further prays, that if application for bus line is granted, it be permitted to abandon said line in Davis County and remove its tracks; that if it is not allowed to discontinue service, applicant should not be allowed to pick up or discharge passengers between Salt Lake City and Centerville.

Applicant introduced exhibits as follows: Statement showing that the total investment of the Bamberger Electric Railroad Company as of January 1, 1926, was $4,173,331.51; statement showing that the total property tax paid in 1925 was $53,856.26, of which amount $22,885.27 was paid in Davis County; graph showing that the total number of passengers carried by said railroad had decreased from 1,232,833 in 1920, to 973,816 in 1925; graph showing that the total passenger revenue had decreased from $551,648.37 in 1920, to $364,657.13 in 1925.

The Chamber of Commerce at Ogden, by its President, W. H. Harris, filed a communication setting forth:

That it had heretofore protested the granting of permits for bus lines between Salt Lake City and Ogden, because sufficient service was being rendered by the steam and electric lines; that said lines were heavy taxpayers and had thus indirectly contributed to the construction of the paved highway between said cities, and further, that the heavy property investments of these carriers should be protected in every possible manner.

That in case the public convenience and necessity demanded bus transportation, the responsible carriers already in the business of selling transportation, should have preference to such permits.

That the population of the two cities being served, and the intermediate territory, is something over two hundred thousand inhabitants, and to be adequately served, should have a two hour bus service from eight A. M. until midnight, in each direction.

That the bus service fare for adults between the two cities should not exceed $1.25, with half rates for children.

The Chamber of Commerce at Logan, by its secretary, H. R. Hovey, filed resolutions as follows:

That the Utilities Commission has heretofore granted a permit for a bus line between Ogden and Logan, Utah; that said service has proven a great convenience to the traveling public of Cache Valley; that the convenience of the people of Cache Valley would be still further and better served if a similar bus line could be established between Salt Lake City and Ogden, in order to enable passengers to continue their journey to Salt Lake City by bus, instead of by rail; that it is the sense of said organization that a necessity exists for such service between Salt Lake City and Ogden, and that the convenience of the public would be greatly served by the establishment of the same.

The City Commission of Ogden, by George E. Browning, Mayor, filed resolutions as follows:

That from the standpoint of population and commerce, Salt Lake City and Ogden are the two most important cities in the State of Utah, and that at present there is no means of public auto passenger transportation between the two cities.

That the convenience of the traveling public in each of said cities would be greatly benefitted by the inauguration of a modern, up-to-date bus line between said cities, and that a public necessity exists therefor.

The County Commissioners of Davis County, officials of the various towns in the county through which the highway passes, and individual residents of the county testified in support of the protests which were filed with the Commission. These protests were based on the narrowness and congestion on the highway, witnesses contending that a bus line would jeopardize the existing traffic, and that no public necessity existed for the inauguration of said line.

Witnesses from Bountiful, Val Verda, and Centerville protested that said service was not needed and that if the granting of said application was contingent upon the abandonment of the Utah Light & Traction Company's Davis County line; that said abandonment would result in irreparable injury to the communities affected.

After full consideration of the evidence in this case, the Commission finds as follows:

That applicant, Bamberger Electric Railroad Company, is a corporation of the State of Utah, owning and operating a double track electric railroad between Salt Lake City and Ogden, a distance of thirty-seven and one-half miles; that said Company has invested some four millions of dollars in said railroad, and is financially responsible.

That public convenience and necessity require the installation and operation of a modern passenger bus line between said cities; that the granting of said certificate as prayed for, will enable applicant to coordinate its electric railway system with said bus line, so as to take care of all public demands, not only for every day service, but during such times as mass transportation is necessary.

That over seventy per cent of the passenger business between Salt Lake City and Ogden originates at Salt Lake City and points south, and Ogden and points north thereof, and that but thirty per cent originates in Davis County.

That the maintenance of the State highway through Davis County is under the supervision of the State of Utah, and is paid for from the proceeds of the State gasoline tax.

The Salt Lake-Ogden Transportation Company and its predecessor have, since 1921, been operating a freight truck between Salt Lake City and Ogden, serving intermediate points, under Certificate of Public Convenience and Necessity No. 103, issued by this Commission; and it is at the present time giving adequate and efficient freight service between said points.

The Commission feels, therefore, that applicant, Bamberger Electric Railroad Company, should not at this time, at least, be permitted to engage in the general haulage of freight by truck in competition with said estab-

lished truck line. However, in the interest of the general public, and of affording quick and convenient transportation service to the shipping interests, the Commission is of the opinion that the Bamberger Electric Railroad Company should not be, in its certificate of convenience and necessity, restricted to the carrying of passengers exclusively by its bus operations over the public highways.

As we read and interpret our Public Utilities Act, the Legislature did not intend that the granting of certificates of public convenience and necessity by this Commission, for the operation of automobile trucks and busses over the highways of the State, should confer upon the holders thereof a vested right to operate at all times and as they will, regardless of the best interests and welfare of the general public.

As pointed out, the electric railway of the applicant herein preceded the truck service in point of time.

Since the inauguration of the Salt Lake-Ogden truck service, the applicant has constantly suffered a decline in its traffic, until now it proposes to afford a more prompt and efficient service, by carrying express for its patrons by automobile over the highway, as well as by rail. In all fairness and in justice, it should be permitted to do that for its patrons which will best subserve their needs and convenience, without casting too great a burden upon an already congested highway, and without undue interference with the now well established freight service of the Salt Lake-Ogden Transportation Company.

The applicant herein proposes to give both express and passenger service between Salt Lake City and Ogden. "Express," as the term is used in its relation to automobile transportation, is a pretty comprehensive term, and the distinction between express and freight is oftentimes difficult to make. The Commission thinks the applicant should not be permitted to haul freight by auto truck, as does the Salt Lake-Ogden Transportation Company, over the route under consideration; but that the applicant should be confined at this time to the carrying of such express and baggage as may be readily carried on its automobile busses without impairment of its proposed passenger service.

That the present local passenger transportation facilities between Salt Lake City and Centerville are adequate,

and, until otherwise ordered, applicant may not transport local passengers between said points, except as to southbound passengers originating north of Centerville, and northbound passengers destined to points north of Centerville.

It is the opinion of this Commission that there is a portion of the public who are not satisfied with existing rail transportation and who are demanding that they be permitted to avail themselves of bus transportation. The diminishing revenues of the rail carriers as to passenger transportation, are caused more by the competition of the private automobile than by bus lines. However, where consistent, the Commission is in favor of allowing the existing transportation agencies to enter the bus field, in the hope that private automobile owners may, in some measure, patronize these busses and thus enable the rail lines to regain some of their lost passenger business. Whether or not this will occur, the Commission is not prepared to say.

In the instant case, the two steam lines operating between Salt Lake City and Ogden, the Denver & Rio Grande Western Railroad and the Oregon Short Line Railroad, offered no opposition to the granting of a certificate to the applicant.

In the granting of the application as prayed for, the Commission will expect the applicant to operate modern passenger busses at such times and in such a manner as will fully meet the requirements and subserve the convenience of the public, and, if necessary, the Commission will from time to time issue additional orders toward that end. It is not the intent of the Commission that applicant shall operate this line merely as an auxiliary to its present rail service; but expects that said line shall be operated as an independent unit, believing that through the operation of both lines, applicant will be fully able to supply any and all transportation needs of its patrons between Ogden and Salt Lake City. These two cities and points between have a combined population of two hundred thousand people.

As to the matter of the intervention of the Utah Light & Traction Company in this case, and its application for an order to discontinue service on its so-called "Centerville Line," the Commission reserves the right to treat said application as an independent matter, and

will, in due time, render its report bearing upon the questions directly involved in said application.

It is to be expected that by reason of the fact that the bus service to the public as proposed to be given by the applicant, Bamberger Electric Railroad Company, will, as to rates, frequency, and kind of service, from time to time require some modifications and adjustments in the interest of the general public. The right to do that will be expressly reserved in the Commission's order, which will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity
No. 270.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 14th day of August, 1926.

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, a Corporation, for permission to operate an automobile passenger stage line between Salt Lake City and Ogden, Utah. } CASE No. 823

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

IT IS ORDERED, That the application be, and it is hereby, granted; that the Bamberger Electric Railroad Company, a Corporation, be, and it is hereby, authorized to operate an automobile stage line, for the transportation of passengers, express and baggage, between

Salt Lake City and Ogden, Utah, and intermediate points, except as herein otherwise ordered.

ORDERED FURTHER, That the applicant, Bamberger Electric Railroad Company, be, and it is hereby, confined at this time to the carrying of such express and baggage as may be readily carried on its automobile busses without impairment of its proposed passenger service.

ORDERED FURTHER, That applicant, Bamberger Electric Railroad Company, shall not transport local passengers between Salt Lake City and Centerville, Utah, over its automobile stage line, except as to southbound passengers originating north of Centerville, and northbound passengers destined to points north of Centerville.

ORDERED FURTHER, That the Bamberger Electric Railroad Company, in the operation of said automobile stage line, will, as to rates, frequency, and kind of service, from time to time require some modifications and adjustments in the interest of the general public, and the right to do so is hereby reserved by the Commission.

ORDERED FURTHER, That applicant, Bamberger Electric Railroad 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

GUNNISON SUGAR COMPANY, GUNNISON VALLEY SUGAR COMPANY, PEOPLES' SUGAR COMPANY, UTAH-IDAHO SUGAR COMPANY,
Complainants,
vs.
THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and Joseph H. Young, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and T. H. Beacom, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY,
Defendants.
} CASE No. 824

Submitted November 16, 1925. Decided February 20, 1926.
Appearances:

H. W. Prickett and Milton H. Love, } for Complainants.

J. A. Gallaher, } for Defendants.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, before the Commission, on the 2nd day of September, 1925, at Salt Lake City, Utah, upon the complaint of the Gunnison Sugar Company, Gunnison Valley Sugar Company, Peoples' Sugar Company and the Utah-Idaho Sugar Company, and the answer filed thereto by the defendants, The Denver & Rio Grande Western Railroad System, Joseph H. Young, Receiver, The Denver & Rio Grande Western Railroad System, T. H. Beacom, Receiver, and the Denver & Rio Grande Western Railroad Company.

It is alleged by the complaint that during the period May 1, 1923, to and including April 1, 1925, the Gunnison Sugar Company and Gunnison Valley Sugar Company shipped over the line of the defendants, from Grove,

Utah, to Salt Lake City, Utah, 106 carloads of sugar, and to Provo, Utah, four carloads of sugar, aggregating an approximate total weight of 7,421,858 pounds of sugar; that the rate at which freight charges were exacted by said defendants for the transportation of said shipments of sugar was 24½ cents per 100 pounds, and that said complainants in fact paid and bore the freight charges for the transportation of the said shipments.

That during the period June 1, 1923, to and including March 14, 1925, complainant, Peoples' Sugar Company, shipped over the line of the defendants from Moroni, Utah, to Salt Lake City, Utah, eighteen carloads of sugar, aggregating an approximate total weight of 1,317,253 pounds, and that the rate paid for the transportation of the said shipments of sugar was 24½ cents per 100 pounds, and that said complainant in fact paid and bore the freight charges.

That during the period July 15, 1923, to and including January 14, 1925, complainant, Utah-Idaho Sugar Company, shipped over the line of the defendants, from Lehi Sugar Works, Utah, to Price, Utah, ten carloads of sugar, aggregating an approximate total weight of 401,489 pounds of sugar; that the rate charged for the transportation of the said sugar was 45 cents per 100 pounds, and that said complainant in fact paid and bore the freight charges for said shipments.

That at the time of the movement of the aforesaid shipments, the defendants' lawful published rate for the transportation of sugar, in carloads, from Lehi to Price, Utah, was 45 cents per ton of 2,000 pounds, minimum weight 33,000 pounds, subject to a minimum charge of $15.00 per car.

That at the time of the movement of the aforesaid shipments, the defendants' lawful published rate for the transportation of sugar, in carloads, from Grove, Utah, to Provo, Utah, was 64 cents per ton of 2,000 pounds, made up of combination rates of 42½ cents per ton, from Grove to Springville, Utah; 21½ cents per ton, from Springville, Utah, to Provo, Utah.

That at the time of the movement of the aforesaid shipments, defendants had published in their tariffs rates for the transportation of sugar in carloads, to Salt Lake City, Utah, from Grove, Utah, that were materially less

than the rate of 24½ cents paid for the transportation of complainants' shipments between said points.

That by reason of the facts stated, complainants have been subjected to damage in the sums shown below:

Gunnison Sugar Company	$12,896.42
Peoples' Sugar Company	2,229.63
Utah-Idaho Sugar Company	1,656.71

The answer of the defendants in substance admits, that the several shipments were made over their lines by the complainants at the times and for amounts as set forth and alleged in the complaint, but denies that the rates charged therefor were unlawful or in excess of the defendants' then regularly published tariffs. The answer further denies that the complainants were injured or that they sustained damage.

The principal question to be determined by the Commission on this record is therefore one resting largely upon the interpretation that should be given the defendants' regularly published freight tariff, No. 4975-D, P. U. C. U. No. 42, which was in effect at the time the shipments under consideration moved, and the statutory provisions applicable thereto.

The complainants contend that under said tariff the sugar should have moved at a rate in cents per ton of 2,000 pounds, rather than at a rate in cents per 100 pounds, as charged the complainants by the defendants.

The Commission finds:

Said tariff schedule No. 4975-D, P. U. C. U. No. 42, in effect at the time the shipments moved, was published, beginning on Page 242 thereof, under the heading of *"Table of Commodity Rates*—Continued. Stone—Continued," as follows:

Item No.	Commodity	From	To	Rate in Cents per ton of 2,000 Lbs.

On page 243 of the tariff sheet, following, under the page heading *"Table of Commodity Rates*—Continued. Stone—Concluded," the same ruling and method of quot-

ing rates is found as is on Page 242, and until the commodity sugar appears near the center of the page, thus:

SUGAR

Within the last above spacing and rulings of the tariff sheet, rates are quoted from point to point on defendants' lines of railroad, without indicating whether in cents per 100 pounds or in cents per ton of 2,000 pounds, unless it be held that the reading "Rates in Cents per Ton of 2,000 Lbs." at the top of the page is controlling.

Following, on Page 244, and again on Page 245 of the tariff sheet, where quotations of rates for sugar are concluded, under the page heading *"Table of Commodity Rates*—Continued. *Sugar*—Continued" the ruling and reading of the tariff with respect to sugar, is as follows:

Item No.	Commodity	From (Except as Noted)	To	Rate in Cents per 100 Pounds (Except as Noted)

On Page 245 of the tariff sheet, ruled and published under the page heading as last above set forth, quotation of rates for sulphur appears, after the commodity rates for sugar are concluded, thus:

SULPHUR

The foregoing exhibits are fairly illustrative of the tariff sheet, as ruled and published throughout by the defendants, during the period covering the time under which the shipments of sugar under consideration moved.

That it is the general custom of railroad transportation companies operating in the State of Utah and throughout the other western states, as well, to quote rates for sugar in their tariff sheets in cents per 100 pounds, and shipments, generally speaking, have been made accordingly at such rates.

That the manufacturer's price for sugar sold through agencies representing the consuming public, within the State of Utah, is the base price as fixed by San Francisco dealers, plus freight charges, and that the shipments of sugar under consideration in this case were so sold by the complainants.

That presumably, at least, shipments of sugar have been made by complainants and other manufacturers of sugar over defendants' line of railroad between points mentioned, not only on Page 243 of the defendants' tariff sheet, but also between points mentioned on Pages 244 and 245, as well, and the charges made and quoted therefor were and are uniformly in cents per 100 pounds.

As has been pointed out, the claimants in this case predicate their claims for reparations solely upon the plain reading of the tariff sheet on Page 243, as found under the sub-heading "Rate in Cents per Ton of 2,000 Lbs." They invoke the well established rule, that in the matter of charges there can be no deviation whatsoever from the rates as published by the carrier in its tariff sheet when once filed with and approved by the Commission. This rule has been most zealously safeguarded and universally adhered to by commission rulings, generally sustained in all cases where matters of the legality of rates have been involved before the courts for review.

Fish Lumber Co. vs. Y. & M. R. R. Co., 42 I. C. C., Page 470.

Miles Lbr. Co. vs. C. B. & Q. R. R. 89 I. C. C., Page 763.

U. S. vs. Illinois Terminal Ry. Co., 168 Fed., 549.

Horton vs. Tonopah & Goldfield R. R. Co., 225 Fed., 406.

Louisville & Nashville R. R. vs. Mottley, 219 U. S., 467.

L. & N. R. R. Co., vs. Maxwell, 237 U. S., 94.

N. Y. C. & H. R. R. Co. vs. York Whitney Co. (Mass.), 119 N. E., 855.

The rule and when it is to be applied, finds expression in the provisions of Chapter 3 of our Public Utilities Act (C. L. of Utah, 1917, Pg. 967). Subdivision 1 of Section 4783 of said chapter provides:

> "All charges made, demanded or received by any public utility, or by any two or more public utilities * * * for any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for * * * such service is hereby prohibited and declared unlawful."

Section 4784 provides: Common carriers shall print, keep open for public inspection, and file with the Public Utilities Commission, a schedule of their rates, etc. A similar provision is found in Subdivision 5 of Secton 4787 of the same chapter. Subdvision 2 of said Section 4787 provides:

> "No common carrier shall charge, demand, collect or receive a greater or less or different compensation for the transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, except upon the order of the Commissions as herinafter provided, nor extend to any corporation or person any privilege or facility in the transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons."

Then again, it is provided in Section 4788 of said Chapter:

> "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 * * * service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to * * * such service as specified in its schedules on file and in effect at the time, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rent-

als and charges so specified, nor extend to any corporation or person any form of contract or agreement, or any rule or regulation, or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided, that the Commission may, by rule or order, establish such exceptions from the the operation of this prohibition as it may consider just and reasonable as to each public utility."

Then again, it is provided in Section 4789 of the same statute:

> "No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person, or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service. The Commission shall have the power to determine any question of fact arising under this section."

The rule contended for by claimants and its application, in view of the several provisions of our statutes above quoted, must, of course, be harmonized in the light of the facts found in this case. First, it appears, beyond any dispute, that the rates charged the complainants by the defendants, were those uniformly charged all shippers under substantially similar conditions throughout the State. Secondly, it is not claimed that the charges paid by claimants were unjust and unreasonable, or in any way discriminatory between persons or localities. Manifestly, the intent and purpose of the Public Utilities Act was to secure for the shipper and carrier, alike, just and reasonable rates, without discrimination between persons or localities.

Every unjust or unreasonable charge made, demanded or received is, by Section 4783, prohibited and declared to be unlawful. The record here shows, conclusively, that if the claimants are granted reparations as prayed for, they will have paid and will have benefited by not only an unjust and unreasonable rate from the standpoint of the carrier, but one that will prove discriminatory

as against every other shipper and locality not found to be immediately affected by the quotations on Page 243 of the tariff sheet. In other words, the rates for the commodity "sugar" in this tariff sheet, if the rule contended for be given application, would result in one locality and class of shippers paying cents per hundred pounds, where another locality and class of shippers would be required only to pay cents per 2,000 pounds weight, under practically the same conditions, for similar service, the very things that the rule and the statutory provisions above quoted were designed to preclude.

The Commission is not to be so much concerned, therefore, in the technical observance of rules and statutory provisions, as in the accomplishment of the salient purposes for which they are created and enacted.

Coming now to the provisions of our Public Utilities Act, bearing upon the right of the Commission to grant reparations, Subdivision 1 of Section 4838, C. L. of Utah, 1917, provides:

> "When complaint has been made to the Commission concerning any rate, fare, toll rental or charge for any * * * 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 * * * 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 reparations to the complainant therefor, with interest from date of collection; provided, no discrimination will result from such reparation."

We have pointed out that under the facts of this case it has not been claimed on the part of the claimants that they were charged by the defendants an excessive or discriminatory amount for service, nor that they have been discriminated against in any form. We have shown that if reparations are granted in this case, discrimination will necessarily result against the shippers and the localities affected by certain rates quoted on Pages 244 and 245 of the tariff sheet. If the rule that there must be no deviation from the rates as published in the carrier's tariff sheet, must be held to apply in every case, regardless of the facts shown, then

the rates for sugar quoted on Page 243 in cents per ton of 2,000 pounds and those quoted for the same commodity on Pages 244 and 245 of the defendant's tariff in cents per 100 pounds, are equally legal and binding upon shippers and carriers, although widely at variance, and, notwithstanding they will, if reparations be granted the applicants in this case, result in the very grossest kind of discrimination between shippers and localities.

Under the facts found and for the reasons stated, we can reach no other conclusion than that the reparations herein sought for by the complainants should be denied and their complaint dismissed.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 20th day of February, 1926.

GUNNISON SUGAR COMPANY, GUNNISON VALLEY SUGAR COMPANY, PEOPLES SUGAR COMPANY, UTAH-IDAHO SUGAR COMPANY,
Complainants.

vs.

THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and Joseph H. Young, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and T. H. Beacom, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY,
Defendants.

} CASE No. 824

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

IT IS ORDERED, That the reparations herein sought for by the complainants be, and the same are hereby, denied; that the complaint of the Gunnison Sugar Company, et al., vs. The Denver & Rio Grande Western Railroad System, et al., herein, be, and it is hereby, dismissed.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

GUNNISON SUGAR COMPANY, GUNNISON VALLEY SUGAR COMPANY, PEOPLES SUGAR COMPANY, UTAH-IDAHO SUGAR COMPANY,
Complainants.

vs.

THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and Joseph H. Young, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and T. H. Beacom, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY,
Defendants.

} CASE No. 824

REPORT AND ORDER UPON PETITION FOR REHEARING AND RECONSIDERATION

By the Commission:

On March 24, 1926, complainants filed petition for rehearing and reconsideration in the above entitled cause, and, after due consideration of the same, we are of the opinion that the petition should be denied.

IT IS THEREFORE ORDERED, That the petition of the Gunnison Sugar Company, Gunnison Valley Sugar Company, Peoples' Sugar Company, and Utah-Idaho Sugar Company, for rehearing and reconsideration in the above entitled matter, be, and it is hereby, denied.

Dated at Salt Lake City, Utah, this 8th day of April, 1926.

(Signed) E. E. CORFMAN,

THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

GUNNISON SUGAR COMPANY, GUNNISON VALLEY SUGAR COMPANY, PEOPLES SUGAR COMPANY, UTAH-IDAHO SUGAR COMPANY, *Complainants.* vs. THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and Joseph H. Young, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and T. H. Beacom, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, *Defendants.*	CASE No. 824

SUPPLEMENTAL ORDER

By the Commission:

IT APPEARING, That on the 28th day of February, 1926, the Commission made and entered its Report and Order in the above entitled matter, denying the complainants' relief prayed for, and dismissing the complaint.

NOW, THEREFORE, IT IS HEREBY FURTHER ORDERED, That the effective date of the Report and said Order, in the above entitled proceeding be, and the same is hereby, fixed May 1, 1926.

Dated at Salt Lake City, Utah, this 23rd day of April, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

GUNNISON SUGAR COMPANY, GUNNISON VALLEY SUGAR COMPANY, PEOPLES SUGAR COMPANY, UTAH-IDAHO SUGAR COMPANY, *Complainants.* vs. THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and Joseph H. Young, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD SYSTEM and T. H. Beacom, Receiver, THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, *Defendants.*	CASE No. 824

ORDER UPON ADDITIONAL PETITION FOR REHEARING

By the Commission:

The complainants having, on the 27th day of April, 1926, filed herein an additional application for a rehearing, and the Commission, having duly considered the same, now hereby orders that the said additional application for rehearing be denied.

Dated at Salt Lake City, Utah, this 29th day of April, 1926.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HOWARD J. SPENCER, for an amendment to his certificate of convenience and necessity, for the operation of an automobile stage line between Salt Lake City and Tooele, Utah.	CASE No. 825
In the Matter of the Application of HENRY I. MOORE and D. P. ABERCROMBIE, Receivers for the Salt Lake & Utah Railroad Co., for permission to operate an automobile passenger stage line between Salt Lake City, Magna and Garfield Smelter, Utah, and intermediate points.	CASE No. 835

Submitted December 4, 1925. Decided February 27, 1926.

Appearances:

Dan B. Shields,	for Howard J. Spencer.
Wm. Story, Jr.,	for Salt Lake & Utah R. R. Co.
Ray McCarty and D. G. Foote,	for J. C. Denton.

Bagley, Judd & Ray	for American Smelting & Refining Co., and Salt Lake, Garfield & Western R. R. Co.
R. B. Porter,	for Los Angeles & Salt Lake R. R. Co.
L. E. Gehan,	for American Railway Express Co.

REPORT OF THE COMMISSION

By the Commission:

The above cases came on for hearing, at Salt Lake City, on November 28, 1925, at 10 A. M., all Commissioners being present.

The application of Howard J. Spencer, for an amendment to his certificate of convenience and necessity for the operation of an automobile stage line between Salt Lake City, Utah, and Tooele, Utah, set forth, among other things:

That he is the holder of Certificate of Convenience and Necessity No. 72, issued by this Commission on the 1st day of March, 1920 (Case No. 261);

That since said time, this petitioner has carried passengers between Salt Lake City and Tooele and intermediate points; that under said certificate, he has made three round-trips daily between the points mentioned; that said certificate be made specific as to intermediate points, no mention of intermediate points being made in his present certificate, although it was understood by the Commission, at the time of issuance, that he was to furnish service to all points between Salt Lake City and Tooele.

The application of the Salt Lake & Utah Railroad Company, by its receivers, is for a certificate authorizing them to operate an automobile passenger service between Salt Lake City, Utah, and Garfield Smelter, Utah, and intermediate points. The applicants filed an original petition, August 24, 1925, and, on December 4, 1925, filed an amended petition as follows:

That the applicant, Salt Lake & Utah Railroad Company, operates an interurban, electric railroad from Salt Lake City to Payson, Utah, with a branch line from Granger to Magna, Utah; that the necessities of the public require very frequent bus service between Magna and Garfield Smelter and intermediate points, to connect with applicant's electric train service, and that the stage service now furnished by J. C. Denton, under his Certificate No. 90 (Case No. 353), between the towns of Magna and Garfield, is not adequate; that if applicants are granted the certificate prayed for, they are willing to furnish such additional stage service and issue tickets interchangeable over either the electric line or the stage line applied for.

Inasmuch as the application of the Salt Lake & Utah Railroad Company, for a certificate of convenience and necessity to operate an automobile stage line, for the transportation of passengers, from Garfield Smelter to Salt Lake City, is over the same route covered by Howard J. Spencer, in Application No. 825, the Commission consolidated the two cases, for the purpose of the hearing.

The application of Howard J. Spencer was protested by the Los Angeles & Salt Lake Railroad Company, on the grounds that said railroad now operates between Salt Lake City and Warner, Utah, and intermediate points; that the protestant is giving, and is prepared to give, all the necessary passenger transportation service between the points covered by the applicant's petition; that applicant's petition does not set forth that he has secured any franchise from County, City and Municipal authorities along the line which he proposes to operate.

The application was also protested by the Salt Lake & Utah Railroad Company; that Certificate No. 72, heretofore issued Mr. Spencer, authorized service between Salt Lake City and Tooele, Utah, and did not apply to intermediate points; that notwithstanding the allegation of the applicant that he had been rendering service between intermediate points without protest, that the Salt Lake & Utah Railroad Company, on July 10, 1925, protested against Mr. Spencer's furnishing service between Magna and Salt Lake City and interemdiate points, without authority.

Protestant further states that for many years past it has furnished, and is now furnishing, electric pas-

senger service between Salt Lake City and Magna, Utah, and intermediate points, and that if said service is not sufficient, it is willing to supplement such service by either additional trains or automobile busses between said points, as may be required.

Application was protested by the American Railway Express Company, upon the grounds that protestant is operating an ample, daily express service between Salt Lake City and Tooele, and between Salt Lake City and Magna, and that no need exists for additional intermediate service.

J. C. Denton, holder of certificate to operate automobile stage line between Magna and Garfield and between Garfield and Garfield Depots, protested that the service now rendered by him between Magna and Garfield is ample and convenient, and that no need exists for additional service between the two latter points.

The application of the Salt Lake & Utah Railroad Company was also protested by J. C. Denton on the same grounds as set forth in his protest against the Spencer application.

The application of the Salt Lake & Utah Railroad Company was also protested by the Los Angeles & Salt Lake Railroad Company, on the grounds that it operates five trains each way daily from Salt Lake City to Garfield and Garfield Smelter, and that no additional service is necessary.

Said application was also protested by Howard J. Spencer, on the grounds that the service given by him, under his Certificate No. 72, is all that is required by the public.

At the hearing, the American Smelting & Refining Company entered its appearance in protest to any additional service to Garfield and Garfield Smelter, which might result in the discontinuance of the local passenger service of the Los Angeles & Salt Lake Railroad Company between Salt Lake City and the Garfield Smelter.

The Salt Lake, Garfield & Western Railway Company protested both applications on the ground that the service now rendered by it between Salt Lake City and Garfield, in conjunction with the Denton stage line, was adequate, and that no further service was required.

After a full consideration of the records and exhibits in this case, the Commission finds:

That the Magna and Garfield district is the center of the milling operations of the Utah Copper Company and the smelting operations of the American Smelting & Refining Company.

That the distances from Salt Lake over the State Highway and the populations of each point involved in these applications are as follows:

PLACE	DISTANCE	POPULATION	
Salt Lake City	0		
15.4			
Bacchus	15.4	175	
1.6			
Magna	17.0	4500	
1.5			
Magna Mill	18.5	600	men employed
1.1			
Arthur Mill	19.6	650	men employed
1.4			
Garfield	21.0	2500	
1.6			
Garfield Smelter	22.6	1200	men employed
0.5			
Smelter Camp	23.1	500	
4.2			
Lake Point	27.3	100	
3.7			
Milton	31.0	50	Grantsville Jct.
3.0			
Erda	34.0	100	
6.0			
Tooele	40.0	4500	

That the Salt Lake & Utah Railroad Company operates seven electric trains daily, each way, between Salt Lake City and Magna, Utah, and that the Salt Lake, Garfield & Western Railway Company operates six electric trains daily, each way, between Salt Lake City and

Garfield Depot, said depot being six-tenths of a mile north of Garfield Town.

That J. C. Denton, holder of Certificate No. 90, operates two automobile stage trips daily, each way, between Garfield and Magna, and six automobile stage trips daily, each way, between Garfield and Garfield Depot, thus connecting with two Salt Lake & Utah Railroad trains and six Salt Lake, Garfield & Western Railway trains at Magna and at Garfield Depot, respectively.

That the Los Angeles & Salt Lake Railroad Company operates five steam trains daily, each way, between Salt Lake and Garfield Smelter.

That H. J. Spencer operates three automobile bus trips daily, each way, between Salt Lake City and Tooele (Certificate No. 72).

That each of said carriers are giving at the present time prompt, efficient and commodious passenger service over their respective lines and routes.

Applicant, Salt Lake & Utah Railroad Company, contends that the convenience and necessity of the traveling public requires more frequent bus service between Magna and Garfield Smelter, and also that a bus service between Garfield Smelter and Salt Lake, operated in connection with the electric train service of the applicant, would be a great convenience to the public.

A careful review of the record as to the present transportation facilities between said points, does not indicate that applicant's contention is sound. Applicant specifically disclaims any desire to operate a bus service between Salt Lake City and Magna, in conjunction with its train service, but proposes to install a new service into a section that the record shows to be amply supplied with transportation.

The Commission is of the opinion that the application of the Salt Lake & Utah Railroad Company should be denied.

The record is silent as to whether the issuance of Certificate No. 72 to H. J. Spencer, to operate between Salt Lake City and Tooele, carried with it a right to also serve points intermediate to these two cities. Be that as it may, H. J. Spencer has in fact rendered said intermediate service since the granting of said certificate in 1920, without protest, except a letter written to him

by the Salt Lake & Utah Railroad Company, July 10, 1925, questioning his right to transport passengers between Salt Lake City and Magna.

While this intermediate service is only incidental to the bus line operation between Salt Lake City and Tooele, it is undoubtedly of considerable convenience to a certain portion of the public. For instance, it will be seen by a reference to the distance table shown in this report, that the distance from Magna to Lake Point is 10.3 miles, with five or more points intermediate thereto.

The Spencer bus line renders a special and distinctive service between said points, as well as other points between Salt Lake City and Tooele, that is not covered by any other transportation agency.

The Commission is therefore of the opinion that Certificate of Convenience and Necessity No. 72, heretofore issued to H. J. Spencer, should be amended so as to permit him to receive and discharge passengers at intermediate points over his automobile route, between Salt Lake City and Tooele, with a restriction that such passengers are to be transported only on cars running from the terminal at Salt Lake City to the terminal at Tooele, and vice versa, and that no cars be operated to or from intermediate points, except cars traversing the entire route covered by Certificate No. 72.

The Commission feels, generally speaking, that the transportation privileges afforded between Salt Lake City and Tooele, and intermediate points, are ample and sufficient to meet the social, business and industrial needs of these communities, and that the operations as now conducted should not be disturbed.

Appropriate orders will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, 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 February, 1926.

In the Matter of the Application of HOWARD J. SPENCER, for an amendment to his certificate of convenience and necessity, for the operation of an automobile stage line between Salt Lake City and Tooele, Utah.	CASE No. 825
In the Matter of the Application of HENRY I. MOORE and D. P. ABERCROMBIE, Receivers for the Salt Lake & Utah Railroad Co., for permission to operate an automobile passenger stage line between Salt Lake City, Magna and Garfield Smelter, Utah, and intermediate points.	CASE No. 835

These cases being at issue upon applications 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 and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Henry I. Moore and D. P. Abercrombie, Receivers for the Salt Lake & Utah Railroad Company, for permission to operate an automobile passenger stage line between Salt Lake City, Magna and Garfield Smelter, Utah, and intermediate points, be, and it is hereby, denied.

ORDERED FURTHER, That Certificate of Convenience and Necessity No. 72, heretofore issued to Howard J. Spencer in the Commission's Case No. 261, be, and it is hereby, amended so as to permit him to receive and discharge passengers at intermediate points over his automobile stage route between Salt Lake City and Tooele, Utah, with a restriction, however, that such passengers are to be transported only on cars running from the terminal at Salt Lake City to the terminal at Tooele, and vice versa, and that no cars be operated to or from

intermediate points, except cars traversing the entire route covered by Certificate No. 72.

ORDERED FURTHER, That applicant, Howard J. Spencer, 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of PRICE, a Municipal Corporation of Carbon County, State of Utah, to establish a grade crossing at 11th Street, in Price, over and across the tracks of the Denver & Rio Grande Western Railroad Company.	CASE No. 828
In the Matter of the Application of certain property owners, residents and taxpayers of the City of Price, Utah, for the opening of Tenth Street, in Price, Utah, by the establishment of a grade crossing at said Tenth Street, over and across the tracks of the Denver & Rio Grande Western Railroad Company.	CASE No. 829

Submitted November 4, 1925. Decided March 31, 1926.

Appearance:

Messrs. F. E. Woods and Henry Ruggeri,	for Price City.

George J. Constantine,	for certain property owners, residents and taxpayers of the City of Price.
Messrs. VanCott, Riter & Farnsworth and B. R. Howell,	for the Denver & Rio Grande Western Railroad Co.

REPORT OF THE COMMISSION

By the Commission:

These matters came on regularly for hearing, before the Commission, at Price, Utah, on the 4th day of November, 1925, due notice thereof having been given for the time and in the manner required by law. By consent of the interested parties, the several cases were combined for the purpose of hearing.

The application of Price, a municipal corporation, (Case No. 828) briefly stated, sets forth:

That Price is a municipal corporation of Carbon County, State of Utah, duly incorporated as a city of the third class, under and by virtue of the laws of the State of Utah; that its corporate name is "Price"; that the Denver & Rio Grande Western Railroad Company is a corporation, operating and maintaining a railroad, the main line of which runs through Price; that it is necessary for the convenience of the public that a grade crossing at 11th Street, in said Price, over the tracks of the main line of the Denver & Rio Grande Western Railroad, be established, created and constructed in the manner as required by the statutes of Utah and the rules, regulations and practice of the Public Utilities Commission of Utah; that at the present time there are no street crossings over the tracks of the said Railroad Company, except via an underpass near the western corporate limits of Price, and one at grade on 8th Street; that the business portion of Price is almost entirely east of 10th Street; that there are many residents of Price living south of the main line of the tracks of the Denver & Rio Grande Western Railroad, as well as north thereof and west of 8th Street, who have no way of crossing or recrossing said tracks, except in many and most instances going a long way to the underpass or to the 8th Street crossing.

The application of George Saridakis and other citizens of Price (in Case No. 829) requests that a crossing be opened and established at the intersection of south 10th Street, in Price, where the same crosses the tracks of the Denver & Rio Grande Western Railroad Company, for the accommodation and convenience of the public, particularly the residents and property owners of the platted portion of Price, south of said tracks.

The application of John Scowcroft & Sons Company, et al., represents that a crossing of the tracks at either 10th or 11th Street would be hazardous, and requests that a crossing of the said tracks be established at 9th Street, for the reason that it would better serve the public interests.

The answer of the defendant, the Denver & Rio Grande Western Railroad Company, denies that public convenience and necessity would be subserved by a crossing of its tracks at any point between the said subway and 8th Street, and further alleges that any crossing between said points would be extremely hazardous and cause unnecessary delay, great inconvenience and incur heavy expense to it in its railroad operations, in Price.

From the evidence adduced for and on behalf of the interested parties, the Commission finds:

1. That Price is a municipal corporation, under the laws of the State of Utah, and is situated on the main line of the Denver & Rio Grande Western Railroad Company, operating a steam railroad between Denver, Colorado, and Salt Lake City, Utah.

2. That Price has a population of approximately 4,000 inhabitants, and is largely a business center for the coal mining industry of Eastern Utah.

3. That within the city limits of Price, between 8th Street and the underpass at the western limits thereof, the Denver & Rio Grande Western Railroad Company maintains its switching-yards, over which many tracks are laid for the purpose of conducting its switching operations in making up trains and for the accommodation of the shipping interests at said point.

4. That between said subway and 8th Street, at the present time, the streets crossing the switching-yards of the Denver & Rio Grande Western Railroad Company are practically closed and but little used, except

for the purpose of receiving and unloading freight at warehouses located upon and near the right-of-way of the said Railroad Company.

5. That said Price City is largely built up north of the right-of-way of the Railroad Company, and that the main business street of Price extends east and west, paralleling said right-of-way, on the north side thereof.

6. That there are numerous residences and some business houses in Price, south of said right-of-way, and that the only crossings now available in going from the north side of the right-of-way to the south side of Price, are situated at 8th Street and at the underpass situated at the western limits of the city.

7. That the municipal officers of Price and the Denver & Rio Grande Western Railroad Company have heretofore entered into an agreement for the closing of certain streets in Price, and that the several interests represented at this hearing, including Price, have been unable to agree among themselves as to where a crossing, if any, should be established and maintained between said subway and 8th Street.

8. That it is uncertain and undetermined as to what street, if any, might be legally opened for crossing the railroad yards of the Denver & Rio Grande Western Railroad Company, between said subway and 8th Street.

9. That the Denver & Rio Grande Western Railroad Company challenges the right of the municipal authorities of Price to open a street across its tracks between said subway and 8th Street, and the legal right so to do is in doubt. In all probability that question will have to be settled and determined in the courts.

The Commission, therefore, concludes and decides that it would be an idle thing for it to exercise its jurisdiction and establish a railroad crossing at any particular place between said underpass and 8th Street, until the legal question or right to open and maintain a street leading to and across said switching-yards of the defendant has been determined by the courts, or mutually agreed upon by the contending parties now before it in this case.

We are of the opinion that the local authorities of Price, a municipal corporation, should proceed to deter-

mine for themselves what street, if any, should be opened and laid out leading to, over, and across said railroad yards of the defendant and take such steps to accomplish the same as will legally establish the right to open and maintain such a street, and, when that has been determined, if so disposed, renew their application to the Commission for an order establishing and for the maintenance of crossing for the accommodation and use of said street.

This report of the Commission should not be construed as indicating whether or not the public convenience and necessity will be best subserved by the opening of any public street in Price leading to and across the railroad yards of the Denver & Rio Grande Western Railroad, at any point between 8th Street and the underpass at the western limits of the City. Upon that question we now express no opinion, other than we venture to say such a crossing at grade at any point would be a continuous hazard and a menace to public safety.

Under existing conditions, the main street at Price extends on the north side of the defendants' right-of-way and switch-yards between the subway and 8th Street, a distance of approximately only a half mile. It may be entirely feasible to lay out and open a similar street on the south side of said right-of-way and yards, for the accommodation of the residents and the business interests of south Price, and at the same time quite well subserve the convenience of the public without subjecting traffic to the hazards of an additional crossing.

For the reasons stated, we are of the opinion that the applications herein should be at this time dismissed, without prejudice.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 31st day of March, 1926.

In the Matter of the Application of PRICE, a Municipal Corporation of Carbon County, State of Utah, to establish a grade crossing at 11th Street, in Price, over and across the tracks of the Denver & Rio Grande Western Railroad Company.	CASE No. 828
In the Matter of the Application of certain property owners, residents and taxpayers of the City of Price, Utah, for the opening of Tenth Street, in Price, Utah, by the establishment of a grade crossing at said Tenth Street, over and across the tracks of the Denver & Rio Grande Western Railroad Company.	CASE No. 829

These cases being at issue upon applications 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 and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the applications herein be, and they are hereby, dismissed, without prejudice.

By the Commission:

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of certain property owners, residents and taxpayers of the City of Price, Utah, for the opening of Tenth Street, in Price, Utah, by the establishment of a grade crossing at said Tenth Street over and across the tracks of the Denver & Rio Grande Western Railroad Company.	CASE No. 829

See Case No. 828.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of C. J. LOWERY, for permission to operate an automobile stage line between Brigham City, Utah, and the Utah-Idaho State Line, with final destination at Malad, Idaho. } CASE No. 832

ORDER

Upon motion of the applicant, and with the consent of the Commission:

IT IS ORDERED, That the application of C. J. Lowery, for permission to operate an automobile stage line between Brigham City, Utah, and the Utah-Idaho State line, with final destination at Malad, Idaho, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 10th day of May, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of ROBERT M. LUCAS and O. V. McGREW, for permission to operate an automobile freight truck line between Price, Duchesne, Myton, Roosevelt, Vernal, and all intermediate points. } CASE No. 834

See Case No. 814.

In the Matter of the Application of HENRY I. MOORE and D. P. ABERCROMBIE, Receivers for the SALT LAKE & UTAH RAILROAD COMPANY, for permission to operate an automobile passenger stage line between Salt Lake City, Magna and Garfield Smelter, Utah, and intermediate points. } CASE No. 835

See Case No. 825.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for the elimination of grade crossings over the Union Pacific Railroad at Station 88+52.6 and 378+54.7 Engineers' Stations Federal Aid Project 60-B, Emory-Castle Rock equivalent to MP 940.45 East bound main line West of Castle Rock and MP 945.48 West bound main line East of Castle Rock.	CASE No. 836

Submitted April 26, 1926. Decided May 12, 1926.

Appearances:

L. A. Miner, Assistant Attorney General of the State of Utah, } for Applicant.

John V. Lyle and J. T. Hammond, Jr., Attorneys, } for Union Pacific R. R. Co.

REPORT OF THE COMMISSION

By the Commission:

On August 25, 1925, the State Road Commission of Utah, by Howard C. Means, Chief Engineer, filed with the Public Utilities Commission of Utah, an application, in substance stating: that the State Road Commission of Utah desired to construct a permanent Federal Aid Highway between Emory and Castle Rock, Utah; that it is necessary to cross the main line of the Union Pacific Railroad, and in consideration of the fact that this is a main interstate highway and on the U. S. Federal Highway System, this construction will be of a permanent character and should be built to the standards of alignment and clearance designated for this project by the United States Bureau of Public Roads and the State Road Commission of Utah; that the construction of said grade eliminations would be a direct benefit to the Union Pacific Railroad; and that the Public Utilities Commission of Utah apportion the costs of said

grade eliminatons between the Union Pacific Ralroad and the State Road Commission of Utah.

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, at Salt Lake City, Utah, April 26, 1926.

No protests were received, either before or at the hearing.

A contract between the Union Pacific Railroad Company and the State Road Commission and Summit County, was introduced at the hearing, said contract providing in part as follows:

That the main transcontinental highway, formerly known as the Lincoln Highway, now crosses underneath the east-bound main track of the Railroad Company, at Mile Post 940.45, and crosses the west-bound main track at Mile Post 936.51; that the undercrossing of Mile Post 940.45 is hereinafter referred to as "Crossing B," and the grade crossing at Mile Post 936.51 is hereinafter referred to as "Crossing C."

The Road Commission desires to change the alignment of the highway at Crossing "B," which will necessitate the replacement of the present thirty-five foot through-span supporting the track over the highway with a seventy foot through-span.

The Road Commission also desires to move Crossing "C" to a new location at Mile Post 935.48 and provide for an undergrade crossing at which it is proposed to construct the necessary abutments and to install the thirty-five foot girder span released from Crossing "B."

The Commission finds that the contract as submitted apportioning the costs between the respective parties, is fair, just, and reasonable, and should be approved; that the Railroad Company shall contribute for the construction of the new subway Crossing "B," the sum of $2,500.00; all expense in excess of said sum of $2,500.00, shall be borne by the Road Commission;

That the Railroad Company and the Road Commission shall each bear one-half of the total amount of all expenses incurred by the Railroad Company in connection with the construction of the new subway; but the Road Commission shall bear the entire amount of all

expenses in connection with the construction of the said highway through the said new subway; that after the completion of the construction of the said subways, the Railroad Company shall, at its sole expense, maintain, repair, and renew the abutments and the superstructure thereof; that the said highway as relocated shall be maintained, repaired, and renewed by the Road Commission and/or Summit County;

That the grade crossing known as Crossing "C," at Mile Post 936.51, is dangerous and not necessary for the convenience of the public, and should be closed.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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, 1926.

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for the elimination of grade crossings over the Union Pacific Railroad at Station 88+52.6 and 378+54.7 Engineers' Stations Federal Aid Project 60-B, Emory-Castle Rock equivalent to MP 940.45 East bound main line West of Castle Rock and MP 935.48 West bound main line East of Castle Rock.	CASE No. 836

This case being at issue upon application 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 con-

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

IT IS ORDERED, That the application herein be, and it is hereby, granted; that the Union Pacific Railroad Company shall contribute for the construction of the new subway Crossing "B" (at Mile Post 940.45), the sum of $2,500.00; all expense incurred in excess of said sum of $2,500.00, shall be borne by the State Road Commission of Utah.

ORDERED FURTHER, That the Union Pacific Railroad Company and the State Road Commission of Utah shall each bear one-half of the total amount of all expenses incurred by the Railroad Company in connection with the construction of the new subway; but the Road Commission shall bear the entire amount of all expenses in connection with the construction of said highway through the said new subway; that after the completion of the construction of the said subway, the Railroad Company shall, at its sole expense, maintain, repair, and renew the abutments and the superstructures thereof; that the said highway as relocated through said subway shall be maintained, repaired, and renewed by the Road Commission and/or Summit County.

ORDERED FURTHER, That the State Road Commission of Utah be, and it is hereby, authorized to close grade crossing known as Crossing "C," at Mile Post 936.51.

By the Commission:

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. H. O'DRISCOLL, for permission to operate an automobile passenger and baggage stage line between Nephi and Manti, Utah, and intermediate points.	CASE No. 837

Submitted February 23, 1926. Decided March 18, 1926.

Appearances:

B. R. Howell,	for Denver & Rio Grande Western R. R. Co.
Irvan Robison,	for Benefit Association of Railway Employes.
Wm. H. Fowler, Jr.,	for Brotherhood of Locomotive Firemen and Enginemen.

REPORT OF THE COMMISSION

By the Commission:

Under date of August 31, 1925, J. H. O'Driscoll filed an application with the Public Utilities Commission of Utah, for permission to operate an automobile passenger and baggage stage line between Nephi and Manti, Utah, and intermediate points.

This case was set for hearing, September 28, 1925. On motion of applicant, same was indefinitely postponed.

Notice was issued assigning case for hearing, at Salt Lake City, February 19, 1926, at Two o'clock P. M. All interested parties were notified.

Prior to the hearing, written protests were filed by the Denver & Rio Grande Western Railroad; Mt. Pleasant Lions Club, of Mt. Pleasant and Moroni, Utah; Brotherhood of Locomotive Firemen and Enginemen; and Benefit Association of Railway Employes. All of said protests set forth reasons for opposing the application.

The case came on for hearing, as per final notice.

No apperance was made by or for the applicant.

Protestant, Denver & Rio Grande Western Railroad Company, introduced testimony to show that adequate train service is being rendered between Manti and Nephi, and that there is no necessity for stage line service between said points. An exhibit was introduced showing number of passengers carried on Trains Nos. 515 and 156, also the revenue received for the year 1925. This exhibit shows also the segregation, by months and averages, per trip.

No affirmative evidence in support of the application was introduced.

The Commission finds that no necessity exists for the establishment of an automobile stage line between Nephi and Manti, and that the application should be denied.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 18th day of March, 1926.

In the Matter of the Application of J. H. O'DRISCOLL, for permission to operate an automobile passenger and baggage stage line between Nephi and Manti, Utah, and intermediate points. } CASE No. 837

This case being at issue upon application 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 and conclusions, 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) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for the elimination of grade crossings over the Union Pacific Railroad between Echo and Emory, Federal Aid Project No. 60-A, equivalent to railroad mile posts 942+ to 952+.	CASE No. 838

Submitted April 26, 1926. Decided May 10, 1926.

Appearances:

L. A. Miner, Assistant Attorney General of the State of Utah, for Applicant.

John V. Lyle and J. T. Hammond, Jr., Attorneys, for Union Pacific R. R. Co.

REPORT OF THE COMMISSION

By the Commission:

On September 11, 1925, the State Road Commission of Utah, by Howard C. Means, Chief Engineer, filed with the Public Utilities Commission of Utah, an application, alleging: that the State Road Commission of Utah desired to construct a permanent Federal Aid Highway between Echo and Emory, Utah; that the proposed location of new highway would eliminate several grade crossings on the present road; that the construction of said grade eliminations would be a direct benefit to the Union Pacific Railroad; and asking that the Public Utilities Commission of Utah close the existing grade crossings and apportion the costs of said grade eliminations between the Union Pacific Railroad and the State Road Commission of Utah.

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, at Salt Lake City, Utah, April 26, 1926.

The testimony indicated that upon September 29, 1924, the Union Pacific Railroad Company had entered into a contract with the State Road Commission of Utah and Summit County, Utah, providing as follows:

That the State Road Commission proposes to construct a new Federal Aid Highway between the towns of Echo and Emory, in Summit County, the State road closely paralleling the Union Pacific Railroad for about eleven miles; that this proposed highway is located, in its entirety, on the north side of the Union Pacific Railroad tracks; that its construction will eliminate seven grade crossings on the old road, as originally constructed. Because of the elimination of these crossings, the Union Pacific leased the outer section of its right-of-way at various points on the north side of its tracks, and also agreed to construct, at its sole expense, an underpass beneath its tracks, on a branch highway between Echo and Coalville, and joining the new highway immediately east of the town of Echo.

No opposition was offered to the closing of the crossings involved, with the exception of a crossing at Echo Station, at Railroad Company's Survey Station 50812 +65. Four residents of Echo, owning property on the south side of the tracks, objected to the closing of this crossing on the ground that it would reduce the value of their property and cause them serious inconvenience in traveling from their homes to Echo.

The Commission finds:

That the closing of these crossings and the construction of the proposed underpass is in the public interest; that the new road, as constructed, eliminates any necessity for the crossings sought to be closed, with the exception of the crossing at Station 50812+65, near Echo; that the safety and convenience of the traveling public require that this crossing be closed as a public crossing, but maintained as a private crossing for the benefit of the four protestants herein referred to; that this said crossing should be equipped with modern swing-gates that can be easily operated, and that a turnstile should be constructed in the right-of-way fences on both sides of the tracks, for the convenience of pedestrians.

We find that the railroad company should, at its sole expense, construct and complete an undergrade crossing, including grading for the approaches thereto (but not including the wearing surface for the roadway) underneath its double track railroad at Engineer's Survey station 50782+50; that the Road Commission and /or the County shall maintain, repair, and renew the

roadway proper, and that the Railroad Company shall maintain, repair, and renew the abutments and the superstructure of said undergrade crossing to be constructed by it; that the location of the crossings to be closed is as follows:

"1. Grade crossing near the east line of the SE¼ of Sec. 20, Twp. 4 N., Range 6 E., at Railroad Company's Engineer's Survey Station No. 50264+65.

"2. Grade crossing near the north and south center line of the N½ of Sec. 29, Twp. 4 N., Rge. 6 E., at Railroad Company's Engineer Survey Station No. 50297+16.7.

"3. Grade crossing near the NW corner of the SE¼ of the NW¼ of Sec. 10, Twp. 3 N., Rge. 5 E., at Railroad Company's Engineer Survey Station 50567+88.

"4. Grade crossing near the north and south center line of Sec. 17, Twp. 3 N., Rge. 5 E., at Railroad Company's Engineer's Survey Station No. 50686+75.

"5. Grade crossing near the east line of the SE¼ of Sec. 24, Twp. 3 N., Rge. 4 E., at Railroad Company's Engineer's Survey Station No. 50794+80.

"6. Grade crossing near the south line of the SE¼ of Sec. 24, Twp. 3 N., Rge. 4 E., at Railroad Company's Engineer's Survey Station No. 50812+65.

"7. Undergrade crossing underneath the main track of the Railroad Company's Park City Branch near the NE corner of the NE¼ of Sec. 25, Twp. 3 N., Rge. 4 E. at Railroad Company's Engineer's Survey Station No. 27+46.1."

An order in accordance with these findings will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 May, 1926.

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for the elimination of grade crossings over the Union Pacific Railroad between Echo and Emory, Federal Aid Project No. 60-A, equivalent to railroad mile posts 942+ to 952+.	CASE No. 838

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

IT IS ORDERED, That the State Road Commission of Utah be, and it is hereby, authorized to eliminate the crossings herein sought to be closed, with the exception of the crossing at Station 50812+65, near Echo, which crossing shall be closed as a public crossing, but maintained as a private crossing; that this said crossing shall be equipped with modern swing-gates that can be easily operated, and that a turnstile shall be constructed in the right-of-way fences on both sides of the tracks, for the convenience of pedestrians.

ORDERED FURTHER, That the Union Pacific Railroad Company shall, at its sole expense, construct and complete an undergrade crossing, including grading for the approaches thereto (but not including the wearing surface for the roadway) underneath its double track railroad at Engineer's Survey Station 50782+50; that the Road Commission and/or Summit County shall maintain, repair, and renew the roadway proper, and that the Railroad Company shall maintain, repair, and renew the abutments and the super-structure of said undergrade crossing to be constructed by it; that the location of the crossings to be closed is as follows:

1. Grade crossing near the east line of the SE¼ of Sec. 20, Twp. 4 N., Rge. 6 E., at Railroad Company's Engineer's Survey Station No. 50264+65.

2. Grade crossing near the north and south center line of the N½ of Sec. 29, Twp. 4 N., Rge. 6 E., at Railroad Company's Engineer's Survey Station No. 50297+16.7.

3. Grade crossing near the NW corner of the SE¼ of the NW¼ of Sec. 10, Twp. 3 N., Rge. 5 E., at Railroad Company's Engineer's Survey Station 50567+88.

4. Grade crossing near the north and south center line of Sec. 17, Twp. 3 N., Rge. 5 E., at road Company's Engineer's Survey Station No. 50686+75.

5. Grade crossing near the east line of the SE¼ of Sec. 24, Twp. 3 N., Rge. 4 E., at Railroad Company's Engineer's Survey Station No. 50794+80.

6. Grade crossing near the south line of the SE¼ of Sec. 24, Twp. 3 N., Rge. 4 E., at Railroad Company's Engineer Survey Station No. 50812+65.

7. Undergrade crossing underneath the main track of the Railroad Company's Park City Branch near the NE corner of the NE¼ of Sec. 25, Twp. 3 N., Rge. 4 E., at Railroad Company's Engineer's Survey Station No. 27+46.1.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of ALMA C. JENSEN to withdraw from and JAMES H. WADE to assume the operation of an automobile stage line between Price and Emery, Utah, via Huntington, Castle Dale, Orangeville and Clauson, Utah.	CASE No. 839

Submitted December 18, 1925. Decided February 2, 1926.

Appearances:

Alma C. Jensen,
James H. Wade, } Applicants.

Robert Loftis, } for Himself.

REPORT OF THE COMMISSION

McKAY, Commissioner:

Under date of September 25, 1925, this application was filed by Alma C. Jensen, asking permission to relinquish Certificate of Convenience and Necessity No. 174, to operate an automobile passenger stage line between Price and Emery, Utah, via Huntington, Castle Dale, Orangeville and Clauson, Utah, and by James H. Wade, to assume operation of said line.

Petition sets forth that Alma C. Jensen had entered into a certain contract with John Loftis and Robert Loftis, of Price, Utah, to sell them the equipment of this stage line, agreeing in said contract to transfer his interest in said line to them, when the equipment should have been paid for; and also to join them in an application to the Public Utilities Commission for a transfer of said certificate.

Petition also alleges that said line has not been a paying proposition, insofar as John and Robert Loftis are concerned, and that they now join with Alma C. Jensen in his application to have Certificate of Convenience and Necessity No. 174 cancelled and a new certificate issued to James H. Wade.

Petition further represents that James H. Wade has had long experience in operating public stage lines in Eastern Utah, understands the business, and is well equipped to give the public the service required; that the time of departure and arrival, also the schedule of rates now on file with the Commission, are to remain the same.

This case was assigned for hearing, at Price, Utah, December 18, 1925, at Ten o'clock A. M.

Hearing was held as per notice. Alma C. Jensen, Robert Loftis and James H. Wade were sworn and each testified. The representations as set forth in the application were substantiated by the evidence of these witnesses. No protests were registered to granting the application.

After full consideration of all material facts, the Commission is of the opinion that the application should be granted and a new Certificate of Convenience and Necessity should be issued to James H. Wade, and the authority granted in Certificate No. 174 (Case No. 600) to Alma C. Jensen, should be cancelled.

An appropriate order will be issued.

(Signed) THOMAS E. McKAY,
Commissioner.

We concur:

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 259.
Cancels Certificate No. 174.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 2nd day of February, 1926.

In the Matter of the Application of ALMA C. JENSEN to withdraw from and JAMES H. WADE to assume the operation of an automobile stage line between Price and Emery, Utah, via Huntington, Castle Dale, Orangeville and Clauson, Utah.	CASE No. 839

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

IT IS ORDERED, That the application be, and it is hereby, granted; that Alma C. Jensen be, and he is hereby, granted permission to withdraw from operation of automobile stage line between Price and Emery, Utah, via Huntington, Castle Dale, Orangeville and Clauson, Utah; that Certificate of Convenience and Necessity No. 174 (Case No. 600) issued to said Alma C. Jensen, be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That James H. Wade be, and he is hereby, authorized to operate automobile stage line between Price and Emery, Utah, via Huntington, Castle Dale, Orangeville and Clauson, Utah, for the transportation of passengers.

ORDERED FURTHER, That applicant, James H. Wade, 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH RAILWAY COMPANY, for permission to purchase and operate the main line and Coal Creek Branch Line of railroad of the National Coal Railway Company, and a Certificate of Convenience and Necessity authorizing the operation by said Utah Railway Company of said two railway lines, and also permitting said Utah Railway Company to exercise franchise granted by Carbon County, Utah.	CASE No. 842

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Upon motion of the applicant, Utah Railway Company, and with the consent of the Commission:

IT IS ORDERED, That Certificate of Convenience and Necessity No. 255, issued to the Utah Railway Company in Case No. 842, be, and it is hereby, cancelled and annulled.

Dated at Salt Lake City, Utah, this 7th day of April, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for permission to close an existing grade crossing over the Southern Pacific Railroad, in the vicinity of Engineer's Station 238+, Federal Aid Project No. 63-A, equivalent to approximately Mile Post 802.5 Main Line Promontory Branch. } CASE No. 843

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of E. E. GUILD, for permission to operate an automobile passenger stage line between Modena and Goldstrike, Utah. } CASE No. 844

Submitted October 20, 1926. Decided November 12, 1926.

REPORT OF THE COMMISSION

By the Commission:

Under date of November 13, 1925, E. E. Guild filed an application with the Commission for permission to operate an automobile stage line between Modena, Utah, and Goldstrike, Utah. Said application sets forth that the applicant is a resident of McGill, Nevada; that he is employed as a switchman by the Nevada Consolidated Copper Company; that owing to a mining boom at Goldstrike, and in view of unsatisfactory and inadequate transportation service, there is a necessity for transportation service between said points; and that he is prepared to fully equip such a line.

The case was set for hearing at St. George, Utah, October 20, 1926, at 2:30 P. M.

The case was called for hearing in accordance with the preceding notice. No appearance was made by or for the applicant.

The Commission finds that the application should therefore be dismissed, without prejudice.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 November, 1926.

In the Matter of the Application of E. E. GUILD, for permission to operate an automobile passenger stage line between Modena and Goldstrike, Utah. } CASE No. 844

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

IT IS ORDERED, That the application herein of E. E. Guild be, and it is hereby, dismissed, without prejudice.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of E. H. HANSEN, for the BIG (6) TRANSIT COMPANY, for permission to operate an automobile stage line, for the transportation of passengers, between Salt Lake City and the Utah-Arizona State Line, connecting with what is now known, or will be known, as the Arrow-head Trail, running through Nevada.	CASE No. 845

Submitted January 25, 1926. Decided March 13, 1926.

Appearances:

Robert B. Porter,	for Los Angeles and Salt Lake R. R. Co.
J. Robert Robinson,	for Public Utilities Commission of Utah.
Wm. Fowler, Jr.,	for Brotherhood of Locomotive Firemen and Enginemen.
Story and Crow,	for Salt Lake & Utah Railroad Co.

Ivan Robison, } Benefit Association of Railway Employees.

Dey, Hoppaugh & Mark, } for T. M. Gilmer.

REPORT OF THE COMMISSION

By the Commission:

On November 24, 1925, an application was filed with the Public Utilities Commission of Utah, by E. H. Hansen, for the Big (6) Transit Company. Said application sets forth:

That the principal place of business is 167 South Main Street, Salt Lake City; that the business of said Company is the operation of Big (6) Studebaker, seven passenger automobiles, between Salt Lake City, Utah, and Los Angeles, California; that permission is requested to transport passengers intrastate, in Utah; and that stages will leave Salt Lake City and the Utah-Arizona State Line each and every morning at 8:30, furnishing transportation for passengers from and to all intermediate points along the route.

Notice was issued, assigning this case for hearing, at Salt Lake City, January 20, 1926, at Ten o'clock A. M. Copies were sent to all interested parties.

Protests were filed by the Denver & Rio Grande Western Railroad Company, T. M. Gilmer, Salt Lake & Utah Railroad Company, by its Receivers, and the Los Angeles & Salt Lake Railroad Company. Protest was filed by Lund and Covington, but later was withdrawn. All of said protests set forth reasons why the application should be denied.

No appearance was made by or for the applicant.

There being no affirmative evidence in this case, the Commission finds that the application should be denied.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 March, 1926.

In the Matter of the Application of E. H. HANSEN, for the BIG (6) TRANSIT COMPANY, for permission to operate an automobile stage line, for the transportation of passengers, between Salt Lake City and the Utah-Arizona State Line, connecting with what is now known, or will be known, as the Arrow-head Trail, running through Nevada.	CASE No. 845

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

IT IS ORDERED, That the application herein of E. H. Hansen, for the Big (6) Transit Company, be, and it is hereby, denied.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

CONTINENTAL AGENCY COMPANY, a Corporation,
Complainant,
vs.
THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, a Corporation,
Defendant.
} CASE No. 846

Submitted April 9, 1926. Decided April 12, 1926.

Appearances:

L. F. Adamson, of Salt Lake City, Utah, Attorney } for the Complainant.

Milton Smith, of Denver, Colorado, and Van Cott, Riter & Farnsworth, of Salt Lake City, Utah, Attorneys } for the Defendant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on for hearing, before the Commission, at Salt Lake City, Utah, on the 25th day of January, 1926, upon complaint and answer duly filed thereto.

Briefly stated, it is alleged in the complaint that the complainant maintains a business office in Salt Lake City, Utah, and, among other things, is engaged in the business of conducting an insurance agency, through which it represents, in the capacity of an insurance broker, the Continental Casualty Company and the Columbia Casualty Company, foreign corporations doing a casualty insurance business within this State; that the defendant, The Mountain States Telephone & Telegraph Company, is a foreign corporation, conducting a telephone business within the State of Utah; that on October 27, 1925, the complainant entered into a contract with the defendant, providing for telephone service to be rendered by the defendant to complainant, under the terms of which, in accordance with the defendant's regularly

published tariff and the rules applicable thereto, filed with the Commission, complainant should pay to the defendant one regular subscriber's business rate and the defendant's additional listing rate, for each of the said companies it represents, and no more; that the defendant charges and demands payment of the complainant, additional joint subscribers' business rates, for both the Continental Casualty Company and the Columbia Casualty Company, although the telephone service is a liability against and the service for the benefit of the complainant, solely.

The complainant prays for an order of the Commission requiring the defendant to give it additional listings in its telephone directory for the Continental Casualty Company and the Columbia Casualty Company, at the defendant's additional listing rates, for a further order requiring the defendant to refund to the complainant all sums paid in excess thereof and for general relief.

The answer, in effect, denies that the service charges made against the complainant were or are in excess of its regularly published tariff rates, and further, affirmatively alleges that the charges complained of were and are in accordance with its regularly published tariff and its rules and regulations governing the same, as approved by the Commission.

The defendant challenged the right of the Commission to hear the matters involved, and moved to dismiss the complaint for want of jurisdiction. The complainant moved to strike certain allegations contained in the answer, upon the ground that they are immaterial. These motions were taken under advisement, pending a hearing of the case upon its merits.

FINDINGS

From the evidence adduced at the hearing, for and in behalf of the respective parties, the Commission finds:

1. That the complainant, Continental Agency Company, is a corporation, duly organized and existing under and by virtue of the laws of the State of Utah, having its principal office or place of business at 1015 Boston Building, Salt Lake City, Utah.

2. That the general business purposes for which the complainant was organized, and the business in which

it has been and is now continuing to engage in, is that of soliciting and underwriting all forms of insurance, buying and selling stocks and bonds, making and negotiating loans, buying and selling real estate and personal property, issuing of debenture bonds, and the carrying on of a general brokerage and investment business; that the complainant is now, and for several years last past has been, actively engaged in the pursuit of said business purposes for its sole benefit, and not for the benefit of any other person, firm or corporation.

3. That the defendant, The Mountain States Telephone & Telegraph Company, is a corporation, duly organized and existing under and by virtue of the laws of the State of Colorado, having for its general business purpose, the rendering of telephone service as a public utility, within the intermountain states; that by virtue of full compliance with the statutes of Utah, it is and has been authorized and empowered, during all the times mentioned in the course of the proceedings herein, to conduct its telephone business as a foreign corporation within this State, and is now, and for many years last past has been, actively engaged in the same, having its principal office at 56 South State Street, Salt Lake City, Utah.

4. That the Continental Casualty Company and the Columbia Casualty Company, respectively, are foreign corporations, duly authorized and empowered to do a casualty insurance business in the State of Utah, and the complainant, Continental Agency Company, acts as one of their agents therefor.

5. That on October 27, 1925, the complainant and the defendant entered into a contract providing for telephone service to be rendered to the complainant, at its Salt Lake City office, in the course of its corporate business affairs and purposes, at a stipulated rate, uniformly charged such telephone subscribers, in accordance with the defendant's tariff on file and approved by the Public Utilities Commission of Utah, the said contract being a continuing one for service theretofore rendered.

6. Under said contract and the reading of the defendant's regularly published tariff approved by the Commission, the complainant desired additional listings for the Continental Casualty Company and the Columbia Casualty Company, in connection with its corporate name, Continental Agency Company, at a cost of defendant's

established listing charge, thirty-five cents per month for each additional listing, which the defendant then refused and still refuses to give, unless the complainant pays the rate charged under its tariff, for joint user service, $2.50 per month.

7. The defendant's General Tariff for the State of Utah, filed with and approved by the Commission, contains the following rules and provisions:

Subdivision 5 of Section 20, Sheet 1, issued and effective September 15, 1917, provides:

> "Instrumentalities are furnished to subscribers only for personal communication by the subscriber and his family, or by his employees upon the subscriber's business."

With respect to directory listings and joint user service, Section 9 of the General Tariff, issued October 20, 1920, effective November 20, 1920, reads:

> "1 *GENERAL* (a) Directory listings are intended simply for purposes of identification, as an aid to the use of telephone service. This use does not contemplate special prominence or arrangement designed to be of advertising value. To facilitate reference, the listed name should be that by which the individual, firm or corporation, is known to the public, and to direct the patron properly, business listings should be associated with the telephone number through which the public may arrange to transact general business with the listed party. As the only purpose of the directory is to assist in rendering telephone service, any information in addition to that required for identification, or any duplication of information, increases the bulk of the directory and so imposes a burden upon telephone patrons by confusing essential with non-essential information and thereby destroys the facility with which the directory may be used. It is therefore necessary to limit listings to information which is essential to the identification of the subscriber. Directory listings regularly furnished without additional charge in accordance with the provisions of this section are all that are necessary for convenient use of the telephone. Litsings in excess of this number are charged for partly because of

the added expense incurred, but principally because a charge is the most effective and simplest commercial expedient for limiting the use of directory space to its legitimate purposes. * * *

"(b) Listings are * * * :

1. Service listings are those listings included in the charges for services.

2. Additional listings are listings in addition to the service listing of those persons, firms or corporations whose use of the service is contemplated under the terms of the subscriber's application for service, and are classified as additional listings, reference listings and misspelled names."

* * * * * * * * *

"11. *ADDITIONAL LISTINGS.*

(d) Additional listings may be listings of:

"1. Those persons, firms, or corporations whose use of the service is contemplated under the subscribers' application for service.

2. Employees of the subscriber or persons designated by the subscriber as being associated in the business with which he is connected.

Note: Occupancy of the same premises with a subscriber is not considered as associated in business. The tariff governing such cases is included in this section under 'Joint User Service.'

3. Subscribers' or their employees' residence telephones.

4. Subscribers' names ordinarily misspelled.

5. Names of a subscriber's business under which the business has formerly been conducted.

6. Trade names of articles, provided the subscriber is the authorized agent for the particular article and the name of the article is followed by the word 'Agency.' * * * "

"(b) *JOINT USER SERVICE.*

1. A joint user is one whose use of the subscriber's service is not contemplated under the terms of a subscriber's application for service, but who, by separate arrangement is entitled to the use of a subscriber's service. To facilitate this use of service a directory listing is included as a part of a joint user service.

2. * * * In connection with business service, the joint user must be located in the same office or suite of offices as the subscriber * * * ."

8. The complainant, in the course of its business affairs, solicits and causes to be written insurance of various kinds, including casualty insurance, for the Continental Casualty Company and the Columbia Casualty Company. The complainant maintains its own office, at its own expense, and every employee connected therewith is paid by and serves the complainant, alone. The only service that is rendered by the defendant Telephone Company, through the medium of the telephone installed in the office of the complainant, is for the sole convenience and benefit of the complainant.

As pointed out, the Commission ruled at the opening of this case for hearing that the application of the defendant for an order dismissing the complaint of the plaintiff, for want of jurisdiction, would be determined and passed on by the Commission, in connection with a hearing of the case upon its merits. We likewise ruled with respect to the complainant's motion to strike certain allegations contained in the defendant's answer. We also ruled at that time that the complaint herein would be regarded as an attack upon the reasonableness of the defendant's rules. We think the motions of the respective parties herein must be denied.

We take the view that under provisions of our Public Utilities Act, Title 91, Laws of Utah, 1917, the issues joined by the complaint and answer are properly before us for hearing and determination.

Subdivisions 2 and 3 of Section 4783, Chapter 3, of our Public Utilities Act, provides:

"2. Every public utility shall furnish, provide, and maintain such service, instrumentalities, equipment, and facilities as shall promote the safe-

ty, health, comfort, and convenience of its patrons, employees, and the public and as shall be in all respects adequate, efficient, just and reasonable."

"3. All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable."

Section 4827 of the Act, in part, reads:

"Complaint may be made by the Commission of its own motion or by any corporation or person * * * by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public utility, including any rule, regulation, or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission * * *."

Section 4800 reads:

"Whenever the Commission shall find after hearing that the rates, fares, tolls, rentals, charges, or classifications, or any of them demanded, observed, charged, or collected by any public utility for any service * * * or in connection therewith, * * * or that the rules, regulations, practices, or contracts, or any of them, * * * are unjust, unreasonable, discriminatory or preferential * * * the Commission shall determine the just, reasonable * * * rules, regulations, practices, or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided."

Then, Subdivision 2 of the same section provides:

"The Commission shall have the power to investigate a single rate, fare, toll, rental, charge, classification, rule, regulation, contract, or practice, or any number thereof * * * and to establish, after hearing, new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, and practices, or schedule or schedules, in lieu thereof."

The complainant in this case has, in effect, not only placed a different interpretation from that of the defendant on the readings of the defendant's schedule and the

rules and regulations applicable to the service; but it challenges their reasonableness. Uniform, just and reasonable rules and regulations covering public utility service, must be prescribed not only for the protection of the public utility itself; but also for the preservation of the best interests of the rate-paying public, of which the individual subscriber is a part.

The utility sells and the subscriber buys a certain amount of service. Therefore, governing rules and regulations should be so designed that the price will be uniform, just and reasonable as to all subscribers, at least so in theory and in practice, as nearly so as practicable to make them.

As shown by the findings in this case, telephone service is sold to the subscriber for his personal communication. Under the rules, one subscription is confined to a family or to the employees connected with a business, according to whether the subscription is for residence or business service. The subscriber, for the price of a single subscription, secures the telephone for service for his personal convenience, which entitles him to one listing for himself and to as many additional listings of his employees as will subserve his convenience and needs. If more than one listing is desired, he gets more than the average subscriber, and should be and is required to pay accordingly. In cases where parties are not immediately associated with the business affairs of the subscriber, they are not entitled to additional listing, and the listing information is then confined to the identification of the subscriber. In this case, as pointed out in the findings, the Continental Casualty Company and the Columbia Casualty are separate and distinct corporate entities from that of the complainant. They are not connected with, nor in any way concerned in the conduct of complainant's business affairs.

Just why these names should have additional listings in connection with the business name of the complainant, and as an exception to the well established rule contended for by the defendant, is not made to appear by the complainant. The most that can be said for complainant's contention is that the casualty companies would receive no direct benefits, and it might prove a convenience to persons seeking to transact business with them. The line of demarcation between those paying and those not paying for the telephone services and conveniences,

has to be drawn somewhere, otherwise serious abuses will result, to the injury of the rate-paying public.

It is difficult to conceive why the listing of names entirely foreign to the business of the subscriber, should not be regarded as one of two things, either that of using the telephone directory as an advertising medium, or as a means or facility of securing additional users' service. Neither of these is contemplated nor permitted under defendant's rules, for the reason that they would work a hardship upon the utility and the general rate-paying public.

We are of the opinion that the defendant's rules and regulations, with respect to "additional listings" and "joint users' service," are just and reasonable; that, as applied to the facts and circumstances described by the record in this case, they have been properly interpreted by the defendant, and, therefore, the complaint of the complainant herein should be dismissed.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,

[SEAL] Commissioners.

Attest:

(Signed) F. L. OSTLER, 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 April, 1926.

CONTINENTAL AGENCY COMPANY, a Corporation,
Complainant,
vs.
THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, a Corporation,
Defendant.
} CASE No. 846

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

IT IS ORDERED, That the complaint herein of the Continental Agency Company, a Corporation, vs. The Mountain States Telephone & Telegraph Company, a Corporation, be, and the same is hereby, dismissed.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the MAGNA GARFIELD TRUCK LINE, to assume all the right, title and interest of Butters & Speers in automobile freight and express line between Salt Lake City and Garfield, Utah, (Certificate of Convenience and Necessity No. 173). } CASE No. 847

Submitted January 19, 1926. Decided March 6, 1926.

Appearances:

John W. Orton, } for Magna Garfield Truck Line.

L. E. Gehan, } for American Railway Express Co.

Aldon J. Anderson, } for Salt Lake & Utah Railroad Co.

REPORT OF THE COMMISSION

By the Commission:

On December 4, 1925, an application was filed by the Magna Garfield Truck Line, by F. N. Shirley. The application sets forth that applicant operates an automobile freight line between Salt Lake City and Magna, Utah; that a certificate of convenience and necessity was issued to Butters and Speers, a corporation, authorizing operation of said freight line; that said corporation has sold its rights, franchises, privileges and permits to Magna Garfield Truck Line; and that a transfer of the certificate of convenience and necessity from Butters and Speers to Magna Garfield Truck Line is desired.

The case was set for hearing, January 15, 1926, at Three o'clock P. M.

Written protest was filed by the Receivers of the Salt Lake & Utah Railroad.

After giving due consideration to all of the evidence, we find:

That the stock of the Butters and Speers Corporation has been sold to the Magna Garfield Truck Line; that the present owners of stock desire to change the name of the corporation to Magna Garfield Truck Line; that articles of incorporation, on file in the office of the Secretary of State, have been so amended; that a new certificate of convenience should be issued in the name of Magna Garfield Truck Line; and that Certificate of Convenience and Necessity No. 173, issued in Case No. 615, should be cancelled.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 262. Cancels Certificate of Convenience and Necessity No. 173.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of March, 1926.

In the Matter of the Application of the MAGNA GARFIELD TRUCK LINE, to assume all the right, title and interest of Butters & Speers in automobile freight and express line between Salt Lake City and Garfield, Utah, (Certificate of Convenience and Necessity No. 173).	CASE No. 847

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

IT IS ORDERED, That the Butters and Speers Corporation be, and it is hereby, permitted to withdraw from the operation of automobile freight and express line between Salt Lake City and Garfield, Utah; that Certificate of Convenience and Necessity No. 173, issued to said Butters and Speers, in Case No. 615, be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That the Magna Garfield Truck Line be, and it is hereby, authorized to operate an automobile freight and express line between Salt Lake City and Garfield, Utah.

ORDERED FURTHER, That the Magna Garfield 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 fares and showing arriving and leaving time from each station on its route; and shall at all times operate in accordance with the Statutes of Utah and the rules and regulations pre-

scribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE BIG SPRING ELECTRIC COMPANY, for permission to revise and amend the present rules, rates and tariffs. } CASE No. 848

Submitted June 25, 1926. Decided July 20, 1926.

Appearances:

T. L. Holman, } for Applicant.

A. W. Jensen, } for Protestants.

REPORT OF THE COMMISSION

By the Commission:

On December 7, 1925, The Big Spring Electric Company, of Fountain Green, Utah, filed with the Public Utilities Commission of Utah an application for permission to revise and amend its present rules, rates and tariffs on file with the Commission. Said application sets forth:

1. That applicant is operating and maintaining an electric power plant, and is at the present time furnishing electric energy to the citizens and business institutions of Fountain Green, Moroni, and Wales, in Sanpete County, and Nephi and Levan, in Juab County, State of Utah.

2. That applicant finds its general rules and regulations not applicable to all classes of electric service furnished, and that said Company desires to change its rules and regulations so as to apply equally to all concumers.

3. That the present rates and tariffs fail to produce sufficient income to pay the stockholders a reasonable income on their investment in the said business and to cover a reasonable depreciation charge and the operation and maintenance of the business, and that the Company feels that the rates should be increased to the following:

Class of Service	Rate Requested
Lighting and General Use	10 cents per K. W. H.
Domestic Power and Heat	3 cents per K. W. H.

Minimum charge, $1.33 per month, or fraction thereof, with 10 per cent discount if paid before 16th day of month following reading of meter.

Street Lights—100 watt	90 cents per month
Street Lights—50 watt	50 cents per month

No discount. All renewals to be furnished by city.

General Power—over Company's lines and transformers	3½ cents per K. W. H.
General Power—over Consumer's lines and transformers	3 cents per K. W. H.

Minimum charge $1.50 per month, per motor rated horse power, with 10 per cent discount for prompt payment.

Power for City Water Works Pumps	2 cents per K. W. H.

Same minimum as above, no discount.

That the contracts with Wales Town, Levan Town, and Nephi City be investigated, and, if necessary, proper adjustments be made so as to make their rate uniform with all others, under the existing conditions.

Under date of December 17, 1925, the Commission requested applicant to have a complete inventory of all its property, used and useful in furnishing electric service, made and filed with the Commission, in duplicate, which was complied with by the applicant.

On April 16, 1926, Moroni City and Fountain Green City, through A. W. Jensen, their attorney, filed with the Commission an answer to the application of the Big Spring Electric Company. Said answer set forth that the Big Spring Electric Company was serving and had been serving the citizens and business interests of Fountain Green, Moroni, Wales, Levan and Nephi; that said cities and citizens were not in possession of sufficient information upon which to form a knowledge or belief as to whether the rules and tariffs of said Company were or were not applicable, or that the present rates and tariffs failed to produce sufficient income to pay the stockholders a reasonable income on their investment and to cover a reasonable depreciation charge, and the operation and maintenance of the business; that said cities and citizens of said cities prayed that the Public Utilities Commission of Utah deny any increase of rates for sale of electric energy to said citizens and cities.

The matter came on regularly for hearing, before the Commission, upon said application, at Moroni, Utah, April 21, 1926, at 10:30 A. M., due notice thereof having been given the the public for the time and in the manner required by law.

From the evidence adduced at said hearing, the Commission finds the facts to be:

That applicant, The Big Spring Electric Company, is a corporation, duly organized and existing under and by virtue of the laws of the State of Utah, and is an "electrical corporation" and "public utility," owning and operating an electrical system as defined by and subject to the provisions of the Public Utilities Law of Utah, as embraced in Section 4782, Compiled Laws of Utah, 1917.

That applicant was organized on or about May 2, 1902, with an authorized capitalization of $20,000.00; it began doing business with a paid-in cash captal of $13,030.00, a cash loan of $8,000.00, and certain water rights; said water rights comprised prior filings by several of the original stockholders on a stream of water flowing from the so-called "Big Spring," situated about one and one-half miles northwest of the Town of Fountain Green, Utah, and were assigned and turned over to the corporation without cost; that after operating for about twelve years, substantial improvements and betterments were made to plant and system during 1914, and certain subsequent years, and, during 1922, the power plant proper

was removed and rebuilt, according to applicant's records, at a cost approximating $20,000.00; that additional improvements and extensions to plant and system were made from 1922 to 1925, inclusive, at a cost aggregating some $13,000.00, and additional water rights acquired, about 1919, at a net cost of some $2,516.00.

That applicant distributes and sells its electric energy generated near Fountain Green, Utah, to the municipalities of Fountain Green, Moroni, Wales, Nephi and Levan, and also distributes and sells light and power direct to private concerns and individuals located or residing at or in the vicinity of Fountain Green and Moroni.

That, in connection with its electrical system, applicant owns and operates a small telephone exchange and system, serving the City of Fountain Green and vicinity; that applicant's investment in telephone property approximated $3,857.42, as of December 31, 1925, as per annual report on file with the Commission; that very little, if any, profit is realized from the operation of said telephone system, is disclosed from the 1925 annual report on file, and no increase in the present telephone rates of applicant is desired or contemplated in the instant application before the Commission.

That according to applicant's Exhibit 4, introduced in this case, a physical property valuation of the Big Spring Electric Company was made by Mr. C. P. Goody, an electrical engineer, as of December 31, 1913, and the total depreciated cost value of same as of that date, amounted to $28,138.00, making no allowances for intangibles or water rights.

That subsequent to December 31, 1913, to and including December 31, 1922, the following additions to plant and system have been made by applicant:

C. P. Goody's Valuation, Dec. 31, 1913.....	$28,138.00
Additions and Betterments, Year 1914.....	8,610.24
Additions and Betterments, Year 1915.....	183.21
Additions and Betterments, Year 1916.....	747.90
Additions and Betterments, Year 1917.....	927.41
Additions and Betterments, Year 1918.....	398.69
Additions and Betterments, Year 1919.....	3,275.76
Additions and Betterments, Year 1920.....	1,412.76
Additions and Betterments, Year 1921.....	9,947.87
*Additions and Betterments, Year 1922.....	24,553.07
TOTAL	$78,194.91

*Includes item of $4,150.74 for meters and equipment amounting to $925.62 not included in Exhibit 4 by applicant, but later included.

That according to annual reports of applicant on file with the Commission, the additions to physical plant and equipment for the years 1923, 1924 and 1925, added to the above, make a total book cost of plant and equipment, exclusive of intangibles and appreciated water rights, as follows:

*Total book value as of Dec. 31, 1922	$78,194.91
*Additions and Betterments, Year 1923	4,272.72
*Additions and Betterments, Year 1924	4,889.55
*Additions and Betterments, Year 1925	3,628.94
TOTAL	$90,986.12
Actual Cost of Water Rights	2,646.90
Total Book Value, or Cost Investment of Physical Property, as of Dec. 31, 1925	$93,633.02

*From certified Annual Report on file with the Commission.

That the reproduction value and the depreciated value of applicant's physical plant, exclusive of water rights and intangibles, as of December 31, 1925, according to applicant's engineer, C. J. Ullrich, is as follows:

Item	Reproduction Value	Depreciated Value
Land	$ 1,306.60	$ 1,306.60
Structures	6,564.52	5,016.11
Reservoirs, Dams & Intakes	27,881.68	25,265.89
Water Wheels	15,785.80	11,160.72
Electric Equipment	6,324.73	4,977.84
Miscl. Power Plant Equipment	1,308.84	1,241.83
Substation Equipment	2,467.02	2,075.34
Poles, Towers & Fixtures	8,307.16	3,679.87
Overhead Conductors	13,189.53	12,223.78
Services	1,806.60	1,625.95
Line Transformers	2,122.00	1,110.55
Line Transformer Installation	200.00	90.00
Consumers' Meters	3,566.90	1,961.78
Meter Installation	608.00	334.40
Street Lighting Equipment	97.94	48.97

General Equipment	814.62	555.95
Miscellaneous Tangible Capital	1,249.95	804.65
TOTAL	$93,601.89	$73,480.23

That the reproduction value and the depreciated value of applicant's physical plant, exclusive of water rights and intangibles, as of December 31, 1925, according to protestant's engineer, E. A. Jacob, is as follows:

Item	Reproduction Value	Depreciated Value
Land	$ 1,306.60	$ 1,306.60
Structures	5,139.01	4,817.86
Reservoirs, Dams and Intakes	25,291.42	22,821.80
Wheels	15,670.80	11,913.22
Electric Equipment	6,132.73	4,849.52
Miscsel. Power Plants	1,308.84	1,177.96
Sub Station Equipment	2,467.02	2,065.82
Poles, Towers & Fixtures	7,733.18	4,079.19
Overhead Conductors	10,825.35	9,489.82
Services	1,549.02	1,316.67
Line Transformers	2,122.00	1,202.50
Line Transformer Installation	200.00	100.00
Consumers' Meters	3,566.90	1,961.79
Meter Installation	608.00	334.40
Street Lighting Equipment	97.94	48.97
General Equipment	839.65	507.22
Miscellaneous Tangible Capital	1,249.95	804.65
TOTAL	$86,108.41	$68,797.99

After giving careful consideration to the book value of applicant's property, the reproduction value and the depreciated value, as found by both applicant's engineer and protestant's engineer, and after having given consideration to all other elements having a bearing on the case, the Commission is of the opinion that the controlling factor in this case should be the cost of reproduction of applicant's plant new, less actual depreciation of the property used and useful in giving service to the public.

The Commission, in reaching this conclusion, is guided by the numerous decisions of the Supreme Court of the United States and the various Federal Courts.

Smyth vs. Ames, 169 U. S., Page 546, the Court said:

> "We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask for is a fair return upon the value of that which it employs for the public convenience. On the other hand, that the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth * * * ."

In San Diego Land & Town Company vs. Jasper, 189 U. S., Page 142, the Supreme Court said:

> "The main object of attack is the valuation of the plant. It no longer is open to dispute that under the Constitution 'what the company is entitled to demand, in order that it may have just compensation, is a fair return upon the reasonable value of the property at the time it is being used for the public.' (See San Diego Land & Town Co. vs. National City, 174 U. S. 739, 757.) *That is decided, and is decided as against the contention that you are to take the actual cost of the plant, annual depreciation, etc., and to allow a fair profit on that footing over and above expenses.* * * * "

In Wilcox vs. Consolidated Gas Company, 212 U. S., Page 52, the Supreme Court said:

> " * * * and we concur with the court below in holding that the value of the property is to be

> determined as of the time when the inquiry is made regarding the rates. If the property which legally enters into the consideration of the question of rates, has increased in value since it was acquired, the company is entitled to the benefit of such increase. This is, at any rate, the general rule. * * * "

In Missouri, ex rel, Southwestern Bell Telephone Company vs. Public Service Commission, 262 U. S. 276, 287, the Court said:

> "It is impossible to ascertain what will amount to fair return upon properties devoted to public service, without givng consideration to the cost of labor, supplies, etc., at the time the investigation is made. An honest and intelligent forecast of probable future values made upon a view of all the relevant circumstances, is essential. If the highly important element of present costs is wholly disregarded, such a forecast becomes impossible. Estimates for tomorrow cannot ignore prices of today."

In Bluefield Water Works & Improvement Company vs. Public Service Commission, 262 U. S., at Page 692, the Court said:

> "The record clearly shows that the Commission in arriving at the final figure did not accord proper, if any, weight to the greatly enhanced costs of construction in 1920 over those prevailing about 1915 and before the war, as established by uncontradicted evidence; and the company's detailed estimated cost of reproduction new, less depreciation, at 1920 prices, appears to have been wholly disregarded. This was erroneous."

In one of the most recent decisions, The Pacific Telephone & Telegraph Company vs. Whitcomb, et al; The Home Telephone & Telegraph Company of Spokane vs. Denney, et al., (April 22, 1926), The United States District Court (W. D. Wash. S. D.) in part said:

> "Plainly, the rule of reproduction cost less depreciation is not an invariable and inflexible one, to be arbitrarily applied in all cases without regard to other factors and elements. To be sure, there must be no slavish adherence to it. Like most

general rules, it has exceptions, limitations and qualifications, and must always be applied to concrete facts, *with due regard for the fundamental consideration that the utmost any public utility can rightfully demand at the hands of rate-making bodies is such compensation for the use of its property as will, under all the circumstances existing at the time, be just, both to it and to the public.* A careful study of the cases, however, leads unerringly to the *conclusion that one of the most important factors, if not the dominant factor, in determining the true basis of rate-making, for public utilities, is the cost of reproduction new less depreciation of the property of the utility devoted to the public convenience, at the time of making the rates,* provided such cost fairly reflects normal and stable prices prevailing at the time, and also prices which will with reasonable certainty continue to prevail throughout the period covered by the rates fixed, so far as reasonable human foresight, measuring the future by the present and the past, can determine. * * * "

Applicant's engineer has made a present-day depreciated valuation of the property used and useful in giving service to the general public, which amounts to the sum of $73,480.23, and protestant's engineer's valuation of used and useful property, depreciated as of the present day, amounts to the sum of $68,797.99. There is not a great variation. In making a careful check of the inventory of the engineers, respectively, we find that they are practically in accord. For the purpose of establishing a basis for the bare present-day depreciated structural valuation of plant and system, the Commission will accept the valuation of the protestant's engineer, of $68,797.99, with the following adjustments:

In checking over items of unit costs of concrete, the Commission is of the opinion that the applicant's engineer's estimate was somewhat high, while the estimate of protestant's engineer seemed somewhat low. It was also found, probably through error on the part of the protestant's engineer, that the valuation of a store-house appeared to be omitted. The following amounts, as adjusted, added to the structural present-day depreciated valuation of protestant's engineer, will be accepted by the Commission as a structural or "bare bones" present-

day, depreciated valuation, exclusive of intangibles, of applicant's property used and useful in giving service:

Protestant's engineer's present-day depreciated value	$68,797.99
Amounts added thereto, as adjusted:	
155.06 yards of concrete at $3.00 per yard	465.18
15.60 yards of concrete at $1.00 yer yard	15.60
Valuation of store-house omitted	700.00
TOTAL	$69,978.77

Before passing on to the subjects of Water Rights, Going Value, and Overheads, it appears that it will be appropriate at this time to ascertain the proper amount which applicant should apply as an annual depreciation charge. It appears to the Commission that the interpretation of the Uniform Classification of Accounts for Electrical Utilities, adopted by the Commission, regarding Retirement Expense (Depreciation) and Retirement (Depreciation) Reserve, provides as follows:

The amount necessary to cover the item of "Depreciation," computed on the estimated life of the property, should be charged, periodically, to the "Operating Expense Account" (Uniform Classification of Accounts for Electrical Utilities) No. 782, "Retirement Expense" and concurrently credited to the Balance Sheet Account No. 251, "Retirement Reserve," or, in addition to the above, if possible and advisable by the management, the amount necessary to cover depreciation can be charged direct to the Balance Sheet Account No. 270 "Surplus" if available, and concurrently credited to the Balance Sheet Account No. 251, "Retirement Reserve." The "Retirement Reserve" thus built up by either or both of the above methods, should be a sufficient reserve against which all retirement losses can be charged.

The losses which the "Retirement Reserve" is intended to cover, are those losses which are incident to large sections, units, or continuous structures, such as a generator, building, electric line, or of any definite identifiable unit of plant or equipment, and should not be confused with maintenance of the various plant items which are purely operating expenses direct, against which no reserve is set up.

When a plant unit is displaced, its original cost should be credited to the appropriate "Fixed Capital" account and

concurrently charged to "Retirement Reserve," provided such reserve is sufficient in respect to and has been built up for the property so retired, otherwise, the excess to be charged to Balance Sheet Account No. 270 "Surplus." The cost of new property which displaces the old should be charged to the appropriate "Fixed Capital" account, whether greater or less in cost than the old, and credited to "Cash" or other appropriate account from which funds are drawn. The cost of dismantling is considered as a "Retirement Cost," and the value of any salvage recovered is charged to the appropriate account for "Material and Supplies" and concurrently credited to "Retirement Reserve."

It appears to the Commission that in this case it is proper to apply depreciation on the investment, rather than reproduction value.

In City of Rockford vs. Rockford Electric Co. (Illinois Commerce Commission, P. U. R., 1925-D, 166) the Commission said:

> "The Commission's Engineer gave it as his opinion that an amount of 4.393 per cent of the *Original Cost* of the property would be a sufficient amount to set aside to cover annual retirement expense. Witness for the utility considered that the annual retirement allowance should be based upon the reproduction cost of the property. This is a proposition to which the Commission does not agree. The classification of accounts prescribed by the Commission for electrical utilities contemplates the retirements of property shall be made at their original cost and that replacements if costing more than the property retired shall be added to the capital account of the difference between replacement and original cost. An allowance for annual retirement expense must therefore be *based upon the original cost of the property and not upon the reproduction cost.*"

See also:

Re Butler Telephone Company (Indiana Public Service Commission, P. U. R. 1925 A, 242).

Re Kansas City Gas Company (Missouri Public Service Commission, P. U. R. 1925 A, 663).

Re Georgia Railway & Power Company, et al., vs. Railroad Commission of Georgia (U. S. District Court, P. U. R. 1925 A, 593).

Re Knoxville vs. Knoxville Water Company, 212 U. S., Page 1.

The evidence in this case discloses that the investment in plant and equipment, exclusive of water rights and intangibles, amounted to $90,986.12, as of December 31, 1925. This amount is made up as follows:

Land	$ 1,306.60
Plant & System . . .	79,752.82
Meters	4,333.91
Dam & Reservoir . .	5,592.79
TOTAL	$90,986.12

Excluding "Land" and, at this time, "Dam and Reservoir" (See amount for Depreciation, later fixed), the bare depreciable property investment amounted to $84,-086.73, as of December 31, 1925. From the records of respondent, submitted in the case and as filed with the Commission (Annual Report of respondent for the year 1925), the balance sheet, December 31, 1925, discloses that the retirement (depreciation) reserve amounted to the sum of $29,349.99, or more than a sufficient reserve to cover past depreciation, according to the actual depreciation of plant and system as found by both petitioner's and protestant's engineers.

Although the debit account or accounts offsetting the "Reserve for Depreciation" have undoubtedly been invested in plant and system, as already disclosed, it appears, after taking into consideration respondent's capital stock outstanding, amounting to $60,000.00, total obligations, amounting to $17,899.45, and surplus, amounting to $29,847.29, that, were funds needed to make replacements at this time, either additional stock or bonds could be disposed of, without impairment to the business operations of respondent, to replace the funds having gone into plant investment. It appears, therefore, that the reserve for retirement should be given consideration for its entire amount as being fully ample in respect to past depreciation.

It further appears, after careful consideration, that a rate of 4.5 per cent should be ample to cover the item

of "Depreciation for depreciable Plant," exclusive of "Land" and "Dam and Reservoir," or, as of December 31, 1925, the sum of $3,783.90. To this, something should be added to cover the depreciation of "Dam and Reservoir." It further appears that authorities give the life of these items as ranging from fifty to one hundred years. It appears that a life of seventy-five years, or a depreciation rate of one and one-half per cent, based on respondent's investment in "Dam and Reservoir," as of December 31, 1925, ($5,592.79) should be adequate, or approximately the sum of $85.00. This would make a total allowance for depreciation of $3,868.90.

WATER RIGHTS AND GOING VALUE

WATER RIGHTS

From the affidavit and report of C. P. Goody, an electrical engineer, the following is quoted:

> "That in addition to the particular assets above listed and valued those certain water rights possessed and utilized by said company, comprising an average flow of from seven (7) to thirteen (13) second feet of water from the so-called "Big Spring" situated northwest of the town of Fountain Green, Utah, and having an average even temperature of approximately 55 degrees F. and a natural drop of three hundred (300) feet, had as of the date of their acquisition by said company in 1902, and for the peculiar and exclusive uses to which they were intended and put, a fair value of not less than ten thousand dollars ($10,000.00) to said Company.
>
> "In arriving at said valuation, consideration is given to the fact that the particular water rights thus appraised constituted the one essential vital asset of the company, that no other water or water rights were then or thereafter available for such purposes, and that any responsible hydro-electric plant operator or promotor would, in deponent's opinion, readily have offered and paid not less than $10,000.00 for said water power rights and privileges on said date * * *."

Again, from applicant's Exhibit "B," valuation of the Big Spring Electric Company, submitted by J. C. Ullrich, applicant's valuation engineer, the following is quoted:

"The Big Spring Electric Company derives water for operating its power plant from the Big Spring. The Company initiated its first right to appropriate water from these springs in or about 1901 and has since increased same, through filings in the State Engineer's office to its present day right of 15 second feet.

"To determine the fair present-day value of this water right, many things must be taken into consideration. Water rights are valuable in accordance with their power to produce revenue. Some rate making bodies have held, in the past, that the fact that a water right is a governmental grant it has no value for sale making purposes. In this connection it is interesting to note the opinion of Justice Holmes of the U. S. Supreme Court in the case of Joaquin & Kings River Canal & Irrigation Co. vs. Stanislaus County (233 U. S. 459) in which he held that the benefit from public appropriated water was private and the rights thereto should be considered in condemnation and rate cases.

"A water right is a privilege granted by a governmental agency with the expectation that it be put to private use. There is no condition attached to the grant of such rights that it be used for public good and the right to use water for private gain is a legimate and undeniable right and it would be unjust to deny the right to compensation for the public use of same. A homestead is acquired through governmental grant, yet no one would deny that such land has a value for rate making purposes. A water right is in the same class of governmental grants and should be placed on the same basis for rate making purposes.

"Again, the value of a water right for power purposes depends upon its location and construction features. It is evident that its proximity to potential power markets and the cost of constructing the project have a direct bearing on the value of water right. In other words, the larger the prospective power field and the cheaper the cost of constructing plant, the more valuable the water right. The Big Spring Electric Company is favorably situated in both these respects.

> "The Big Spring Electric Company originally estimated its water rights at zero. On March 1, 1913, the company, for invested capital purposes (paid-in-surplus) valued its water rights at $10,000.00. In 1922, the company appreciated its water rights by $30,000.00, making a total book value of $40,000.00. Shortly thereafter the company began building its new power plant which necessitated acquiring the water rights of the Phoenix Mill. To do this the company was required to purchase the entire mill property at a cost of $4,516.00. They later sold the Phoenix Mill Building for $2,000.00, leaving a net cost of $2,516.00 chargeable to water rights. Other incidental costs subsequent amounted to $130.90 so that the total present-day book value of the company's water rights is $42,646.90. * * * ."

Courts and commissions have made allowances for water rights from time to time throughout the country, some more liberal than others. Various methods have been used in computing the value of water rights.

Re Southern Nebraska Power Company vs. H. G. Taylor et al., (Nebraska Supreme Court, P. U. R. 1923, C, 616), the Court said:

> "To sum up, we conclude that the water power right of appellant does not rest upon a franchise; that it was proper for the Railway Commission to authorize appellant to issue stock of the corporation based upon the value of the water power right; and that the fixing of the value of the water right at $50,000.00 is fully sustained by the evidence."

Re Peoples Gas & Electric Company (New York Public Service Commission, P. U. R. 1924 B, 241), the Commission held:

> "For rate-making purposes regulating commissions in determining the fair value of water rights have held that advantage of low cost of production of electricity by water power should inure to both the producer and consumer; that the public should be permitted to profit by favorable rates resulting from the existence and use of available water. Re Virginia R. & Power Co., P. U. R. 1922, D. 352, and other cases there cited.

"In the exercise of reasonable judgment and with due regard for the evidence presented in the case bearing upon the question of the fair value of the land and water rights of Peoples Gas & Electric Company, we reaffirm our finding that the present fair value of this property for rate-making purposes is $250,000.00."

In Re Hampshire Power Co., D. 842, Order No. 1649, December 31, 1924, the New Hampshire Commission, in authorizing the issue of securities for the purpose of acquiring utility property, said: (P. U. R. 1926 A, 309)

"Water powers are valuable in proportion to the use that can be made of them, * * * . In general the development of water powers for the generation of electricity is for the public good and benefit and should be encouraged as ordinarly it cheapens the cost of production and conserves the coal supply. No subject connected with the valuation of electric utility properties has received more varied consideration than water rights. It is universally recognized that water rights and especially developed water powers are valuable and require very careful consideration in the valuation of an electric plant. A water power developed at such cost as to make possible the generation of electricity at less than the wholesale market price of electricity prevailing at the time of the development is an important asset in determining the value of plant as it increases the earning power; and is an important element in efficiency of operation, which should receive its reward as a business proposition. *When the output and the price at which it can be sold have been definitely determined it is practicable to fix definite values for water rights but generally it is best to include these with the other elements of value and fix a value of the plant and business as a going concern. We shall make due allowance for these water rights in considering these plants * * * .*"

See also:

Re Northern California Power Co. 1. Cal. R. C. R. 315.

Re Virginia R. & Power Co. (P. U. R. 1922 D, 353, 360).

Re Monohan vs. San Jose Water Co. (1914) 4 Cal. R. C. R. 1101.

Re Santa Cruse (California) (P. U. R. 1915 F. 768).

Re Indianapolis Water Co. (Indiana) (P. U. R. 1917 E. 556).

Re Indianapolis Light & Heat Co. (Indiana) (P. U. R. 1916 B, 445).

Re Murray vs. Public Utilities Commission 27 Idaho, 603, (P. U. R. 1915 F, 436).

Re Sandpoint vs. Sandpoint Water & Light Co., P. U. R. 1915 F. 445).

Re Portland Ry. Light & Power Co. (P. U. R. 1916-D, 976).

Re Douglas County Light & Water Co., (P. U. R. 1920 E, 667).

Re Kane vs. Spring Water Co. (P. U. R. 1919 C, 404).

Re Milne vs. Montpelier & Barre Light & P. Co. (P. U. R. 1920 E, 558).

Re Big Falls Power Co. (P. U. R. 1918 D, 234).

Re Public Service Commission vs. Pacific Power & Light Co. (P. U. R. 1915 A, 88).

Re Illinois Northern Utilities Co. (P. U. R. 1919 E, 932).

After giving due consideration to the value of water rights as found and submitted by engineers in appraising the property of the Big Springs Electric Company, and as outlined in cases above cited, the Commission believes that, apart from the bare out-of-pocket cost amounting to $2,646.90, an allowance should be made for water rights, and, accordingly, same will be made.

GOING VALUE

From a number of decisions of Supreme Court and Federal Court cases, there is no doubt that a proper allowance for going value should be made, and that same is an element of value of an established plant. This

Commission has already gone on record in making proper allowance for this element of value:

> Application of Utah Light & Traction Company, for permission to effect operating economies and to increase its revenues, Case No. 44, decided January 15, 1920, Utah Public Utilities Reports, Vol. 3, at P. 26.
>
> Application of Mountain States Telephone & Telegraph Company, for permission to continue in effect the service connection charges, exchange and toll rates, and rules and regulations instituted by Postmaster General Burleson, Case No. 206, decided March 29, 1921, Utah Public Utilities Reports, Vol. 4, at Page 52.

The former ruling of this Commission seems to be in accord with re Des Moines Gas Company vs. Des Moines (238 U. S., Page 165, 59 L. ed., 1244, P. U. R. 1915 D, 577, 35 Sup. Ct. Rep. 811), the United States Supreme Court said:

> "That there is an element of value in an assembled and established plant, doing business and earning money, over one not thus advanced, is self-evident. This element of value is a property right, and should be considered in determining the value of the property, upon which the owner has a right to make a fair return when the same is privately owned although dedicated to public use. Each case must be controlled by its own circumstances, and the actual question here is: In view of the facts found, and the method of valuation used by him, did the Master sufficiently include this element in determing the value of the property of this Company for rate-making purposes?"

Again, in Denver vs. Denver Union Water Company, (246 U. S., at 191, 62 L. ed. 649, P. U. R. 1918 C, 640, 38 Sup. Court Reporter, 278), the Court said:

> "What we have said establishes the propriety of estimating complainant's property on the basis of present market values as to land, and reproduction cost, less depreciation, as to structures. That this method was fairly applied by the special master hardly is disputed by appellants, except as they contest the items allowed

> for "going concern" value and for the water rights acquired by complainant and its predecessors by original appropriation. With respect to the former item, we adhere to what was said in Des Moines Gas Co. vs. Des Moines, 238 U. S. 153, 165, "that there is an element of value in an assembled and established plant, doing business and earning money, over one not thus advanced, is self-evident. This element of value is a property right, and should be considered in determining the value of the property, upon which the owner has a right to make a fair return when the same is privately owned although dedicated to public use."

See also:

Omaha vs. Omaha Water Co., 218 U. S. 180, 202, 203, 54, L. ed. 991, 30 Sup. Ct. Rep., 615.

New York Teleph. Co. vs. Prendergast, United States District Court for the Southern District of New York, July 26, 1924.

Consolidated Gas Company of New York vs. William A. Prendergast, et al., (United States District Court, P. U. R. 1925 B, 801).

Kings County Lighting Company vs. William A. Prendergast, et al., (United States District Court, P. U. R. 1925 E, 9).

People ex rel., Peoples Gas & Electric Company of Oswego vs. Public Service Commission of New York. (New York Supreme Court) (P. U. R. 1926 A, 235).

After giving careful consideration to all the facts developed in this case at the hearing, the Commission believes that an allowance of $10,000.00 should be made the applicant for water rights and going value, and the same is hereby made.

OVERHEADS

Courts and commissions everywhere recognize that an allowance must be made in valuations for so-called overhead expense. This allowance consists of a number of items which cannot be allocated to the various units of the property, the most important of which are engineering and supervision during construction, inter-

est and insurance during construction and legal expenses during construction. Structural overhead costs are not in any sense intangibles, but relate to the construction of the physical property.

WORKING CAPITAL

In addition to having available materials and supplies, a utility must provide itself with a reasonable amount of working capital which is employed in the service of the consumers, or as defined by the Supreme Court of Oklahoma (Okmulgee Gas Co. vs. Corporation Commission, P. U. R. 1924 B, 260):

> "Working capital means a sufficient amount of money to pay employees and pay for the necessary equipment for repairs, and is based upon from four to six weeks' actual operating expenses; this amount of time would usually expire before collections could be made from consumers."

The Commission finds that in this case the sum of $2,500.00 should be sufficient to cover this item.

ENGINEERING DURING CONSTRUCTION

After giving careful consideration to the item of "Engineering During Construction," the Commission believes that in line with former decisions of various commissions and courts, a rate of 5 per cent for engneering is adequate. This rate will be applied on the reproduction valuation as found by protestant's engineer, with addition of property heretofore mentioned added to appraisal, amounting to $1,180.78, making a total of $87,289.19, from which should be deducted the valuation of land, amounting to $1,306.60, or leaving a base of $85,982.59.

INTEREST DURING CONSTRUCTION

Testimony was introduced by applicant's engineer, which appeared to be undisputed, that the time required to construct a plant similar to the one under discussion, including transmission and distribution system, would require approximately six months. It is conservatively estimated that money at this time, or as of December 31,

1925, could be obtained at approximately seven per cent. Using the same structural cost as that above, $85,982.59, "Land" being omitted, and estimating that the interest would be reduced by fifty per cent by the funds being withdrawn only as needed, an amount of $1,504.69 for "Interest During Construction" is arriving at.

LEGAL EXPENSES DURING CONSTRUCTION

The records of respondent disclose the fact that the sum of $208.30 was actually expended covering the above item. Actual expenditures covering overheads, during construction should always be used when available, and, accordingly, such amount will be allowed by the Commission.

SUMMARY OF VALUATION

After giving careful consideration to the above mentioned intangibles, the allowance of the Commission covering same follows:

Going Value and Water Rights.....	$10,000.00
Cash Working Capital.....	2,500.00
Engineering During Construction.....	4,299.13
Interest During Construction.....	1,504.69
Legal Expenses During Construction..	208.30
TOTAL	$18,512.12

This amount, together with the present-day structural value (Depreciated) of $69,978.77, as heretofore outlined, makes a rate base with the Commission, as of December 31, 1925, finds to be $88,490.89.

THE RATES

A detailed comparison of the existing rates now in effect and the proposed rates of applicant is as follows:

Class of Service	Present Rate	Proposed Rate
Lighting and General Use . .	7c per K. W. H.	10c per K. W. H.*

Domestic Power & Heat . . .	1c per K. W. H.	3c per K. W. H.*

*Minimum charge at $1.33 per month or fraction thereof, with 10 per cent discount if paid before 16th day of month following reading of meter.

Street Lights— 100 Watt . . .	50c per month	90c per month
Street Lights— 50 Watt	50c per month	50c per month

No discount. All renewals to be furnished by city. Company now bears this cost.

General Power —Over Company's lines & transformers .	2½c per K. W. H.	3½c per K. W. H.
General Power — Over Consumer's lines & transformers	2c per K. W. H.	3c per K. W. H.

Minimum charge at $1.50 per month per motor rated horse power, with 10 per cent discount for prompt payment.

Power for City Water Pumps	1c per K. W. H.	2c per K. W. H.

Same minimum charge as General Power, above—no discount.

Applicant alleges that the class of service covering "Lighting and General," and "Domestic Power & Heat," will net the Company, under the minimum charge, the same amount, $1.20, as the rates for such classes of ser-

vice now in effect, provided payment is made by the consumer on or before the 16th day of each month. The $1.33 minimum charge, less the 10 per cent discount, is applied for to encourage prompt payment of bills, rather than to increase revenues from such classes of service.

Applicant also petitions the Commission to investigate, and, if necessary, make proper adjustments, the contracts existing between it and the towns of Wales, Levan and Nephi.

Levan and Nephi own and operate their own transmission and distribution systems, and Wales owns and operates its own transmission and distribution system, with the exception of ten miles between the Company's powerhouse and Moroni. Pursuant to the terms of contracts now in effect, the rates for energy are: 3c per K. W. H. to Levan and Nephi, and 4c per K. W. H. to Wales, the additional cent being charged to cover the transmission cost between the applicant's plant at Fountain Green and Moroni.

As to whether the rates in effect at the present time produce an adequate return on applicant's valuation as found by the Commission, will be observed from an analysis of applicant's income, applicable to a return on its property for the four years last past, annual reports covering same being on file with the Commission.

COMPARATIVE STATEMENT OF REVENUES AND EXPENSES AND OPERATING INCOME APPLICABLE TO ELECTRIC OPERATIONS, 1922 TO 1925

	1922	1923	1924	1925
Operating Revenues	$12,940.02	$12,928.54	$14,098.75	$14,076.15
Operating Expenses	4,050.10	5,254.96	5,954.06	5,530.74
Depreciation	2,682.09	3,655.92	3,852.94	4,004.83
Taxes	1,031.98	1,273.52	979.56	1,449.58
Total Rev. Deductions .	7,764.17	10,184.40	10,786.56	10,985.15
Operating Income . .	$ 5,175.85	$ 2,744.14	$ 3,312.19	$ 3,091.00

In the "Operating Income" as shown above, "Non-Operating Revenues and Expenses," "Telephone Operating Revenues and Expenses," and "Interest" have been omitted, as same have no bearing on the return of applicant for the use of its electrical property.

For the purpose of making a comparison of the rates of return which applicant has received during the four years last past, the Commission will deduct the additions to plant and system made by applicant each year from the rate base as found by the Commission as of December 31, 1925, to arrive at the basis on which to apply a rate of return for each succeeding year.

Rate base,

Dec. 31, 1925, $88,490.89. Additions during 1925, $3,628.94

Rate base,

Dec. 31, 1924, 84,861.95. Additions during 1924, 4,889.55

Rate base,

Ded. 31, 1923, 79,972.40. Additions during 1923, 4,272.72

Rate base,

Dec. 31, 1922, 75,699.68.

The rate bases as above set forth would be somewhat reduced by the decrease in overhead allowances, but not of sufficient extent to be material.

Under the above rate bases, the rates of return under which applicant has been operating, would be approximately as follows:

1922 . . . . . 6.8% plus.
1923 . . . . . 3.4% plus.
1924 . . . . . 3.9% plus.
1925 . . . . . 3.4% plus.

From the foregoing, it is apparent to the Commission that the rates under which applicant has been operating are inadequate. The Commission has made a careful examination of the operating expenses of applicant, and it is not seen at this time where a material reduction can be made. With the exception of depreciation expense, which is somewhat higher than that allowed by

the Commission, but not of sufficient difference to materially affect the findings of the Commission, the operating expenses of applicant generally appear below the average.

It is estimated that the proposed schedule of rates will produce applicant an additional operating revenue of $2,900.00 per annum, which, applied to the operating revenues of 1925 of $14,076.15, would yield a total gross income from electrical operations of $16,976.15. Applying the 1925 operating expenses, exclusive of depreciation, and adding thereto the amount for depreciation as allowed by the Commission, together with the actual 1925 taxes, the operating income of applicant would be as follows:

Revenues:

Total Operating Revenues, Actual, 1925	$14,076.15
Estimated Increase under Proposed Rates	2,900.00
Total estimated Operating Revenues	$16,976.15

Expenses:

Actual Operating Expenses, 1925	$5,530.74
Depreciation, as found by Commission	3,868.90
Taxes, 1925	1,449.58
Total Expenses, Depreciation & Taxes	$10,849.22
Operating Income	$ 6,126.93
Rate of Return on Valuation of $88,490.89	6.9% plus.

From an analysis of the facts as presented in this case, we find that the rates now charged the towns of Wales, Levan and Nephi are fair and reasonable, in comparison with the rates proposed to be charged under the new schedule at Fountain Green and Moroni, and said rates will not be disturbed.

After full consideration of all the facts as heretofore outlined, it appears to the Commission that the rates applied for herein should be granted, and an order to that effect will issue.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]
Attest:
(Signed) D. O. RICH, Acting Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 20th day of July, 1926.

In the Matter of the Application of THE BIG SPRING ELECTRIC COMPANY, for permission to revise and amend the present rules, rates and tariffs. } CASE No. 848

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

IT IS ORDERED, That the application be, and it is hereby, granted, that The Big Spring Electric Company be, and it is hereby, authorized to charge and put into effect the following rates for electric service:

Light and General Use.....10c per K. W. H.
Domestic Power and Heat.... 3c per K. W. H.
Minimum charge, $1.33 per month or fraction thereof, with 10% discount if paid before the 16th day of month following reading of meter.
Street Lighting—100 Watt.....90c per month
Street Lighting—50 Watt.....50c per month
No discount. All renewals to be furnished by the City.

General Power—over Company's lines and transformers..3½c per K. W. H.

General Power—over consumer's lines and transformers.. 3c per K. W. H.

Minimum charge $1.50 per month per motor rated horse power, with 10% discount for prompt payment.

Power for City Water Pumps..2c per K. W. H.
Minimum charge $1.50 per month per motor rated horse power. No discount.

ORDERED FURTHER, That no change be made in the rates now charged the towns of Wales, Levan and Nephi by the Big Spring Electric Company.

ORDERED FURTHER, That this order shall be effective August 1, 1926, on five (5) days' notice to the public and the Commission.

By the Commission.

(Signed) D. O. RICH,
Acting Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE BIG SPRING ELECTRIC COMPANY, for permission to revise and amend the present rules, rates and tariffs. } CASE No. 848

Submitted August 23, 1926. Decided October 13, 1926.

Appearances:

T. L. Holman, } for Applicant.

A. W. Jensen, } for Protestants.

REPORT OF THE COMMISSION ON REHEARING

By the Commission:

On July 30, 1926, an application for rehearing of Case No. 848, "In the Matter of the Application of the Big Spring Electric Co. for permission to revise and amend the Present Rules, Rates and Tariffs" was filed with the Commission by A. W. Jensen, representing Moroni City and Fountain Green City, and citizens of said cities other than the shareholders of the Big Spring Electric Company. Said application sets forth:

1. That the Commission erred in finding that the investment in plant and equipment, exclusive of Water Rights and Intangibles, amounted to $90,986.12, as of

December 31, 1925, because of the fact that said amount included certain items of abandoned property or property not used and useful in the conduct of its electrical business.

2. That the Commission erred in finding that the investment of the Big Spring Electric Company in plant and equipment, exclusive of Water Rights and Intangibles, amounted to $90,986.12 because of the fact that the consumers of electrical current had paid to the utility the sum of $3,840.00 as deposits on meters, and that the cost of said meters was included as a part of the investment.

3. That the Commission erred in finding a sum of $84,086.73 to be the bare depreciable property investment as of December 31, 1925, for the reasons aforestated in paragraphs one and two.

4. That the Commission erred in finding the sum of $3,873.90 to be the annual depreciation charge for depreciable plant and system for the reason that same was computed upon an erroneous plant investment value which should have been reduced by charging the reserve for depreciation, having already been built up, with certain items of abandoned and superseded plant.

5. That the Commission erred in finding a rate base as of December 31, 1925, to be $88,490.89 because of the fact that the Commission included a store house at the value of $700.00 which the protestant's valuation engineer had excluded. That the Commission also erred in providing a cash working capital of $2,500.00 for the reason that the accounts of the company submitted to the Commission and the testimony offered at the hearing indicated that the company did not require more than approximately $500.00 covering said item, and that the company had in its possession $3,840.00 cash as meter deposits from its customers.

6. That the Commission erred in finding that $4,299.13 was a reasonable amount covering engineering during construction.

7. That the Commission erred in including in the rate base the sum of $1,961.79 as the depreciated value of consumers' meters for the reason that the company has cash on hand in the sum of $3,840.00 drawing interest.

The matter came on regularly for hearing before the Commission, upon said application for rehearing, at Salt Lake City, Utah, August 17, 1926, at 10 A. M., due no-

tice thereof having been given to the public for the time and in the manner required by law.

From additional evidence adduced at said rehearing, and after careful consideration of all matters having a bearing on the points at issue raised by protestants, the Commission finds the facts to be:

That under date of July 20, 1926, the Commission issued its Report and Order in Case No. 848, "In the Matter of the Application of the Big Spring Electric Company for Permission to Revise and Amend the Present Rules, Rates and Tariffs," and in said decision found the bare depreciable property investment to be $84,086.73, excluding land and dam and reservoir.

That in fixing said amount covering bare depreciable property investment, upon which a rate of 4.5%, covering annual depreciation charge should be applied, the Commission, at that time not being in possession of sufficient facts, failed to take into consideration certain items of abandoned, obsolete and superseded property, to wit:

Original Power Plant	$6,050.00
Auxiliary Plant and Equipment	1,500.00
Original Pipe Line	1,663.00
Telephone Building	200.00
TOTAL	$9,413.00

That an admission was made by the Big Spring Electric Company, by its manager, E. R. Anderson, at the rehearing that the above items of plant and system have been abandoned and are no longer in use.

That the Commission is of the opinion that the above amounts should have been credited to the appropriate fixed capital accounts of the Big Spring Electric Company and should have been charged to the reserve for depreciation at the time such abandonment or supersession took place. They would then have had no book value. The very purpose of creating a reserve for depreciation and establishing a definite rate covering the depreciation charge, is to build up a reserve against which such items as the above might be charged. When such items of physical plant are retired from service, their original cost, plus cost of dismantling, less salvage recovered, should be charged to the reserve for deprecia-

tion. A rate covering depreciation is intended to be an average rate applicable to all classes of property, and the reserve it creates through periodical charges to the depreciation expense account, is intended to be sufficient to take care of all items of abandoned, superseded or obsolete plant, on an average, over the period of years for which it is intended.

The depreciation reserve of the Big Spring Electric Co. of $29,349.99, it appears, is sufficient against which to make such charges.

That after further consideration, the Commission finds that the cost of the telephone system belonging to the Big Spring Electric Co. should be deducted from the depreciation base, for the reason that same is not property used and useful in the rendition of its electrical service. It is perhaps true that same is used to some extent in the conduct of said business, but at the same time, it is not electrical property, and its cost will therefore be deducted from the base upon which depreciation will be calculated.

That statements of fact were made at the hearing that a frame power house building carried in the inventory of the Big Spring Electric Company at $500.00 was exchanged for a right of way through the farm of a Mr. B. F. Lewellyn at Fountain Green, and that an additional $300.00 was also given said B. F. Lewellyn for such right of way.

That the cost of the said frame power house as carried on the inventory of the Big Spring Electric Co. should also be deducted from the depreciation base. The fixed capital account covering said building should have been credited with its value at the time the exchange was made, and such amount, plus the additional cash consideration paid for the above mentioned right of way should have been charged to the appropriate fixed capital account covering right of way. It should have no place in the depreciation base.

It is therefore found that the following amounts should be deducted from the depreciation base of $84,086.73 of the Big Spring Electric Company:

Original Power Plant	$6,050.00
Auxiliary Plant and Equipment	1,500.00
Original Pipe Line	1,663.00
Telephone Building	200.00
Telephone System	3,498.54
Frame Power House	500.00
TOTAL	$13,411.54

Said amounts, with the exception of telephone system and frame power house, explanation of which is above mentioned, should be charged against the reserve for depreciation of the Big Spring Electric Company.

This would leave a base upon which to apply the rate as found by the Commission of 4.5% for depreciation to be $70,675.19, and the depreciation charge to be $3,180.38, with the addition of $85.00 for dam and reservoir, as found by the Commission heretofore, making a total annual charge for depreciation of $3,265.38.

That the Commission included in its rate base the depreciated value of meters as found by protestants' valuation engineer.

The value of said meters appears to be reasonable to the Commission, and same constitutes part of the property of the Big Spring Electric Company used and useful in the rendition of its electrical service, and will not be excluded from the rate base of the company heretofore found by the Commission. It is true that, in common practice with other public utilities, a meter deposit is required. Said deposit is the property of the consumer and a liability of the company. It has no bearing on the rate base, challenged by the protestants, and the Commission will stand upon its Order heretofore made.

That the Commission in its Report and Order in Case No. 848 found the reasonable allowance to the Big Spring Electric Company covering working capital to be $2,500.00; engineering during construction to be $4,299.13; interest during construction to be $1,504.69 and legal expenses during construction to be $208.30.

It is not believed that it is necessary to again discuss the reasons of the Commission for such allowances. Such allowances were based upon the reproduction valuation of the property of the company as found by the protestants' valuation engineer, with few minor adjustments

as found by the Commission. Their reasonableness was not challenged by protestants' valuation engineer, and the Commission feels that such allowances were reasonable and will stand upon its Report and Order, in regard to these matters, heretofore issued.

That under date of August 25, 1919, the Commission issued its Report and Order in Case No. 208, "In the Matter of the Application of the Big Spring Electric Company for Permission to Discontinue its Flat Rate Charge" in which decision it authorized the Bg Spring Electric Company to discontinue its flat rate service and to meter all electric service rendered its customers, and also permitted the company to require a meter deposit of not to exceed $10.00 for each customer receiving service metered, and ordered the company in all cases to pay interest on such deposits at the rate of 6% per annum, said interest to be paid annually. Such Order with respect to the payment of interest on meter deposits, it appears, has not been wholly complied with by the Big Spring Electric Company.

In accordance with such report, the Commission finds that the Big Spring Electric Company should forthwith pay interest annually at 6% to all of its customers having a meter deposit except in cases where the customer has been disconnected for non-payment of service charges.

The deposit itself is intended as a means of protection to the company so that users of service will not become delinquent, and that the company will have some recourse against non-paying consumers. In the event the customer pays for his service, but perhaps goes beyond the discount period for prompt payment, interest at 6% as above provided should be paid.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 13th day of October, 1926.

In the Matter of the Application of THE BIG SPRING ELECTRIC COMPANY, for permission to revise and amend the present rules, rates and tariffs. } CASE No. 848

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

IT IS ORDERED, That the application of Moroni City and Fountain Green City, et al, to reduce the rate base of the Big Spring Electric Company as found by the Commission in its report under date of July 20, 1926, in Case No. 848, be, and the same is hereby, denied.

ORDERED FURTHER, That the report of the Commission in Case No. 848, issued July 20, 1926, be modified, and that the annual depreciaton charge, as of December 31, 1925, be fixed at $3,265.38, based on a depreciable property investment of $70,675.19, exclusive of dam and reservoir.

ORDERED FURTHER, That the Big Spring Electric Company credit its fixed capital accounts with the following items of anbandoned and superseded property and charge same to its reserve for depreciation:

Original Power Plant	$6,050.00
Auxiliary Plant and Equipment	1,500.00
Original Pipe Line	1,663.00
Telephone Building	200.00
TOTAL	$9,413.00

ORDERED FURTHER, That the Big Spring Electric Company credit to its fixed capital account covering a frame power house, the sum of $500.00, and charge same, plus additional consideration paid to B. F. Lewellyn for

a right of way, to the appropriate fixed capital account covering Rights of Way.

IT IS FURTHER ORDERED, That the Big Spring Electric Company forthwith pay interest annually at 6% to all of its customers in accordance with the Order of the Commission in Case No. 208, decided August 25, 1919.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the B. & O. TRANSPORTATION COMPANY, a Co-partnership, consisting of A. A. Oberg and H. A. Brake, for permission to transfer Certificate of Convenience and Necessity to the B. & O. TRANSPORTATION COMPANY, a Corporation.	CASE No. 849

Submitted January 15, 1926. Decided February 23, 1926.
Appearances:

A. A. Oberg, H. A. Brake,	for B. & O. Transportation Co.

REPORT OF THE COMMISSION

By the Commission:

Under date of December 10, 1925, an application was filed with the Public Utilities Commission of Utah, by the B. & O. Transportation Company. Said application sets forth:

That applicant has been operating an automobile freight line between Salt Lake City, Murray, Sandy and Midvale, since March 7, 1919;

That the B. & O. Transportation Company is a co-partnership, consisting of A. A. Oberg and H. A. Brake;

That the applicant desires to form a corporation and transfer its certificate of convenience and necessity to the Corporation;

That it is desired to transfer all of the assets of the co-partnership to the new corporation;

That by making said transfer, more and better facilities will be added by the increased capital, and the public will be better served by said corporation.

The Commission assigned this case for hearing, January 15, 1926, at Two o'clock P. M.

No protests were made.

Said case came on for hearing, as per notice.

From the evidence adduced at said hearing, for and in behalf of the applicant, the Commission finds:

That better service to the public can be given by the corporation than by the line operating under a co-partnership; that a new certificate of convenience and necessity should be issued to the B. & O. Transportation Company, a corporation; that the certificate of convenience and necessity now held by the co-partnership should be cancelled; and that the corporation be required to file new tariff schedules and comply with the provisions of Chapter 114 and 117, Session Laws of Utah, 1925, and all other requirements of the Commission.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 261. Cancels Certificate of Convenience and Necessity No. 33.

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, 1926.

In the Matter of the Application of the B. & O. TRANSPORTATION COMPANY, a Co-partnership, consisting of A. A. Oberg and H. A. Brake, for permission to transfer Certificate of Convenience and Necessity to the B. & O. TRANSPORTATION COMPANY, a Corporation.	CASE No. 849

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

IT IS ORDERED, That Certificate of Convenience and Necessity No. 33 (Case No. 129), issued to B. & O. Transportation Company, a Co-partnership, be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That the B. & O. Transportation Company, a Corporation, be, and it is hereby, authorized to operate the automobile freight line between Salt Lake City, Murray, Sandy and Midvale, Utah, formerly operated by the B. & O. Transportation Company, a Co-partnership.

ORDERED FURTHER, That the B. & O. Transportation Company, a Corporation, before beginning operation, shall file with the Commission and post at eact 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 Statutes of Utah and the rules

and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of GUST CHOPP, for permission to operate an automobile passenger stage line between Logan City, Utah, and the Utah-Idaho State Line, over the State Highway of Utah.	CASE No. 850
In the Matter of the Application of the UTAH-IDAHO CENTRAL RAILROAD COMPANY, for permission to operate an automobile stage line between Logan and the Utah-Idaho State Line, and intermediate points.	CASE No. 882

Submitted May 4, 1926. Decided June 3, 1926.

Appearances:

George Q. Rich, Attorney, Logan, Utah,	for Applicant, Gust Chopp.
James A. Howell, of Messrs. Devine, Howell, Stine & Gwilliam, Attorneys, Ogden, Utah,	for Applicant, Utah Idaho Central Railroad Co.
Wells R. Streeper and William Streeper, of Ogden, Utah,	for Wells R. Streeper, Protestant.

REPORT OF THE COMMISSION

By the Commission:

The above entitled matters came on regularly for hearing, before the Public Utilities Commission of Utah, at the City Hall in Logan, Utah, on the 4th day of May, 1926, due notice thereof having been given for the time and in the manner as required by law. By stipulation of all interested parties, and with the consent of the Commission, the two cases were combined for the purpose of one hearing. Each application is for an automobile route over the public highway from Logan, Utah, to Preston, Idaho, from Logan to the Utah-Idaho State Line. Therefore, they are to be regarded as being in opposition to each other.

The application of Gust Chopp, Case No. 850, briefly stated, sets forth that he is at the present time engaged in operating an automobile bus line from Pocatello, Idaho, to Preston, Idaho, in compliance with the laws of the State of Idaho; that there is a public necessity for an extension of his said automobile bus line over the State Highways of Idaho and Utah from Preston, Idaho, to Logan, Utah, serving intermediate points.

The application of the Utah Idaho Central Railroad Company, Case No. 882, briefly stated, sets forth that it is a railroad corporation, engaged as a common carrier of persons and property, by rail, between the City of Ogden, State of Utah, and the City of Preston, in the State of Idaho; that it is, under a certificate of convenience and necessity issued by the Public Utilities Commission of Utah, also engaged at the present time in carrying passengers and express, for hire, by automobile vehicles, over the public highways, between the Cities of Ogden and Logan, Utah, and that it desires to extend its said automobile service over the public highways from Logan, Utah, to Preston, Idaho, the same to be supplementary to and coordinated with rail service now being given by it between said points.

The protest of Wells R. Streeper represents that he is, under a certificate of public convenience and necessity, operating an automobile truck line, carrying freight and express, for hire, over the highway between Ogden and Garland, Utah, the latter being an intermediate point between Ogden and Logan, and that the granting of a certificate to either of the applicants, would mean

an undue interference with the service he now performs.

From the evidence adduced at the hearing, it appears:

1. That the applicant Gust Chopp (Case No. 850), is a resident of Pocatello, Idaho; that he has had some eleven years' experience in operating automobiles for hire over the public highways; that since the 9th day of December, 1925, he has been operating an automobile passenger bus, interstate, over the public highways, between Pocatello, Idaho, and Logan, Utah, a distance of approximately 102 miles, making one round-trip each day, with a modern, twenty passenger Fageol bus.

2. That the said applicant's line has been safely and efficiently managed and has given good and dependable service at all times.

3. That the said applicant has not at any time complied with the laws of the State of Utah relative to the operation of automobiles for hire over the public highways of the State, particularly the provisions of Chapter 117, Laws of Utah, 1925, providing for the taxing of "automobile corporations" and other persons using the public streets and highways of the State for hire, he having failed and neglected to report to the Public Utilities Commission the result of his operations over the said public highway of the State of Utah, and he having neglected and failed to pay taxes as in said law provided, for the maintenance and upkeep of the State Highways.

4. That the highway between Logan, Utah, and Preston, Idaho, diverges at a point known as Merrill's, the west branch serving the town of Lewiston, in Utah, and the towns of Fairview and Whitney, in Idaho, the east branch serving Webster, in Utah, and Franklin, in Idaho, before converging near Preston; that between Merrill's and Logan, the main highway serves the towns of Richmond, Smithfield, Cardon, Hyde Park, and Greenville, all in Utah; that the heaviest passenger traffic originates at Logan and Preston. However, some traffic originates at intermediate points.

5. That the applicant Gust Chopp proposes to operate over the highway between Logan and Preston, via Franklin, and the applicant Utah Idaho Central Railroad Company desires the privilege of operating over both

branches of the highway after it branches at Merrill's, as it may prefer.

6. That the applicant Utah Idaho Central Railroad Company (Case No. 882) is a railroad corporation, organized and existing under the laws of the State of Utah; that it is at present and for many years last past has been engaged in the business of transporting, by rail, passenger, baggage, freight, and express between the City of Ogden, State of Utah, and the City of Preston, State of Idaho, serving all intermediate points and the territory contiguous thereto; that it also operates, for hire, under a certificate of public convenience and necessity issued by the Public Utilities Commission of Utah, July 15, 1925, (Case No. 809), an automobile passenger bus line, carrying passengers, baggage, and express over the public highway between Ogden, Utah, and Logan, Utah, as supplementary to and in coordination with its rail service between said points.

7. That the public highway and said applicant's railroad between Ogden, Utah, and Preston, Idaho, closely parallel each other and serve practically the same cities and towns and the territory contiguous thereto.

8. The public highway between Ogden, Utah, and Preston, Idaho, oftentimes, owing to inclement weather, more especially during the winter months, is rendered hazardous and undesirable for automobile bus service.

9. That the applicant, Utah Idaho Central Railroad Company, has invested at the present time over $5,500,000.00 in its railroad system, for the purpose of serving the territory through which its line of railroad extends; that it is now, and has been for several years last past, operating at a loss; that it has adequate equipment and every facility for rendering prompt, efficient and dependable service for the transportation of passengers, both over its railroad line and automobile bus route as now established; that its ticket fares are made interchangeable to suit the pleasure and convenience of its patrons; that its present railroad rate is three cents per mile; and the rate by automobile bus over the highway, the lesser distance, would amount to approximately three and three-fourths cents per mile.

10. That the applicant, Utah Idaho Central Railroad Company, proposes to discontinue bus service during the winter months, when the bus service is the least

desired and rendered more or less hazardous; that it has comfortable and commodious depot facilities, including telephone service, and the same are to be used jointly, for both train and bus service. It proposes to limit its carrying of express to such baggage and light packages as are usually carried on automobile passenger busses for the accommodation of patrons and others desiring quick ond convenient express service.

From the foregoing facts, the Commission concludes that the application of the applicant Gust Chopp (in Case No. 850), should be denied; that the application of the Utah Idaho Central Railroad Company (in Case No. 882), for a certificate of public convenience and necessity permitting it to operate an automobile passenger and express line over the public highways between Logan City, Utah, and Preston, Idaho, to Utah-Idaho State Line, serving intermediate points, should be granted.

This Commission has heretofore given its reasons in Case No. 809, decided July 15, 1925, why it favors, whenever practicable, coordination between railroad service and automobile bus service over the public highways, with respect to both passenger and express. Our reasons for such coordination of service were then assigned. The facts and circumstances in the cases now presented are practically the same as were then considered, and no good reason can be here assigned why the Commission should not adhere to the policy then adopted.

Furthermore, it appears that the applicant in Case No. 850 is now, and has been since the provisions of Chapter 117, Laws of Utah, 1925, became effective, offending against the laws of the State. True, as an excuse for that, he stated at the hearing that it was his intention to comply with the law, after his hearing on application for a certificate of public convenience and necessity, and a willingness to make amends. His case was heard nearly a month ago, and no evidence of good faith on his part has been manifested, by rendering a report to the Commission of his operations over the public highways of the State, nor has he attempted to comply with the statute in any other respect. Duly licensed and well meaning operators are giving public service over the highways as common carriers all over the State, while being burdened with the cost of providing liability insurance and road tax maintenance, and they at the same time having had to meet

just the kind of competition this applicant has given and apparently proposes to continue to give in the future, until restrained by law.

While this applicant's failure to properly observe the Utah statutes, after the manner referred to, perhaps need not be regarded by the Commission as wholly disqualifying him from recovering a certificate of convenience and necessity as applied for, nevertheless, the Commission believes that in all such cases, when a justifiable excuse is not made, a certificate should be denied.

An appropriate order will follow, denying the applicant in Case No. 850 a certificate of public convenience and necessity, and granting to the applicant in Case No. 882 a certificate as applied for.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 263.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 3rd day of June, 1926.

In the Matter of the Application of GUST CHOPP, for permission to operate an automobile passenger stage line between Logan City, Utah, and the Utah-Idaho State Line, over the State Highway of Utah.	CASE No. 850

In the Matter of the Application of the IDAHO CENTRAL RAILROAD COMPANY, for permission to operate an automobile stage line between Logan and the Utah-Idaho State Line, and intermediate points.	CASE No. 882

These cases being at issue upon applications 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 and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of Gust Chopp (in Case No. 850) be, and it is hereby, denied.

ORDERED FURTHER, That the application of the Utah Idaho Central Railroad Company (in Case No. 882) be, and it is hereby, granted; that the Utah Idaho Central Railroad Company be, and it is hereby, authorized to operate an automobile stage line, for the transportation of passengers and express, between Logan and the Utah-Idaho State Line, and intermediate points, under Certificate of Convenience and Necessity No. 263.

ORDERED FURTHER, That applicant, Utah Idaho Central Railroad 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for permission to eliminate grade crossings over the Western Pacific Railroad, at approximately Station 3250+ 65 Engineer's Station Federal Aid Project No. 51-C, in the vicinity of Low Pass.	CASE No. 851

Submitted April 23, 1926. Decided May 11, 1926.

Appearances:

M. Housecroft, Bridge Engineer and E. C. Knowlton, District Engineer, of the State Road Commission of Utah,	for Applicant.
James S. Moore, Jr., General Attorney,	for Western Pacific R. R. Co.
B. J. Finch,	for U. S. Bureau of Public Roads.

REPORT OF THE COMMISSION

By the Commission:

On December 11, 1925, the State Road Commission of Utah, by Howard C. Means, Chief Engineer, filed with the Public Utilities Commission of Utah, an application, in substance stating: that the State Road Commission of Utah desired to construct a permanent Federal Highway between Timpie and Knolls, Utah; that it is necessary to cross the main line of the Western Pacific Railroad, and, in consideration of the fact that this is a main interstate highway and on the U. S. Federal Highway System, this construction will be of a permanent character and should be built to the standards of alignment and clearance designated for this

project by the United States Bureau of Public roads and the State Road Commission of Utah; that certain grade eliminations would be a direct benefit to the Western Pacific Railroad; and asking that the Public Utilities Commission of Utah apportion the costs of said grade eliminations between the Western Pacific Railroad and the State Road Commission of Utah.

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, at Salt Lake City, Utah, April 8, 1926.

Testimony developed that there are three existing grade crossings in the vicinity of Low Pass, on the line of the Western Pacific Railroad, approximately sixty-two miles west of Salt Lake City; that a new Federal Aid Highway is being constructed through this section, and it is proposed to abandon all grade crossings and to construct an underpass in lieu thereof. This new highway is a through transcontinental highway, called the Victory Highway, extending westward to San Francisco, and will undoubtedly carry an increasing amount of traffic annually.

While it did not appear that there is an immediate necessity for the separation of the grades at this point, yet it was admitted by all concerned that it would only be a comparatively short time until an underpass would be necessary. The Western Pacific Railroad was constructed several years prior to the construction of the existing highway, although some testimony was offered that an old wagon trail was in use in this vicinity many years before. If so, its use could only have been casual, and not confined to any definite location.

The Commission, therefore, finds:

That, in the interest of the safety of the traveling public and the elimination of future hazard to the Railroad Company, the grades should be separated and an underpass constructed; that the abutments and superstructure of this underpass should be constructed by the Railroad Company, and that the costs should be apportioned on the following basis: two-thirds of the entire cost should be borne by the State Road Commission, and one-third of the cost should be borne by the Railroad Company; that the grading necessary in connection with the approaches to the underpass, should be done by the Road Commission, and that the Railroad

Company should pay one-third of the cost of said grading and the Road Commission two-thirds; that the maintenance, repair, and renewal of the abutments and superstructure of this underpass, should be borne by the Railroad Company; that the maintenance and surfacing of the highway should be borne by the State Road Commission and/or Tooele County.

In the division of costs in this case, the Commission has considered that the railroad was constructed long prior to the construction of the highway, that at present there is some doubt as to the necessity of a grade separation, although, as stated, before but a short time will elapse before a separation would become necessary.

Furthermore, to provide better alignment for the highway, the Road Commission has asked that this crossing be less than a right angle, or what is commonly known as a skew, thereby adding materially to the cost of the structure. If this crossing could be constructed at right angles, a substantial saving would be effected.

An order in accordance with these findings will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 11th day of May, 1926.

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for permission to eliminate grade crossings over the Western Pacific Railroad, at approximately Station 3250+ 65 Engineer's Station Federal Aid Project No. 51-C, in the vicinity of Low Pass. } CASE No. 851

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

IT IS ORDERED, That the application be, and it is hereby, granted; that the State Road Commission of Utah be, and it is hereby, authorized to eliminate three grade crossings in the vicinity of Low Pass, on the line of the Western Pacific Railroad, at approximately Station 3250+65 Engineer's Station Federal Aid Project No. 51-C; that an underpass be constructed; that the abutments and superstructure of this underpass shall be constructed by the Western Pacific Railroad Company, and that the costs shall be apportioned on the following basis; two-thirds of the entire cost shall be borne by the State Road Commission of Utah, and one-third of the cost shall be borne by the Railroad Company; that the grading necessary in connection with the approaches to the underpass, shall be done by the Road Commission, and that the Railroad Company shall pay one-third of the cost of said grading and the Road Commission two-thirds; that the maintenance, repair, and renewal of the abutments and superstructure of this underpass, shall be borne by the Railroad Company; that the maintenance and surfacing of the highway shall be borne by the State Road Commission and/or Tooele County.

By the Commission:

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to adjust telephone rates at its Cedar City and Parowan Exchanges. } CASE No. 852

Submitted January 5, 1926. Decided April 12, 1926.

Appearance:

Milton Smith, of Denver, Colorado, Attorney } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, January 5, 1926, at Cedar City, Utah, after due notice having been given, as required by law.

The application of the Mountain States Telephone & Telegraph Company represents:

1. That it is a corporation, duly organized and existing under and by virtue of the laws of the State of Colorado, and is authorized to do business in the State of Utah as a foreign corporation; that a certified copy of its articles of incorporation have heretofore been filed with the Commission, in Case No. 206; that it is a public utility corporation, having for its purpose and is engaged in the business of giving telephone service in the intermountain states, including the State of Utah.

2. That prior to September 1, 1923, the Iron County Telephone Company was a corporation, duly organized and existing under and by virtue of the laws of the State of Utah, and as such conducted a telephone business at Cedar City and Parowan, Iron County, Utah; that the said Iron County Telephone Company operated an exchange at Cedar City, with 364 subscriber stations, and an exchange at Parowan, with 93 subscriber stations.

3. That effective September 1, 1923, the Mountain States Telephone & Telegraph Company, the applicant, purchased the entire physical telephone property of the Iron County Telephone Company.

4. That immediately after the consummation of said sale, the Standard Classified Schedule of toll rates for the State of Utah, as approved by and filed with the Public Utilities Commission of Utah, was placed in effect for traffic handled over the toll lines acquired from the Iron County Telephone Company; that the application of its schedule resulted in a reduction of toll

rates for certain former Iron County Telephone Company points; all night service, which had not existed theretofore, was immediately put into effect; 182 subscriber stations have since been added to the two exchanges; toll line congestion, that had theretofore existed, was relieved, by making Cedar City a toll checking center, and further improvements made of toll facilities; that since said purchase, the purchasing company has completed additions and betterments, which are now in service and which have increased the applicant's investment approximately $70,000 at Cedar City and Parowan; that by reason of the improved telephone service at Cedar City and Parowan and the costs incurred by applicant, in the way of additions and betterments to the telephone system at said points, and for the further reason that the charges now made by the applicant at said exchanges are not in accord with the rates charged by the applicant throughout the State at similar exchanges, the applicant proposes to place in effect a new schedule of rates.

From the evidence adduced at the hearing, it appears that the allegations of the applicant, Mountain States Telephone & Telegraph Company, as set forth in the application herein, are true; that the applicant, on or about the 1st day of September, 1923, purchased the entire physical telephone property of the Iron County Telephone Company, and, since said time, has operated the telephone exchanges at Cedar City and Parowan, upon the following schedule of rates:

Urban	Cedar City	Parowan
Business—Individual Line	$39.00	$39.00
Business—2-Party Line	27.00	27.00
Business—Multi-party Line	18.00	18.00
Business—Extension Station	9.00	9.00
Residence—Individual Line	27.00	27.00
Residence—2-party Line	21.00	21.00
Residence—Multi-party Line	15.00	15.00
Residence—Extension Station	6.00	6.00
Rural		
Business and Residence—Multi-party Line	21.00	21.00

A discount of 25 cents from above main station rates is allowed if accounts are settled on or before the 15th of each month.

That for the purpose of improving the telephone service at Cedar City and Parowan, the applicant has expended approximately $70,000, in the way of betterments and additions to the said telephone system; that the exchange rates now proposed at Cedar City and Parowan are as follows:

Urban	Cedar City	Parowan
Business—Individual Line	$48.00	$42.00
Business—2-party Line	42.00	36.00
Business—Extension Station	12.00	12.00
Residence—Individual Line	27.00	24.00
Residence—4-party Line	21.00	18.00
Residence—Extension Station	6.00	6.00
Rural		
Business—Multi-party Line within six miles from central office	48.00	48.00
Residence—Multi-party line within six miles from central office	24.00	24.00

$3.00 per annum for each additional 3 miles and fraction thereof over six miles.

That the rates now proposed are practically the same as those in effect in other exchanges of the Mountain States Telephone & Telegraph Company of similar size, having similar conditions affecting the furnishing of telephone service, and that the establishment of the proposed rates will relieve the discrepancy in the rates now being charged at Cedar City and Parowan with those charged for similar services in similar localities in the State of Utah; that the rates and charges so proposed are necessary, reasonable and proper to be charged by the applicant, and that the said rates should be approved and made effective forthwith.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 April, 1926.

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to adjust telephone rates at its Cedar City and Parowan Exchanges. } CASE No. 852

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Mountain States Telephone & Telegraph Company be, and it is hereby, authorized to put in effect the following schedule of telephone rates at Cedar City and Parowan:

Urban	Cedar City	Parowan
Business—Individual Line	$48.00	$42.00
Business—2-party Line	42.00	36.00
Business—Extension Station	12.00	12.00
Residence—Individual Line	27.00	24.00
Residence—4-party Line	21.00	18.00
Residence—Extension Station	6.00	6.00
Rural		
Business—Multi-party Line within six miles from central office	48.00	48.00
Residence—Multi-party line within six miles from central office	24.00	24.00

$3.00 per annum for each additional 3 miles and fraction thereof over six miles.

ORDERED FURTHER, That said schedule of telephone rates shall become effective May 1, 1926.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to amend the route of its Mill Creek Bus Line. } CASE No. 853

Submitted January 15, 1926. Decided January 16, 1926.

Appearances:

George R. Corey,
E. A. West,
P. M. Parry,
G. W. Manning,
} for Utah Light & Traction Co.

REPORT OF THE COMMISSION

By the Commission:

Under date of December 2, 1925, the Utah Light & Traction Company filed an application for permission to change the route of the Mill Creek Bus Line.

On January 5, 1926, the Commission issued notice assigning this case for hearing at Salt Lake City, January 15, 1926, at Ten o'clock A. M.

This case came on for hearing in accordance with the above notice. Proof of publication of the notice was filed at the hearing.

Applicant set forth:

That the Mill Creek Bus Line is a subsidiary corporation of the Utah Light & Traction Company;

That said Bus Line has operated a bus on 33rd South between State Street and the East Mill Creek Ward Meeting House, since the latter part of the year 1923;

That this bus has operated as a feeder to the Utah Light & Traction Company's street railway;

That accurate accounts of all receipts and disbursements have been kept;

That said accounts show that the cost of rendering the service is in excess of the total receipts;

That applicant believes that the revenues from this service can be increased without incurring additional expense if its schedule can be so altered as to permit it to discontinue a part of the service along 33rd South Street between Highland Drive and State Street and use the equipment thus released, to operate along Highland Drive, between 33rd South Street and 21st South Street, in Sugarhouse, Salt Lake City, Utah;

That applicant proposes to make two round trips, on school days, on 33rd South Street, between Highland Drive and Granite High School, at or near 5th East Street, to accommodate persons attending the Granite High School;

That applicant proposes to charge the present fares on 33rd South, and to charge one-way fare of ten cents between East Mill Creek Ward Meeting House and Sugarhouse, and intermediate points.

Exhibits were introduced showing detailed revenues and expenses of operation, also number of passengers carried; mileage run; number of daily trips and extra trips; and the total number of passengers, segregated as to points of origin and destinations.

There were no protests.

The Commission finds that the Mill Creek Bus Line has sustained a loss of $7,423.96 since the latter part of the year 1923. The operations for the past two years show an average loss of approximately $200.00 per month. The cost of operation per mile for the past two years was approximately seventeen cents, while the revenue per mile was about eight cents. The above does not allow anything for expenses of office.

The Commission believes that the change in the route by inclusion of the Highland Drive-Sugarhouse route, will stimulate travel and that the revenues of the operating company will not only be increased but that a better and more adequate service will be given and the public needs better subserved thereby.

The Commission, therefore, finds that the application should be granted and that the route should be changed in accordance therewith.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 January, 1926.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to amend the route of its Mill Creek Bus Line. } CASE No. 853

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Utah Light & Traction Company be, and it is hereby, authorized to change the route of the Mill Creek Bus Line and to include the Highland Drive-Sugarhouse route.

ORDERED FURTHER, That the applicant shall charge the present fares charged by it on 33rd South Street, and charge a one-way fare of ten cents between East Mill Creek Ward Meeting House and Sugarhouse, and intermediate points.

ORDERED FURTHER, That applicant 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the City of Vernal, Utah. } CASE No. 854

Submitted January 15, 1926. Decided January 19, 1926.

Appearances:

P. M. Parry and George R. Corey, } For Applicant.

REPORT OF THE COMMISSION

By the Commission:

Under date of December 21, 1925, the Utah Power & Light Company filed an application with the Public Utilities Commission of Utah, for a certificate of convenience and necessty to exercise the rights and privileges conferred by franchise granted by the City of Vernal, Uintah County, Utah.

Said franchise grants the "Utah Power & Light Company, its successors and assigns (herein called the 'Grantee'), the right, privilege, or franchise, until October 1, 1975, to construct, maintain, and operate in the present and future streets, alleys, and public places, in Vernal City, Utah, and its successors, electric light and power lines, together with all the necessary or de-

sirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines for its own use), for the purpose of supplying electricity to said City, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power, and other purposes."

This application came on regularly for hearing before the Commission, at Salt Lake City, Utah, January 15, 1926. No protests were submitted, in writing or otherwise.

After giving full consideration to this application, the Commission finds that a certificate of convenience and necessity should be issued to the Utah Power & Light Company to exercise the rights and privileges as conferred by franchise granted by the City of Vernal, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity
No. 257.

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, 1926.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the City of Vernal, Utah. } CASE No. 854

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

IT IS ORDERED, That the application be, and it is hereby granted, that the Utah Power & Light Company be, and it is hereby, authorized to construct, maintain and operate in the present and future streets, alleys and public places in the City of Vernal, Utah, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines for its own use), for the purpose of supplying electricity to said City, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant, Utah Power & Light Company, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by Uintah County, Utah. } CASE No. 855

Submitted January 15, 1926. Decided January 19, 1926.

Appearances:

P. M. Parry and George R. Corey, } For Applicant.

REPORT OF THE COMMISSION

By the Commission:

Under date of December 21, 1925, the Utah Power & Light Company filed an application with the Public Utilities Commission of Utah, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by the County of Uintah, Utah.

Said franchise grants the "Utah Power & Light Company, its successors and assigns (herein called the 'Grantee'), the right, privilege, or franchise, until September 1, 1975, to construct, maintain and operate in, along, upon and across the present and future roads, highways and public places in Uintah County and its successors, over which said Board of County Commissioners has authority, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines for its own use), for the purpose of transmitting and supplying electricity to said County, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes."

This application came on regularly for hearing before the Commission, at Salt Lake City, Utah, January 15, 1926. No protests were submitted, in writing or otherwise.

After giving full consideration to this application, the Commission finds that a certificate of convenience and necessity should be issued to the Utah Power & Light Company to exercise the rights and privileges as conferred by franchise granted by the County of Uintah, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 258.

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, 1926.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by Uintah County, Utah. } CASE No. 855

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Utah Power & Light Company be, and it is hereby, authorized to construct, maintain and operate in, along, upon and across the present and future roads, highways and public places in Uintah County, Utah, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines for its own use), for the purpose of supplying electricity to said County, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant, Utah Power & Light Company, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of ISAAC CHAMBERLAIN, for permission to operate an automobile freight line between Cedar City and Paragonah, Utah, via Enoch, Summit and Parowan, Utah. } CASE No. 856

ORDER

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

IT IS ORDERED, That the application herein of Isaac Chamberlain, for permission to operate an automobile freight line between Cedar City and Paragonah, Utah, via Enoch, Summit and Parowan, Utah, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 14th day of October, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of UTAH RAILWAY COMPANY, a Corporation of Utah, for an order authorizing and approving a contract for the purchase by Utah Railway Company of all the issued and outstanding shares of the capital stock of the National Coal Railway Company, and a lease of the railroad property of said last named Company. } CASE No. 857

ORDER AUTHORIZING AND APPROVING A CONTRACT FOR THE PURCHASE BY UTAH RAILWAY COMPANY OF ALL THE ISSUED AND OUTSTANDING SHARES OF CAPITAL STOCK OF THE NATIONAL COAL RAILWAY COMPANY AND APPROVING A LEASE OF THE RAILROAD PROPERTY OF SAID LAST NAMED COMPANY.

The Commission has examined and fully considered the verified petition and application of the Utah Railway Company, a corporation of Utah, filed herein on January 7, 1926, requesting the order of this Commission authorizing and approving the agreement and lease hereinafter mentioned, and has also examined and considered the records of this Commission offered in support of said petitioner's application, and it appearing therefrom to the satisfaction of this Commission that said petitioner and applicant and the National Coal Railway Company, a corporation of Utah, and Great Western Coal Mines Company, National Coal Company, Consumers Mutual Coal Company, Sweet Coal Company and Union Coal Company, all corporations of Utah, have executed a certain agreement in writing bearing date December 17, 1925, a full, true and correct copy of which is attached to said petition and application, wherein and whereby said coal companies for themselves and other stockholders of said National Coal Railway Company agree to sell to said Utah Railway Company, and to place in escrow for delivery to said last named Company, all of the issued and outstanding shares of capital stock of said National Coal Railway Company for the price and on and subject to the terms, conditions and agreements set forth in said written agreement, and wherein and whereby said National Coal Railway Company agrees to lease to said petitioner and applicant its main line of railroad and also its Coal Creek Branch Line of railroad if and when constructed, on and subject to the terms, conditions and agrements set forth in the copy of said lease attached to and filed herein with said agreement, and it further appearing therefrom to the satisfaction of this Commission that said agreement and lease have both been executed by the respective parties thereto subject to the authorization and approval of this Commission; and it further appearing therefrom to the satisfaction of this Commission that petitioner and applicant is abundantly able financially to purchase said shares of capital stock under the terms of said

agreement and to pay for same either in the manner outlined in said agreement or otherwise, and under said lease to operate said main line and also said Coal Creek Branch Line if and when constructed, without jeopardizing its own interests or operations, or the interests of the public, and that the parties to said agreement and lease have executed said agreement and lease in good faith and for their best interests and the best interests of the public, and that petitioner and applicant stands ready to carry out same on its part, and that public interest will be served by and requires the authoriation and approval of said agreement and lease by this Commission, and that the vendors of said shares of stock under said agreement and said petitioner and applicant are fully authorized the one to sell and the other to purchase the shares agreed to be sold under said agreement, and that the railroads of said Utah Railway Company and National Coal Railway Company are not competing lines, and that said two companies are respectively fully authorized by their charters and by the laws of Utah to make and enter into said agreement and lease, and that all the allegations and matters set forth in said petition and application are true; and sufficient cause appearing therefor:

IT IS NOW ORDERED that the making, execution and delivery of said agreement of December 17, 1925, be and the same is hereby authorized, and said agreement is hereby fully approved in all respects, and said Utah Railway Company and National Coal Railway Company are fully authorized to carry out the same on their respective parts.

FURTHER ORDERED that the making, execution and delivery of said lease, copy of which is attached to said authorized agreement, be and the same is hereby authorized, and said lease is hereby fully approved in all respects, and the Utah Railway Company and National Coal Railway Company are hereby fully authorized to carry out the same on their respective parts.

Dated January 7, 1926.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH RAILWAY COMPANY, for permission to adjust its rates.	CASE No. 858

Submitted January 30, 1926. Decided February 20, 1926.

Appearances:

G. W. Cushing, A. E. Margetts,	for Utah Railway Company.
H. W. Prickett,	for Salt Lake City Chamber of Commerce.

REPORT OF THE COMMISSION

By the Commission:

Under date of December 30, 1925, the Utah Railway filed an application with the Public Utilities Commission, requesting permission to adjust certain rates via its line.

The case was assigned for hearing at Salt Lake City, January 29, 1926, at Ten o'clock A. M. However, it was continued until January 30, 1926, at Ten o'clock A. M., to allow H. W. Prickett additional time to make further investigation.

The case came on for hearing January 30, 1926.

Proof of publication of notice of hearing was filed.

The evidence shows and the Commission finds:

That applicant desires to adjust certain rates, rules and commodity descriptions, to bring about uniformity in tariffs. In some instances, these changes result in slight increases;

That the Utah Railway Company should be authorized to adjust rates contained in original application, with the exception of distance class rates for over ten and not over fifteen miles;

That the scale to be used for these distances should be that as shown in Denver & Rio Grande Western Railroad Freight Tariff No. 4975-D, P. U. C. U. No. 42, for the same distance. This will be what is known as the twenty-five-five scale;

That applicant should also be permitted to make adjustments as outlined in supplemental application;

That applicant should be permitted to make new rates effective on thirty days' notice to the Commission and the public.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, February 20, 1926.

In the Matter of the Application of the UTAH RAILWAY COMPANY, for permission to adjust its rates. } CASE No. 858

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

IT IS ORDERED, That the applicant, Utah Railway Company, be, and it is hereby, authorized to adjust rates contained in its original application, with the exception of distance class rates for over ten and not over fifteen miles; that the scale to be used for these distances should be that as shown in Denver & Rio Grande Western Railroad Freight Tariff No 4975-D,

P. U. C. U. No. 42, for the same distance, which will be what is known as the twenty-five-five scale.

ORDERED FURTHER, That applicant, Utah Railway Company, be, and it is hereby, granted permission to make adjustments as outlined in its supplemental application.

ORDERED FURTHER, That the said new rates become effective on thirty days' notice to the Commission and the public.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by SUMMIT COUNTY, UTAH. } CASE No. 859

Submitted February 8, 1926. Decided February 9, 1926.

Appearance:

George R. Corey, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

Under date of January 18, 1926, the Utah Power & Light Company filed an application with the Public Utilities Commission of Utah, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by Summit County, Utah.

Said franchise granted the "Utah Power & Light Company, its successors and assigns (herein called the 'Grantee'), the right, privilege or franchise, until December 1, 1975, to construct, maintain and operate, in, along, upon and across the present and future roads, highways and public places, in Summit County, Utah, over which said Board of County Commissioners has authority, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines, for its own use), for the purpose of transmitting and supplying electricity to said County, and all persons, firms and corporations, private and municipal, within said County or beyond the limits thereof, desiring to use the same for light, heat, power and other purposes."

This application came on regularly for hearing before the Commission, at Salt Lake City, Utah, February 8, 1926. No protests were submitted, in writing or otherwise.

After giving full consideration to this application, the Commission finds that a certificate of convenience and necessity should be issued to the Utah Power & Light Company to exercise the rights and privileges as conferred by franchise granted by the County of Summit, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity
No. 260

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, 1926.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by SUMMIT COUNTY, UTAH.	CASE No. 859

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

IT IS ORDERED, That the application be, and it is hereby granted, that the Utah Power & Light Company be, and it is hereby, authorized to construct, maintain and operate in the present and future streets, roads, highways and public places, in Summit County, Utah, over which said Board of County Commissioners has authority, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines, for its own use), for the purpose of supplying electricity to said County, and all persons, firms and corporations, private and municipal, within said County or beyond the limits thereof, desiring to use the same for light, heat, power and other purposes.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant, Utah Power & Light Company, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Signed) F. L. OSTLER,

[SEAL] Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STEEL CITY INVESTMENT COMPANY, for permission to discontinue operations of, and sell to Utah County, all its right, title, and interest in the water system which furnishes water to inhabitants of Steel City Subdivision and Ironton Subdivision in Utah County, Utah.	CASE No. 860

Submitted July 23, 1926. Decided July 30, 1926.

Appearances:

Ray & Rawlins, for Applicant.

Chez & Douglas, for Protestants.

I. E. Brockbank, Attorney, for Utah County.

REPORT OF THE COMMISSION

By the Commission:

On January 18, 1926, the Steel City Investment Company, a corporation of the State of Utah, filed an application with the Public Utilities Commission of Utah, the substance of said application being as follows:

That the applicant, Steel City Investment Company, a corporation, is the owner of a considerable amount of real estate in Utah County, and, incidental thereto, water rights and a distributing system adjacent to said property, designated as Steel City Subdivision to Provo City, Utah County, Utah.

That on the 16th day of January, 1924, there was issued by the Public Utilities Commission of Utah, Certificate of Convenience and Necessity No. 198, under the terms of which, said applicant was permitted to fur-

nish water to the residents of said subdivision and to the townsite of Ironton, Utah County, Utah.

That since the granting of said Certificate, the applicant has furnished water to said inhabitants; that it has invested in said water system the sum of $35,000.00; that during the year, 1924, the total gross income from said system was $142.49, and that, during the year, 1925, the total gross income was $134.86.

That the expenses of the upkeep and maintenance of said system exceed $1,500.00 per year, with no allowance for interest on the invested capital.

That there are not to exceed seven (7) users of water, and that it would be impossible to collect rates that would show a fair return on the investment.

That applicant is advised and believes that it can sell and dispose of said system to Utah County, at a price much less than its actual investment therein.

Applicant prayed that the Public Utilities Commission of Utah issue an order, permitting it to sell its said water system to Utah County, and to be relieved from further serving the public as a public service corporation.

Numerous protests were filed thereto.

This matter came on regularly for hearing before the Commission, at Salt Lake City, Utah, on February 1, 1926.

From the evidence adduced at said hearing, and after due investigation made, it appears:

1. That the applicant, Steel City Investment Company, is a public service corporation, duly organized and existing under and by virtue of the laws of the State of Utah; with its principal office and place of business at Salt Lake City, Utah.

2. That on the 16th day of January, 1924, the said applicant was, in Case No. 687, authorized and empowered by the Public Utilities Commission of Utah, by its order (Certificate of Convenience and Necessity No. 198) to construct, operate, and maintain a water system for the furnishing of water to the inhabitants and property owners of the townsites of Steel City and Ironton, and the immediate vicinity thereof, in Utah

County, Utah, for culinary, industrial, and other beneficial uses.

3. That Steel City and Ironton were then and are now platted and duly approved subdivisions or townsites, situated uopn the public highway, between the cities of Provo and Springville, near or adjacent to the industrial plant of the Columbia Steel Corporation, a manufacturer of pig iron and other iron and steel products.

4. That Utah County, a municipal corporation, owns and conducts an Infirmary for the indigent adjacent to the said townsites of Steel City and Ironton; and in the maintenance and operation of said Infirmary, it is now and has been for some time past the heaviest consumer of water from the applicant's water system.

5. That the townsite of Steel City was promoted by the applicant, and the real property belonging thereto platted into lots, blocks, and city streets, for general townsite purposes, in the belief that the Columbia Steel Corporation plant, with the territory contiguous thereto, would become a large and important industrial center, and that the townsites of Steel City and Ironton would soon become desirable for residential and business purposes.

6. That said townsites are largely, if not wholly, dependent upon the water system of the applicant for their water supply.

7. That the applicant, through its agents, has disposed of many lots in said townsite of Steel City to numerous persons, protestants herein, by representing to them that water would be available from said water system, and they are and will be dependent upon applicant's water system for their water supply; and if the same is withdrawn from use, they will not only be greatly inconvenienced, but their city lots will be rendered undesirable for any useful purpose and their investments therein will be practically valueless.

8. That the cost of the installation of said water system has been, including cost of water rights, approximately $50,000.

9. That the cost of maintenance and operation of the same, since it has been devoted to public service, has approximated $1,500.00 per annum, without allowance for depreciation or any return on investment.

10. That neither Steel City nor Ironton has been built up as the applicant anticipated they would be when said water system was devoted to public service; that, at the present time, there are less than a dozen water users from said system with no prospect for an increase in the immediate future; that, during the year 1924, the gross operating income derived by applicant from water users under said water system was but $142.49, and for the year 1925, only $134.86.

11. That Utah County, the heaviest consumer of water, has expressed herein a willingness to purchase said water system of the applicant, provided that it can acquire the same in its own right, and without being burdened with the duty of giving public service.

12. That Utah County has expressed herein a willingness to serve the residents of said townsites, and other water users from said system, if permitted to take over the system in its own right, relieved from the duty of rendering public service, with any surplus water over and above its own needs, at reasonable charges therefor, so long as it may have a surplus, and no longer; that Utah County and the present water users and lot owners of said townsites have filed herein an agreement entered into by them to that effect, which agreement is hereby referred to as "Water Users' Exhibit A," and is made a part of these findings.

13. That the water users and lot owners of said townsites, in view of the willingness and consent of Utah County to serve them with water from said system in accordance with the terms and conditions of the agreement aforesaid, have withdrawn their several protests herein against the applicant being permitted to discontinue the giving of further public service through said water system, and consent that said water system and all of the property rights of the applicant therein may be sold, transferred, and conveyed to Utah County, relieved of the duty of giving further public service by reason of its having become heretofore a public utility.

From the foregoing facts, the Commission concludes that the applicant, Steel City Investment Company, should be permitted to withdraw its water system from the duty of rendering further service as a public utility, and that it be permitted to sell, transfer, and convey all of its right, title, and interest therein to Utah Coun-

ty, relieved from the duty of rendering any service to the public whatever.

That Certificate of Convenience and Necessity No. 198, issued by this Commission to the applicant on the 16th day of January, 1924, in Case No. 687, be cancelled.

An appropriate order will follow:

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 July, A. D. 1926.

In the Matter of the Application of the STEEL CITY INVESTMENT COMPANY, for permission to discontinue operations of, and sell to Utah County, all its right, title, and interest in the water system which furnishes water to inhabitants of Steel City Subdivision and Ironton Subdivision in Utah County, Utah.	CASE No. 860

This case being at issue upon application on file, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That applicant, Steel City Investment Company, be, and it is hereby, permitted to withdraw its water system from the duty of rendering further service as a public utility; and to sell, transfer, and convey all of its right, title and interest therein to Utah County; and to be relieved from the duty of rendering any service to the public whatever.

ORDERED FURTHER, That Certificate of Convenience and Necessity No. 198, issued in Case No. 687, be, and it is hereby, cancelled.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SWAN CREEK ELECTRIC COMPANY, for permission to increase its rates. } CASE No. 861

Submitted May 26, 1926. Decided June 17, 1926.

Appearance:

G. H. Robinson, Manager, } for Applicant.

REPORT OF THE COMMISSION

McKAY, Commissioner:

In an application filed May 12, 1926, the Swan Creek Electric Company, a corporation, engaged in the commercial electric light business in Rich County, Utah, with its principal place of business at Randolph, Utah, alleges that it is the owner of a power system used in supplying the towns of Randolph, Laketown, and Garden City, in Rich County, State of Utah, such property consisting of one 170 K. W. hydro-electric plant at Swan Creek, Utah, and distributing systems in the towns above mentioned, connected by suitable transmission lines, twenty-six miles of 11,000 volt transmission line, extending from Swan Creek to Randolph, Utah, with necessary utility equipment, franchises, rights-of-way, etc.

The property was constructed by applicant in the autumn of 1913, and completed during 1916, and has

been used in supplying electric service in the territory described above since that time.

Applicant further alleges that the fair value of this property as it existed December 31, 1925, is the sum of $31,000.00, said value not allowing for rights-of-way, franchises, working capital, etc.; that the rates used to supply electric service in the territory served are as follows:

Commercial lighting	$ .12	per K. W. H.
Commercial power	.12	per K. W. H.
Minimum per month	1.25	per K. W. H.

The case came on regularly for hearing, at Randolph, Utah, May 26, 1926.

There were no protests, in writing or otherwise.

G. H. Robinson, Manager of the Swan Creek Electric Company, testified as to the financial history of the Company, its revenues and expenses, and the present physical operating condition of the property. He stated that under the rates as now filed, the operating results for the three year period ending December 31, 1925, have been as follows:

	1923	1924	1925
Gross Revenue	$4,701.21	$4,916.85	$5,267.05
Operating Expenses	3,487.55	3,311.34	4,040.40
Operating Income	$1,213.66	$1,605.51	$1,226.65

The operating expenses included in the schedule above, include no charges for depreciation. No reserve for depreciation has been set up, as it has been found necessary to use practically all the proceeds from operation to reduce outstanding accounts.

Mr. Robinson submitted the following schedule of rates and asked that they be published and put into effect in the manner provided by law:

Commercial Lighting, First 10 K.W.	$ .15	per K.W.H.
Commercial Lighting, Next 10 K.W.	.12	per K.W.H.
Commercial Lighting, Next 10 K.W.	.10	per K.W.H.
Commercial Lighting, all over 30 K.W.	.10	per K.W.H.
Commercial Power	$ .08	per K.W.H.
Commercial Power, minimum charge . . .	5.00	per Month
Commercial Lighting, minimum charge.	1.50	per Month

Discounts, 10% on $25.00 or over, each month.

From the testimony presented, it is apparent that the present rates have been entirely inadequate to yield either a reasonable return on applicant's invested capital, or to allow an amount to be set aside to cover depreciation. The Manager, in fact, has not received a salary for his services, but is serving in that position gratis.

The Commission finds, therefore, that the applicant's rates must be increased in order to enable applicant to continue to supply electric service for public use and discharge its public duties, and to allow it even a measure of the return to which it is entitled; that the schedule of rates as applied for and now on file with the Commission, are in every way just and reasonable, and should be granted.

An appropriate order will be issued.

(Signed) THOMAS E. McKAY,
Commissioner.

We concur:

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 June, 1926.

In the Matter of the Application of the SWAN CREEK ELECTRIC COMPANY, for permission to increase its rates.	CASE No. 861

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Swan Creek Electric Company be, and it is hereby, authorized to publish and put into effect the following schedule of rates:

Commercial Lighting,	First 10 K.W.	$ .15	per K.W.H.
Commercial Lighting,	Next 10 K.W.	.12	per K.W.H.
Commercial Lighting,	Next 10 K.W.	.10	per K.W.H.
Commercial Lighting,	all over 30 K.W.	.10	per K.W.H.
Commercial Power		$ .08	per K.W.H.
Commercial Power, minimum charge...		5.00	per Month
Commercial Lighting, minimum charge.		1.50	per Month

Discounts, 10% on $25.00 or over, each month.

ORDERED FURTHER, That said schedule of rates shall become effective upon five days' notice to the public and to the Commission.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. P. CLAYS to withdraw from and the ALTA-WASATCH TRAMWAY COMPANY to assume all the rights granted by Certificate of Convenience and Necessity No. 228 (Case No. 780), authorizing construction, maintenance and operation of aerial tramway.	CASE No. 862

ORDER

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

IT IS ORDERED, That the application herein of J. P. Clays and the Alta-Wasatch Tramway Company be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 3rd day of March, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to discontinue service on its Davis County Line, north of the north boundary of Salt Lake City, and to remove all tracks, poles, wires and other equipment used in rendering said service.	CASE No. 863

Submitted May 26, 1926. Decided September 13, 1926.

Appearances:

John F. MacLane, George R. Corey,	for Applicant, Utah Light & Traction Company.
A. B. Irvine,	for Bamberger Electric R. R. Co.
Wilson McCarthy,	for Salt Lake-Ogden Transportation Company.

H. L. Mulliner,	for County School Board, Farm Bureau, Taxpayers' Association and Incorporated cities and towns of Davis County.
J. W. Ellingson, J. S. Richards,	for Ogden Chamber of Commerce.
L. E. Gehan,	for American Railway Express Co.
VanCott, Riter & Farnsworth and B. R. Howell,	for Denver & Rio Grande Western R. R. Co.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, at its office in the State Capitol, Salt Lake City, Utah, on the 27th day of January, 1926, in connection with Case No. 823, in the matter of the application of the Bamberger Electric Railroad Company, for permission to operate an automobile passenger stage line between Salt Lake City and Ogden, Utah. In the course of the hearing of said Case No. 823, in which the applicant herein had appeared as an intervener, the Commission ordered that applicant's intervention should be treated and regarded as a separate matter and be given Case No. 863, it being stipulated, however, by all interested parties and consented to by the Commission that the evidence taken in Case No. 823, insofar as the same might be applicable, should be considered by the Commission in passing upon the questions involved and in reaching a decision in Case No. 863.

By reason of certain admissions and stipulations, not necessary here to refer to, having been made for the record by applicant's counsel in Case No. 823, and for the further reason that the Commission has here-

tofore, on the 18th day of August, 1925, rendered a report and issued its order in said case, the Commission will now treat Case No. 863 as a wholly independent matter.

The application in this case, in substance and effect, sets forth that the applicant, Utah Light & Traction Company, owns and operates an electric street and interurban railway system in Salt Lake City and in Salt Lake and Davis Counties; that its interurban line extending into Davis County, by reason of other transportation companies operating within the same territory, renders the continuance thereof unnecessary; and that its said line is being operated at so great a financial loss as to amount to deprivation of property without due process of law, within the meaning of both the federal and state constitutions. The applicant prays, therefore, for an order of the Commission permitting it to discontinue its said interurban line.

Numerous protests were filed against the granting of the relief prayed for by the applicant, particularly on the part and in behalf of the County School Board, County Farm Bureau, Taxpayers' Association, the incorporated cities and towns and the residents and taxpayers of Davis County, in general.

The protests are made substantially upon the grounds that discontinuance of operation of applicant's line of railroad in Davis County, would increase traffic upon the public highway, already congested and overburdened with travel, which parallels the line; that the railroad is a public convenience and necessity in the territory served by it, and it was built in consideration of a grant of a fifty year franchise made by Davis County, which has not yet expired; that following the granting of said franchise, homes were built, schools provided, and business interests established, on the faith that applicant's line would be maintained and operated to serve them; that the territory served gives promise of future growth and development, and the removal of the line would retard further progress, and cause great damage under existing conditions, as well.

From the facts admitted and evidence taken, the Commission finds:

1. That the applicant is a corporation, duly organized and existing under and by virtue of the laws of

the State of Utah, and is a "street railroad corporation" and, as such, a "common carrier" and "public utility", owning and operating a "street railroad", all as defined and within the meaning, and subject to the provisions of the Public Utilities Act, Title 91 of the Compiled Laws of Utah, 1917.

2. That applicant owns and operates a street railroad system in Salt Lake City, Utah, consisting of approximately one hundred fifteen (115) miles of standard gauge, single track railroad, within the corporate limits of Salt Lake City, twenty miles of standard gauge, single track extending southward from the city limits of Salt Lake City, through and serving the cities of Murray, Midvale, and Sandy, in Salt Lake County, and from the south limits of Salt Lake City to the settlement known as Holliday, in Salt Lake County, and, in addition thereto and as a part of its railroad system, the line directly under consideration in this case, consisting of nine miles of standard gauge railroad, extending from the north limits of Salt Lake City, in a general northerly direction through the unincorporated town or settlement of Val Verda, the City of Bountiful, and the Town of Centerville, the terminus of said line, in Davis County, Utah.

3. That said Centerville Line, for the most part, from the north City limits of Salt Lake City to Centerville, its terminal in Davis County, parallels the State Road or paved highway leading through Davis County to Ogden City, Weber County, Utah.

4. That said Centerville Line was constructed in the year 1912, and, ever since its construction, has been lawfully maintained and operated under franchise duly granted to intervener and its predecessors in interest by Davis County and the City of Bountiful; that ever since its construction, it has rendered frequent, commodious, and efficient passenger service, fully adequate to meet the needs and requirements of the territory it serves.

5. That for more than five years last past, the operating revenues of said Centerville Line have been insufficient to meet its operating expenses and maintenance; that for the year 1925, its gross operating receipts were but $21,276.94, its operating expenses amounted to $30,687.76, leaving a deficit for said year, allowing nothing as a return on capital investment or for depreciа-

tion, of $9,410.82; that deferred maintenance has accrued on said Centerville Line to approximately the amount of $50,000.00, and, in the course of the next two or three years, that sum at least will have to be expended by the applicant to replace rotted and worn out railroad ties, and for the rehabilitation of the line in general.

6. That the annual average rate of return for five years, January 1, 1921, to December 31, 1925, based upon the valuation of the applicant's entire street railroad system, as fixed by the Commission's order of January 15, 1920, in Case No. 44, at $8,468,278.64, no depreciation having been set up for the years 1921, 1922, 1923 1924, and 1925, on account of insufficient earnings to meet the accruals, including estimated depreciation, was but 2.82%; that the inventory value of the applicant's Centerville Line, as found by the Commission in said Case No. 44, was $180,177.63.

7. That the revenue fares carried, operating and other costs of service on said line, from the north limits of Salt Lake City to Centerville, for the years 1923, 1924, and 1925, were as follows:

	1923	1924	1925
1. Revenue Fares Carried....	405,902	324,495	347,764
2. Field Cost of Operation and Taxes — Davis County Line only — per Revenue Fare...	6.48c	9.46c	8.82c
3. Proportion of Other Operating Costs per Revenue Fare —General Office Expense— Injuries and Damages, Depreciation, etc.	2.74c	2.30c	2.10c
4. Total Operating Cost per Revenue Fare	9.22c	11.76c	10.92c
5. Additional Cost per Revenue Fare, being return on Commission's Valuation on Property in Davis County at 8%	3.55c	4.45c	4.15c
6. Total Cost per Revenue Fare	12.77c	16.21c	15.07c

7. Average Revenue Fare Collected	6.65c	6.28c	6.12c
8. Deficit to Meet Field Cost (Line 2)	.17c	*3.18c	*2.70c
9. Deficit to Meet Total Operating Cost per Revenue Fare (Line 4)	*2.57c	*5.48c	*4.80c
10. Deficit to Meet Total Cost (Line 6)	*6.12c	*9.93c	*8.95c

8. That the total revenue fares carried on the applicant's entire street car system for the year 1925, was 30,245,423, of which the Centerville Line carried 347,764.

That during the said year, 1925, the applicant sustained a deficit on the Centerville Line of $31,124.88, including operating expenses, taxes, depreciation, and allowing for a fair return on capital investment. This deficit per revenue fare for said year was 8.95 cents, which, when apportioned, created a deficit of one-tenth of one cent per fare upon the entire system; that the present operating revenues of applicant's entire street railway system are now and have been for many years last past, insufficient to earn a fair return on capital investment; that the operating costs of applicant's entire street railway system at the present time, and for some future years, will be increased approximately $90,000.00 per annum, by reason of deferred maintenance; that its operating costs have, in recent years, been increased some $25,000, by reason of higher cost of labor.

9. That the passenger traffic on the applicant's Centerville Line originates, largely, at the unincorporated town or settlement of Val Verda and at the Cities of Bountiful and Centerville; that Val Verda has a population of approximately 200, Bountiful, 3,000, and Centerville, 600, a combined population being served of approximately 3,800 people. All of these points are being served in some measure by the Bamberger Electric railroad, a double track, standard gauge railroad, electrically operated, and running on regular schedule between Salt Lake City and Ogden, Utah, nineteen passenger trains each way each day; that applicant's Centerville street car line passes directly through the business and thickly populated sections of Val Verda, Bountiful, and Cen-

*Denotes red figures.

terville. The greater portion of the population of these communities resides on an average of approximately a quarter of a mile distant from the Bamberger Line.

With the exception of the Val Verda district, the paved State road or highway passes directly through the principal towns and communities served by the applicant's Centerville Line.

10. That the applicant is at the present time rendering street car service to the territory served by it upon the following schedule:

Miles From	Between / And	Centerville	Bountiful (No. City Lts.)	Bountiful (4 No. & Main)	Bountiful (1 So. & Main)	Bountiful (So. City Lts.)	Val Verda	Cudahy	S. L. City (No. City Lts.)
	Centerville								
1.56	Bountiful (N. City Lts.)	.10							
2.52	Bountiful (4 No. & Main)	.10	.10						
2.89	Bountiful (1 So. & Main)	.10	.10	.10					
4.26	Bountiful (So. City Lts.)	.20	.10	.10	.10				
5.95	Val Verda	.20	.20	.10	.10	.10			
7.13	Cudahy	.20	.20	.10	.10	.10	.10		
8.73	S. L. C. (No. City Lts.)	.20	.20	.10	.10	.10	.10	.10	
13.50	Salt Lake City	.30	.30	.20	.20	.20	.20	.20	.10

The foregoing are the salient facts found from the record in this case. From the facts found, it becomes at once apparent, indeed it is an admitted fact on the part of all interested parties to this case, that the applicant's Centerville Line cannot longer continue to operate under existing conditions and circumstances, without incurring an out-of-pocket loss of approximately $10,000.00 per annum. It follows that this loss must be sustained by the applicant, or it must be borne by the car-riders of the entire street car system. We are convinced, from the evidence in this case, that the territory served by applicant's Centerville Line has been, in a great measure, built up and improved by residents who had faith that the street car line under consideration would remain and serve them as a public utility.

With the exception of the use of the privately owned and operated automobile, the street car service here in question is now quite as much, if not more, needed by the communities served, as a means of transportation,

as when the franchise, not yet expired, was granted and applicant's line built and first operated. The future growth of the communities affected, it may be safely said, holds forth some promise that there will be added needs for transportation facilities.

It is strenuously argued for and in behalf of the protestants that by reason of certain rate increases and rate adjustments having recently been allowed and made by the Commission in Case No. 877, affecting applicant's entire street car system, applicant's earnings may enable it to earn sufficient revenue in the future to make a fair return on its capital investment, and, therefore, while the Centerville Line in and of itself cannot yield a fair return nor pay bare operating expenses, that the street car system as a whole probably will.

After careful study of the operating conditions now confronting the applicant's entire street railroad system, we are far from being convinced that such would ever be the case. The general public is quite as much interested in having the applicant's street car system managed and operated on a sound business and economic basis as is the applicant. That the Centerville Line is now and will continue to be a great burden upon the street car riders of the applicant's street car system, as a whole, cannot be gainsaid. It is a matter of common knowledge that since the advent of the automobile, there has been a general falling off of patronage of electrically operated interurban lines everywhere.

The interurban line of the applicant under consideration, affords no exception. The automobile in Davis County proves the same kind of a competitor to railroad service as it does elsewhere. To meet competitive conditions, created by the automobile, state commissions, generally, are continually having to allow the withdrawal of interurban lines from service and permit automobile bus service to supplant them. The traveling public seems to have a preference for the automobile. In some cases, the coordinated service of rail and bus lines has been permitted, more especially where there has been sufficient traffic to warrant both kinds of service. In this instance, we think it must be conceded there is insufficient traffic to warrant the continuation of applicant's rail service under existing circumstances and conditions.

Counsel for protestants seems to question the power or jurisdiction of this Commission to permit the applicant to withdraw its rail service, in view of the franchise rights granted to applicant by Davis County and the City of Bountiful, not yet expired, even though the continuance of rail service would entail either heavy financial loss on the part of the applicant, or else cause a great burden to be borne by the car riders of the entire street car system.

Obviously, the powers of the Commission under the Public Utilities Act extend to the regulation of the public utilities of the State with respect to their relationship to the public, in practically all matters. The right to exercise jurisdiction and discontinue the services of a street railroad found to be operating at a loss, notwithstanding it may be operating under an unexpired franchise procured of local authorities, has repeatedly been upheld by the courts of highest authority, both federal and state, including our own Supreme Court.

City of Worcester vs. Worcester Con. Street Ry. Co., 196 U. S., 537, 49 L. ed. 591.

Brooks Scanton Co. vs. Railroad Co., 251 U. S. 396, 64 L. ed. 323.

Railroad Commission vs. Eastern Texas R. R., 264 U. S. 789, 63 L. ed. 569.

Phoenix Railway Co. vs. Lount, et al., Ariz., 187 Pac. 933.

City of Helena vs. Helena Light & Ry. Co., Mont., 207 Pac. 337.

Salt Lake City vs. Utah Light & Traction Company, Utah, 175 Pac., 556.

In the case of Helena vs. Helena Light & Railway Co., Supra, where the question arose before the Supreme Court of Montana, under statutory and constitutional provisions similar to our own, that Court said:

> "It is now settled beyond controversy that a public utility cannot be compelled to operate its entire business, or a branch of its business, at a loss, in the absence of a statute or contract requiring it to do so. * * * It is equally well settled that a grant of a franchise and its acceptance constitute a contract * * * and it is the con-

tention of the city that it has a contract with the railway company, evidenced by the franchise, under which the Kenwood Line was constructed * * * which imposes upon the grantee the obligation to operate the line for the entire term of the franchise, irrespective of the question of loss. In a qualified sense, this contention may be granted in the first instance; but it does not follow that the city is entitled to a permanent injunction. Questions concerning the rights which a city may acquire in its proprietary capacity are not here involved. The grant of a franchise is distinctly an act of government—the parting of a prerogative belonging to the supreme governmental authority * * * and under our system that authority is lodged in the legislative department. * * * The distinction between a franchise to operate a street railway system and municipal contracts for street lighting or water service is pointed out in State vs. Des Moines City Ry. Co., 159 Iowa, 259, 140 N. W. 437.

"A city is but a political subdivision of the state for governmental purposes * * * and whenever a city assumes to grant a franchise, it acts merely as the agent of the state and this is true in this jurisdiction, notwithstanding Section 12, Article 15, of our Constitution, which provides:

> " 'No street or other railroad shall be constructed within any city or town without the consent of the local authorities having control of the streeet or highway proposed to be occupied by such street or other railroad.'

"Our constitutional provisions are limitations upon, and not grants of, power, and generally they are limitations upon legislative action. Section 12 does not grant any right or power to a city or town. In the absence of that restriction, the Legislature could grant a franchise directly to a street railway company to occupy and use a city's streets, upon such terms as the lawmakers saw fit to exact, and that, too, without consulting the city authorities, and in utter disregard of their expressed opposition. The presence of that provi-

sion in our Constitution does not modify the principle that the grant of a franchise proceeds from the legislature. New York City vs. Bryan, 195 N. Y. 158, 89, N. E. 567. It only provides that a grant from the Legislature shall not be effective without the consent of the local authorities, but it does not withhold from the Legislature the power to say upon what terms the franchise shall be enjoyed. City of Denver vs. Merchants Trust Co. 201 Fed. 790, 120 C. C. A., 100.

"If, then, the right of the city to grant this franchise was subject to legislative restriction, as we hold that it was, the city cannot remove such right from the power of state regulation and control by merely designating the accepted franchise a contract, for the contract carries with it all the infirmities of the subject matter. Hudson County Water Co. vs. McCarter, 209 U. S. 349, 28 Sup. Ct. 529, 52 L. ed. 828, 14 Ann. Cas. 560. Neither can the city insist that its contract with the railway company is inviolable, protected by the contract clause of the Federal Constitution or by Section 11, Art. 3, of our State Constitution. Speaking generally, a municipal corporation does not stand in a position to assert as against the state the benefit of the constitutional provision against the impairment of the obligation of contracts. (New Orleans vs. New Orleans Water Works Co., 142 U. S. 798, 12 Sup. Ct. 142, 35 L. ed. 943), although the state may preclude itself from exercising its reserve power by authorizing the municipality to contract with a public utility for a given service for a definite period. * * * "

"It is our conclusion that the state may, through the public service commission, relieve the railway company of its contract obligation to operate the Kenwood Line, or a part of it, during the entire period covered by the franchise, but that until the state has acted in the premises, the obligation is a continuing one, which the city is entitled to have discharged. * * *."

The foregoing principles announced by the Montana Court, we believe to be generally accepted doctrine throughout the United States and applicable in cases

where it has been shown that a street car system as a whole is not earning a fair return on capital investment and an interurban line is proving unduly burdensome. Of course, if the instant case were one where applicant's street railway system as a whole was earning a fair return, there would be much in the contention made by protestant's counsel and a different rule would apply; but, as pointed out, the entire system is not earning a fair return, and is being unduly burdened by the losses accruing in the operation of the Centerville Line, and further, there are no future prospects that operating conditions may materially change for the better.

But, be that as it may, the Commission feels that by reason of the somewhat peculiar circumstances under which the applicant's franchise to build and operate its Centerville Line was acquired of the local authorities, especially of Davis County and the City of Bountiful, the applicant owes something to the communities that have grown up and have developed in faith that the street car line would remain as a permanent convenience and facility to meet their transportation needs. Aside from the purely legal phases of this case, these communities, under all the circumstances, are entitled to the utmost consideration at the hands of this Commission. While we cannot lose sight of the fact that so long as the street car line remains and is operated under existing conditions, the applicant will either have to sustain heavy financial loss, or its street car riders as a whole will have to be unduly burdened with rate-paying, neither can we lose sight of the fact that if the street car line is removed, the communities affected will not only lose the transportation facility upon which they are somewhat largely dependent, but they will also suffer financial losses in the way of depreciation on their business and residence properties, unless, of course, some other desirable and efficient transportation facility is afforded to take the place of the street car line.

If the Commission has the broad powers under the Public Utilities Act attributed to it by the applicant in this case, then we think the order of the Commission, under all the attending facts and circumstances, should be that the applicant be permitted to discontinue its Centerville Line, upon condition that it, either by itself or through some subsidiary corporation, provides for automobile bus service over the public paved highways be-

tween North Salt Lake and Centerville, including intermediate points, of equal frequency and at the same fares as are now being charged by applicant for rail service. Provision should also be made for auxiliary or supplemental service in the morning and evening to the Val Verda district, as necessities may be shown to require. The Commission will, of course, reserve jurisdiction as to the adequacy, frequency, and continued necessity of this service, and will make no more definite order, pending the trial of schedules as may be offered by applicant.

The Commission does not assume to say what the cost of the rendering of said automobile bus service may be, but it is expected that said service will be rendered safe, commodious, and efficient, and at the same time, will prove reasonably adequate to in a very large measure preclude the losses now incurred by applicant's rail service.

Further, it may be said in this connection that public utility transportation agencies and matters are always subject to investigation and adjustments under regulatory powers of the Commission. Needed changes for the best interest of the public may be brought about in the proper way, as circumstances shall require. However, the conditions herein imposed upon and consented to by applicant are not to be regarded as merely temporary, but to remain permanent to meet the requirements of the communities affected, and as the best interests of the general public shall demand.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 September, 1926.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to discontinue service on its Davis County Line, north of the north boundary of Salt Lake City, and to remove all tracks, poles, wires and other equipment used in rendering said service.	CASE No. 863

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

IT IS ORDERED, That the application be, and it is hereby, granted; that the Utah Light & Traction Company be, and it is hereby, authorized to discontinue street car service on its Davis County Line, north of the north boundary of Salt Lake City, Utah, and to remove all tracks, poles, wires and other equipment used in rendering said service.

ORDERED FURTHER, That the Utah Light & Traction Company, if and when it discontinues street car service on its Davis County Line, shall by itself or through some subsidiary corporation, render automobile bus service over the public paved highways between North Salt Lake and Centerville, Utah, including intermediate points, of equal frequency and at the same fares as are now being charged by applicant for rail service; and that provision be made for auxiliary or supplemental service in the morning and evening to the Val Verda district, as necessities may be shown to require.

ORDERED FURTHER, That the Commission hereby reserves jurisdiction as to the adequacy, frequency, and continued necessity of this service, and will make

no more definite order, pending the trial of schedules as may be offered by applicant.

By the Commission.

(Signed) F. L. OSTLER,

[SEAL] Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of The MORGAN ELECTRIC LIGHT & POWER COMPANY to discontinue, and WESTERN STATES UTILITIES COMPANY to assume operation of electric power plant at Morgan, Utah.	CASE No. 864

Submitted April 1, 1926. Decided June 16, 1926.

Appearance:

Carlisle Condon, for Western States Utilities Co.

REPORT OF THE COMMISSION

By the Commission:

On February 2, 1926, joint application of the Morgan Electric Light & Power Company, and the Western States Utilities Company was filed with the Public Utilities Commission of Utah.

Said application sets forth that the Morgan Electric Light & Power Company, a corporation of Utah, and the Western States Utilities Company, a corporation of Delaware, duly licensed to transact business in the State of Utah, requests permission for the former Company to be relieved of and the latter Company to assume the operation of the electric light and power plant at Morgan, Morgan County, Utah.

Said application also sets forth that the Western States Utilities Company has acquired, through purchase, the power plants formerly operated by the Morgan Electric Light & Power Company, at Morgan.

This case was assigned for hearing at Salt Lake City, Utah, February 27, 1926, at Ten o'clock A. M., in accordance with the law.

The case came on for hearing in accordance with the preceding notice. Proof of publication was filed at the commencement of the hearing.

The evidence in the case shows the facts to be the same as set forth in the application. Neither written nor oral protests were received.

The Commission finds:

That applicant, Morgan Electric Light & Power Company, was organized and operating prior to the creation of this Commission. That the practice of the Commission has been to allow public utilities which were operating prior to the effective date of the law, to continue such operations without securing certificates of public convenience and necessity. That a certificate of convenience and necessity should be issued to the Western States Utilities Company, authorizing said Company to operate an electric light and power plant at Morgan, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity
No. 264.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 16th day of June, 1926.

In the Matter of the Application of The MORGAN ELECTRIC LIGHT & POWER COMPANY to discontinue, and WESTERN STATES UTILITIES COMPANY to assume operation of electric power plant at Morgan, Utah. } CASE No. 864

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

IT IS ORDERED, That the application be, and it is hereby, granted; that the Morgan Electric Light & Power Company be, and it is hereby, authorized to discontinue operation of the electric power plant at Morgan, Morgan County, State of Utah.

ORDERED FURTHER, That the Western States Utilities Company be, and it is hereby, authorized to operate the electric power plant at Morgan, Utah.

ORDERED FURTHER, That applicant, Western States Utilities Company, before beginning operation, shall file with the Commission a schedule of its rates for electric light and power, and shall at all times comply with the rules and regulations of this Commission.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

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 Brigham City, Utah, and the Utah-Idaho State Line, via Sardine Canyon, Wellsville, Logan and Richmond, Utah.	CASE No. 865
In the Matter of the Application of HOWARD ELIASON, for permission to operate an automobile freight line between Ogden, Utah, and the Utah-Idaho State Line. and UTAH IDAHO CENTRAL RAILROAD COMPANY, Intervener.	CASE No. 866

Submitted May 20, 1926. Decided September 17, 1926.

Appearances:

R. Verne McCullough,	for Wells R. Streeper, Applicant in Case No. 865, and Protestant in Case No. 866 and to Utah Idaho Central R. R. Co., Intervener.
Wm. J. Lowe,	for Howard Eliason, Applicant in Case No. 866, and Protestant in Case No. 865 and to Utah Idaho Central R. R. Co., Intervener.
J. A. Howell, of the Law Firm, DeVine, Howell, Stine & Gwilliam,	for Utah Idaho Central R. R. Co., Intervener, and Protestant in Cases 865 and 866.

R. B. Porter, Dana T. Smith,	for Oregon Short Line R. R. Co., Protestant.
L. E. Gehan,	for American Railway Express Co., Protestant.

REPORT OF THE COMMISSION

By the Commission:

These matters came on regularly for hearing before the Commission, at Salt Lake City, Utah, on the 20th day of May, 1926. By stipulation of all interested parties, the application of Wells R. Streeper (Case No. 865), for a certificate of convenience and necessity to operate an automobile freight line between Brigham City, Utah, and the Utah-Idaho State Line, and that of Howard Eliason (Case No. 866), to operate an automobile freight line between Ogden, Utah, and the Utah-Idaho State Line, were heard at the same time and are to be considered by the Commission as one case; but their applications are to be considered in opposition to each other.

The Commission also decided over the protests of counsel for the above named applicants, to consider also in connection with the above cases, the alternative application made by the Utah-Idaho Central Railroad Company.

Written protests were made and filed to each of the applications by the Oregon Short Line Railroad Company; American Railway Express Company; Cache County, by its County Attorney; County Commissioners of Box Elder County; and by the Benefit Association of Railway Employees; also, each applicant protested the granting of a certificate of convenience and necessity to anyone other than himself.

The Commission, after making full investigation and giving due consideration to the evidence presented for and in behalf of the respective applicants, now finds, concludes, and reports as follows:

1. That Wells R. Streeper, applicant in Case No. 865, is a resident of Ogden, Utah, and is now operating and maintaining a daily automobile freight line between Ogden City, Utah, and Garland, via Brigham City, Utah, under Certificate of Convenience and Necessity No. 213,

issued by the Commission in Case No. 698, September 12, 1924; and that he desires to extend the said service from Brigham City, Utah, through Cache County, to the Utah-Idaho State Line; that he is thoroughly familiar with the operation and maintenance of automobile truck freight service; that he is financially able to furnish the necessary equipment to render the service proposed.

2. That Howard Eliason, applicant in Case No. 866, is a resident of Brigham City, Utah, has had two years' experience in operating freight trucks, and that he is financially able to furnish the necessary equipment that the business may require.

3. That the Utah Idaho Central Railroad Company, protestant, and also applicant in intervention, is a railroad corporation, created and existing under and by virtue of the Laws of the State of Utah, and is engaged in business as a common carrier of passengers, freight, express, and baggage, between the City of Ogden, Utah, and Preston, Idaho, and intermediate points, and that it has been in operation since 1916; that in the operation of said railroad, said protestant and applicant uses a large and valuable quantity of railroad equipment; that, in addition thereto, the said applicant, under and by virtue of a certificate of public convenience and necessity from the Commission, is now operating and has been operating for some months, an automobile stage line between the City of Ogden and the City of Logan, and intermediate points, in the State of Utah, and along the said highway, which is the same route upon which said applicants desire permission to operate said automobile freight lines.

4. That the protestant, Oregon Short Line Railroad Company, is a corporation, doing business within the State of Utah and other states, and is now operating a railroad from Ogden, Utah, to Cache Junction, Utah, and thence through towns in Cache Valley, and to Logan, Utah, and thence northerly from Logan, and that all said territory is now sufficiently served by this protestant and by the Utah Idaho Central Railroad Company.

5. That the American Railway Express Company is a common carrier, conducting a daily express service between Ogden, Utah, and the Utah-Idaho State Line, over the Oregon Short Line and Utah Idaho Central

Railroads, and maintains agencies at the important points enroute on the proposed line.

6. That protestant, Benefit Association of Railway Employes, is an association of railroad employes, organized and existing for the purpose of furthering the financial and industrial interests of its members; that said protestant opposes the applications, because the establishment and operation of such lines tend, by reducing the amount of business that the railroads do, to decrease the number of such railroad employes.

7. That the protestants, Box Elder County, by its Board of County Commissioners, Lewis S. Pond, John J. Craner and Albert E. Homgren, and Cache County, by its County Attorney, L. Tom Perry, are municipal corporations of the State of Utah; that the route over which applicants propose to operate passes through both of said counties; that said counties are now, and have been, served by two lines of railroad, namely, an electric line, operated by the Utah Idaho Central Railroad Company, from Ogden, Utah, to Brigham City and points in Cache County, Utah, and the Oregon Short Line Railroad Company, which operates a line through this same territory; and further, that by granting permission to operate such automobile freight line, would place unnecessary burdens upon the public highways of said counties.

The Commission concludes and decides from the foregoing findings of fact, that the territory which is affected by the above applications, is already adequately furnished with freight service, and there is not any present necessity for any other or additional freight service in said territory. Therefore, the application of Wells R. Streeper (Case No. 865), for permission to operate an automobile freight line between Brigham City, Utah, and the Utah-Idaho State Line, and the application of Howard Eliason (Case No. 866), for permission to operate an automobile freight line between Ogden, Utah, and the Utah-Idaho State Line, as well as the application in intervention of the Utah Idaho Central Railroad Company, should be denied.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]
Attest:
(Signed) F. L. OSTLER, 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 September, 1926.

In the Matter of the Application of WELLS R. STREEPER, for permission to operate an automobile freight line between Brigham City, Utah, and the Utah-Idaho State Line, via Sardine Canyon, Wellsville, Logan and Richmond, Utah.	CASE No. 865
In the Matter of the Application of HOWARD ELIASON, for permission to operate an automobile freight line between Ogden, Utah, and the Utah-Idaho State Line. and UTAH IDAHO CENTRAL RAILROAD COMPANY, Intervener.	CASE No. 866

These cases being at issue upon applications 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 and conclusions, 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 Brigham City, Utah, and the Utah-Idaho State Line, via Sardine Canyon, be, and it is hereby, denied.

ORDERED FURTHER, That the application of Howard Eliason, for permission to operate an automobile freight line between Ogden, Utah, and the Utah-Idaho State Line, be, and it is hereby, denied.

ORDERED FURTHER, That the application in intervention of the Utah Idaho Central Railroad Company, for permission to operate an automobile freight line be-

tween Ogden, Utah, and the Utah-Idaho State Line, be, and it is hereby, denied.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of HOWARD ELIASON, for permission to operate an automobile freight line between Ogden, Utah, and the Utah-Idaho State Line. } CASE No. 866

See Case No. 865.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the ALTA AUTO BUS & STAGE COMPANY to transfer to ELBERT G. DESPAIN all its right, title and interest in the auto passenger and freight line between Salt Lake City and Alta, Utah. } CASE No. 867

Submitted April 11, 1926. Decided June 17, 1926.

Appearance:

Elbert G. Despain, } for Applicants.

REPORT OF THE COMMISSION

By the Commission:

In the joint application filed February 4, 1926, with the Public Utilities Commission of Utah, the Alta Auto Bus & Stage Company, a corporation under and by virtue of the laws of Utah, and Elbert G. Despain set forth:

That said Company is engaged in the transportation of passengers and freight, for hire, over the pub-

lic highway between Salt Lake City and Alta, Utah;

That officers of said Company desire to discontinue doing business as a public service corporation, and dispose of its equipment used in giving said automobile bus service, to Elbert G. Despain;

That Elbert G. Despain has managed the business of said Company for the past two years; that he thoroughly understands it; and that he is financially able to continue same.

Hearing was arranged in accordance with the law. No protests were received. Proof of publication of notice of hearing was filed on the day of the hearing.

The evidence shows the facts to be substantially the same as are set forth in the application.

On May 1, 1922, the Commission issued Certificate of Convenience and Necessity No. 138, authorizing J. M. Despain to operate a freight truck line between Salt Lake City and Wasatch, Utah.

Under date of August 13, 1925, J. M. Despain was authorized to temporarily discontinue said freight service until business justified its reestablishment.

A letter from J. M. Despain was received April 11, 1926, requesting cancellation of Certificate of Convenience and Necessity No. 138, and stating that all of his interest in the freight line has been transferred to Elbert G. Despain, and requesting a certificate of convenience and necessity be issued to Elbert G. Despain.

The Commission finds, after giving due consideration to all the evidence, that Certificates of Convenience and Necessity No. 138, issued to J. M. Despain in Case No. 517, and No. 245, issued to Alta Auto Bus and Stage Company. in Case No. 807, should be cancelled, and that a new certificate of convenience and necessity should be issued authorizing Elbert G. Despain to operate an automobile passenger and freight line between Salt Lake City and Alta, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]
Attest:
(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 265. Cancels Certificates Nos. 138 and 245.

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 17th day of June, 1926.

In the Matter of the Application of the ALTA AUTO BUS & STAGE COMPANY to transfer to ELBERT G. DESPAIN all its right, title and interest in the auto passenger and freight line between Salt Lake City and Alta, Utah. } CASE No. 867

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

IT IS ORDERED, That the application be, and it is hereby granted; that Certificates of Convenience and Necessity No. 138, issued to J. M. Despain in Case No. 517, and No. 245, issued to the Alta Auto Bus & Stage Company, in Case No. 807, be, and they are hereby cancelled and annulled; that said J. M. Despain and the Alta Auto Bus & Stage Company be, and they are hereby, authorized to discontinue operation of the automobile passenger and freight line between Salt Lake City and Alta, Utah.

ORDERED FURTHER, That Elbert G. Despain be, and he is hereby, granted permission to operate the automobile passenger and freight line between Salt Lake City and Alta, Utah, under Certificate of Convenience and Necessity No. 265.

ORDERED FURTHER, That applicant, Elbert G. Despain, 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 Statutes of Utah and the rules and regulations prescribed

by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the KENILWORTH AND HELPER RAILWAY COMPANY, Owner, and THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, LESSEE, for permission to abandon a certain line of railroad in Carbon County, State of Utah.	CASE No. 868
In the Matter of the Application of THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, for permission to construct and operate a certain line of railroad in Carbon County, State of Utah.	CASE No. 869

Submitted February 19, 1926. Decided February 27, 1926.

Appearance:

B. R. Howell, Attorney,	for Kenilworth & Helper Railroad Co., and The Denver & Rio Grande Western Railroad Co.

REPORT OF THE COMMISSION

By the Commission:

The above entitled cases came on for hearing, before the Commission, February 19, 1926, at Salt Lake City, Utah.

The application of the Kenilworth & Helper Railroad Company, Owner, and The Denver & Rio Grande Western Railroad Company, Lessee, for permission to abandon a certain line of railroad in Carbon County, set forth, among other things:

That the said Kenilworth Company is the owner and the said Denver Company the lessee of a line of railroad extending in a north easterly direction, a distance of about 3.75 miles from Kenilworth Junction, on the Denver Company's main line, to the Kenilworth Coal mines owned and operated by the Independent Coal & Coke Company.

That the Independent Company has for many years owned and operated at Kenilworth, a large coal mine known as No. 1 Mine, with a capacity of 2,000 tons per day. Said Independent Company is opening in the same vicinity another coal mine known as its No. 2 or Aberdeen Mine, which will have a like capacity of 2,000 tons per day.

That, about 1914, the said Independent Company caused the said Kenilworth Company to be incorporated, to construct and operate the railroad now proposed to be abandoned, for the purpose of serving No. 1 Mine; that said Kenilworth Company thereafter constructed said railroad, as above described.

That on December 1, 1914, said Kenilworth Company leased its railroad to the Denver & Rio Grande Western Railroad Company for a period of ten years; that said lease has been extended from time to time, to March 1, 1926; that the leased railroad is being operated by said Denver & Rio Grande Western Railroad Company, as a part of said Denver & Rio Grande Western Railroad Company's railroad system.

That the Kenilworth Railroad has, for much of its length, a gradient of six per cent or over, and requires the use of Shay engines, and, in consequence, the maintenance and operation thereof is very expensive.

Furthermore, with the opening and operation by the Independent Company of its No. 2 or Aberdeen Mine, such railroad will be entirely inadequate to serve the coal operations of the Independent Company; and that it is necessary that an alternative railroad, upon more favorable grades, be constructed for that purpose. To

this end, an agreement has been entered into between said Kenilworth Company and the said Denver Company and said Independent Company, the substance of which is that the said Denver Company will construct a new branch of railroad, to serve the same mines, and that coincident with the completion of the said new branch railroad and commencement of operations thereover, the Kenilworth Company will abandon and remove its present railroad.

That coincident with the filing of this application, there is being filed by said Denver Company an application to construct and operate the new branch line heretofore mentioned. The two applications are interlocking, and the applicants herein do not desire this application to be granted unless and until such other application is also granted.

The application of the Denver & Rio Grande Western Railroad Company sets forth that the applicant proposes to construct a new line of railroad, commencing at a junction with its existing line of railroad, near Spring Canyon Junction, Carbon County, State of Utah, said branch to extend in a general easterly direction for a distance of about 6.28 miles, to a connection with tracks to be constructed by the Independent Company to serve its No. 2 or Aberdeen Mine and to reach the existing tracks of the No. 1 or Kenilworth Mine of said Independent Company.

This application sets forth practically the same evidence as set forth in the application of the Kenilworth Company and makes the same statement heretofore mentioned, that the two applications are interlocking and applicant does not desire this application to be granted, unless the application of the Kenilworth Company, for permission to abandon its existing line of railroad is also granted.

No protests were filed against either application.

The evidence at the hearing confirmed the facts as set forth in the applications, it being shown that the existing railroad, known as the Kenilworth and Helper, is inadequate to handle the total tonnage expected to be produced from Kenilworth No. 1 Mine and Aberdeen No. 2 Mine, owing to the maximum six and one-half per cent grade; that with the present line, they are limited to trains of not exceeding twelve loaded cars,

while with the proposed new line, having a maximum grade of three per cent, they can handle sixty to seventy-five loaded cars.

The only properties affected by the proposed new line and the abandonment of the existing line, are the properties of the Independent Coal & Coke Company.

The Commission believes that the construction of the new line and the abandonment of the existing line, will be in the public interest, and an order of authorization will be therefore issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 February, 1926.

In the Matter of the Application of the KENILWORTH AND HELPER RAILWAY COMPANY, Owner, and THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, LESSEE, for permission to abandon a certain line of railroad in Carbon County, State of Utah.	CASE No. 863
In the Matter of the Application of THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, for permission to construct and operate a certain line of railroad in Carbon County, State of Utah.	CASE No. 869

These cases being at issue upon applications 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 and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application of the Kenilworth and Helper Railroad Company, Owner, and The Denver & Rio Grande Western Railroad Company, Lessee, for permission to abandon a line of railroad extending in a north easterly direction, a distance of about 3.75 miles from Kenilworth Junction, on the Denver & Rio Grande Western Railroad Company's main line, to the Kenilworth coal mines owned and operated by the Independent Coal & Coke Company, be and it is hereby, granted.

ORDERED FURTHER, That the Denver & Rio Grande Western Railroad Company be, and it is hereby, authorized to construct and operate a new line of railroad, commencing at a junction with its existing line of railroad, near Spring Canyon Junction, Carbon County, State of Utah, said branch to extend in a general easterly direction for a distance of about 6.28 miles, to a connection with tracks to be constructed by the Independent Coal & Coke Company to serve its No. 2 or Aberdeen Mine and to reach the existing tracks of the No. 1 or Kenilworth Mine of said Independent Company.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, for permission to construct and operate a certain line of railroad in Carbon County, State of Utah. } CASE No. 869

See Case No. 868.

In the Matter of the Application of P. W. HARPER, for permission to operate an automobile freight line between Salt Lake City and Vernal, Utah, and intermediate points, via Heber, Fruitland, Duchesne, Myton and Roosevelt, Utah. } CASE No. 870

See Case No. 814.

In the Matter of the Application of DENNIS BOWTHORPE, for permission to operate an automobile truck line between Salt Lake City and Vernal, Utah, via Kamas, Talmage, Bonita, Mountain Home, Altona, Mount Emery, Blue Bell, Cedar View, Neola, White Rocks, Lapoint and Haden, Utah.	CASE No. 871

See Case No. 814.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JESSE L. BARTHOLOMEW, for permission to operate an automobile passenger, express, and freight line between Centerfield and Gunnison Railroad Station, via Gunnison, Utah.	CASE No. 872

Submitted June 11, 1926. Decided October 9, 1926.

Appearances:

Lewis Larson, for Applicant.

C. M. Edwards, for Protestants.

REPORT

McKAY, Commissioner:

In an application filed with the Public Utilities Commission of Utah, February 24, 1926, Jesse L. Bartholomew represents that his Post Office address at present is Fayette, Utah, but that if this application for a certificate of convenience and necessity to operate an automobile passenger, express and freight line between Centerfield and Gunnison Railroad Station, via Gun-

nison, Utah, is granted, he intends to make Centerfield his residence and principal place of business.

This case came on regularly for hearing, May 18, 1926, at Gunnison, Utah. Evidence was received in support of the application to the effect that the applicant has been granted the carrying of the U. S. Mail, daily, commencing July 1, 1926, from Centerfield via Gunnison, to Gunnison Railroad Station, a distance of about three and one-half miles, and must therefore travel this route twice daily; that such passenger, express and freight line would be a great convenience to the residents of said communities, as well as to others visiting and doing business with the same.

The application was protested by Andrew Modeen and Anthony Madsen and Clarence T. Madsen, of Gunnison, Sanpete County, Utah, who allege that they are now operating a passenger, express and freight service over the same route proposed by applicant; that they have conducted their respective businesses for many years; that the service which they have rendered and which they are now rendering, has been and is satisfactory, complete and adequate in every respect; that the people being served are entirely satisfied with the service; that no complaint of the service has ever been made, and that the volume of business will not permit of any further or additional service.

A number of witnesses were called by the protestants, all of whom testified that the services of said protestants have been and are entirely satisfactory.

The record shows that Andrew Modeen, one of the protestants, is now hauling freight and express from Gunnison Station to Gunnison, by team and wagon, and has been so engaged for the past eight and one-half years, and that Anthony Madsen, another protestant, in whose name the U. S. Mail contract is now held and has been for the past eight years; but which contract terminated June 30, 1926, is not at present engaged in hauling mail, passengers, express or freight; but that his son, Clarence Madsen, the other protestant, has been hauling the mail, also passengers, to Centerfield and Gunnison, and express and freight to Centerfield, Utah.

The record further shows that on March 14, 1921, a schedule of time of arrival and departure of A. Madsen Auto Stage Line, Gunnison, Utah, was filed with

the Commission, and in the letter accompanying said schedule, signed by Anthony Madsen, the following statement was made: "This line was in operation prior to March 8, 1917."

Upon the receipt of the above letter dated March 11, 1921, and received March 14, 1921, and the filing of the said schedule, the Commission wrote Mr. Anthony Madsen, March 17, 1921, acknowledging receipt of letter and accepting the schedule for filing, also enclosing a copy of the Rules and Regulations governing the operation of Automobile Stage Lines.

On May 16, 1923, the Commission addressed a letter to Mr. Anthony Madsen, Manager, A. Madsen Auto Line, Gunnison, Utah, inquiring if he was still operating a stage line between Centerfield and Gunnison, Utah. No answer was received, and, on June 29, 1923, a follow-up letter was sent, with like result. In fact, nothing has been heard by the Commission of the operations of the Madsen Auto Line, from the time their schedule was filed in 1921, until after the present application was filed, and that too in spite of the fact that a year has passed since the Legislature added to the Utilities Act taxing "all operators engaged in the business of transporting passengers or freight, merchandise or other property for compensation or hire by means of motor vehicles." It is true, however, that since the filing of the present application, the Madsen Auto Line has made an estimate of the passengers and freight hauled, and have paid the per passenger and per ton mile tax, and are at present filing reports monthly. No liability or property insurance, however, required of all certificate holders, has been filed with the Commission.

Section 4818X of the Public Utilities Commission Act of Utah, provides:

> "The Commission shall, in granting of certificates to any automobile corporation for transporting persons or property and persons for compensation, require said automobile corporation to first procure liability and property insurance from a carrier licensed to write liability insurance in the State of Utah, or a surety bond in a carrier licensed to write surety bonds in the State of Utah, on each motor propelled vehicle used or to be used in transporting persons or property and

persons for compensation, in an amount not to exceed $5,000.00 for any recovery for personal injury by one person and not less than $10,000.00, and in such additional amount as the Commission shall determine for all persons receiving personal injury by reason of one act of negligence, and not to exceed $1,000.00 for damage to property of any persons other than the assured, and to maintain such liability and property insurance or surety bond in force on each motor propelled vehicle while so used. Each policy for liability or property damage insurance or surety bond required herein shall be filed with the Commission and kept in full force and effect and failure to do so shall be cause for the revocation of the certificate, provided that in case where the Commission feels it proper it may accept in lieu of liability insurance or surety bond from regularly licensed liability and bonding companies a personal surety bond, provided further that the Commission may accept liability insurance and surety bonds in such sum less than the amount herein named as in its discretion may appear proper where said automobile corporations are operating over highways upon which the State has expended no money in laying out, in improving, or keeping in repair. The Commission shall prescribe the form, terms and conditions of all liability insurance and surety bonds mentioned herein, and where a personal surety or sureties are accepted in lieu of a corporate surety, the Commission shall first satisfy itself that the personal surety or sureties are financially responsible. Said Commission shall also require a satisfactory bond in such amount and in such form and containing such terms and conditions as the Commission may determine, conditioned for the payment of all fees, taxes or charges which may be due the State, or any government unit of the State, under any certificate granted by the Commission and for the faithful carrying out of the conditions of any certificate granted by the Commission."

Since the hearing of this case, at Gunnison, May 18, 1926, the following "Assignment of Rights of Andrew Modeen to Clarence T. Madsen," and also the following "Stipulation" have been filed with the Commission:

"Assignment of Rights of Andrew Modeen"

"Comes now Andrew Modeen, one of the parties to the above entitled proceeding, and hereby informs the Honorable Commission that subsequent to the hearing of said matter, he, the said Andrew Modeen, has sold and conveyed all of his right, title and interest in and to the freight hauling business heretofore conducted by him to Clarence T. Madsen, of Gunnison, Sanpete County, Utah.

"And the said Andrew Modeen hereby stipulates, consents and agrees that said Commission may enter its judgment and decision in said matter, decreeing and granting to the said Clarence T. Madsen, any and all rights, privileges and permits to operate a freight line between Centerfield, Gunnison and Gunnison Station, to which he, the said Andrew Modeen, is or might be entitled.

"Dated at Gunnison, Utah, this 19th day of July, A. D. 1926.

(Signed) ANDREW MODEEN."

"STIPULATION"

"Comes now Jesse L. Bartholomew, the above named applicant, and Clarence T. Madsen, for himself as one of the objectors in said matter, and as assignee of the interests of Andrew Modeen the other of said objectors, and hereby stipulate and agree as follows:

"1. That the said applicant Jesse L. Bartholomew is entitled to the exclusive right and privilege of carrying all passengers and express, including the Oswell Beck freight, over and along the route and between the points mentioned in his application herein filed.

"2. That the said objector, Clarence T. Madsen, is entitled to the exclusive right and privilege of carrying all freight, except the Oswell Beck freight, over and along said route.

"3. That this stipulation is made and entered into subject to the approval of the Public Utilities Commission.

"4. That if the said Public Utilities Commission approves this stipulation and agreement, it is further stipulated and agreed that said Commission may enter its judgment and decision in said above entitled matter, decreeing and granting to the said Jesse L. Bartholomew the exclusive right, permit and privilege of carrying all passengers and express over and along the said route and between the points mentioned in said application, and decreeing and granting to the said Clarence T. Madsen, the exclusive right, permit and privilege of carrying all freight between said points and over and along said route.

"5. That each of said parties agree that they will not in any manner interfere with the business of the other, and that they will not in any manner compete with the other in the operation of said respective businesses.

"Dated this 19th day of July, A. D. 1926.

(Signed) JESSE L. BARTHOLOMEW,

CLARENCE T. MADSEN."

The Commission, after considering all material facts, finds, that owing to the failure of A. Madsen Auto Line to comply with all of the rules, regulations and requests of the Commission, the rights or privileges to a certificate of convenience and necessity held or supposed to be held by said auto line, should be cancelled, and that the application of Jesse L. Bartholomew should be granted and a certificate of convenience and necessity issued authorizing him to operate an automobile passenger and express line from Centerfield to Gunnison Railroad Station, via Gunnison, and to charge as per the schedule filed with the Commission.

An appropriate order will be issued.

(Signed) THOMAS E. McKAY,

We concur:

(Signed) E. E. CORFMAN,

[SEAL] G. F. McGONAGLE,

Attest: Commissioners.

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity
No. 278

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 9th day of October, 1926.

In the Matter of the Application of JESSE L. BARTHOLOMEW, for permission to operate an automobile passenger, express, and freight line between Centerfield and Gunnison Railroad Station, via Gunnison, Utah. } CASE No. 872

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

IT IS ORDERED, That the right of the A. Madsen Auto Line to operate an automobile passenger, express and freight service between Centerfield and Gunnison Railroad Station, via Gunnison, Utah, be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That Jesse L. Bartholomew be, and he is hereby, granted permission to operate an automobile passenger and express line between Centerfield and Gunnison Railroad Station, via Gunnison, Utah.

ORDERED FURTHER, That applicant, Jesse L. Bartholomew, 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of OREN P. TYRELL and WILBER BARNEY, Co-partners, doing business as TYRELL & BARNEY, for permission to operate an automobile freight and express line between Salt Lake City and all points in Bingham Canyon, Utah.	CASE No. 873

Submitted June 8, 1926. Decided November 5, 1926.

Appearances:

R. B. Thurman,	for Applicants.
Dan B. Shields,	for W. D. Allen, Protestant.
L. E. Gehan,	for American Railway Express Co., Protestant.
VanCott, Riter & Farnsworth,	for Denver & Rio Grande Western R. R. Co., Protestant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, before the Commission, on the 9th day of April, 1926, at Bingham, Utah, after due and legal notice given, upon the application of Oren P. Tyrell and Wilber Barney, Co-partners, doing business as Tyrell and Barney, praying that a certificate of convenience and necessity issue to them to operate an automobile freight and express line between Salt Lake City and all points in Bingham Canyon, Utah.

At the conclusion of the hearing in this case, the applicants requested further time, in order that they

might be able to submit additional testimony, and, if possible, that the hearing be held in Salt Lake City. This request of applicants was granted and the case set for further hearing, May 5, 1926, at the office of the Commission, 303 State Capitol, Salt Lake City, Utah. Subsequently, it developed that the above date was not satisfactory, and, upon motion of the Commission, the time of hearing was changed to June 8, 1926, at which time the case was continued and additional evidence received.

The Commission, after a thorough investigation and after due consideration of all the evidence adduced by the respective parties at the hearings, now reports and finds as follows:

That Oren P. Tyrell, one of the applicants, is a resident of and has his principal place of business at Bingham Canyon, Utah, and is a duly licensed motor vehicle drayman, doing business in said Canyon, and that Wilber Barney, co-partner in this application, is a resident of Salt Lake City, Utah.

The applicants allege that a present and future necessity exists for the operation of an additional motor freight and express service between Salt Lake City and all points in Bingham Canyon, Utah; that the existing service between said points is inadequate; that there is sufficient business between said points to insure adequate returns upon the investment to be made in the event the application is granted; and that said petitioners are financially able to and will employ ample and suitable motor vehicles for the purpose of rendering efficient service to and in meeting the demands of the public for said motor freight and express transportation.

The protest of W. D. Allen to the granting of the above petition states: That at the present time this protestant is the holder of Certificate of Convenience and Necessity No. 141, issued by the Public Utilities Commission under date of May 31, 1922, and that he has duly filed with said Commission his tariffs, as provided by the rules and regulations of the Commission and the statutes of the State of Utah. That he is operating a regular freight and express service between Salt Lake City and Bingham Canyon, Utah, and all points therein, making regular trips to and from both points; and that he is taking care of the business which is offered, both in Salt Lake City and Bingham Canyon;

and that the establishment of a new service there would have the effect of decreasing the quality of the service. That at the present time, protestant is operating three trucks, and, with these three trucks, he is able to handle all the business that is offered, and that if there should be an increase in the business, he is financially able to provide all the additional equipment that would be required to properly handle the express and freight business between Salt Lake City and Bingham Canyon, Utah. Protestant further states that in addition to the service which he is giving, he is advised that there are two other freight and express services, furnished by the Bingham & Garfield Railroad and the Denver & Rio Grande Western Railroad.

In the protest filed by the Denver & Rio Grande Western Railroad Company, it is alleged as follows: That said Company is a common carrier, operating an interstate line of railroad between Denver, Colorado, and Ogden, Utah, and intermediate points, with numerous branch lines, among which is a branch line known as the Bingham Branch, from Midvale, Utah, to Bingham, Utah; that protestant operates a freight service for less-than-carload lots of merchandise from Salt Lake City to Bingham, semi-weekly, such merchandise leaving Salt Lake City on Monday and Friday evenings and arriving at Bingham on Tuesdays and Saturdays at about One P. M.; and that the Bingham & Garfield Railroad Company also operates a freight and express service between Salt Lake City and Bingham, Utah.

The American Railway Express Company, also a protestant, alleges that said company is a common carrier, conducting a daily express service between Salt Lake City and Bingham Canyon, and that said service is ample, commodious, convenient and efficient, and that no need exists for additional service between the aforesaid termini.

The evidence submitted on the part of petitioners was to the effect that the applicants, Oren P. Tyrell and Wilbur Barney, propose, in the event the certificate applied for is issued, to operate a motor freight and express service between the points aforesaid, upon the following schedule:

Leave		Arrive	
Bingham Canyon	7:00 A.M.	Salt Lake City..	9:00 A.M.
Bingham Canyon	2:30 P.M.	Salt Lake City..	4:30 P.M.
Salt Lake City..	9:30 A.M.	Bingham Canyon	11:30 A.M.
Salt Lake City..	5:00 P.M.	Bingham Canyon	7:00 P.M.

The schedule of rates, charges, and classifications for transportation of property, will be filed later.

To sustain the allegation that the present auto freight and express service between the points mentioned was inadequate, witnesses were produced on petitioners' behalf who testified that the convenience of the public would be better subserved by having competing auto freight lines and a larger number of cars moving with greater frequency over the route under consideration. Witnesses also testified that W. D. Allen, present operator of the auto freight and express line between Salt Lake City and Bingham, Utah, under Certificate from the Public Utilities Commission, was not always as accommodating as he should be, and that money received for C. O. D. express in one or two cases had been unnecessarily long in delivery, and had, theretofore, caused some embarrassment on the part of consignee.

W. D. Allen, present owner of the automobile freight line between Salt Lake City and Bingham, Utah, testified that the equipment furnished for the service at the present time was adequate and fully met and provided for the convenience and all the needs of the shipping public; and that if in the future the business required it, he was in a postion to and would furnish added equipment; that no complaint, as far as he knew, had ever been made to the Public Utilities Commission against his present service; that it was his aim to give the public adequate, prompt, and courteous service, and that at the present time there is no necessity for additional service, and that a competing automobile freight and express line would tend to impair the service now being accorded to the public.

It appears, from all the circumstances and facts developed at the hearing, that there is not at the present time any public necessity, as contemplated by the Public Utilities Act, for an additional automobile freight and express line between the City of Salt Lake and Bingham

Canyon, and, therefore, the application of Oren P. Tyrell and Wilber Barney, co-partners, should be denied.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 November, 1926.

In the Matter of the Application of OREN P. TYRELL and WILBER BARNEY, Co-partners, doing business as TYRELL & BARNEY, for permission to operate an automobile freight and express line between Salt Lake City and all points in Bingham Canyon, Utah.	CASE No. 873

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

IT IS ORDERED, That the application here of Oren P. Tyrell and Wilber Barney, Co-partners, be, and it is hereby, denied.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SALT LAKE & UTAH RAILROAD COMPANY (Henry I. Moore and D. P. Abercrombie, Receivers) for permission to make effective certain adjustments in rates and minimum weights as contained in Local Freight Tariff No. 19-F, P. U. C. U. No. 53. } CASE No. 874

Submitted March 17, 1926. Decided March 29, 1926.

Appearances:

A. A. Wilson,
Aldon J. Anderson,
} for Salt Lake & Utah Railroad Co., (Henry I. Moore and D. P. Abercrombie, Receivers.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of February 8, 1926, the Salt Lake & Utah Railroad Company (Henry I. Moore and D. P. Abercrombie, Receivers) filed with the Public Utilities Commission of Utah, Local Freight Tariff G. F. O. No. 19-F, P. U. C. U. No. 53. Said Tariff provides minimum weights on grain, grain products, and non-grain products which appear to be increases. Said tariff contains also a restriction that rate shown for beet pulp applies on wet beet pulp only.

Upon receipt of said tariff, the Commission proceeded to inform all interested parties of the proposed increases.

After giving due consideration to all of the evidence, the Commission finds: That the establishment of the minimum weight provisions is for the purpose of bringing about uniformity in tariffs; that beet pulp is shipped only in a wet condition; that there appears to be no opposition to allowing said tariff to become effective; that said tariff should be permitted to go into effect.

IT IS THEREFORE ORDERED, That Salt Lake & Utah Railroad Company (Henry I. Moore and D. P. Abercrombie, Receivers) Local Freight Tariff G. F. O. No. 19-F, P. U. C. U. No. 53, be, and it is hereby permitted to go into effect.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UNION PACIFIC RAILROAD COMPANY, for permission to allow minimum weight on Portland cement, from Bakers, Devil's Slide, and Salt Lake City, Utah, to Wendover, Utah, and points on lines of the Southern Pacific Company, in Utah, to remain in effect.	CASE No. 875

Submitted March 25, 1926. Decided April 3, 1926.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of April 14, 1925, the Union Pacific Railroad Company filed with the Public Utilities Commission of Utah, Supplement No. 2 to U. P. R. R. Tariff No. 6027-A, P. U. C. U. No. 102. Said supplement provides for increased minimum weight on Portland cement, from Bakers, Devil's Slide, and Salt Lake City, Utah, to Wendover, Utah, and points on the lines of the Southern Pacific Company in Utah.

Upon receipt of said supplement, the Commission proceeded to inform all interested parties of the proposed increase.

After giving due consideration to all of the material facts, the Commission finds: That the establishment of the increased minimum weight is to place the Utah factories on a similar basis with California producing plants; that there appears to be no opposition to permitting said minimum weight to remain in effect, subject to further investigation.

IT IS THEREFORE ORDERED, That the minimum weight on Portland cement from Bakers, Devil's Slide, and Salt Lake City, Utah, to Wendover, Utah, and points on lines of the Southern Pacific Company in Utah, be, and it is hereby, permitted to remain in effect, subject to further investigation.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 30th day of March, A. D. 1926.

UTAH LAKE DISTRIBUTING COMPANY, ET AL.,
Complainants,
vs.
UTAH POWER & LIGHT COMPANY, a Corporation,
Defendant.
} CASE No. 876

Application having been made for an order extending the terms of order of March 29, 1922, Case No. 441, the rates or charges for pumping purposes to October 31, 1926:

IT IS ORDERED, That rates or charges for pumping purposes as covered by order dated March 29, 1922,

in Case No. 441, be in effect until October 31, 1926.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to increase its fares.	CASE No. 877

Submitted April 30, 1926. Decided May 19, 1926.

Appearances:

For Applicant:

John F. MacLane, George R. Corey and E. M. Bagley, Attorneys,	for Utah Light & Traction Company.

For Protestants:

William H. Folland, City Attorney,	for Salt Lake City.
George M. Cannon, Jr., Assistant County Attorney,	for Salt Lake County.
Fred R. Morgan, Murray City Attorney,	for City of Murray.
John E. Pixton and S. E. Bringhurst, Attorneys,	for Certain Citizens of Murray.
William H. Waters, Attorney,	for Cities of Sandy and Midvale.

Joseph F. Merrill, Dean of School of Engineering,	for University of Utah.
George N. Child, Superintendent,	for Salt Lake City Public Schools.
Guy C. Wilson, President and Kenneth Farnsworth, Esq., representing its student body,	for Latter-Day Saints University.
C. R. Nelson, Superintendent of Motor Transportation,	for Jordan High School.
Mrs. William Reid,	for Parent-Teachers' Association.
Mrs. A. H. S. Bird,	for Catholic Schools of Salt Lake City.
Mrs. F. H. Allen,	for Wasatch Literary Club of Salt Lake City.
John Hansen, President,	for Salt Lake County Farm Bureau.
Jesse W. Fox,	for Central Park Ward, Salt Lake City.
Brigham Clegg, Attorney,	for Certain Individuals, Citizens and Taxpayers of Salt Lake City.
John R. Tanner, et al., Committeemen, C. P. Stoney and John Berry,	for Workingmen, Women and Children of Salt Lake City and County.

William H. Kershaw, Civil Engineer,	for Certain Taxpayers, Residents, Property Owners and carriders of Salt Lake City.
B. W. Davis, Mrs. Ellen E. Parkinson, Lilly M. Bennett, H. W. Bennett, Beatrice H. Bennett, Carl Wuthrich, Aaron Mecham, R. K. Hughes, John N. Pike, and Fred L. W. Bennett,	for Certain Citizens and for themselves individually.
J. R. Robinson, Assistant Attorney General,	for State of Utah.

REPORT OF THE COMMISSION

By the Commission:

On the 30th day of March, 1926, the Utah Light & Traction Company, of Salt Lake City, Utah, filed with the Public Utilities Commission of Utah, its Local Passenger Tariff No. 8, effective thirty days, increasing its street car fares from Seven Cents to Ten Cents for cash fares, Six and one-fourth Cents to Eight and one-third Cents for ticket (token) fares, four cents to five cents for school ticket fares; and making its unlimited weekly pass at the present rate of $1.25 per week, Salt Lake City zone, permanent and a part of the regular tariff, the same having been heretofore temporary and subject to withdrawal.

Accompanying said tariff was the usual application, stating the applicant's grounds for the rate increases, and the applicant's request that the tariff be kept open for thirty days' inspection by the public, and that thereupon it be permitted to become effective; that meanwhile, a public hearing be had before the Commission, for the purpose of enabling the applicant to justify the proposed rate increases, in the manner provided by the Public Utilities Act, and, if such hearing be not completed within thirty days, that a temporary order issue approving said rate increases, pending final hearing upon the merits of the application.

Briefly stated, the application sets forth that the Utah Light & Traction Company is a "street railroad corporation," as defined by the Public Utilities Act of Utah, and that it owns and operates a street railway system in Salt Lake City and in Salt Lake County; that the applicant also owns and operates approximately nine miles of standard gauge, single track street railway in Davis County, Utah, extending from the north limits of Salt Lake City and County, in a general northerly direction to and through the City of Bountiful and to the Town of Centerville, in Davis County, Utah, which applicant has heretofore petitioned the Public Utilities Commission to be permitted to abandon.

That the applicant's present Local Passenger Tariff P. U. C. U. No. 7, as fixed by the Commission in Case No. 267, in effect since July 3, 1920, with such supplementary changes as have since been made thereto, is inadequate and does not enable the applicant to earn a fair return on the value of its street railroad system and properties, used and useful in street railway service.

That the value of applicant's property as of December 31, 1925, to January 1, 1926, on the basis of the Commission's appraisal in said Case No. 267, is, including additions and betterments, $9,138,235.87; but that its present value is in fact approximately $13,000,000.00.

That on the actual present value of applicant's property for the past three years, the net earnings under said Tariff No. 7, have yielded less than 2%.

That the application and enforcement of the present Tariff No. 7 has resulted, ever since the establishment thereof, in depriving applicant of its property, without due process of law, and denying to it the equal protection of the laws, in violation of the Fourteenth Amendment of the Constitution of the United States and similar provisions of the Constitution of the State of Utah, and that as long as said Tariff No. 7 is continued, the result will be confiscation of applicant's property. It is further alleged in the application that the applicant is confronted with an immediate substantial increase in its operating expenses by reason of extension requirements for repair and maintenance, to wit:

(a) An expenditure of $70,000 per year for repair and maintenance of paving upon the streets

of Salt Lake City, above the amounts heretofore annually required to be expended for such paving.

(b) Increased wages amounting to $25,000.00 per year.

That the result of these required additional expenditures will be to reduce the applicant's net earnings, upon the present Commission valuation of applicant's railway system, to less than one per cent per annum, and that applicant cannot continue to meet its public service obligations upon the present rate of fares, nor on any less rate than those now proposed by it in its said proposed Tariff No. 8, filed with the Commission, March 30, 1926.

Numerous protests were made and filed to the application, particularly on the part and in the behalf of Salt Lake City, Murray, Midvale, and Sandy, municipal corporations; by Salt Lake County; by representatives of the various schools, public and private; by various civic organizations and by representatives of the general public. Some of the protestants challenged the right of the applicant to any rate increases whatsoever, under existing conditions and circumstances, while others, admitting that the applicant was not earning an adequate return on its capital investment, protested only upon the grounds that the proposed tariff is inequitable and unfair as to certain classes of street car riders.

The matter came on regularly for hearing before the Commission, upon the application and the several protests filed thereto, at its offices in the State Capitol, Salt Lake City, Utah, on the 12th day of April, 1926, due notice thereof having been given to the public for the time and in the manner required by law. The hearing was continued from time to time and was finally concluded and the case taken under advisement by the Commission on the 30th day of April, 1926.

From the evidence adduced at said hearing, the Commission finds the facts to be:

1. That the applicant, Utah Light & Traction Company, is a corporation, duly organized and existing under the laws of Utah; and is a "street railroad corporation" and as such a "common carrier" and "public utility," owning and operating a "street railroad," all as defined by and subject to the provisions of the Publict Utilities Law of Utah, as embraced in Title 91, Compiled Laws of Utah, 1917.

2. That the applicant owns and operates a street railroad system in Salt Lake City and in Salt Lake County, consisting of approximately one hundred fifteen (115) miles of standard gauge, single track, within the limits of Salt Lake City, rendering street car service in Salt Lake City, and twenty (20) miles of standard gauge, single track, extending southward from the south limits of Salt Lake City, through and rendering street car service to the Cities of Murray, Midvale, and Sandy, in Salt Lake County, and from the south limits of Salt Lake City to and rendering street car service to the country settlement known as Holliday, in Salt Lake County.

3. Applicant also owns and operates as a part of its aforesaid street railroad system, a street railroad consisting of approximately nine (9) miles of standard gauge, single track railway, extending from the north limits of Salt Lake City, in Salt Lake County, in a northerly direction, through and serving the City of Bountiful and the Town of Centerville, Davis County, Utah; but that applicant has pending before the Public Utilities Commission an application to be permitted to abandon and discontinue the giving of further service to the cities and towns at present served by this line.

4. That the applicant owns and operates, in connection with its street railroad lines, overhead electric trolley lines, substations, cars, car-barns, shops, and all the necessary appurtenances for a complete electrically equipped and operated street railroad system.

5. That the applicant also owns an electrical power generating plant, under lease since 1915 to the Utah Power & Light Company, an "electrical corporation" doing business as such in the State of Utah, from which it purchases electrical energy, used in the operation of its street railroad system, at the same rates as have been approved by the Public Utilities Commission and as are charged other Utah consumers for similar service.

6. That the fair value of the applicant's street railway system, used and useful in giving public service, as fixed and determined upon the basis of historical cost, by the Commission in Case No. 44, January 15, 1920, was found to be $8,468,278.64, as of June 30, 1918; that since June 30, 1918, additions and betterments have been made and added to from time to time to the system by the applicant, which produce a present

total valuation on the basis of the Commission's former valuation of $9,138,235.87, as of December 31, 1925.

7. That the present tariff P. U. C. U. No. 7, under which the applicant is now giving street car service, was approved and established by the Commission in Case No. 267, by its order dated June 29, 1920, effective July 3, 1920; said Tariff No. 7, with supplements subsequently made thereto, provides for, within certain approved limitations, the following fares:

> One-way cash fare on any line within the City limits of Salt Lake City,—Seven (7) Cents.
>
> Commutation tickets of sixteen (16) for One Dollar ($1.00), in lieu of a Seven Cent (7c) cash fare.
>
> Commutation tickets of fifty (50) fares for Two Dollars ($2.00) to students of public schools.
>
> An unlimited-ride, weekly pass, allowing the bearer thereof an unlimited number of street car rides for himself, through one fare zone on the street car system, from 4:00 A. M., Sunday of any one week, to 1:00 A. M., Sunday of the following week, for One and 25-100 Dollars ($1.25).

8. That under said Tariff No. 7, after deducting operating expenses from gross revenue, the average rate of return earned on the capital investment of the applicant's street railway system, based upon the value for rate-making purposes as fixed and determined by the Commission's order of January 15, 1920, in Case No. 267, and including the net added costs for additions and betterments since June 30, 1918, for a five year period, from January 1, 1921, to December 31, 1925, was as follows:

For	1921	3.46%
	1922	3.66%
	1923	2.51%
	1924	2.20%
	1925	2.29%

after deducting depreciation charges as allowed by the Commission, an average return for the past five years of 2.82%.

9. That the operating costs of the applicant's street car system are at the present time, and for some future

years will be, increased to approximately the sum of $90,000.00 per annum, by reason of the requirement of Salt Lake City; that deferred improvements of and repairs to the public streets of Salt Lake City be made by applicant, amounting to approximately $65,000.00 each year, and by reason of the increased wage scale of applicant's employes, amounting to approximately $25,000.00 annually.

10. That the street car system of the applicant is under competent and efficient management. It has, since the order made by the Commission, January 15, 1920, fixing the property value of its street car system at $8,468,278.64, and its fares as provided for in Tariff No. 7, inaugurated and practiced as many new operating economies as might be regarded consistent with the furnishing of efficient street car service.

11. That for the fiscal year 1925, the State Board of Equalization fixed, for taxation purposes, the valuation of the applicant's street car system at $4,144,193.00; for the present year, 1926, at $3,171,250.00, a reduction of approximately $1,000,000.00, or 23.48%, which will result in a saving to the applicant in its operating expenses for 1926 of about $30,000.00.

12. That Salt Lake City has a population of approximately 120,000; Murray City, 4,584; Midvale, 2,209; Sandy, 1,208, and the territory served by applicant's street car system, outside of these cities, approximately 4,000.

13. That the students in attendance at the public schools and the various other educational institutions within the territory served by the applicant's street car system, use the street cars at least twice daily during each school week,—in the morning and afternoon hours, when there is little other traffic.

14. That certain portions or lines of the applicant's street car system, notably the Centerville line, are, comparatively speaking, operated at a very heavy loss.

15. That the proposed Tariff P. U. C. U. No. 8, under which the applicant now seeks to give street car service, provides for, within certain limitations, the following fares:

One-way cash fare on any line within the City limits of Salt Lake City . . Ten Cents (10c)

Commutation tickets or tokens of three for . . . . . Twenty-five Cents (25c) in lieu of a Ten Cent (10c) cash fare.

Commutation tickets of forty (40) fares for . . . . . Two Dollars ($2.00) for students attending institutions of learning.

An unlimited-ride, weekly pass, allowing the bearer thereof an unlimited number of street car rides through one fare zone on the street car system, from Four o'clock A. M., Sunday of any one week to Four o'clock A. M., Sunday of the following week, for One and 25-100 Dollars ($1.25)

The foregoing are the controlling facts found from the record of the evidence heard at the hearing and investigation of the matters involved concerning applicant's proposed rate increases. Further facts found in the record, not so material in and of themselves, will be mentioned and incidentally referred to in connection with the consideration of the main facts hereintofore set forth, and the principles of our regulatory laws applicable thereto.

At the very threshold, it must be conceded that the street railway system of the applicant is not, under the existing economic conditions and the facts and circumstances confronting it, earning sufficient revenue to enable it to continue rendering the efficient street car service that the thriving and progressive cities and communities served by it demand. The price of rendering street railway service, or that of any commodity sold to a consumer, necessarily must be fixed and made up largely according to the cost of the material and labor entering into it, plus a reasonable return on the capital investment.

The cost of material and labor respond to the purchasing power of the dollar. Materials must be bought and paid for at market prices by the owner of the system. Labor is entitled to a just reward. Capital will not lend its aid unless given some assurance of a fair return on its investment. Questions of a proper rate or fare to be charged for street car service, have been frequently engaging the attention of state regulatory bodies, since pre-war days. Owing to economic condi-

tions during the past few years, practically all of the larger cities, notably Baltimore, Boston, Cincinnati, Cleveland, New Orleans, Newark, and Seattle, have had to increase their fares. Chicago and New York City are considering increases and ultimately will, it is conceded, have to do so. Cities the size of Salt Lake City, where competition of the private automobile is felt more keenly, have had to increase their fares even with greater frequency than the larger metropolitan centers.

Historically, little need be said concerning the applicant present here. The applicant is a successor in title and ownership of street railways and other public utilities formerly owned and operated by some twenty public service corporations. Its bonded indebtedness, franchise rights, property values, and other factors, that might be incidentally involved in a rate-making case or adjustment, need not be regarded or considered in this case.

In Case No. 6, decided December 29, 1917, soon after the Public Utilities Act became effective, the franchise question was presented, whether the franchise provisions limiting the rate of fare to a five cent cash fare, with four cent commutation tickets, were binding upon the Commission so as to preclude its fixing reasonable fares as between the utility and the public it serves, in accordance with the requirement of the Act, was passed upon, and it was then held that the Legislature had intervened by creating the Public Utilities Commission of Utah, and had invested the Commission with the power "to revise, if necessary, rates, fares, and charges fixed by franchises, as well as all other rates, fares and charges of any and all public utilities." This case was reviewed and affirmed by the Supreme Court of Utah in Salt Lake City vs. Utah Light & Traction Company, 173 Pac. Rpt., 556, P. U. R. 1918 F, 377.

In 1918, the street car fares of the applicant were again before the Commission, and in that case, decided August 9, 1918, reported in P. U. R. 1918-F, Page 718, fares were increased to six cents cash fare, with twenty commutation tickets for $1.00. Further in that case, applicant was ordered by the Commission to make a valuation of its properties. A valuation was made and reported to the Commission, the result of which was that the Commission fixed the fair value of the applicant's properties for rate-making purposes, as of June 30.

1918, at $8,468,278.64. This decision is reported in P. U. R. 1920-B, 262.

On June 29, 1920, in Case No. 267, P. U. R. 1920-E, 833, the Commission fixed the present rate of fares as shown by P. U. C. U. Tariff No. 7, and further provided that the applicant should establish an accounting system in conformity with its order when made. The results of operation under Tariff No. 7 have failed to yield an adequate return upon the value of applicant's property as fixed in Case No. 44. The evidence in this case and the reports made under the reporting system prescribed by the Commission, as carefully checked and audited by the Commission's auditor, are absolutely conclusive of that fact. It is contended by the applicant that the present physical value of its property used and useful in rendering street car service, is approximately $14,000,000.00, and that as a matter of law, it would be entitled to earn a fair return on that value.

We are cited to an unbroken line of court decisions holding that in finding the value of a public utility property for rate-making purposes, regulatory bodies must consider the present value; that is to say, reproduction costs new must be regarded as the dominant factor. We cite but a few of the leading cases that so hold:

> Bluefield Waterworks and Improvement Company vs. Public Service Commission of West Virginia, et al., 262 U. S., 679, 67 L. ed. 1176, decided June 11, 1923.
>
> Georgia Railway & Power Company vs. Railroad Commission of Georgia, 278 Fed. 242, decided January 26, 1922; affirmed U. S. Supreme Court, 262 U. S. 625, 67 L. ed. 1144, decided June 11, 1923.
>
> Southern Bell Telephone & Telegraph Company vs. Railroad Commission of South Carolina, 5 Fed. (2d) 77, decided April 30, 1925.
>
> Duluth Street Railway Company vs. Railroad & Warehouse Commission of Minnesota, et al., 4 Fed. (2d) 543, decided December 27, 1924.
>
> Ohio Utilities Company vs. Public Utilities Commission, U. S. Supreme Court Adv. Sheets 1924-25, No. 10, Page 293, decided March 2, 1925.

Banton vs. Belt Line Railway Corporation, U. S. Supreme Court, Advance Sheets 1924-25, No. 16, Page 650, decided May 26, 1925.

As to what constitutes a fair return on the value of property devoted to public service, under ordinary conditions and circumstances, the courts have generally held that the minimum rate allowed should be approximately eight per cent per annum. We cite:

New York & Queens Gas Co. vs. Prendergast, 1 Fed. (2d) 351, 370, decided June 16, 1925 (8% return).

Wilcox vs. Consolidated Gas Co., 212 U. S. 19, 53 L. ed., 382, 398.

Houston Electric Co. vs. City of Houston, et al., 265 Fed. 360, 365, decided March 13, 1920 (8% return).

Mobile Gas Co. vs Patterson et al., 293 Fed. 208, 221, decided October 31, 1923 (8% return).

Milwaukee Electric Railway & L. Co. vs. Railroad Commission of Wisconsin, 171 N. W. 746, P. U. R. 1919-E, 223, 229 (7½% return).

Georgia Railway & Power Co., et al., vs. Railroad Commission of Georgia, et al., 262 U. S. 625, 67 L. ed. 1144, decided June 11, 1923, (7¼% return).

State Public Utilities Commission, ex rel., City of Springfield vs. Springfield Gas & Electric Co., 125 N. E. 891, P. U. R. 1920-C, 640, 662, decided December 17, 1919, (7% return).

Pacific Gas & Electric Co. vs. City & County of San Francisco, et al., 275 Fed. 937, 943-946, decided June 3, 1921; affirmed 265 U. S. 403, 68 L. ed., 1075, decided June 2, 1924 (7% return).

In citing the foregoing cases, we do not wish to be understood as doing so, even approvingly. Heretofore this Commission has not ruled in any case what may be regarded, generally speaking, as a fair percentage of return. We cite the cases for the mere purpose of showing what the courts oftentimes have regarded as just and reasonable. We prefer not to stand committed

to a particular rate, and to leave the question an open one, dependent upon the conditions and circumstances of each particular case.

We do hold, however, that under the firmly established facts in this case, that the applicant is not earning a fair rate of return on its investment, as viewed in the light of the decisions of every commission and court of which we have any knowledge, passing on similar facts and conditions with which we are now confronted.

Again, the applicant is not seeking rate of return in this case predicated on present value of its street car system, but upon a property valuation, fixed upon historical cost found by the Commission, with additions and betterments.

CHARGES FOR ELECTRICAL POWER

It appears that the applicant has for many years last past been leasing certain power properties owned by it to the Utah Power & Light Company.

It has been surmised therefore by some of the protestants that for that reason the applicant may be paying excessive rates for power used in the operation of its street car system. The facts developed in this case conclusively show that the applicant is paying the standard rates of the Utah Power & Light Company for similar service charged its customers and no more. As to the reasonableness of those rates, the Commission has heretofore passed upon in Case No. 248, being a general power rate case, reported in P. U. R. 1921-C, 294. However, the matter of reasonableness of the charges for power was again gone into in this investigation and nothing has been developed tending to show that the established rates of the Utah Power & Light Company as charged the applicant are from any standpoint unfair or unjust. Moreover, the evidence stands uncontradicted that the failure of the applicant to operate its own power plants in no way contributes to its failure to earn a fair return, or to show that there would be, in any way, a saving in its operating costs if depending on its leased power plants for generating the power used by its street car system.

RETURNS ANTICIPATED FROM PROPOSED TARIFF NO. 8

Applicant has submitted in this case its "Exhibit F," showing the anticipated returns from its proposed fares: 10 Cents cash fare, 8 1-3 Cents token, 5 Cents student tickets, and $1.25 weekly pass. From this exhibit it is anticipated that the applicant would receive a total annual operating revenue of $2,146,255.20, and its operating expenses would be $1,549,400.00, and that after setting aside for depreciation an amount of $184,-709.85, there would remain the net amount of $412,-145.35, or a return of 4.51% upon the Commission's rate base or value of $9,138,235.87.

The results obtainable from any proposed schedule are always problematical. Rate increases, it may be safely said, never tend to an increased patronage, unless improvement of the service follows. The results, temporarily at least, mean the falling off of some patronage. The applicant here is in competition with the privately owned and operated automobile. People ride as best suits their convenience and pleasure, and they have a perfect right to do so. Very few are in the present day dependent on the street car for transportation service alone. We do not venture a prediction at this time what the effect of increased rates may have upon the earnings of the applicant's street car system. One thing may be safely asserted, however, and that is, upon the showing made in this case, if Salt Lake City and the neighboring cities and communities are to be adequately and efficiently served by the applicant's street car system, some increased earnings must follow from its operations. Allowances may be made under existing conditions and circumstances for reduced taxation, the abandonment of its most unprofitable lines, and for the practice of some further operating economies, and, all told, some increases and adjustments of the applicant's present tariff will remain necessary, if ultimately, it will not have to discontinue the rendering of street car service.

REASONABLENESS OF PROPOSED TARIFF NO. 8

It is a well established principle and understood by everybody that fares should be commensurate with the cost of operating a public utility, and pay a fair

rate of return to those who have risked their money to provide facilities for rendering public utility service. Car fares bear a direct relation to efficient service, and efficient service, in the last analysis, means all the comfort and convenience to the car-rider that is generally desired. When provision for efficient service has been provided for, then the matter of adjustment of rates so as to make them fair and equitable as between the different classes of car-riders, must be taken care of, and this presents some very difficult problems. Fares, of course, from the standpoint of the public interest, should be, as nearly as possible, so adjusted as to meet the needs and requirements of both the car-riders and the utility that serves them.

While it oftentimes becomes quite necessary in making rate adjustments, for a regulatory body like ours, functioning as it is without any well organized expert staff, to place much dependence upon the reports and estimates made by the utility, in order to determine and reach a proper conclusion as to the justness and feasibility of a proposed tariff, and in this case particularly, we are having to do so, after applicant, with the utmost fairness, has rendered every report and estimate desired, and placed at our disposal its office files, books and accounts, upon which its experienced experts have candidly based their conclusions, we still question in some particularls, at least, the fairness, reasonableness and advisability of making its Tariff No. 8, as presented effective. Fortunately, it may be truly said, many of the protestants appearing before the Commission in this case on behalf of the public, have lent a laboring oar, and by careful examination and conscientious study of the applicant's exhibits, in the light of the evidence in the case, given the Commission the benefit of that which may well be regarded as their unbiased views concerning the proposed rate adjustments. While with them, as with those representing the applicant, we cannot entirely agree, nevertheless, we must acknowledge that their service has been in many ways most helpful. Coming now directly to the rates under consideration:

First. The Ten Cent Cash Fare, as proposed by applicant, seems to be the most seriously questioned by the protestants, aside from the proposed advance in the school student rate. The question arises: should the occasional car-rider be charged more than the frequent

car-rider? At first blush, it may appear that the rate of Ten Cents paid by the occasional rider and the three fares for twenty-five cents or token rate paid by a more frequent rider, results in discrimination between individual patrons. Actually and in fact, there can be no discrimination between these two classes of patrons because they are afforded precisely the same privilege of purchasing street car rides in quantites, if they are so disposed. The determining factor of the reasonableness of any rate schedule, must be the average rate of fares. The street car service is made available to all users alike, and the cost of giving it, in the last analysis, should be, as nearly as may be, borne equitably among the several classes of users. The purchaser of any commodity in the commercial world usually pays according to the quantity purchased. So too, the car-rider tends to help and maintain the street car system in proportion to the quantity or frequency of the rides, and he should pay accordingly. Then too, the occasional rider, the one who uses the service when the weather is inclement, his automobile out of repair or in some case of emergency, has the same convenience afforded him as has the frequent rider without whose many contributions a street car system could not be financed and made possible at all. Then again, the Ten Cent fare will be paid in contribution to the maintenance and operation of the system, as a general rule, by those who can best afford it, rather than the many whose daily occupations bring them insufficient means to provide automobile transportation.

An estimate, based on the experience of other cities where the ten cent cash fare is in effect, under practically the same schedule as will be approved and made effective in this case, shows that in all probability the occasional street car-rider will not contribute more than 5% of the revenue required to adequately and efficiently maintain the street car system of the applicant. For the reasons stated, the ten cent cash fare in the proposed Tariff No. 8 will be approved and allowed.

Second. The Ticket or Token Rate of three fares for twenty-five cents, we think will tend to reduce the number of patrons paying the ten cent cash fare to comparatively a few. These fares will also be ordered approved and allowed. We shall require them to be sold on the cars, so that patrons may obtain them without inconvenience to themselves.

Third. It is proposed by applicant's Tariff No. 8 to eliminate the present commutation tickets sold sixteen for One Dollar in lieu of the seven cent cash fare as provided for in the present rate Schedule No. 7. We think the result would be, if allowed, too great a spread between the token fares hereinbefore approved and allowed and the street car pass. Car-riders whose requirements cause them to ride the cars quite frequently, though not enough to make advantageous use of the weekly pass; should not be required to pay the token rate, or resort to the weekly pass.

To meet the disadvantage this class of riders might suffer, we will require the applicant's Tariff No. 8 to provide for commutation tickets of thirteen for $1.00, in lieu of a ten cent cash fare.

Fourth. The proposed school student five cent rate, commutation tickets, forty for $2.00, will be denied. We think, from the standpoint of equitable rates as between the several classes of car users, provided for in the tariff, that the present rate of school student fares, commutation tickets of fifty fares for $2.00, should, as provided for in applicant's Tariff No. 7, be continued. As pointed out in the findings, the students ride the cars during the morning and afternoon hours of each day during each school week, at times when they can be conveniently handled, and there is little other traffic.

Fifth. The applicant's proposal to continue and make permanent, without change in price or otherwise, the weekly pass now effective temporarily, entitling the bearer to unlimited rides during the week at a cost of $1.25 for one zone, $1.75 for two zones, and $2.25 for three zones, will be granted, approved and allowed.

The applicant will be permitted to file and publish a modified and amended rate schedule in accordance with the foregoing, effective within five days.

The applicant should honor outstanding tickets during the month of May, 1926, and should redeem such outstanding tickets in cash after that date at the original purchase price, if the same are presented on or before January 1, 1927.

CONCLUSION

The foregoing rates may or may not meet all the needs and requirements of the applicant. The Commis-

sion cannot, in any case, guarantee the adequacy of rates for the future. Under present conditions and circumstances, they should prove sufficient to enable the applicant to provide adequate and efficient street car service. It is to be hoped they will have the approval of the general public. We believe it is quite as much to the interest of Salt Lake City and the other cities and communities, to preserve and maintain the street car system, as it is to the utility that serves them.

The present rates were clearly shown to be confiscatory. Under such circumstances, it became our sworn duty to grant such increases as we believed would protect the public interest, and in that we have conscientiously tried to perform our duty.

An appropriate order in accordance with the findings and conclusion of this report, will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, May 19, 1926.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to increase its fares. } CASE No. 877

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

IT IS ORDERED, That the Utah Light & Traction Company be, and it is hereby, authorized to charge and

put into effect the ten cent cash fare as proposed in its Tariff No. 8.

ORDERED FURTHER, That the Utah Light & Traction Company be, and it is hereby, authorized to charge and put into effect the ticket or token rate of three fares for twenty-five cents (25c); which tickets or tokens shall be sold on the street cars.

ORDERED FURTHER, That the Utah Light & Traction Company shall issue commutation tickets of thirteen for $1.00.

ORDERED FURTHER, That the proposed school student five cent rate, commutation tickets, forty for $2.00, be, and it is hereby, denied; that the present rate of school student fares, commutation tickets of fifty (50) fares for $2.00 be continued.

ORDERED FURTHER, That the Utah Light & Traction Company be, and it is hereby, granted permission to continue and make permanent, without change in price or otherwise, the weekly pass now effective temporarily, entitling the bearer to unlimited rides during the week at a cost of $1.25 for one zone, $1.75 for two zones, and $2.25 for three zones.

ORDERED FURTHER, That applicant, the Utah Light & Traction Company, shall honor outstanding tickets during the month of May, 1926, and shall redeem such outstanding tickets in cash after that date at the original purchase price, if the same are presented on or before January 1, 1927.

ORDERED FURTHER, That this order shall be effective within five (5) days, on one (1) day's notice to the public and the Commission.

By the Commission.

(Signed) F. L. OSTLER,

[SEAL] Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

PIERCE-ARROW SIGHT SEEING & TRANSPORTATION COMPANY, a Corporation,
Complainant,
vs.
OREGON SHORT LINE RAILROAD COMPANY, a Corporation,
Defendant.
} CASE No. 878

Submitted June 17, 1926. Decided September 11, 1926.

Appearances:

H. L. Mulliner, Attorney, } for Complainant.

George H. Smith, J. V. Lyle, Robert B. Porter and Dana T. Smith, Attorneys, } for Defendant.

REPORT OF THE COMMISSION

By the Commission:

The Pierce-Arrow Sight Seeing & Transportation Company, complainant herein, on the 11th day of March, 1926, filed with the Public Utilities Commission of Utah a complaint, in substance and to the effect that it is regularly engaged in the business of transporting persons for hire in Salt Lake City, Utah, between the various hotels and railroad depots, by means of automobile busses suitable for that purpose; that the defendant, Oregon Short Line Railroad Company, is a railroad corporation, engaged in the operation of a railroad, for which it maintains a terminal depot for the accommodation of its passengers at or near the intersection of South Temple and Third West Streets, in Salt Lake City, Utah; that said City has, by ordinance, accorded to the defendant a portion of a city street, to be used and controlled by defendant in conntction with its affording to the public said passenger depot facilities; that the defendant controls and manages its passenger depot facilities, including the parking spaces in front of its said depot building, so as to practically pre-

clude the complainant and all other capable and efficient automobile carriers of passengers for hire, except one, the Salt Lake Transportation Company, with which it has entered into contractual relations therefor, from serving the traveling public at said railroad terminal.

It is alleged that the said conduct and management of the defendant of its depot facilities is in violation of the statutes of the State of Utah, particularly Section 4789 of the Compiled Laws of Utah, 1917, and is the granting of a preference and adantage, to the prejudice and disadvantage of the complainant; that said conduct and management is subject to control and prevention by the Public Utilities Commission, and that unless the complainant is permitted to occupy a proper parking space at said depot grounds, it cannot continue profitably or at all to operate its transportation system for the benefit of the public.

Complainant prays that an order be made by the Public Utilities Commission, requiring the defendant to give to complainant a stand or parking space at its depot, either on defendant's own ground, or on the publicly owned ground controlled by it at said depot; and further, that the defendant, its officers, servants, and agents, be prohibited from granting any privilege or advantage to the Salt Lake Transportation Company or to any person or corporation, to the prejudice and disadvantage of the complainant's transportation business, and for such other orders as shall be meet and proper in the premises.

Upon the filing of said complaint, the Commission issued its order requiring the defendant to appear and satisfy the matters and things complained of by the complaint. On the 5th day of April, 1926, the defendant filed an answer, denying, generally, that it so manages and conducts its terminal depot facilities as to result in prejudice and disadvantage to the complainant's transportation business; said answer admitting having a contract with the Salt Lake Transportation Company, for the transfer of passengers from the defendant's depot at Salt Lake City, Utah, to other places, and also admitting that the defendant does furnish the Salt Lake Transportation Company certain space upon its own depot grounds therefor. Further, the defendant pleaded that the Public Utilities Commission of the State of Utah has no jurisdiction over the matters and things complained of in the complaint, particularly with respect to its depot in Salt Lake City, insofar as said jurisdiction re-

lates to the matters and things complained of by the complainant, and, therefore, prayed that said complaint be dismissed.

The matter came on regularly for hearing before the Commission, at its office in the State Capitol, Salt Lake City, Utah, on the 12th day of May, 1926. The defendant's motion to dismiss was then taken under advisement, to be considered and passed upon in connection with the facts to be found from the evidence.

From the evidence it appears:

1. That the complainant, Pierce-Arrow Sight Seeing & Transportation Company, is a corporation, duly organized and existing under and by virtue of the laws of the State of Utah, with its principal office and place of business at the Newhouse Hotel, Salt Lake City, Utah.

2. That among other things, complainant is engaged in the business of carrying passengers and baggage for hire, by means of automobile busses, between the hotels and railroad depots, and elsewhere about Salt Lake City, and, as such carrier, affords to the public dependable, commodious and efficient service at all times; that complainant, in giving said service, attends all incoming and outgoing trains at the various railroad depots in said City, including the passenger depot of the defendant, Oregon Short Line Railroad Company.

3. That the defendant, Oregon Short Line Railroad Company, is a corporation, organized and existing under and by virtue of the laws of Utah, and, among other things, it is engaged in operating a standard gauge railroad, which is a part of the Union Pacific Railroad System; that its lines extend through and serve several northwestern states, with one of its principal terminals at Salt Lake City, Utah, where, for the accommodation of the traveling public, it maintains a commodious passenger depot and depot grounds near the intersection of South Temple and Third West Streets.

4. That the main passenger depot of the defendant Company at Salt Lake City, is located across South Temple Street, just west of the west line of Third West Street; that the depot grounds extend north and south therefrom, and also extend east a short distance into and along Third West Street. South Temple Street runs in an east-west direction, and is one of the main thoroughfares passing from the defendant's passenger depot to and through the business center and on and into the

residential sections of the City. Third West Street extends in a north-south direction, and it is also one of the main thoroughfares of the City, much used, after it leaves defendant's passenger depot, for carrying passengers and their baggage between the depot and the various hotels and in the transfers from one railroad depot to another. South Temple and Third West Streets are also much used by automobile busses transporting tourist passengers leaving the transcontinental railroad lines at Salt Lake City for short stops and sight seeing purposes.

That the defendant's terminal depot and grounds at Salt Lake City are so constructed, laid out, and managed that passengers, upon leaving defendant's cars and train-yards, pass through a gateway into the depot building and through via an exit corridor on the north side of the general waiting-room, to the depot grounds and street. The depot grounds are partly maintained on the defendant's privately owned property, and partly on Third West Street, municipally owned, and where Third West intersects with South Temple Street, as before stated.

That the depot grounds, including that portion occupying Third West Street and its intersection with South Temple, are concreted and so platted and constructed as to provide separate and convenient parking spaces for the general public, for mail and baggage carriers and for hotel and transfer passenger busses upon the defendant's depot grounds, which is directly involved in the instant case, designated "Plat B" by defendant, and its location with respect to the passenger exit from the train-yards through the main building to depot grounds and street, together with the stands for hotel and transfer busses, may be more briefly described and illustrated by the following diagram, which is self-explanatory.

That complainant and said Salt Lake Transportation Company are at present the only carriers for hire in Salt Lake City operating hotel pay busses and under said ordinance and the rules and regulations hereinafter mentioned, and, therefore, would be the only carriers entitled to enter said space "B."

5. On the 15th day of November, 1922, the City Commissioners of Salt Lake City passed an ordinance relating to the use and operation of passenger vehicles

for hire upon the streets of Salt Lake City, said ordinance, among other things, provides as follows:

> "*Section* 3. *Permits Required for Stands in Congested Districts.*
>
> "It shall be unlawful for the owner or person in charge of any carriage, omnibus, taxicab, or other passenger vehicle used in carrying passengers for hire, to allow any such vehicle while awaiting employment to stand upon any street in the congested district of Salt Lake City, as defined by ordinance, unless such person shall have procured a permit in writing for such privilege from the Board of Commissioners of Salt Lake City * * *. The Board of Commissioners, upon recommendation of the Chief of Police, is hereby empowered in its discretion to grant permits to the owners or persons in charge of carriages, omnibusses, taxicabs or other vehicles used in carrying passengers for hire, allowing any such vehicle while awaiting employment to stand at certain places designated by the Board of Commissioners upon streets within the congested district of Salt Lake City, which permits shall continue in force and effect until the end of the calendar year in which they are issued, unless sooner revoked by the Board of Commissioners, and at the end of the calendar year such permits shall be void and of no effect. No such permit shall be granted except upon written consent of the occupant of the first floor of that portion of the building in front of which it is desired that such vehicles may stand, or the owner of the real estate or of his authorized agent, in the event there is a building thereon. It shall be unlawful for any owner or occupant of any premises giving written consent, as herein provided, to charge, take, or receive any money, benefit, revenue, or thing of value, as a condition or compensation for or because of the giving of such consent for any such vehicle to stand in front of such premises * * *. No such permit shall be granted except upon the written application of the person desiring the same filed with the Board of Commissioners, stating the number and kind of vehicles for which such permit is sought and the proposed location of the stand for such vehicles, together with the

written consent of the occupant of abutting property, as required by this section. All permits issued shall contain the name of the person to whom the same is granted, the number and kind of vehicle, and the place designated as a stand for such vehicles.

"*Section* 4. *Permits Required for Stands at Railroad Depots.* It shall be unlawful for the owner, driver, or person in charge of any carriage, omnibus, taxicab, or other vehicle used in carrying passengers for hire, while awaiting employment, to stand within 300 feet of the Oregon Short Line Depot, or the Denver & Rio Grande Depot, except that taxicabs with an ordinary capacity, for not more than seven persons, licensed by the City, shall be permitted to stand in the said prohibited districts at a place provided by the City, which shall at the Oregon Short Line Depot be the east side of 3rd West Street, commencing at the north line of the north side of South Temple Street and extending northward along 3rd West Street. * * * No such taxicab shall occupy such stand unless the owner thereof shall have procured a permit in writing for such privilege from the Board of Commissioners of Salt Lake City, as hereinafter provided, and upon the recommendation of the Chief of Police.

"The Board of Commissioners, upon the recommendation of the Chief of Police, is hereby empowered in its discretion to grant permits for not more than fifteen taxicabs at such stations. The order in which such taxicabs may occupy said stands shall be regulated, controlled and directed by the Chief of Police. Said taxicabs shall occupy only the stand assigned to them by the Chief of Police, in the space marked and designated by him. Such taxicabs shall face the west while on said stands and shall not stop nearer the depot than such stands, except for the purpose of taking on and letting off passengers. No such taxicab shall leave its stand for the purpose of taking on passengers, unless signalled so to do or under actual employment. Immediately upon such taking on or letting off a passenger, all taxicabs must drive away from the prohibited district as hereinbefore defined, except such taxicabs as are per-

mitted to stand in the space heretofore designated, provided, however, that not more than three permits for sight-seeing cars may be issued for similar stands in said prohibited districts, at such places as the Chief of Police may designate. No permit shall be granted except upon the written application of the person desiring the same filed with the Board of Commissioners, stating the number and kind of vehicle for which such permit is sought, and the proposed location of the stand for such vehicle. * * * It shall be unlawful for any other public or private passenger vehicle to park in any of the prohibited districts; except at such places as have been provided for them by the Oregon Short Line Railroad Company and the Denver & Rio Grande Western Railroad Company.

"*Section* 5. *Driver to Remain Near Vehicle.* It shall be unlawful for any person, while engaged as a driver, chauffeur, solicitor, or attache of a licensed public vehicle, to leave his vehicle for a distance of more than six feet, except for the purpose of securing, when requested, the baggage of his patrons.

"*Section* 6. *Soliciting on Sidewalks or on Streets.* It shall be unlawful for any person whomsoever to solicit patronage for any licensed public vehicle or for any hotel upon any of the sidewalks or public streets abutting to any railroad depot in Salt Lake City.

"*Section* 7. *Shall not enter Depots.* It shall be unlawful for the driver, chauffeur, solicitor, attache, porter or runner for any licensed public vehicle or hotel to enter into or upon any railroad depot or upon any passage or landing leading thereto while actually engaged in his employment as such, except such persons as the railroad or depot company may permit and then only under such rules and regulations as the Railroad or depot company may provide, to be approved by the Board of Commissioners of Salt Lake City, and under the direct control and supervision of such railroad or depot company; provided, howeved, that nothing herein contained shall be construed to prevent the persons herein named from entering in or upon any railroad car, depot, or passage leading thereto, for the purpose of getting the baggage

of any passenger arriving at or departing from the city after having first obtained and exhibited to any police officer or person in charge of such railroad car, depot, passage or landing, the check or checks of such passenger for such baggage."

6. Following the passage of said ordinance, the defendant, Railroad Company, submitted to the City Commission of Salt Lake City, under date of January 12, 1923, a plat and plan for the parking of vehicles at its depot grounds, under investigation in this case, as follows:

"In view of the ordinance adopted by your body on the 15th day of November, 1922, relating to the use and operation of taxicabs and other public passenger vehicles, the Oregon Short Line Railroad Company, in order to facilitate the effective operation of that ordinance, has established at its depot two parking spaces, one to the south and east of the depot, and one to the north and east of the depot. I am attaching to this communication a blue-print which shows these two spaces outlined and marked, that space to the south and east is marked "A" and that to the north and east is marked "B."

The Oregon Short Line Railroad has adopted the following rules governing the use of these two spaces:

"1. That space 'A' is for the use of the public in general, and shall not be used or occupied by any busses or taxicabs operating for hire.

"2. That portion of space 'B' and numbered '4' and '5' shall be reserved for the Salt Lake Transportation Company for two transfer busses plying between the depots.

"3. That portion of space 'B' numbered '1,' '2,' and '3,' shall be reserved for the Salt Lake Transportation Company for three busses which the Transportation Company will operate daily to the various hotels in Salt Lake City. These busses will carry the sign "To Hotels" and no other sign, and will operate over separate streets in proceeding from the depot to the hotels.

"4. That portion of space 'B' numbered '6' to '10,' inclusive, will be reserved for other busses

bearing the sign "To Hotels." Such busses must not carry the sign or name of any hotel. The space referred to in this paragraph and numbered '6' to '10,' inclusive, will be assigned by the Depot Master to such persons as request it, in the order of their application, and who agree to render daily service to all trains. Any person to whom any of this space is assigned who fails to render such daily service, will lose his right to such location as may have been assigned to him, and such space may be then assigned to some other person.

"5. No taxicabs or busses, other than those set out and described in Paragraphs 2, 3 and 4, shall occupy any portion of that space marked "B."

"6. Any hotel busses operating without charge and bearing the sign or name of any particular hotel, shall occupy the space marked 'A.'

"7. The Oregon Short Line Railroad Company will provide a passenger director at this depot, who will direct all persons to the busses which they may desire, or will call a taxicab, when any person so requests.

"8. The Oregon Short Line has a contract with the Salt Lake Transportation Company, for the transfer of baggage and passengers, and that Company may have one agent within the depot building for the purpose of notifying the passengers of the transfer and livery facilities, and for the purpose of soliciting business. The railroad has furnished space for such an agent in its passageway leading from the trains to the public street. This agent is under the supervision and control of the Depot Master and must comply strictly with the directions and orders given by the Depot Master.

"9. No employee or agent of the Transportation Company shall solicit baggage or business in or about the depot in such a way as to constitute an annoyance to any passenger, and the manner of such solicitation is under the direction and control of the Depot Master. If such agent or employee of the Transportation Company is unsatisfactory to the Railroad Company, the Transportation Company will remove such employee or agent from its employment.

"10. No other person other than such employees of the Transportation Company is permitted to solicit business of any kind in or about the railroad depot."

7. On the 23rd day of January, 1923, the Board of Commissioners of Salt Lake City formally adopted the aforementioned rules, as submitted by the defendant, Oregon Short Line Railroad Company and made them a part of the Salt Lake City Police Rules, governing in such matters.

8. On November 23, 1925, following the adoption of said rules by the Board of Commissioners of Salt Lake City, the Pierce-Arrow Sight Seeing & Transportation Company, the complainant herein, filed a petition with the Board of Commissioners of Salt Lake City, asking that it be permitted to use a portion of Space "B" of defendants' depot grounds theretofore alloted and assigned for the exclusive use of the Salt Lake Transportation Company, for hotel bus parking purposes.

Said petition of the complainant set forth, in substance, that complainant had engaged, extensively, in the transportation business since the promulgation and adoption of the rules hereinbefore mentioned and set forth, and asked that the complainant be permitted to occupy and use any one of the spaces numbered "1" to "5" in "Plat B," so assigned to the Salt Lake Transportation Company, for its exclusive use as aforesaid.

9. On the 3rd day of December, 1925, the Board of Commissioners of Salt Lake City, while duly assembled, upon motion, made and passed, consented to the modification of the aforementioned rules promulgated by the defendant and adopted by the City Commissioners as a part of its police rules, regulating transportation facilities at defendant's depot, thereby consenting in said manner that the complainant be accorded, for hotel bus and transfer purposes, the use of one stand at its depot grounds, from the stands marked "1" to "3" in said "Plat B," and the City Commission, in accordance with its said consent, so notified the defendant in writing, on the 8th day of December, 1925.

10. Thereupon, the complainant requested the defendant that it be permitted to occupy and use some one of the stands marked "1" to "3" in said "Plat B," which permission was and ever since has been denied the complainant by the defendant.

11. That the Salt Lake Transportation Company, since the adoption of the aforementioned rules of Salt Lake City designating "Plat B" as the space upon defendant's depot grounds to be occupied by hotel and transfer busses operating for hire, has continuously used Stands "4" and "5" for its transportation business; that it has used Stands "2" and "3" occasionally only, and has made no use whatever of Stand "1" in the conduct of its said transportation business; that said Stands "4," "5," "6," "7," "8," "9," and "10" of said "Plat B" are situated upon the privately owned and controlled property of the defendant, while Stands "1," "2," and at least a part of Stand "3" thereof are upon Third West Street municipally owned where the depot grounds of the defendant extend into and occupy a portion of said street, as before stated.

12. It appears that by reason of the direct proximity of Stands "1," "2," "3," "4," and "5," and more especially Stands "4" and "5" of "Plat B" to the opening of the defendant's depot exit corridor, that passengers very readily avail themselves of the service afforded by the hotel and transfer busses of the Salt Lake Transportation Comany, while the complainant and others who may be required to occupy Stands "6," "7," "8," "9," and "10" thereof receive practically no patronage for their busses, although equally commodious and as efficiently managed and operated for the rendering of service as are the busses of the Salt Lake Transportation Company.

13. It further appears that both the complainant and the Salt Lake Transportation Company are engaged in the business of rendering to the traveling public not only passenger and baggage service between railroad depots and all hotels, but also in giving sight-seeing trips in and about Salt Lake City and elsewhere, for uniformly the same rates.

Upon the foregoing showing of facts, the complainant invokes the provisions of our Public Utilities Act, Title 91, Compiled Laws of Utah, 1917, particularly Sections 4789 (Sub. 3), 4798, 4799, 4803, 4829, 4797, but more especially Sections 4789 and 4798 thereof, as conferring jurisdiction upon this Commission to correct the practices of the defendant, complained of herein.

The defendant offered no evidence at the hearing; but at the commencement thereof, renewed its motion

to dismiss for want of jurisdiction over the matters complained of by the complainant.

The Commission is of the opinion that the defendant's motion to dismiss for want of jurisdiction, should be denied. With respect to the public interest, the effect of the rules, practices, and service of a public service corporation, when assailed under statutes like ours, are always proper matters for investigation and determination by the Commission.

Section 4789, relied on by complainant, provides:

> "No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person, or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service. The Commission shall have the power to determine any question of fact arising under this section."

Section 4798 provides:

> "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 utility in this State, and to do all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction."

Cases in which questions similar to those involved in the instant case, have, in one form or another been before the American courts and commissions, state and federal, for over a quarter of a century. It would serve no good purpose here to repeat the reasoning of the courts and commissions as found in their decisions leading to the generally accepted doctrine that a railroad transportation company has the unqualified right to make reasonable regulations to protect itself and the traveling public from the turmoil and hazards that uncontrolled competition between passenger and baggage busses plying for hire between their depots and grounds, and other places, more especially in the larger towns and cities.

We had thought that after the decisions of our own Supreme Court, in Railroad vs. Davidson, 33 Utah, 370, 94 Pac. 10, 16 L. R. A. (N. S.) 777, 14 Am. Cas. 489, followed by Kenyon Hotel Co., et al., vs. Oregon Short Line Railroad Co., et al., 62 Utah, 364, where the authorities are collated and very ably discussed, that all questions that might arise concerning this class of cases in this jurisdiction, were put to rest. As we follow the courts' reasoning in these cases and the principles announced by the writer of the opinions, the case we now have under consideration presents nothing new for determination. It is upon these cases that the defendant chiefly relies when it makes the contention that under the facts proven and the law applicable thereto, the complaint of the complainant should be dismissed. But, says complainant in its brief and argument:

> "If, therefore, the situation is exactly the same as it was before the Utilities Act was passed, defendant's contention is correct. If our statute gives the Utilities Commission jurisdiction of this matter and the power to determine the question of fact as to discrimination in this case, then the Davidson case is not controlling."

Complainant then proceeds in its brief to point out that in the case of the Kenyon Hotel Company, et al., vs. Oregon Short Line Railroad Co., et al., supra, a case wherein the facts were almost identically the same as in the present case, and *which was decided since the enactment of our Public Utilities Law,* in closing its opinion and in speaking of the practices of railroads in providing space for vehicles on its own depot ground for those who may solicit trade or patronage, the Supreme Court said:

> "It may be that at times one hotel company may obtain an advantage over another hotel company in soliciting patronage, and that such may also occur as between transportation companies and others. If that be so, however, it is a matter that cannot be controlled by the courts. The matter of regulating public utilities in their business transactions and relations with the public, is placed in the hands of the Public Utilities Commission of this State. If, therefore, a public utility abuses its rights or privileges in dealing with the public or any of them, recourse for the redress of griev-

ances should be had to the Public Utilities Commission. This court can do no more than to inquire whether an ordinance or law is unreasonable, oppressive, or discriminatory, or is contrary to the provisions of some statute or the organic law of this State. *Moreover, in case a public utility is guilty of unlawful discrimination, that question should be first submitted to the Public Utilities Commission for investigation and determination.*" (Italics ours.)

In the present case, the question then arises: Is the defendant guilty or at fault under the facts proven, of "unlawful discrimination" within the Supreme Court's meaning and the Public Utilities Act? Counsel for complainant seems to stop short and rest content with the saying above quoted from the court's opinion in the Kenyon case. He forgets that the court then had under consideration a similar if not the same provision of the ordinances of Salt Lake City as have we in the instant case. He forgets that the Supreme Court, in passing upon the validity of the ordinance in that case, charged by the complainants as being "oppressive, unreasonable, arbitrary, and discriminatory," held:

> "Our statutes confer ample power upon Salt Lake City to regulate the traffic over the public streets and alleyways by vehicles and all others using the service for travel."

The Supreme Court further said in the Kenyon case:

> "The authority of Salt Lake City to pass the ordinance in question, therefore, and to promulgate or to approve rules and regulations respecting the use of the streets and public grounds by vehicles of all kinds, cannot be questioned."

It would seem, therefore, that to grant the complainant the relief prayed for in this case, would not only be a vain attempt on the part of this Commission to render the ordinances and police regulations of Salt Lake City abortive, but would also place the Commission on record as being opposed to the management of railroad depots in accordance with practices now most generally approved by courts and commissions everywhere.

Just wherein this Commission is invested under the Public Utilities Law with power to vacate and set aside the valid ordinances and police regulations of Salt Lake

City, is not made clear to us by complainant's brief and argument in this case. True, the City Commission of Salt Lake City, when the complainant asked its permission to occupy the stand desired by it in "Plat B" of the defendant's depot grounds, readily consented and so advised the defendant. Are we to understand that complainant contends that by such action on the part of the City Commissioners the ordinances and the police rules of the city, were thus repealed, vacated and set aside? If so, and complainant is right in its contention, then all the complainant had to do was to occupy some one of the stands in the street of "Plat B," be happy and say no more about being discriminated against. If the City ordinance of Salt Lake City and the duly adopted police rules promulgated by the defendant in aid to the proper exercise of the City's police powers, declared by our Supreme Court to be valid and reasonable in the Kenyon case, are still in force, and we think they are, how, may we inquire, is this Commission to grant the relief prayed for in its complaint?

If the powers contended for by the complainant in this case were, by the passage of the Public Utilities Act, vested in the Utilities Commission, we would at least give the facts in this particular case the utmost consideration from a regulatory standpoint, not, however, from the standpoint of the personal interest of the complainant; but in the interest and promotion of the convenience of the traveling public as a whole. However, we believe that the City ordinance and police rules set forth in our findings, somewhat at length, contain within themselves a valid exercise of the municipal powers with which Salt Lake City is clothed. Their reasonableness and validity have not only been upheld by our own Supreme Court, but quite uniformly by such other courts as have had to pass upon similar rules and ordinances.

Lindsay vs. City of Armiston, 104 Ala. 257, 16 So. 545, 27 L. R. A. 436, 53 Am. St. Rpt. 44.

In re Barmore, 174 Cal. 286, 130 Pac. 50, L. R. A. 1917 D, 688.

Ottawa vs. Bradley, 67 Kansas, 178, 72 Pac. 545.
Taxicab & Transfer Co. vs. City of Seattle, 86 Wash. 594, 150 Pac. 1134.

Veneman vs. Jones, 118 Ind. 41, 20 N. E., 644, 10 Am. St., 100.

Waldorf-Astoria Hotel Co. vs. City of New York, 212 N. Y. 97, 1015, N. E. 803.

Donovaci vs. Pennsylvania Co., 199 N. S. 279, 26 Sup. Ct. Rep. 91, 50, L. ed. 192.

Oregon Short Line Railroad Vo. vs. Davidson, supra, Kenyon Hotel Co. vs. Oregon Short Line Railroad Co., Supra.

Thompson's Express & Storage Co. vs. Norman Mount, et al., P. U. R. 1921-A, 113 Atl. 173.

But, assuming that no ordinance and police regulations had been passed by Salt Lake City, the question then arises: Should not the defendant still have the privilege or right to promulgate rules for the orderly control and convenience of its passengers when discharged from its trains at its Salt Lake City terminal?

The highest obligation of any railroad transportation company is the protection, comfort, and convenience of its passengers. A neglect of duty in that regard, whether in the management and operation of their trains or the affording of comfortable and convenient waiting depots and the approaches thereto, calls for, in our judgment, the discharge of duties, that absolutely precludes the granting of equal privileges to all others seeking to indiscriminately use their trains and depot facilities for soliciting patronage for private business, whether it be for hotels, hackmen, or vendors of merchandise. The choosing or admission of one does not justify the admission of all upon the theory that otherwise the Public Utilities Law forbids preferences and discrimination between its patrons. The complainant cannot in any sense be regarded a patron of the defendant's railroad. It conducts a private and independent business.

Undoubtedly, under the provisions of our Public Utilities Act, the Commission has been given very broad powers in matters of regulation. Nevertheless, it was not intended that under its provisions the public service corporations of the State should be left helpless and divested of all property rights incident to private ownership. A line of demarcation between the rights to regulate in the interest of the general public, and the rights incident to private ownership, has to be drawn somewhere. We think the right to regulate a public service corporation, within the meaning of our Public

Utilities Act, begins and ends where the paramount interest of the public is affected and ceases.

When the traveling public complains that it is being subjected to discomfort and inconveniences at the hands of a public service corporation, or that preferences are accorded some and discriminations are made against others in the rendering of service to its patrons, the Public Utilities Act readily affords the remedy which the Legislature intended by its enactment. There is no proof of such discriminatory practices in the instant case.

After giving the evidence our conscientious consideration and making a very careful review of all the cases to which our attention has been directed by the complainant, and many other cases as well, we hold that the defendant is under no legal obligation whatever to accord complainant the desired stand in "Plat B," by reason of the preference shown the Salt Lake Transportation Company or otherwise, and, therefore, the relief prayed for by complainant should be denied and its complaint dismissed.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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, 1926.

PIERCE-ARROW SIGHT SEEING & TRANSPORTATION COMPANY, a Corporation,
Complainant,
vs.
OREGON SHORT LINE RAILROAD COMPANY, a Corporation,
Defendant.
} CASE No. 878

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

IT IS ORDERED, That the relief prayed for by complainant, Pierce-Arrow Sight Seeing & Transportation Company, a Corporation, be, and it is hereby, denied, that the complaint herein be, and it is hereby, dismissed.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for abolition of two grade crossings over the main line of the Union Pacific Railroad near Devil's Slide, Morgan County, Utah.	CASE No. 879

Submitted April 26, 1926. Decided May 6, 1926.

Appearances:

L. A. Miner, Assistant Attorney General of the State of Utah,	for Applicant.
J. V. Lyle and J. T. Hammond, Jr., Attorneys,	for Union Pacific R. R. Co.

REPORT OF THE COMMISSION

By the Commission:

On April 8, 1926, the State Road Commission of Utah, by Ira R. Browning, Chief Engineer, filed with

the Public Utilities Commission of Utah, an application, in substance stating; that it is the desire of the State Road Commission of Utah to construct a permanent Federal Aid Highway near Devil's Slide, in Morgan County, Utah, as a part of Federal Aid Project No. 88; that applicant has caused the necessary survey to be made, and that the location of the proposed highway has been approved by the Federal Bureau of Public Roads; that the construction of the proposed permanent highway will result in the abolition of two existing grade crossings of the main line of the Union Pacific Railroad; that one grade crossing, located near Railroad Mile Post 961.45, will be eliminated by relocation; that the second crossing, located near railroad Mile Post 962.87, will be eliminated by a proposed grade separation crossing to be constructed near railroad Mile Post 962+3100; and asking that the Public Utilities Commission of Utah approve the elimination of the two railroad grade crossings above described, and apportion the costs thereof between the Union Pacific Railroad and the State of Utah.

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, at Salt Lake City, Utah, April 26, 1926.

No protests were received prior to or at the hearing.

It was stipulated at the hearing between the State Road Commission and the Union Pacific Railroad Company, as follows:

> "Par. No. 1. That the State Road Commission will cause to be constructed at State's expense F. A. P. No. 88-A-1 from Sta. 50+00 to Sta. 89+44.6, which includes F. A. P. No. 88-A-2, the structure crossing Weber River between Sta. 75+81 and Sta. 77+05. The plans and specifications for said project being subject to approval by the Railroad Company. The Union Pacific Railroad Company agrees to lease to Morgan County, Utah, sufficient right of way for this highway where the same is located upon Railroad right of way, the terms and conditions of the lease being similar to those contained in the lease executed with Morgan County, Utah, covering portions of right of way near Peterson, Utah. The object of this revision is to cause to be eliminated the grade crossing immediately

to the west of F. A. P. No. 88-A-2 (R. R. M. P. 961.45).

"Par. No. 2. For the elimination of the grade crossing at Union Pacific Railroad Mile Post 962.-87 a highway revision known as Project 88-A-3 has been located extending from highway Sta. 134+03.1 to Sta. 167+68.3, which includes F. A. P. No. 88-A-4, the structure over Dry Creek from Sta. 158+25 to Sta. 158+57. For the elimination of this grade crossing an underpass is required at or about Union Pacific Railroad Company Mile Post 962.6. Union Pacific Railroad Company will construct this underpass at its own cost and expense and in addition will absorb the entire cost for the rock cut excavation at west end of this project and do all work in connection therewith necessary for said rock cut to be of standard width for approved highway construction subject to plans which have been submitted by the State Road Commission to the Union Pacific Railroad Company for their approval."

The Commission, therefore, finds, in accordance with said stipulation, that the apportionment of the costs as agreed upon by the respective parties, is fair and reasonable;

That the safety and convenience of the public require that the grade crossing at Mile Post 961.45 and the grade crossing at Mile Post 962.87 should be eliminated; that the underpass at Mile Post 962.6 be constructed by the Union Pacific Railroad Company, at its own cost and expense, and that said Company should also absorb the entire cost for the rock cut excavation at the west end of this project, in accordance with said stipulation;

That the maintenance, repair, or renewal of the abutments and the superstructure of the proposed underpass, shall be at the sole cost and expense of the Union Pacific Railroad Company; that the maintenance of the highway through said underpass, shall be at the expense of the State Road Commission and/or Morgan County.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]
Attest:
(Signed) F. L. OSTLER, Secretary.

ORDER

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of May, 1926.

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for abolition of two grade crossings over the main line of the Union Pacific Railroad near Devil's Slide, Morgan County, Utah.	CASE No. 879

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the State Road Commission of Utah be, and it is hereby, authorized to eliminate grade crossing at Mile Post 961.45 and grade crossing at Mile Post 962.87; that an underpass at Mile Post 962.6 be constructed by the Union Pacific Railroad Company, at its own cost and expense, and that the said Railroad Company shall also absorb the entire cost for the rock cut excavation at the west end of this project, in accordance with the stipulation between the State Road Commission of Utah and the Union Pacific Railroad Company; that the maintenance, repair, or renewal of the abutments and the superstructure of the proposed underpass, shall be at the sole cost and expense of the Union Pacific Railroad Company; that the maintenance of the highway through said underpass, shall be at the expense of the State Road Commission and/or Morgan County.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of P. D. STURN, for permission to operate an automobile stage line between Salt Lake City and Vernal, Utah.	CASE No. 880

ORDER

Upon motion of the applicant:

IT IS ORDERED, That the application herein of P. D. Sturn, for permission to operate an automobile stage line between Salt Lake City and Vernal, Utah, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 30th day of April, 1926.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of ALONZO J. MARCHANT and WILLARD MARCHANT, for permission to operate an automobile passenger and express line between Peoa and Park City, Utah, via Kamas, Utah.	CASE No. 881

Submitted June 8, 1926. Decided June 30, 1926.

Appearances:

Alonzo J. Marchant,
Willard Marchant, } for Applicants.

REPORT OF THE COMMISSION

By the Commission:

In an application filed with the Commission, April 19, 1926, Alonzo J. Marchant and Willard Marchant request permission to operate an automobile passenger and express line between Peoa and Park City, Utah, via Kamas, Utah.

Said application sets forth: That the principal place of business of applicants is at Peoa, Utah; that applicants are in possession of United States Mail contract between said points, which is a distance of twenty-nine miles; and that they propose to make a charge of $1.50 for a one-way trip.

This case came on for hearing, June 8, 1926, after due and legal notice had been given.

Applicants testified that the business would not justify taking out insurance policies and bond. They testified that they desire to operate more in the nature of a taxi service; also that they desire to comply with the State law providing passenger and ton mile tax.

The Commission finds that there is insufficient business to warrant the establishment of an automobile passenger and express line between Peoa and Park City, Utah, via Kamas, Utah, and that the application should be dismissed, without prejudice.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 June, 1926.

In the Matter of the Application of ALONZO J. MARCHANT and WILLARD MARCHANT, for permission to operate an automobile passenger and express line between Peoa and Park City, Utah, via Kamas, Utah. } CASE No. 881

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

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

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of the UTAH IDAHO CENTRAL RAILROAD COMPANY, for permission to operate an automobile stage line between Logan and the Utah-Idaho State Line, and intermediate points. } CASE No. 882

See Case No. 850.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of LOUIS R. LUND to withdraw from, and B. L. COVINGTON to assume operation of automobile passenger stage line between St. George and Cedar City, Utah. } CASE No. 883

Submitted April 17, 1926. Decided June 30, 1926.

REPORT OF THE COMMISSION

By the Commission:

Under date of April 17, 1926, B. L. Covington and Louis R. Lund filed applications with the Commission,

for permission for Louis R. Lund to withdraw from and B. L. Covington to assume the entire operation of the automobile passenger stage line between Cedar City and St. George, Utah.

In Case No. 746, decided March 14, 1925, the Commission made its finding:

> "That the applicants, Louis R. Lund and B. L. Covington, are experienced and capable operators of automobiles over the public highways for hire, and that they, and each of them, have the financial ability to provide suitable and adequate equipment for the giving of the service required over the said route, if authorized and permitted so to do."

Accordingly, the Commission granted the application and issued Certificate of Convenience and Necessity No. 223.

The Commission being fully aware of the ability of B. L. Covington and the situation as a whole, finds that the applications should be granted, and that Louis R. Lund be permitted to withdraw from and B. L. Covington be permitted to assume the operation of the entire line; that Certificate of Convenience and Necessity No. 223 be cancelled and a new certificate of convenience and necessity be issued in favor of B. L. Covington.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 266
Cancels Certificate of Convenience and Necessity No. 223

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 30th day of June, 1926.

In the Matter of the Application of LOUIS R. LUND to withdraw from, and B. L. COVINGTON to assume operation of automobile passenger stage line between St. George and Cedar City, Utah.	CASE No. 883

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

IT IS ORDERED, That the application be, and it is hereby granted; that Louis R. Lund be, and he is hereby, authorized to withdraw from operation of automobile passenger stage line between Cedar City and St. George, Utah; that Certificate of Convenience and Necessity No. 223 (Case No. 746) be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That B. L. Covington be, and he is hereby, granted permission to operate automobile passenger stage line between St. George and Cedar City, Utah.

ORDERED FURTHER, That 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 and fares and showing arriving and leaving time from each station on his line; and shall at all times operate in accordance with the Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission:

(Signed) F. L. OSTLER,

[SEAL] Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of COUNTY COMMISSIONERS OF MORGAN COUNTY, State of Utah, for the elimination of one grade crossing and the separation of two grade crossings over the main line of the Union Pacific Railroad in Morgan City, Morgan County, State of Utah.	CASE No. 884

Submitted May 10, 1926. Decided June 2, 1926.

Appearances:

John V. Lyle and J. T. Hammond, Jr., Attorneys,	for Union Pacific Railroad Co.
Calvin Geary,	for Morgan County.

REPORT OF THE COMMISSION

By the Commission:

Under date of April 26, 1926, the County Commissioners of Morgan County, State of Utah, filed with the Public Utilities Commission of Utah, an application, alleging:

That the Union Pacific Railroad is building a second main line of railroad through Morgan City, Morgan County, State of Utah; that three County Roads cross at right angle the Union Pacific Railroad tracks in said Morgan City, to wit: At M. P. 967.97, M. P. 968.52 and at M. P. 968.80, and that it is desired by said Morgan County, Morgan City, and the Union Pacific Railroad, to eliminate one of said grade crossings, to wit: at M. P. 968.52, and to separate the grade at two of the said crossings, to wit: by eliminating the crossing at M. P. 967.97, and constructing an underpass at M. P. 968.12, and at M. P. 968.80 to construct an underpass instead of the present grade crossing at this point; and that public convenience and necessity require the elimination of the aforesaid crossing at M. P. 967.97

and the separation of grades in the vicinity of M. P. 968.12 and at M. P. 968.80.

This matter came on regularly for hearing, before the Commission, at its office in Salt Lake City, Utah, May 10, 1926.

No protests were received, in writing or otherwise.

At the hearing, the Union Pacific Railroad Company and Morgan County filed an agreement setting forth, among other things, the following:

Public highways cross at grade the right-of-way and tracks of the Railroad Company within the corporate limits of Morgan City at Mile Post 968.8, Mile Post 968.52 and Mile Post 967.97, respectively. The crossing at Mile Post 968.8 is hereinafter, for convenience, referred to as "Crossing A," the crossing at Mile Post 968.52, as "Crossing B," and the crossing at Mile Post 967.97, as "Crossing D." The parties hereto desire to eliminate the said three grade crossings, and to provide in lieu thereof two undercrossings, one in the present location of Crossing A and the other at Mile Post 968.12 (hereinafter, for convenience, referred to as "Crossing C").

CONSTRUCTION OF SUBWAY AT CROSSING A

The Railroad Company shall, at its sole expense, construct a subway complete, with necessary approaches and drainage, underneath its tracks in the location of the existing grade crossing at Crossing A. (M. P. 968.8)

CONSTRUCTION OF SUBWAY AT CROSSING C. (M.. P. 968.12)

The Railroad Company shall, at the joint expense of the Railroad Company and the County, construct a subway underneath its tracks at Crossing C, including the necessary approaches and drainage from the original Railroad Company's fence on the north side to the original County Road on the south side. Additional approaches and drainage shall be provided by and at the expense of the County.

HIGHWAYS OR STREETS

The County shall, without expense to the Railroad Company, furnish all material for and perform all work in connection with or incident to the construction of the wearing surface or paving of the roadway of the highway or street extending to the Railroad Company's right-of-way on either side of the tracks; the roadway or streets extending through the subways shall be constructed by and at the expense of the Railroad Company.

SUBWAY CLEARANCES—PLANS AND SPECIFICATIONS

The subway at Crossing A shall have a clear span for roadway of not less than 22½ feet in addition to a span of 8 feet for a sidewalk for pedestrians, and a vertical clearance above the surface of roadway of not less than fourteen (14) feet; and the subway at Crossing C shall have a clear span for roadway of not less than nineteen (19) feet and a vertical clearance above the surface of roadway of not less than twelve (12) feet.

The subways and approaches to be constructed hereunder shall be constructed in accordance with plans and specifications to be prepared by the Railroad Company and approved by the parties hereto.

RIGHTS-OF-WAY—DAMAGE TO ABUTTING PROPERTY

The County shall, without expense to the Railroad Company, acquire all property, easements and rights-of-way for the approaches to the subways to be constructed at Crossing A and Crossing C (except property owned by the Railroad Company), and shall pay all legally assessable damages to owners of abutting property because of the construction of said subways and approaches, and the County shall indemnify and relieve the Railroad Company from any and all expenses for such damages.

COUNTY TO PAY RAILROAD COMPANY

The County shall pay to the Railroad Company as its contribution toward the expenses incurred by the Railroad Company for the construction of said subway at Crossing C the sum of Twenty Thousand Dollars ($20,000.00), Ten Thousand Dollars ($10,000.00) of which is to be paid on the day of the commencement of the construction of Subway C, and Ten Thousand Dollars ($10,000.00) on December 15, 1926. Before any work shall be commenced by the Railroad Company in connection with the construction of said subways, the County shall deliver in escrow to such bank at Ogden or Salt Lake City, Utah, as the Railroad Company and the County may agree upon, the said sum of Ten Thousand Dollars ($10,000.00), the condition of such escrow to be that upon the completion of the construction of the subways at Crossing A and Crossing C the said bank shall deliver the said sum to the Railroad Company; provided, however, that if the said subways are completed prior to December 15, 1926, then the said bank shall deliver the said sum to the Railroad Company on December 15, 1926.

MAINTENANCE OF SUBWAYS

After the completion of the construction of said subways, as herein contemplated, the Railroad Company shall, at its sole expense, maintain, repair and renew the abutments and girder spans thereof.

MAINTENANCE OF APPROACHES TO AND HIGHWAYS IN SUBWAYS AND DRAINAGE

The approaches to, the highways extending through, and the drainage for the said subways shall be maintained, repaired and renewed by and at the expense of the County, except for the drainage at the Subway Crossing A, which drainage is to be maintained, repaired and renewed by and at the cost of the Railroad Company. The County shall indemnify and relieve the Railroad Company from any and all expense for such maintenance, repair and renewal except for the drainage necessary at Crossing A, as above provided.

The Commission finds:

That the closing of the three grade crossings and the construction of the two subways or underpasses in lieu thereof, is in the public interest.

That the apportionment of cost as outlined by the agreement of the parties, is just and reasonable.

That the clear span and vertical clearances of the said underpasses as proposed in the aforesaid stipulation, are adequate and should be approved. While the vertical clearance requested at the subway known as crossing C is twelve feet instead of the fourteen feet usually required by the Commission, we feel that in this case, the clearance requested should be authorized. A vehicle of abnormal height, unable to pass through Crossing C, would be able to proceed about 4,000 feet to Crossing A, which has standard clearance.

The Commission does not assume to pass upon certain clauses contained in said stipulation, but only upon the matters specifically set out in this report.

An order will issue.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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, 1926.

In the Matter of the Application of COUNTY COMMISSIONERS OF MORGAN COUNTY, State of Utah, for the elimination of one grade crossing and the separation of two grade ings over the main line of the Union Pacific Railroad in Morgan City, Morgan County, State of Utah.	CASE No. 884

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

IT IS ORDERED, That the application be, and it is hereby granted; that the Morgan County Commissioners and the Union Pacific Railroad Company be, and they are hereby, authorized to eliminate the grade crossings at M. P. 968.52, M. P. 967.97, and M. P. 968.80, and to construct in lieu thereof an underpass at M. P. 968.12 and at M. P. 968.80.

ORDERED FURTHER, That the Union Pacific Railroad Company shall, at its sole expense, construct a subway complete, with necessary approaches and drainage, underneath its tracks in the location of the existing grade crossing at M. P. 968.8; that the Union Pacific Railroad Company shall, at the joint expense of the Railroad Company and Morgan County, construct a subway underneath its tracks at Crossing C (M. P. 968.12), including the necessary approaches and drainage from the original Railroad Company's fence on the north side to the original County Road on the south side; additional approaches and drainage shall be provided by and at the expense of Morgan County.

ORDERED FURTHER, That the subway at Crossing A (M. P. 968.8) shall have a clear span for roadway of not less than 22½ feet in addition to a span of eight (8) feet for a sidewalk for pedestrians, and a vertical clearance above the surface of roadway of not less than fourteen (14) feet; and the subway at Crossing C (M. P. 968.12) shall have a clear span for roadway of not less than nineteen (19) feet and a vertical clearance above the surface of roadway of not less than twelve (12) feet.

ORDERED FURTHER, That Morgan County shall pay to the Union Pacific Railroad Company as its contribution toward the expenses incurred by the Railroad Company for the construction of said subway at Crossing C (M. P. 968.12), the sum of Twenty Thousand Dollars ($20,000.00), Ten Thousand Dollars ($10,000.00) of which is to be paid on the day of the commencement of the construction of Subway C, and Ten Thousand Dol-

lars ($10,000.00) on December 15, 1926; that before any work shall be commenced by the Railroad Company in connection with the construction of said subways, Morgan County shall deliver in escrow to such bank at Ogden or Salt Lake City, Utah, as the Railroad Company and the County may agree upon, the said sum of Ten Thousand Dollars ($10,000.00), the condition of such escrow to be that upon the completion of the construction of the subways at Crossing A (M. P. 968.8) and Crossing C (M. P. 968.12), the said bank shall deliver the said sum to the Union Pacific Railroad Company; provided, however, that if the said subways are completed prior to December 15, 1926, then the said bank shall deliver the said sum to the Railroad Company on December 15, 1926.

ORDERED FURTHER, That after the completion of the construction of said subways, as herein contemplated, the Union Pacific Railroad Company shall, at its sole expense, maintain, repair and renew the abutments and girder spans thereof.

ORDERED FURTHER, That the approaches to, the highways extending through, and the drainage for the said subways, shall be maintained, repaired, and renewed by and at the expense of Morgan County, except for the drainage at the Subway at Crossing A (M. P. 968.8), which drainage is to be maintained, repaired and renewed by and at the cost of the Railroad Company; that the County shall indemnify and relieve the Railroad Company from any and all expense for such maintenance, repair and renewal except for the drainage necessary at Crossing A, as above provided.

ORDERED FURTHER, That upon completion of the hard surfacing of said public highway, including said underpass or subway, said grade crossing is to be closed to public use.

ORDERED FURTHER, That the Commission retain jurisdiction of the parties and subject matter of this cause, for the purpose of making such further and supplemental orders herein that it may deem just and proper, in order to subserve the best interests and the convenience of the public, not incompatible with the findings and conclusions and the orders hereinbefore made, nor contrary to the law.

ORDERED FURTHER, That the Union Pacific Railroad Company shall begin the construction of said under-

pass or subway, within thirty days from the date of this order, and prosecute the same to completion, with all due diligence.

ORDERED FURTHER, That this order shall become effective immediately upon the service of the same upon the parties, and the Secretary of the Commission shall forthwith serve a copy of the Commission's Report and Order on each of the parties interested therein.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of the STERLING TRANSPORTATION COMPANY, for permission to operate an automobile freight truck line between Salt Lake City, Utah, and Vernal, Utah.	CASE No. 885

See Case No. 814.

In the Matter of the Application of HENRY I. MOORE and D. P. ABERCROMBIE, Receivers of the SALT LAKE & UTAH RAILROAD COMPANY, for permission to construct a spur track across Main Street, at grade, in American Fork City, Utah.	CASE No. 886

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES H. WADE, for permission to change and transfer Certificate of Convenience and Necessity No. 202 (Case No. 689) and Certificate of Convenience and Necessity No. 237 (Case No. 803) to Price Transportation Company, a Corporation.	CASE No. 887

Submitted May 14, 1926. Decided July 3, 1926.

REPORT OF THE COMMISSION

By the Commission:

In an application filed with the Commission, May 14, 1926, James H. Wade requests permission to have Certificate of Convenience and Necessity No. 202, Case No. 689, and Certificate of Convenience and Necessity No. 237, Case No. 803, issued in the name of James H. Wade, changed and transferred to Price Transportation Company, a corporation of Price, Utah.

The application sets forth: That James H. Wade is the owner of the above numbered certificate of convenience and necessity, authorizing automobile stage service for transportation of passengers between Price and Castle Gate, via Helper, Utah, also for passengers and express between Price and Helper and Gibson, via Coal City, Carbon County, Utah.

That the Price Transportation Company, a corporation, organized and existing under and by virtue of the laws of the State of Utah, the controlling interest of which is owned by James H. Wade, has taken over all equipment and facilities heretofore used by James H. Wade in said transportation lines.

That said corporation will at all times hold itself amenable to orders and dictates of the Public Utilities Commission of Utah, in the provision of transportation service.

The Commission, having previously determined the necessity for automobile passenger stage line service between the above named points, is confronted with only one question, viz: Will the interests of the public be subserved as efficiently as heretofore under the operation and management of James H. Wade? After giving due consideration to the facts, we find that the answer is in the affirmative, and, therefore, Certificates of Convenience and Necessity Nos. 202 and 237 should be cancelled and a new certificate of convenience and necessity should be issued to the Price Transportation Company authorizing automobile passenger and express service as heretofore rendered by James H. Wade.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
[SEAL] G. F. McGONAGLE,
Attest: Commissioners.
(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 268
Cancels Certificates of Convenience and Necessity
Nos. 202 and 237

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 3rd day of July, 1926.

In the Matter of the Application of JAMES H. WADE, for permission to change and transfer Certificate of Convenience and Necessity No. 202 (Case No. 689) and Certificate of Convenience and Necessity No. 237 (Case No. 803) to Price Transportation Company, a Corporation.	CASE No. 887

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

IT IS ORDERED, That the application be, and it is hereby, granted; that Certificate of Convenience and Necessity No. 202 (Case No. 689) and Certificate of Convenience and Necessity No. 237 (Case No. 803), issued to James H. Wade, be, and they are hereby, cancelled and annulled.

ORDERED FURTHER, That the Price Transportation Company, a Corporation, be, and it is hereby, authorized to operate automobile stage line, for the transportation of passengers between Price and Castle Gate, via Helper, Utah, and for the transportation of passengers and express between Price and Helper and Gibson, via Coal City, Carbon County, Utah.

ORDERED FURTHER, That the Price Transportation 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

Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH RAPID TRANSIT COMPANY, for permission to abandon its street car line between Pleasant View and North Ogden, Weber County, Utah.	CASE No. 888

Submitted June 10, 1926. Decided July 22, 1926.

Appearances:

DeVine, Howell, Stine & Gwilliam, Attorneys, for Applicant.

R. T. Rhees and Henry L. Jensen, for Protestants.

REPORT OF THE COMMISSION

By the Commission:

On May 12, 1926, the Utah Rapid Transit Company filed an application, praying that it be permitted to abandon the operation of its street car line between North Ogden and Pleasant View, in Weber County, Utah.

The application sets forth that the revenues from said line have been steadily decreasing and are not only insufficient to pay a return upon the investment, but do not pay the bare operating expenses of the line;

That proportionally the revenues from North Ogden to Pleasant View are less than from North Ogden to Ogden City;

That the applicant does not at this time desire to abandon the entire line, but desires to ascertain by actual experience whether the elimination of the least productive portion of the line and the increasing of the service on the remaining portion of the line will result in increasing the revenues to a point that will permit its further operation.

The above entitled case came on for hearing, before the Commission, on June 10, 1926, at Ogden, Utah.

R. T. Rhees and others protested the granting of the application, on the grounds that protestants had purchased real estate and had established their places of residence along said railroad, on the strength and dependence that said railroad would remain during the full term of the franchise under which it operates; and that their investment would be greatly impaired if said line were abandoned.

At the hearing, the applicant introduced exhibits showing that the North Ogden Line, during the year 1925, had sustained a net deficit, without considering supervision, general expense, depreciation, or interest on the investment of $3,320.39; that the portion of the line from North Ogden to Pleasant View represented thirty-seven per cent of this amount, and that the proportionate loss was therefore $1,951.85.

Exhibits were also introduced showing that the Utah Rapid Transit Company, as a whole, had a net deficit during the year 1925 of $42,335.05, and that the accrued deficit of the Company to December 31, 1925, amounted to $231,501.97.

Protestants testified that a new high school building was being erected at Eleventh Street and Washington Avenue, in Ogden, and that it was necessary that this street car line continue operating, in order to provide transportation for students.

The record shows that no freight has ever been handled on the portion of the line sought to be abandoned, and that most of the residents adjacent to the line own and operate automobiles.

After full consideration of the facts in this case, the Commission finds as follows:

That the street railroad system in Ogden and vicinity is being operated at a loss and cannot continue to function as a public utility unless permitted to discontinue service on some of its less remunerative lines;

That the owners thereof are justified in discontinuing service on the North Ogden-Pleasant View line.

An order will therefore issue, granting permission to the Utah Rapid Transit Company to abandon the operation of its street car line from North Ogden to Pleasant View, a distance of 2.84 miles.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) D. O. RICH, Acting 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 July, 1926.

In the Matter of the Application of the UTAH RAPID TRANSIT COMPANY, for permission to abandon its street car line between Pleasant View and North Ogden, Weber County, Utah. } CASE No. 888

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

IT IS ORDERED, That the application be, and it is hereby, granted; that the Utah Rapid Transit Company be, and it is hereby, authorized to abandon the operation of its street car line from North Ogden to Pleasant View, Utah, a distance of 2.84 miles.

ORDERED FURTHER, That street car service over the above-described line may be discontinued on and after August 1, 1926, upon five (5) days' notice to the Commission and the public.

By the Commission.

(Signed) D. O. RICH,
Acting Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES NEILSON, for permission to transfer all his right, title and interest in automobile stage line between Salt Lake City and Brighton, Utah, to ERNEST NEILSON and NEPHI NEILSON. } CASE No. 889

Submitted June 8, 1926. Decided June 30, 1926.

Appearance:

James Neilson, } Applicant.

REPORT OF THE COMMISSION

By the Commission:

Under date of May 19, 1926, an application was filed with the Commission by James Neilson, for permission to transfer Certificate of Convenience and Necessity No. 130 to his sons, Ernest and Nephi Neilson. Said certificate authorizes James Neilson to operate an automobile passenger and express line between Salt Lake City and Brighton, Utah.

Notice was issued assigning case for hearing at Salt Lake City, Utah, June 8, 1926. Hearing was held in accordance with the preceding notice.

The Commission has previously determined that public convenience and necessity will be subserved through the operation of automobile passenger and express service between Salt Lake City and Brighton, Utah. There

is no question in the mind of the Commission that relatively the same conditions exist today as when the decision was rendered in the previous case.

Therefore, the question before the Commission is whether the interests of the public would continue to be subserved if the application be granted.

The Commission finds that Ernest Neilson and Nephi Neilson are experienced operators, having driven stages between said points for the past several years; that they are financially able to operate said line; that the application should therefore be granted authorizing the withdrawal of James Neilson from giving automobile passenger and express service between Salt Lake City and Brighton, Utah, and authorizing Ernest Neilson and Nephi Neilson to assume the operation of said line; that Certificate of Convenience and Necessity No. 130, issued in Case No. 495, should be cancelled, and that a new certificate of convenience and necessity should be issued in favor of Ernest Neilson and Nephi Neilson.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 267
Cancels 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 30th day of June, 1926.

In the Matter of the Application of JAMES NEILSON, for permission to transfer all his right, title and interest in automobile stage line between Salt Lake City and Brighton, Utah, to ERNEST NEILSON and NEPHI NEILSON.	CASE No. 889

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

IT IS ORDERED, That the application be, and it is hereby, granted; that James Neilson be, and he is hereby, authorized to withdraw from the operation of automobile passenger and express line between Salt Lake City and Brighton, Utah; that Certificate of Convenience and Necessity No. 130 (Case No. 495) be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That Ernest Neilson and Nephi Neilson be, and they are hereby, granted permission to operate automobile passenger and express line between Salt Lake City and Brighton, Utah, under Certificate of Convenience and Necessity No. 267.

ORDERED FURTHER, That Ernest Neilson and Nephi Neilson, before beginning 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 Statutes of Utah and the Rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of HOWARD J. SPENCER, for permission to discontinue operation of his automobile stage line between Salt Lake City and Pinecrest, Utah.	CASE No. 890

Submitted June 8, 1926. Decided June 30, 1926.

Appearance:

Howard J. Spencer, } Applicant.

REPORT OF THE COMMISSION

By the Commission:

Under date of May 6, 1926, Howard J. Spencer filed an application with the Commission for permission to discontinue operation of the automobile passenger stage line between Salt Lake City and Pinecrest, Utah, which is covered by Certificate of Convenience and Necessity No. 176, issued in Case No. 634.

The application sets forth: That from year to year, the business at Pinecrest, which is a summer resort in Emigration Canyon, has decreased, as far as stage line operations are concerned; that for the season 1925, the revenue received was insufficient to pay all expenses; that applicant is the owner of a certificate of convenience and necessity which authorizes the operation of an automobile passenger line between Salt Lake City and Tooele, Utah; that owing to increase in business between these points, applicant has been obliged to use his entire equipment in rendering service on said line; and that Certificate of Convenience and Necessity No. 176 be cancelled.

This case came on for hearing at Salt Lake City, Utah, June 8, 1926, after due and legal notice had been given. No protests were received.

The Commission finds that for the season 1925, applicants' gross revenue for transportation between Salt Lake City and Pinecrest, was $327.00; that the total number of one-way passengers was 327; that 128 trips were made; that the average number of passengers carried was 2.56 per trip; that the revenues derived from the operation of said line have been insufficient to warrant its continuance, and that the application should be granted and Certificate of Convenience and Necessity No. 176 be cancelled.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]
Attest:
(Signed) F. L. OSTLER, 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 June, 1926.

In the Matter of the Application of HOWARD J. SPENCER, for permission to discontinue operation of his automobile stage line between Salt Lake City and Pinecrest, Utah. } CASE No. 890

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

IT IS ORDERED, That the application be, and it is hereby, granted; that Howard J. Spencer be, and he is hereby, granted permission to discontinue operation of his automobile passenger stage line between Salt Lake City and Pinecrest, Utah; that Certificate of Convenience and Necessity No. 176, issued to him in Case No. 634, be, and it is hereby, cancelled and annulled.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the OREGON SHORT LINE RAILROAD COMPANY, to adjust rates on grain, grain products, flour, and mill stuffs in various tariffs. } CASE No. 891

Submitted July 12, 1926. Decided November 12, 1926.

Appearance:

Dana T. Smith, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

In an application filed with the Commission on January 4, 1924, the Oregon Short Line Railroad Company, for itself and in behalf of the Bamberger Electric Railroad Company, Denver & Rio Grande Western Railroad Company, Los Angeles & Salt Lake Railroad Company, Salt Lake & Utah Railroad Company, Southern Pacific Company, Union Pacific Railroad Company, Utah Idaho Central Railroad Company, and the Western Pacific Railroad Company, requests permission to amend certain tariffs which apply on grain and grain products.

During April and May, 1926, letters were received from various milling companies, requesting that the Commission grant the adjustments as outlined in the application. No protests were filed against the granting of said application.

The case came on for hearing at Salt Lake City, Utah, July 12, 1926, at Two o'clock P. M., after due notice given as required by law.

The evidence shows that certain adjustments have been made, offsetting the rates in question, by the Interstate Commerce Commission; that at present time intrastate rates in question are not on the same basis as those carried in tariffs covering interstate movements; that shippers are handicapped because of the fact that interstate tariffs provide for certain mixtures of grain that are not contained in intrastate tariffs; that many shipments are made to points for milling purposes when shippers do not have definite knowledge as to whether or not the ultimate destinations will be within the State of Utah or beyond; and that in the proposed adjustment many reductions will result.

After considering all of the evidence, the Commission is of the opinion that in the interest of uniformity and in view of the requests of the milling companies, the application should be granted, on thirty days' notice to the Commission and the public.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 November, 1926.

In the Matter of the Application of the OREGON SHORT LINE RAILROAD COMPANY, to adjust rates on grain, grain products, flour, and mill stuffs in various tariffs. } CASE No. 891

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

IT IS ORDERED, That the application herein be, and it is hereby, granted; that the Oregon Short Line Railroad Company, for itself and in behalf of the Bamberger Electric Railroad Company, Denver & Rio Grande Western Railroad Company, Los Angeles & Salt Lake Railroad Company, Salt Lake & Utah Railroad Company, Southern Pacific Company, Union Pacific Railroad Company, Utah Idaho Central Railroad Company, and the Western Pacific Railroad Company, be, and it is hereby, authorized to amend certain tariffs which apply on grain and grain products.

ORDERED FURTHER, That said change in tariffs shall be made effective on thirty days' notice to the Commission and the public.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH RAILWAY COMPANY, for permission to abandon all its schedule mixed train service. } CASE No. 892

Submitted July 21, 1926. Decided August 4, 1926.

Appearances:

Bradley & Pischel, A. C. Ellis, Jr., L. F. Adamson of Dickson, Ellis, Parsons, & Adamson. } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, on the 21st day of July, 1926, at Price, Carbon County, Utah, upon the application of the Utah Railway Company, for permission to discontinue and abandon, temporarily, all of its passenger and mixed train service, until such a time as prevailing conditions may change so that public convenience and necessity will demand the service, and the revenues to be derived therefrom will justly warrant its reinstatement.

No protests were made against the granting of said application, except by and in behalf of F. P. Fisher, an applicant (P. U. C. U. Case No. 894) for permission to operate an automobile freight and express line over the public highways in territory now being served by the applicant herein, Utah Railway Company.

From the evidence adduced at the hearing, and after due investigation made, the Commission finds:

1. That the applicant, Utah Railway Company, is a railroad corporation, duly organized and existing under and by virtue of the laws of the State of Utah, with its principal office and place of business at 809

Newhouse Building, Salt Lake City, Salt Lake County, State of Utah.

2. That the applicant is now and has been for some years last past engaged in the business of the transportation of freight (principally bituminous coal) by standard gage steam railroad, between Provo, Utah County, Utah, and Kingmine, (Hiawatha) Carbon County, Utah, and Mohrland, Emery County, Utah; and between Jacobs and Standardville, Carbon County, Utah; and between National Junction and Union, Carbon County, Utah, over the National Coal Railway, which line is operated by the applicant under a lease; and between Wattis Junction and Wattis, Carbon County, Utah; and between said Kingmine, (Hiawatha) and East Hiawatha, Carbon County, Utah; and the transportation of passengers, mail, and express matter in schedule mixed trains, the passenger equipment of these schedule mixed trains consisting of one combination coach, between Utah Railway Junction, Carbon County, Utah, and said Kingmine, (Hiawatha) and between said Jacobs and Standardville, respectively.

3. That for the period, January 1, 1922, to March 3, 1926, the passenger operating revenues of applicant's railroad declined from $9,024.42 in 1922, to $492.11, during the first three months of 1926; its express revenue from $5,644.23 to $697.67, and mail from $2,280.95 to $403.74, during the same period of time. The passenger proportion of its operating expenses, during the aforesaid period of time, created a deficit of $223,192.99, all of which more fully appears in applicant's "Exhibit C," prepared in accordance with the accounting rules and regulations of the Interstate Commerce Commission, which have been adopted and are followed by the Public Utilities Commission of Utah.

4. That the shrinkage and losses, in recent years, attending the operation of applicant's railroad have been caused largely through the operations of competitive automobile passenger, mail, and express carriers, for hire, and by the use of privately owned automobiles, in the territory being served by applicant's railroad. That the territory served by applicant's railroad contains the Carbon County Coal Fields, and many of the operating coal mines have installed garages of large aggregate capacity for the accommodation of their employes' automobiles in use over the public highways. That the public roads between the towns or points served by appli-

cant's railroad have, in recent years, been greatly improved, and the number of privately owned automobiles used and the stage lines operated over the public highways, for hire, have absorbed and are doing and performing the service heretofore available under the schedule of applicant's mixed train service.

5. That the rates charged for automobile service are practically the same as those charged by the applicant, under its mixed train schedule and time table No. 94, and the public is satisfied with said automobile service and with the rates charged therefor.

6. That the applicant's present freight traffic consists of approximately ninety-eight (98) per cent bituminous coal which, during the year 1923, yielded ninety-nine and forty-three hundredths (99.43) per cent of its total operating revenue, while its passengers, mail, and express for said year, yielded only about one-half of one (½ of 1) per cent of its operating revenue.

From the foregoing findings of fact, the Commission concludes and decides that the public needs and convenience will be as adequately and efficiently served without applicant's mixed train service as by the continuance thereof, at least for the time being; that the applicant should be permitted to abandon, at this time, all of its schedule passenger, mail, and express service hereinbefore mentioned, and as now applied for—that is to say, the service performed by its mixed trains running on time table No. 94, subject, however, to reinstatement, both as to service and rates, when public convenience and necessity may require the same, and the revenues to be derived therefrom will reasonably permit.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 August, A. D. 1926.

In the Matter of the Application of the UTAH RAILWAY COMPANY, for permission to abandon all its schedule mixed train service. } CASE No. 892

This case being at issue upon application on file, and having been duly heard and submitted, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be, and it is hereby granted, that the Utah Railway Company be, and it is hereby, granted permission to abandon all its schedule mixed train service under its time table No. 94, subject, however, to reinstatement, both as to service and rates, when public convenience and necessity may require the same, and the revenues to be derived therefrom will reasonably permit.

ORDERED FURTHER, That this abandonment of schedule mixed train service may be made effective upon five (5) days' notice to the public and the Commission.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of LESTER A. BOLINDER, for permission to operate an automobile passenger and freight line between Salt Lake City, Utah, and Grantsville, Utah. } CASE No. 893

Submitted July 20, 1926. Decided August 3, 1926.

Appearances:

Joseph R. Haas,	for Applicant.
Dan B. Shields,	for Salt Lake—Tooele Stage Line.
L. E. Gehan,	for American Railway Express Co.
Ivan Robison,	for Benefit Assn. of R. R. Employes.
Aldon J. Anderson,	for Salt Lake & Utah R. R. Co.
Dana T. Smith,	for Los Angeles & Salt Lake R. R. Co.
B. R. Howell,	for Western Pacific R. R. Co.

REPORT OF THE COMMISSION

By the Commission:

The above entitled application was filed with the Public Utilities Commission of Utah, on June 21, 1926.

The applicant sets forth:

That he is a resident of Grantsville, and has heretofore been engaged in the trucking business at Gold Hill, Utah.

That Grantsville is located six (6) miles from the station of Burmester, on the Western Pacific Railroad, eleven (11) miles from the station of Warner, on the Los Angeles & Salt Lake Railroad, and forty-three and six tenths (43.6) miles from Salt Lake City.

That at present there is no stage line operating for the transportation of either freight or passengers, between Grantsville and Salt Lake City, and that the public convenience and necessity require the operation of such a line.

This matter came on for hearing before the Commission, on July 19, 1926, at Salt Lake City.

The following protestants entered their appearance at the hearing:

Salt Lake-Tooele Stage Line, by Dan B. Shields.

American Railway Express Company, by L. E. Gehan.

Benefit Assn. of Railroad Employes, by Ivan Robison.

Salt Lake & Utah Railroad Company, by Alden J. Anderson.

Los Angeles & Salt Lake Railroad Company, by Dana T. Smith.

Western Pacific Railroad Company, by B. R. Howell.

After full consideration of the testimony offered in this case, the Commission finds:

1. That the town of Grantsville is more or less isolated, in the matter of freight and passenger transportation, and that the residents thereof are entitled to avail themselves of a direct automobile freight and passenger line between Grantsville and Salt Lake City, Utah.

2. That Frank T. Burmester, who formerly operated under a certificate of convenience and necessity between Grantsville and Burmester on the Western Pacific Railroad, surrendered his certificate on the grounds that the line was not remunerative. The evidence in the present case was to the effect that the total freight movement, handled by the Western Pacific Railroad, amounted to fifteen thousand (15,000) pounds over a six weeks period, between Burmester and Grantsville, being about one-eighth of the total freight business.

3. That the applicant is the owner of sufficient automotive equipment to properly supply the needs of the town of Grantsville. That certain merchants of said town have operated their own trucks between Grantsville and Salt Lake City, and that the passenger business is being generally handled by private automobiles.

4. That the intermediate territory between Salt Lake City and Tooele is adequately supplied with transportation, and that applicant herein should be restricted to the transportation of through passengers and freight between Salt Lake City and Grantsville, and that no intermediate transportation should be permitted or sanctioned.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 269

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 3rd day of August, A. D. 1926.

In the Matter of the Application of LESTER A. BOLINDER, for permission to operate an automobile freight and passenger line between Salt Lake City, Utah, and Grantsville, Utah. } CASE No. 893

This case being at issue upon application on file, and having been duly heard and submitted, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be, and it is hereby, granted, that Lester A. Bolinder be, and he is hereby, granted permission to operate a through passenger and freight service between Salt Lake City, Utah, and Grantsville, Utah, and that no intermediate transportation is permitted, inasmuch as the intermediate territory between Salt Lake City and Tooele is adequately supplied with transportation.

ORDERED FURTHER, That applicant, Lester A. Bolinder, before beginning operation, shall file with the Commission, insurance policies and bond, as prescribed by Chapter 114, Session Laws of Utah, 1925.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of FERDINAND P. FISHER, doing business as the Fisher Dray & Transfer Company, for permission to operate an automobile freight line between Helper, Carbon County, Utah, and Mutual, Carbon County, Utah, and intermediate points.	CASE No. 894

Submitted July 21, 1926. Decided August 19, 1926.

Appearances:

Oliver K. Clay, Attorney, H. L. Pratt, Attorney,	for Applicant.
Henry Ruggeri, Attorney,	for Protestant, Spring Canyon Stage Line.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing before the Commission at Price, Carbon County, Utah, upon the application of Ferdinand P. Fisher, for a certificate of convenience and necessity authorizing and permitting him to operate an automobile freight line, for hire, over the public highway between Helper, Carbon County, Utah, and Mutual, Carbon County, Utah, and inter-

mediate points, and the protest made and filed thereto by Spring Canyon Stage Line.

From the evidence adduced at said hearing, for and in behalf of the respective parties, it appears:

1. That the applicant is a resident of Helper, Carbon County, Utah, and for the past six years has been actively engaged in the business of draying and trucking in the said towns of Helper and Mutual, in Spring Canyon; that, in said business, applicant has become experienced in the operation and handling of automobiles and trucks, and the needs of the public for truck freight service, between said towns of Helper and Mutual; that automobile freight service between said points will accommodate a population of about five thousand (5,000) people residing in Spring Canyon; that the applicant is provided with the proper automobile equipment to render said freight service; and, that said service, if rendered as proposed, will not conflict with any other transportation service now being given by any other carrier, for hire.

2. That the Spring Canyon Stage Line, protestant herein, is now and since the 17th day of May, 1924, has been operating a stage line from Helper, Utah, to Mutual, Utah, and intermediate points, carrying passengers, baggage, and light express, for hire, over the public highways between said points on schedule time and rates on file with the Commission, and under a certificate of public convenience and necessity granted by it, in P. U. C. U. Case No. 717.

3. That the applicant, Ferdinand P. Fisher, does not propose nor intend to transport passengers, baggage, or light express, to or between said points, accompanying the passengers by rail or automobile, but to confine his operations to the carrying of express and freight alone, and in such a way as will not conflict with the present operations of the protestant, and in accordance with the proposed rate and time schedule filed by him with the Commission, which is hereby referred to as applicant's "Exhibit A," and made a part of these findings.

From the foregoing facts, the Commission concludes and decides that the applicant, Ferdinand P. Fisher, should be granted a certificate of public convenience and necessity authorizing and permitting him to establish,

operate, and maintain an automobile freight truck service, for hire, over the public highways between Helper, Carbon County, Utah, and Mutual, Carbon County, Utah, including intermediate points, and that said service should be confined to the carrying of general freight and express, and not include passenger baggage.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 271

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 19th day of August, 1926.

In the Matter of the Application of FERDINAND P. FISHER, doing business as the Fisher Dray & Transfer Company, for permission to operate an automobile freight line between Helper, Carbon County, Utah, and Mutual, Carbon County, Utah, and intermediate points. } CASE No. 894

This case being at issue upon application and protest on file, and having been duly heard and submitted, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings and conclusions, which said report is hereby referred to and made a part hereof:

IT IS ORDERED, That the application be, and it is hereby, granted; that Ferdinand P. Fisher be, and he is hereby, granted permission to establish, operate and maintain an automobile freight truck service, for hire, over the public highways between Helper, Carbon County, Utah, and Mutual, Carbon County, Utah, in-

cluding intermediate points; and that said service be confined to the carrying of general freight and express, and not to include passenger baggage.

ORDERED FURTHER, That applicant, Ferdinand P. Fisher, 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of FERDINAND P. FISHER, doing business as the Fisher Dray & Transfer Company, for permission to operate an automobile freight line between Helper, Carbon County, Utah, and Mutual, Carbon County, Utah, and intermediate points.	CASE No. 894

ORDER

Upon motion of the applicant, and with the consent of the Commission:

IT IS ORDERED, That Certificate of Convenience and Necessity No. 271, issued by the Commission in Case No. 894, August 19, 1926, to Ferdinand P. Fisher, be, and it is hereby, cancelled, that the right of said Ferdinand P. Fisher to operate an automobile freight line between Helper and Mutual, Utah, and intermediate points, be, and it is hereby, revoked.

Dated at Salt Lake City, Utah, this 15th day of November, 1926.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to reroute cars on its South 4th East Line, discontinue service on 7th South Street between State Street and 3rd East Street between 7th South and 9th South Streets, and to remove its tracks on 3rd East Street between 7th South and 9th South Streets, all in Salt Lake City, Utah.	CASE No. 895

Submitted July 19, 1926. Decided August 11, 1926.

Appearances:

John F. McLane and George R. Corey,	for Applicant.
Wm. H. Folland,	for Salt Lake City.
Messrs. Heber C. Iverson and Oliver Hodgson,	for Certain Individual Protestants.

REPORT OF THE COMMISSION

By the Commission:

In an application filed June 30, 1926, the Utah Light & Traction Company, a corporation, duly organized and existing under and by virtue of the laws of the State of Utah, alleges that it owns and operates an electric street and interurban railway system, located in Salt Lake City, and Salt Lake and Davis Counties, all in the State of Utah.

Applicant alleges that one double track line of said system, hereinafter called "Third East Line," extends from its intersection with the State Street Line on State Street, on and along 7th South Street to 3rd East Street, and thence on Third East Street to its intersection with the tracks on 9th South Street, over which the applicant operates the cars rendering service on its branch designated as the "South Fourth East Line."

It is further alleged that the said Third East Line was constructed by the predecessor in the interest of the applicant and has, at all times since its construction, been maintained and operated under franchises granted by Salt Lake City, covering that portion of applicant's entire railway system located within the limits of said city;

That applicant owns and operates, as a part of said railway system, a double track line on 5th South Street between State and 5th East Streets, and thence south on 5th East to 9th South Street; also on State Street from 5th South to 9th South Streets, and from State Street easterly along 9th South Street, over which lines it operates street cars at frequent intervals between the business section and the residential section of Salt Lake City.

Applicant further alleges that the continued operation of said Third East Line is not necessary or required in the service of the public. Service on the said South Fourth East Line can be rerouted over State Street to 9th South, thence east along 9th South to 4th East Street. Further, the street car service now rendered on 5th East, 5th South, State, and 9th South Streets, will be available for the use of the few patrons along said Third East Line at a distance of not more than two city blocks.

It is further alleged that the economical operation of the said railway system requires that service on the said Third East Line be discontinued and that service on said South Fourth East Line be rerouted as hereinabove mentioned.

Messrs. Heber C. Iverson and Oliver Hodgson protested the granting of the application on behalf of the citizens affected by the proposed change.

William H. Folland, City Attorney, appeared at the hearing, by direction of the City Board of Commissioners; but without any specific instructions to either oppose or forward the proposed plan. He stated that the City contemplated paving Third East Street; that the plans were already drawn and estimates received for paving, both with and without tracks.

The case came on regularly for hearing at Salt Lake City, Utah, July 12, 1926, and, at the conclusion of the applicant's testimony, Mr. Iverson, on behalf of the individual protestants, asked for a continuance of the case, to permit a review of the evidence and further consultation with the interested citizens. The request was granted and the further hearing of the case was resumed July 19, 1926, at Two o'clock P. M.

Mr. Edward A. West, General Manager of the Utah Light & Traction Company, testified that the proposed change does not contemplate decreasing the number of street cars operated by the Company on its system as a whole; neither does it contemplate depriving any of the present patrons of street car service. It contemplates rerouting one car line over tracks two blocks distant from the present route, discontinuance of service over four blocks of track, and the removal of two blocks of track. A map, showing the trackage of the Utah Light & Traction Company in Salt Lake City, was introduced and marked "Exhibit B," which is hereby referred to and made a part of these findings. The tracks to be removed are shown in red lines, and those to be abandoned, in yellow and green lines.

Continuing, the witness stated that the tracks over which it is proposed by this application to discontinue service, are used only in the operation of its South Fourth East Line, which is one of comparatively light traffic.

It is proposed to reroute this line so that it will run south on State Street from 7th South, the point at

which it now leaves State Street, to 9th South; thence east on 9th South Street to 3rd East, the point at which it now intersects 9th South, and thence on and along its present route; so that no change will be made in the service to the patrons using this line east of Third East or south of 9th South Street, and the new route will run not more than two blocks distant from the present route.

There is also parallel service on 5th South Street and on 5th East Street, two blocks distant, north and east, from the present route. Service on 9th South Street will be increased, the witness testified, and that on 5th South Street and 5th East Street will not be changed, and the patrons of the Company living along the route which it is proposed to change, will still have adequate street car service not more than two blocks distant.

The witness further testified that the change, if granted, will eliminate the cost of maintaining four blocks of double track, and will eliminate the maintenance of four switches and four turnouts located on paved streets. It will eliminate four double track turns through traffic on busy streets; and further, if Third East Street is paved, which we are advised the City contemplates, the cost to the Company of paving a portion of the street will be eliminated. Paving would also require future maintenance; both the cost of maintenance and the original cost of paving would impose a burden upon the Street Car Company, to be borne ultimately by street car riders, without adding to or increasing, in any way, the Company's ability to render street car service.

In the cross-examination of Mr. West by Mr. Folland, the question of the removal of the tracks on 5th East Street, for the purpose of making 5th East a boulevard, was referred to. It developed that, while considerable has been said regarding this matter, no definite conclusions have been reached.

Mr. Iverson filed a protest signed by two hundred seventy (270) people living in the locality affected by the proposed change, and asked, as stated above, for further time to consider some of the statements made by applicant.

The case was resumed for further hearing, July 19, 1926, at Two o'clock P. M. Mr. Iverson, on behalf of the protestants, testified that on the four blocks which

intersect at the corner of 7th South and 3rd East, there are four hundred five (405) houses, and, estimating four and one-half persons to the family, it would make 1,822 individuals living in that territory. The witness further stated that there are a number of courts running through these four blocks; and walking from the center of some of the courts, unless one should go a block and a half in the opposite direction of one's destination, it would be necessary to walk to the street and then two and one-half blocks to a car, if this line is removed, making a total distance of three blocks.

Attention was also directed by witness to the map, applicant's "Exhibit B," showing that if said tracks were removed or abandoned, the area in question would have less service than any other like area within walking distance of the center of the City.

In cross-examination of the witness, it was developed that the force of the protest would be very much lessened, if not entirely removed, if the Traction Company would agree or be required to construct tracks so that the people, at least in the more thickly populated districts, would not be required to walk more than a block and a half to two blocks.

In answer to the question, "Is there anything further from the City with reference to the removal of the 5th East track?" Mr. Folland made the following answer: "No, the City has not taken any definite steps on that. It is a sort of tentative plan, something that we hope to see accomplished. We would like to bring about, or see brought about, the clearing of 5th East of those tracks. One very important problem is the traffic. The street bears a very heavy automobile traffic; and, of course, the presence of the street railway cars on the street makes that a more troublesome and difficult problem, naturally, than if it were free. Then the hope would be to extend the through thoroughfare, perhaps, still farther north from 9th South, at the present time, from 9th South to the City limits. The City has already passed an ordinance declaring it to be a through highway and is preparing now to put "Stop" signs on both sides, so all traffic coming into it will be brought to a stop before entering 5th East; and we would hope to extend those regulations north, a little further, so as to better control the traffic on 5th East. Now, that is the City's point of view, the thing we would like to see brought about. If that were done, of course, the Street Railway Company

would have to put their line somewhere else in order to serve that community; and the most available place would be along 4th East. Now, I don't know whether the Company has considered this thing far enough to have any definite announcements to make; but is something that has been talked over between them and the City officials. I am expressing the view of the individual Commissioners, but there has been no action by the Board; no action has been definitely taken."

Counsel for applicant said his Company was "perfectly willing to help solve the situation in the best way that can be found. Just what the best way is, we do not know, yet. However, this removal of the tracks on 3rd East, we feel is the first step."

In reviewing the whole matter as presented, and after a full consideration of all material facts, the Commission finds that the applicant, Utah Light & Traction Company, should be permitted to remove its tracks, poles, wires, and other equipment on 3rd East Street between 7th South and 9th South Streets; but, that the request to discontinue rendering street car service over that part of its said 3rd East Line, which extends from State Street and 7th South Street east on 7th South to 3rd East Street, be denied; and further, that the granting of permission to remove the tracks on 3rd East Street between 7th South and 9th South Streets be granted, provided, only, that the said Utah Light & Traction Company shall extend its tracks on 7th South Street from 3rd East to 4th East, thence south on 4th East to 9th South Street, thereby rendering street car service on 5th, 7th and 9th South Streets, parallel lines, two blocks apart, which the Commission feels will be ample service for the street car traveling public in that vicinity.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

(Signed) F. L. OSTLER, 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, 1926.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, to reroute cars on its South 4th East Line, discontinue service on 7th South Street between State Street and 3rd East Street and on 3rd East Street between 7th South and 9th South Streets, and to remove its tracks on 3rd East Street between 7th South and 9th South Streets, all in Salt Lake City, Utah.	CASE No. 895

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

IT IS ORDERED, That the Utah Light & Traction Company be, and it is hereby, granted permission to remove its tracks, poles, wires, and other equipment on 3rd East Street between 7th South and 9th South Streets.

ORDERED FURTHER, That the request to discontinue rendering street car service over that part of its said 3rd East Line which extends from State Street and 7th South Street east on 7th South to 3rd East Street, be, and it is hereby, denied.

ORDERED FURTHER, That the Utah Light & Traction Company be, and it is hereby, required to extend its tracks on 7th South Street from 3rd East Street to 4th East Street, thence south on 4th East Street to 9th South Street, if and when it removes its tracks on 3rd East Street between 7th South and 9th South Streets.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the CITY OF ST. GEORGE, for permission to increase its rates for water. } CASE No. 896

Submitted October 20, 1926. Decided November 8, 1926.

Appearances:

H. T. Atkin, Mayor, and K. N. Snow, City Attorney, } for Applicant, City of St. George.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly to be heard, before the Commission, after due notice given, at the City of St. George, Utah, on the 30th day of October, 1926.

Briefly stated, the application alleges that the applicant, City of St. George, a municipal corporation, owns, controls, and operates a water system for the purpose of supplying its inhabitants with water for domestic and other beneficial uses; that the operating revenues derived from said water system are not now commensurate with the costs of its maintenance and operation; that the City of St. George desires to make said water system more self-sustaining.

It appears:

1. That on the 11th day of February, 1925, the Commission, in a former case, P. U. C. U. No. 760, made full investigation and had a hearing concerning the same matters involved herein. In that case, the City of St. George was permitted by the Commission to revise its water rate schedules, by increasing its water rates, and to serve consumers with water in accordance with the provisions of an ordinance duly passed by the City Council of the City of St. George. Said increased rates were to remain effective for a test period of one year from the date of the Commission's order therein, the Commission meanwhile retaining jurisdiction over the

matters involved, for the purpose of determining the justness and reasonableness of the rates so made effective.

2. It now appears from financial statements made by the City of St. George that for a period, May 2, 1925, to May 1, 1926, under the schedules made effective by the Commission's order, February 11, 1925, the City of St. George received as operating revenues from its said water system the sum of $3,158.86, only, while its operating expenses for said period, allowing nothing for depreciation or for interest on bonded indebtedness, incurred for its water system, amounted to $4,493.43.

3. That the City of St. George now proposes herein to serve water from its water system in accordance with an ordinance duly passed by the City Council of St. George, on the 2nd day of October, 1926, and as follows:

> "Sec. 210. WATER RATES. The rates for the supply of water from the City Water Works, to be paid semi-annually in advance, are hereby fixed and established as follows, to wit:
>
> "Bakery, $8.00; Barber Shop or Dental Parlor, $8.00; each additional chair, $2.00; baths, public, first tub or shower, $5.00; each additional tub or shower, $3.00; baths in private houses, $3.00; each additional tub or shower, $2.00; butcher shop, $8.00; dance hall, $8.00; drug store, $8.00; hose connections for garage for washing cars, minimum charge, $10.00; hotel or boarding house, five to ten rooms, single tap $12.00; over ten rooms, $15.00; each additional tap, $1.00; house or private residence where the tap is located in the main building, $5.00; each additional tap, $1.00; each additional apartment, $5.00; house or private residence where the tap is outside the main building, $6.00 per tap; each additional tap, $1.50; each additional apartment, $6.00; each bath tub in hotel or boarding house, $5.00; one water closet in public building, $6.00; each additional public closet in same building, $3.00; water closet in private residence each $3.00; lavatory, $2.00; each urinal $3.00; each laundry $10.00; offices, banks, etc., each tap $8.00; pool or billiard room, $8.00; soda fountain $8.00; store or shop, $8.00; corrals, for each animal up to five head, 75 cents; for each animal over five head, 50 cents; fire plugs or at-

tachments for extinguishing fire, $1.00; schools or other public buildings, minimum $10.00. For a supply of water for any purpose not specially designated, the price shall be fixed by the assessor of water rates corresponding with the standards hereinbefore established.

"Provided, that for each tapping of the main there shall be paid a minimum semi-annual tax of $4.50; where this tax is for corral purposes no charge shall be made for animals, until the number exceeds six head.

On and after January 1, 1925, no tapping of the main shall be permitted and no permit shall be issued for sprinkling lawns, yards, or gardens, except where the water is drawn through a meter.

"Any person, corporation, or association may install an automatic public drinking fountain to be installed and maintained at their own expense, provided that the City will furnish free of charge water for such fountain; provided, further, that said installation and maintenance are under the supervision of the Superintendent of Water Works, after permission is given by the City Council.

"Sec. 211. METER RATES. The Meter Rates for the supply of water from the City of St. George Water Works are hereby fixed and established as follows:

"All water measured through meters for domestic and culinary uses and for schools and non-profit public institutions shall be paid for semi-annually in advance at the rate of 30 cents for each 1,000 gallons for the first 15,000 gallons used, and 15 cents for each 1,000 gallons for all water used in excess of said amount, up to 100,000 gallons; and 12½ cents for each 1,000 gallons used in excess of said 100,000 gallons; with a minimum charge of $4.50 for each meter used in said family, school, or other non-profit public institution, drawing water through said meter.

"All water measured through meters for hotels, garages, barber shops, offices, stores, cafes, markets, or other business places, shall be paid for semi-annually in advance at the rate of 40 cents for each 1,000 gallons for the first 15,000

gallons used, and 20 cents for each 1,000 gallons used in excess of said amount up to 100,000 gallons; and 12½ cents per 1,000 gallons in excess of said 100,000 gallons, with a minimum charge of $6.00 for each meter above mentioned, for each six months. Provided, that in case one meter is made to furnish water for more than one building, then a minimum charge shall be collected for each building so supplied.

"The above semi-annual rates shall be due and payable on the 15th day of January and the 15th day of July of each year, as provided in Sec. 208, but the payments for the amounts in excess of 15,000 gallons used in any half year shall be due and payable at the end of the half year, when the meter shall be read by the Collector of Water rates, or his deputy or assistant.

"This Ordinance shall take effect on and after the 1st day of January, 1927."

From the foregoing findings, the Commission concludes that the applicant, City of St. George, should be permitted to revise its rate schedules in accordance with its said ordinance, passed October 2, 1926, and that an order should be made herein in accordance therewith.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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, 1926.

In the Matter of the Application of the CITY OF ST. GEORGE, for permission to increase its rates for water. } CASE No. 896

This case being at issue upon application on file, and having been duly heard and submitted by the par-

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the City of St. George be, and it is hereby, authorized to revise its rate schedule for water served from its water system, in accordance with an ordinance passed by the City Council of St. George, October 2, 1926, hereby referred to and made a part hereof.

ORDERED FURTHER, That said revised rate schedule shall be effective on and after January 1, 1927.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to adjust rural and urban telephone rates at its Richfield Exchange.	CASE No. 897

Submitted August 19, 1926. Decided August 28, 1926.

Appearances:

W. Q. VanCott, Attorney,	for Applicant.
Henry N. Hayes, H. E. Beal and Sterling K. Hepler,	for Richfield Commercial Club.
O. R. Michelsen,	for Citizens of Monroe, Protestants.

REPORT OF THE COMMISSION

By the Commission:

On June 28, 1926, The Mountain States Telephone & Telegraph Company filed an application with this Commission, in substance alleging:

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 it is a public utility corporation, subject to the laws of Utah relating to public utilities; that it has for several years past conducted, and now is conducting, a general telephone business in the State of Utah, and particularly in and near Richfield, Utah; that the service and rates for telephone service now being charged by the applicant at its Richfield exchange are:

RURAL RATES

Business Service	$3.00 per month
Residence Service	2.00 per month

URBAN RATES

Individual line, business service	$4.50 per month
Two-party line, business service	4.00 per month
Individual line, residence service	2.25 per month
Two-party line, residence service	2.00 per month
Four-party line, residence service	1.75 per month

That the service and rates for service now proposed to be put into effect by the applicant at its Richfield exchange are:

RURAL RATES

Within radius of six (6) miles of central office:

Business service	$4.00 per month
Residence Service	2.00 per month

Without radius of six (6) miles of central office:

> Twenty-five cents (25c) per month in addition to above rates, business and residence, for each additional three (3) miles, or fraction thereof, in the distance from the central office.

URBAN RATES

Individual line, business service.....	$5.50 per month
Two-party line, business service.....	4.50 per month
Individual line, residence service.....	2.50 per month
Four-party line, residence service.....	2.00 per month

That during the past few years, and particularly since 1914, price levels in general have materially increased; that during said time the cost of materials and wages for personal service necessary to the furnishing of telephone service have increased accordingly; that during said time telephone rates at the Richfield exchange have not been increased, except for a small increase in 1919, and that no increase has been made in said rates since 1919; that the present rates, both urban and rural, now being charged are wholly inadequate and unreasonably low.

That during the year 1925, applicant made net additions to its plant at Richfield totaling Sixteen Thousand Eighty-eight Dollars ($16,088.00); that such improvements included additions to central office telephone equipment, exchange pole lines and exchange aerial cables; that such additions and betterments have been fully completed and result in increased telephone facilities and better service to the subscribers; that beginning in January, 1926, applicant began improvements in its rural lines, connecting with its exchange at Richfield, and that such improvements were completed and put into service during May, 1926; that such improvements amounted to Twenty Thousand Seven Hundred Fifty Dollars ($20,750.00) net addition to plant; that such improvements have been fully completed and now result in increased telephone facilities to the subscribers.

That during the year 1925, and based on the average value of its property employed, applicant suffered as the results of its operation a deficiency of approximately Five Thousand Seven Hundred Dollars ($5,700.00); that on account of the additions made to its plant in 1926, and the resulting increased expenses incident thereto, applicant will suffer for the year 1926, as the result of its operations, a deficit of approximately Nine Thousand Seven Hundred Dollars ($9,700.00); that the change in rural rates now prayed for will afford an annual increase in revenue of approximately Six Hundred Forty-four

Dollars ($644.00), and that the change in urban rates now prayed for will produce an additional annual revenue of approximately Thirteen Hundred Fifty-Six Dollars ($1356.00), and that consequently the change in rates now prayed for will not wholly relieve the annual deficiency suffered by applicant in the operation of this exchange, but will in some degree lessen this deficiency.

Applicant prays that the proposed schedule of rates be adopted, approved and made effective.

This case came on for hearing before the Commission at Richfield, Utah, on July 14, 1926.

The applicant, Mountain States Telephone & Telegraph Company, hereinafter known as the company, introduced exhibits as follows:

> Statement showing that the total revenues at the Richfield Exchange during the year 1925 amounted to $19,427.05, and that the total expenses during said period were $18,764.75, leaving a net income of $662.30; that the average value of the property used was $79,600.41, and, therefore, the Company earned .83% on its investment.
>
> Statement of estimated increases in revenue from proposed rates indicating increased revenues from rural rates of $648.00, and from urban rates of $1356.00, or a total estimated increase of $2,004.00 per annum.
>
> Graph indicating change in telephone rates as compared with change in cost of living during period from 1915 to 1925, inclusive.

The Company introduced testimony at the hearing to the effect that during the latter part of 1925 and early in 1926, it expended for improvements to the system within the town of Richfield, approximately $16,000.00, and had expended in Monroe, Elsinore and the rural area around Richfield, approximately $20,000.00, or a total of $36,000.00; that the total number of subscribers in the rural area was one hundred one, so that the total additional investment on rural lines amounted to about $200.00 per subscriber's station. Further, that the necessities of life which in 1914 cost $1.00, cost $1.70 in 1925, while telephone service, which was substantially increased in scope, use and value, cost $1.00 in 1914, cost only $1.09 in 1925.

That charges for telephone service in Richfield have not been materially increased since 1914, and are, therefore, out of line with the rates charged in the other sections of the State.

The Commercial Club of Richfield, through its attorney, filed a formal protest for the purpose of placing the applicant on its proof, and asked that the Club be given a reasonable time to investigate the proposed rates, and to determine whether or not said rates would be justifiable. Further, that for financial reasons, this is a most inopportune time for a raise in rates, because the beet crop in Sevier County is almost a total failure, that the market price of livestock is below the cost of producing them, and that farm products are bringing very low prices.

A committee from Monroe appeared as protestants, for the purpose of examining applicant as to the reasonableness of the proposed rates.

At the conclusion of the hearing, the Commission continued the case for further hearing and investigation, until August 2, 1926, said continuance being granted in accordance with the request of the attorney representing the Commercial Club of Richfield. In the interim, the Company was instructed to furnish protestant a statement showing telephone rates now in effect at various other cities and towns in Utah.

On July 31, 1926, said protestant asked that further hearing be deferred, and, on August 15th, advised the Commission that the Commercial Club had decided to drop the matter.

From the evidence adduced at the hearing, the Commission finds that applicant, The Mountain States Telephone & Telegraph Company, has recently expended in the Richfield Exchange area, the sum of $36,000.00, in additions and betterments.

That the increased revenue to be derived from the proposed increase in rates in the rural area will be more than offset by taxes assessed against the property placed in service during the early part of 1926. The total increase prayed for by the appellant will return less than one per cent upon the property used and useful in the Richfield Exchange area.

For the above reason, the Commission is of the opinion that, with one exception, the rates as petitioned for should be granted. In the matter of individual business lines at Richfield, we feel that a rate of $60.00 per annum is adequate. The rate applied for is $66.00 per annum.

The following schedule of rates will be, therefore, authorized as of September 1, 1927:

RURAL RATES

Within radius of six (6) miles of central office:

Business service . . . . . $4.00 per month
Residence Service . . . . . 2.00 per month

Without radius of six (6) miles of central office:

Twenty-five cents (25c) per month in addition to above rates, business and residence, for each additional three (3) miles, or fraction thereof, in the distance from the central office.

URBAN RATES

Individual line, business service . . . . . $5.00 per month
Two-party line, business service . . . . . 4.50 per month
Individual line, residence service . . . . . 2.50 per month
Four-party line, residence service . . . . . 2.00 per month

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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, 1926.

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to adjust rural and urban telephone rates at its Richfield Exchange. } CASE No. 897

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

IT IS ORDERED, That applicant, The Mountain States Telephone & Telegraph Company, be, and it is hereby, granted permission to establish and put in effect the following rates for telephone service, at its Richfield Exchange:

RURAL RATES

Within radius of six (6) miles of central office:

Business service . . . . . $4.00 per month
Residence Service . . . . . 2.00 per month

Without radius of six (6) miles of central office:

Twenty-five cents (25c) per month in addition to above rates, business and residence, for each additional three (3) miles, or fraction thereof, in the distance from the central office.

URBAN RATES

Individual line, business service . . . . . $5.00 per month
Two-party line, business service . . . . . 4.50 per month
Individual line, residence service . . . . . 2.50 per month
Four-party line, residence service . . . . . 2.00 per month

ORDERED FURTHER, That said schedule of rates be effective on and after September 1, 1926, on one day's notice to the Commission and the public.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

TOWN OF JOSEPH, a Municipal Corporation,
Complainant,
vs.
TELLURIDE POWER COMPANY, a Corporation,
Defendant.

CASE No. 898

PENDING.

In the Matter of the Application of the CASTLE VALLEY POWER COMPANY, for permission to construct, operate and maintain an electric light and power system in the TOWN OF FERRON, UTAH.

CASE No. 899

PENDING.

In the Matter of the Application of M. M. KING, for permission to operate an automobile truck line for the transportation of freight and express between Salt Lake City, Utah, and Nephi, Utah.

CASE No. 900

PENDING.

In the Matter of the Application of JAMES R. STANLEY and H. C. CRANE, for permission to operate an automobile truck line for the transportation of freight and express between Salt Lake City, Utah, and Nephi, Utah.

CASE No. 901

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH IDAHO CENTRAL RAILROAD COMPANY, for permission to abandon its present street car line in Logan City, Cache County, Utah, and to substitute therefor a motor vehicle line.	CASE No. 902

Submitted August 16, 1926. Decided September 8, 1926.

Appearances:

DeVine, Howell, Stine & Gwilliam, Attorneys, for Applicant.

REPORT OF THE COMMISSION

By the Commission:

On August 4, 1926, the Utah Idaho Central Railroad Company filed with this Commission an application, in substance alleging:

That it is now and for many years last past has been a railroad corporation, organized and existing under and by virtue of the laws of the State of Utah, and is now and for many years last past has been operating a street car line in Logan City, Cache County, State of Utah, and other railroad lines and interurban service between and at other points in the States of Utah and Idaho.

That continuously for many years said street car line has been operated at a loss; that the revenues from the operation of same have not been and are not now sufficient to meet the actual operating expenses, much less to pay any interest on invested capital.

That the applicant recognizes, nevertheless, its duty to continue to furnish to the people of Logan City transportation service within the limits of said City, so long as the furnishing of said service does not constitute such a drain upon the Company's resources that the same im-

pairs its ability to furnish adequate transportation service to the other communities served by it as aforesaid.

That the street car line now being operated by applicant in the City of Logan has been in existence for a number of years, and, during that period, portions of the City have been developed for residential purposes which said line does not serve at all and it is not feasible or practicable to build other lines to such sections; that applicant believes and therefore alleges the fact to be that by reason of the flexibility of motor vehicle service, it can render to the people of a city the size of Logan City more adequate service by means of motor vehicle than by an obsolete street railway line, which cannot be extended to meet the changing needs of the City.

That the usual fare charged upon motor vehicles operated in cities throughout the country is 10 cents per one-way fare, but applicant believes that by the use of high class equipment and more adequate service, it can furnish said transportation service to the people of the City of Logan at a one-way fare of 7 cents, or three fares for 20 cents, and 20 school tickets for $1.00, and if this petition and application be granted, applicant requests authority to fix the rates as above stated.

That applicant now has a franchise from said Logan City to operate as a common carrier by motor vehicle of passengers over the streets, alleys and public places of said City.

Applicant requests permission from the Commission to abandon its present street car line in Logan City, and to substitute therefor a motor vehicle service for the transportation of passengers over the streets, alleys and public places of said City, charging for such service the rates hereinbefore set forth.

The case came on regularly for hearing, before the Commission, at Logan, Utah, August 16, 1926, at 1:30 P. M.

The applicant, only, was represented at the hearing, no protestants appearing.

The applicant introduced exhibits as follows:

That the net deferred maintenance on said street car system was $20,141.63.

That 351,166 passengers were carried during 1925, and that the gross revenue totaled $16,662.10.

That the total expense, excluding deferred maintenance and interest on the investment, was $15,062.49, and that the net income, interest and maintenance being excluded, was $1,599.61.

That the fair value of the property used is $86,400.00; that interest on the fair value at 8% would be $6,912.00, and that the deficit over return on the investment, excluding deferred maintenance, was, therefore, $5,312.39.

The Commission finds:

That during the year 1925, the net return on said street car system was approximately 1.85%, and that the property is not being adequately maintained.

That the public convenience and necessity will be better subserved by the operation of street car type passenger busses instead of the street cars now being operated.

That the proposed schedule of fares, consisting of single fares of 7 cents, three fares for 20 cents, and 20 school tickets for one dollar, is reasonable and should be approved.

Subsequent to the hearing, the President of the Agricultural College, at Logan, expressed his approval of the proposed change, inasmuch as students at the College will be carried directly to the campus, instead of to the foot of College Hill, as at present.

A communication was also received from Logan City stating it was advised that applicant would operate busses on schedule time, would take care of extra public gatherings at the College, and would leave the streets in acceptable condition after removing the tracks, and that said City was therefore in favor of granting the certificate as prayed for.

The applicant has heretofore received a franchise from Logan City.

The Commission, therefore, further finds that said application should be granted, and that applicant may

discontinue and abandon the present street car service and substitute motor busses in lieu thereof.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 272

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 8th day of September, 1926.

In the Matter of the Application of the UTAH IDAHO CENTRAL RAILROAD COMPANY, for permission to abandon its present street car line in Logan City, Cache County, Utah, and to substitute therefor a motor vehicle line.	CASE No. 902

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Utah Idaho Central Railroad Company be, and it is hereby, authorized to discontinue and abandon its present street car service in Logan City, Utah.

ORDERED FURTHER, That the Utah Idaho Central Railroad Company be, and it is hereby, granted permission to operate an automobile bus line, for the transportation of passengers, over the streets of Logan

City, Utah, if and when it discontinues and abandons its street car service in said Logan City.

ORDERED FURTHER, That applicant, Utah Idaho Central Railroad Company, before beginning operation of its automobile bus line in Logan City, Utah, shall file with the Commission and post at each terminal, 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 terminal; and shall at all times operate in accordance with the Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile bus lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the MOAB LIGHT & POWER COMPANY, for approval of its Tariffs Nos. 2 and 3.	CASE No. 903

Submitted August 30, 1926. Decided September 22, 1926.

Appearances:

Knox Patterson, Attorney,	for Applicant.
G. A. Robertson,	for Moab Garage Co., Cooper Martin & Co., Moab Drug Co., and Loren L. Taylor.

REPORT OF THE COMMISSION

By the Commission:

On August 6, 1926, the Moab Light & Power Company filed with this Commission, an application, in substance alleging:

That applicant is a corporation, organized and existing under and by virtue of the laws of the State of Utah; that it owns a hydro-electric power plant, transmission lines and distribution system, located in the Town of Moab, Grand County, Utah, and operates the same for the purpose of generating, transmitting and distributing electric power and energy to said town, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, and power purposes, and insofar as the operation and conduct of said business is concerned, applicant is an "electric corporation," and as such a "public utility," all as defined by law, and subject to the provisions of the Public Utilities Law of Utah, as embraced in Title XCI of the Compiled Laws of Utah, and all amendments thereof.

That said applicant is now operating and rendering electric service under schedule of rates as shown on applicant's Exhibit "A," attached to the application.

That applicant filed with the Commission its Tariffs Nos. 2 and 3, and asked that the same be kept open for public inspection for thirty days, as required by law, and thereupon permitted to become effective; that said tariffs propose the following changes in the rates named in the existing schedule of rates above mentioned:

1. Lighting rates to remain the same.

2. Power rates will be slightly changed, making reductions in charges in some cases, and slight increases in others, depending upon load factor, quantity of consumption, etc., but the general level of power rates will be decreased.

That present value of applicant's power system and property used and useful in rendering the above mentioned service is in excess of $30,000.00.

That the proposed tariffs will not materially change any rate for service now being charged, and will not

increase the gross income from the operation of the property, but applicant believes that they are better designed to meet the needs and requirements of the consumers using electric power from its system, than are the rates set out in Tariff No. 1, above referred to.

Applicant prays that the proposed Tariffs Nos. 2 and 3, as filed with the Commission, be kept open for public inspection for thirty days, and thereupon the Commission cancel and terminate said Tariff No. 1, and in lieu thereof establish and make effective the rates, charges, rules and regulations as set out in said Tariffs Nos. 2 and 3, hereinabove mentioned.

The case came on regularly for hearing, before the Commission, at Moab, Utah, August 24, 1926, at Ten A. M.

Protests against the approval of Schedule No. 3 in Proposed Tariff No. 2, were filed on behalf of the Cooper-Martin Company, the Moab Garage Company, the Moab Drug Company, and the Moab Times-Independent, on the ground that the approval of said tariff would materially increase the amounts now being paid for power by said protestants.

The applicant introduced exhibits showing that the estimated, depreciated cost of plant and system, including the sum of $5,000.00 for going value and water rights, was $30,646.32, as of December 31, 1925, and that the net return on the above value for the year 1925 was 4.9%.

Applicant's exhibits also stated that no valuation based on present reproduction costs had been made, and, inasmuch as above cost was the bare book cost only, the present value would greatly exceed $30,646.32. Applicant states that in the near future, it proposes to expend the sum of $7,500.00 in additions to the physical property.

Testimony at the hearing was to the effect that the property of the Moab Light & Power Company had been optioned to the Utah Light & Power Company of Salt Lake City for the sum of $31,000.00, this sum including the electric plant and system and also an artificial ice plant. The value of the ice plant was estimated to be $3,000.00, leaving the net purchase price of the electric plant, $28,000.00.

The net earnings for the year 1925 were $1,521.80, which would amount to 5.4% on the proposed purchase price of $28,000.00.

The Commission finds that the proposed lighting rates are the same as the present schedule; that the heating and cooking rate is to be four cents per K. W. H., instead of five cents as at present; and that the proposed power rates show a sligt increase. The proposed power rates are the standard rates now in effect in all territory served by the Utah Power & Light Company in the State. Under the showing made, said rates are reasonable and should be approved.

The Commission therefore finds that Tariff No. 1 should be cancelled, and that Tariffs No. 2 and No. 3, as filed by the Moab Light & Power Company in this case, are fair and reasonable and should be approved. These tariffs having been filed with the Commission on August 6, 1926, to become effective September 1, 1926, were, on August 30, 1926, suspended until October 1, 1926, this latter date, therefore becoming the effective date.

An order will be issued.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 September, 1926.

In the Matter of the Application of the MOAB LIGHT & POWER COMPANY, for approval of its Tariffs Nos. 2 and 3. } CASE No. 903

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

IT IS ORDERED, That the application be, and it is hereby, granted; that Tariff No. 1, heretofore issued by the Moab Light & Power Company, be, and it is hereby cancelled and annulled; that the Moab Light & Power Company be, and it is hereby, authorized to publish and put in effect its Tariffs No. 2 and 3, as filed with this Commission.

ORDERED FURTHER, That this order shall become effective on and after October 1, 1926.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the CITY OF GREEN RIVER, for approval of its Tariffs Nos. 2 and 3. } CASE No. 904

Submitted August 31, 1926. Decided September 10, 1926.

Appearance:

L. S. Smith, Attorney, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

On August 6, 1926, the City of Green River filed with this Commission an application, in substance alleging:

That the City of Green River is a municipal corporation, organized and existing under and by virtue of the laws of the State of Utah; that it owns a hydro-electric power plant, transmission lines and distribution system, located in the City of Green River, Utah, and operates the same for the purpose of generating, transmitting and distributing electric power and energy to said City, the inhabitants thereof, and persons and corporations beyond the limits thereof for light, heat, and power purposes, and, insofar as the operation and conduct of said business is concerned, applicant is an "electric corporation," and as such a "public utility," all as defined by law, and subject to the provisions of the Public Utilities Law of Utah, as embraced in Title XCI of the Compiled Laws of Utah, and all amendments thereof.

That applicant is now operating and rendering electric service under a schedule of rates denominated Tariff No. 1, filed with this Commission by letter dated July 9, 1920.

That applicant, on August 4, 1926, filed with this Commission its Tariffs Nos. 2 and 3, and asked that the same be kept open for public inspection for thirty days, as required by law, and thereupon permitted to become effective. Said tariffs propose the following changes in the rates named in the existing schedule of rates above mentioned:

1. Lighting rates to remain the same.

2. Power rates will be slightly changed, making reductions in charges in some cases, and slight increases in others, depending upon load factor, quantity of consumption, etc.

That the present value of applicant's power system and property used and useful in rendering the above mentioned service is in excess of $23,000.00.

That the proposed tariffs will not materially change any rate for service now being charged, and will not increase the gross income from the operation of the property, but applicant believes that they are better designed to meet the needs and requirements of the consumers using electric power from its system, than are the rates set out in Tariff No. 1, above referred to, and that the expected growth of the power business will be

facilitated and encouraged by the rates, rules, and regulations specified in said Tariffs Nos. 2 and 3.

Applicant prays that the proposed Tariffs Nos. 2 and 3, as filed with the Commission, be kept open for public inspection for thirty days, and thereupon the Commission cancel and terminate said Tariff No. 1, in lieu thereof establish and make effective the rates, charges, rules, and regulations as set out in said Tariffs Nos. 2 and 3, hereinabove mentioned.

This matter came on regularly for hearing, before the Commission, at Green River, Utah, August 25, 1926, at Ten o'clock A. M.

No protests were filed.

At the hearing, the Mayor of Green River offered exhibits as follows:

Exhibit showing that the present schedule of rates charged is:

Motors . . . . . 3c per K. W. H.
Lights . . . . . 12½c per K. W. H.
Street Lights . . . . . $70.00 per month flat

Exhibit showing proposed tariffs, consisting of six schedules covering all classes of electric service.

Exhibit showing proposed rules and regulations.

Exhibit showing that the estimated total cost of plant and system on December 31, 1925, was $28,464.72, estimated depreciation of $6,000.00, leaving a net depreciated book value of $22,464.72 on which value applicant earned in 1925 $1,105.93, or 4.9%.

It was shown at the hearing that applicant, Green River City, proposes to sell and transfer said electric plant and system to the Utah Power & Light Company of Salt Lake City, for a consideration of $15,000.00; that the present tariffs did not cover classes of service that might become needed in the future, and that the proposed tariffs and rules were requested in order to place the rates and regulations at Green River on a parity with other towns in Utah operating under similar conditions.

It also appeared, that in order to furnish continuity of service, a stand-by steam plant, now under lease to the City, should be reconditioned and made available for emergency use, at an estimated cost of $5,000.00.

The present plant is a hydro-electric plant located on Green River, at a point approximately six miles from the City, and is subject to interruptions in service because of ice conditions during the winter months.

After a careful consideration of all matters pertinent to the case, the Commission finds that the proposed tariffs and rules are fair and reasonable and should be approved.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 September, 1926.

In the Matter of the Application of the CITY OF GREEN RIVER, for approval of its Tariffs Nos. 2 and 3. } CASE No. 904

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the City of Green River be, and it is hereby, authorized to publish and put into effect its Tariffs Nos. 2 and 3, P. U. C. U. Nos. 2 and 3, setting

forth rates, rules, and regulations for electric power and light service.

ORDERED FURTHER, That this order shall be effective on five days' notice to the public and the Commission.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the City of Green River, Utah.	CASE No. 905

Submitted August 11, 1926. Decided September 25, 1926.

REPORT OF THE COMMISSION

By the Commission:

Under date of August 11, 1926, the Utah Power & Light Company filed an application with the Public Utilities Commission of Utah, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by the City of Green River, Utah.

Said franchise granted the "Utah Power & Light Company, its successors and assigns (herein called the 'Grantee'), the right, privilege, or franchise, until July 1, 1976, to construct, maintain and operate in the present and future streets, alleys, and public places, in Green River City, Utah, and its successors, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph

and telephone lines for its own use), for the purpose of supplying electricity to said City, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power, and other purposes."

No protests to this application were submitted, in writing or otherwise.

After giving full consideration to this application, the Commission finds that a certificate of convenience and necessity should be issued to the Utah Power & Light Company to exercise the rights and privileges as conferred by franchise granted by the City of Green River, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 275

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 25th day of September, 1926.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the City of Green River, Utah.	CASE No. 905

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Utah Power & Light Company be, and it is hereby, authorized to construct, maintain and operate in the present and future streets, roads, highways and public places, in the City of Green River, Utah, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines, for its own use), for the purpose of supplying electricity to said City and all persons, firms and corporations, private and municipal, within said City or beyond the limits thereof, desiring to use the same for light, heat, power and other purposes.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant, Utah Power & Light Company, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the Town of Moab, Utah.	CASE No. 906

Submitted August 11, 1926. Decided September 25, 1926.

REPORT OF THE COMMISSION

By the Commission:

Under date of August 11, 1926, the Utah Power & Light Company filed an application with the Public

Utilities Commission of Utah, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by the Town of Moab, Utah.

Said franchise granted the "Utah Power & Light Company, its successors and assigns (herein called the 'Grantee'), the right, privilege, or franchise, until August 1, 1976, to construct, maintain and operate in the present and future streets, alleys, and public places, in the town of Moab, Utah, and its successors, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines for its own use), for the purpose of supplying electricity to said Town, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power, and other purposes."

After giving full consideration to this application, the Commission finds that a certificate of convenience and necessity should be issued to the Utah Power & Light Company to exercise the rights and privileges as conferred by franchise granted by the Town of Moab, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 276

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 25th day of September, 1926.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the Town of Moab, Utah.	CASE No. 906

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Utah Power & Light Company be, and it is hereby, authorized to construct, maintain and operate in the present and future streets, roads, highways and public places, in the Town of Moab, Utah, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines, for its own use), for the purpose of supplying electricity to said Town, and all persons, firms and corporations, private and municipal, within said Town or beyond the limits thereof, desiring to use the same for light, heat, power and other purposes.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant, Utah Power & Light Company, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by Grand County, Utah.	CASE No. 907

Submitted August 11, 1926. Decided September 25, 1926.

REPORT OF THE COMMISSION

By the Commission:

Under date of August 11, 1926, the Utah Power & Light Company filed an application with the Public Utilities Commission of Utah, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by Grand County, Utah.

Said franchise granted the "Utah Power & Light Company, its successors and assigns (herein called the 'Grantee'), the right, privilege, or franchise, until August 1, 1976, to construct, maintain and operate in, along, upon and across the present and future roads, highways and public places in Grand County and its successors, over which said Board of County Commissioners has authority, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines for its own use), for the purpose of transmitting and supplying electricity to said County, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes."

After giving full consideration to this application, the Commission finds that a certificate of convenience and necessity should be issued to the Utah Power & Light Company to exercise the rights and privileges as conferred by franchise granted by the County of Grand, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 277

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 25th day of September, 1926.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by Grand County, Utah. } CASE No. 907

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Utah Power & Light Company be, and it is hereby, authorized to construct, maintain and operate in the present and future streets, roads, highways and public places, in Grand County, Utah, over which said Board of County Commissioners has authority, electric light and power lines, together with all the necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, and telegraph and telephone lines, for its own use), for the purpose of supplying electricity to said County, and all persons, firms, and corporations, private and municipal, within said County or beyond the limits thereof, desiring to use the same for light, heat, power and other purposes.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant, Utah Power & Light Company, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Signed) F. L. OSTLER,
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 amend Item 1105-A, Supplement 33, O. S. L. Tariff 3000-H, P. U. C. U., No. 336. } CASE No. 908

ORDER

Upon motion of the applicant, and with the consent of the Commission:

IT IS ORDERED, That the application herein of the Oregon Short Line Railroad Company, for permission to amend Item 1105-A, Supplement 33, O. S. L. Tariff 3000-H, P. U. C. U. No. 336, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 15th day of November, 1926.

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to adjust telephone rates at its Provo Exchange. } CASE No. 909

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to change certain of its rules, regulations, practices, and differentials respecting intrastate toll service and rates.	CASE No. 910

Submitted September 10, 1926. Decided September 14, 1926.

Appearance:

Orson John Hyde, for Applicant.

REPORT OF THE COMMISSION

By the Commission:

On August 30, 1926, the Mountain States Telephone & Telegraph Company filed with this Commission an application, in substance alleging:

That the applicant is a corporation organized and existing under and by virtue of the laws of the State of Colorado, and is qualified to transact, and is transacting, business in the State of Utah; that it is conducting a general telephone business throughout the State of Utah; that its principal place of business is Salt Lake City, Utah.

That attached to the application and made a part thereof is Exhibit "A," a statement of certain rules, regulations, practices, and differentials respecting intrastate telephone toll service which are now in effect in the State of Utah; that attached to the application and made a part thereof, is Exhibit "B," a statement of certain rules, regulations, practices, and differentials respecting such service which are proposed to be put into effect in the State of Utah.

That the proposed changes provide earlier evening low-rate service and will result in better service during low-rate hours; that under the present practice for sta-

tion-to-station service between the hours of 8:30 P. M. and 12:00 o'clock midnight, an evening rate of approximately 50 per cent of the day rate is applicable, and that from 12:00 midnight until 4:30 A. M., a night rate of approximately 25 per cent of the day rate is applicable; that this present practice results in a congestion of traffic at 8:30 P. M., and in a much greater congestion at midnight; that the present practice, if continued, will require additional plant in order to take care of these peak loads, and it also increases the operating cost; that these excessive peak loads resulting from the present practice increase operating costs by requiring a greater force to take care of such peak loads than would be necessary if the same amount of traffic were distributed over a longer period of time; that such congestion also results in unsatisfactory and slower service, and sometimes results in uncompleted calls; that under the proposed practices as to station-to-station service, there will be, between the hours of 7:00 o'clock P. M. and 8:30 P. M., an evening rate of approximately 75 per cent of the day rate, and from 8:30 P. M. until 4:30 A. M., there will be a night rate of approximately 50 per cent of the day rate; that the proposed practice will permit users to employ the cheaper service at earlier hours and over longer periods of time, and will thus tend to do away with the congestion now present at 8:30 and 12:00 midnight periods, and will tend to distribute the traffic over a longer period.

That under the present practice, in station-to-station service, collection of the charge at the terminating end is allowed only at person-to-person rates. Under the proposed practice, in station-to-station service, at day, evening, and night rates, collection of the charge at the terminating end will be permitted when the station-to-station rate is 25 cents or more; that this change in practice will satisfy the persistent demand of the general body of patrons, and will eliminate wide differences between some "paid" and "collect" charges.

That by changing the differentials as proposed, there will result a more appropriate relation between station-to-station and person-to-person rates; that the proposed person-to-person rates are approximately 40 per cent more than the station-to-station rates at the short hauls, and then taper to the present differential of approximately 25 per cent at about 100 miles; that the appointment and messenger rates are approximately 70 per cent

more than the station-to-station rates at the short hauls, and then taper to the present differential of approximately 50 per cent at about 100 miles; that pursuant to these changes, a few report charges are reduced, as will be seen from a comparison of Exhibits "A" and "B;" that the changes proposed will result in a greater use of the station-to-station service; that such changes will make the person-to-person rates at short hauls more consistent with the rates for station-to-station service at short hauls, and more consistent with the increased cost of rendering person-to-person service.

Applicant asks that the Public Utilities Commission of Utah approve the rules, regulations, practices, and differentials respecting long distance telephone service in the State of Utah, as set forth in Exhibit "B" to the application.

The application came on regularly for hearing before the Commission, September 10, 1926, at Ten A. M., at Salt Lake City, Utah.

No protests to the application were entered, in writing or otherwise.

A communication was received from the Ogden Chamber of Commerce of Ogden, Utah, approving the granting of said application.

The Logan Chamber of Commerce also filed a letter favoring the granting of the petition as filed.

The applicant filed an exhibit of six charts, showing graphic comparisons between the present and the proposed schedules.

The Commission finds that the proposed changes in certain rules, regulations, practices, and differentials as heretofore set out in applicant's petition are in the public interest and should be approved.

The Commission recommends that said rules, regulations, discount periods and reverse charge privileges should become the standard practice of all other telephone companies operating in the State of Utah in order to

provide a uniform schedule which the Commission feels would be of benefit to the public.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, 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 September, 1926.

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to change certain of its rules, regulations, practices, and differentials respecting intrastate toll service and rates. } CASE No. 910

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

IT IS ORDERED, That the application be, and it is hereby, granted; that the Mountain States Telephone & Telegraph Company be, and it is hereby, authorized to change certain of its rules, regulations, practices, and differentials respecting intrastate toll service and rates, as set out in its application.

ORDERED FURTHER, That this order shall become effective on and after October 1, 1926.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of JAMES R. STANLEY and H. C. CRANE, for permission to operate an automobile freight line between Salt Lake City and Scipio, Utah. } CASE No. 911

PENDING.

In the Matter of the Application of ETHER WOOD, for permission to operate an automobile freight line between Salt Lake City, Fillmore, Millard County, Utah, Beaver, Beaver County, Utah, and Parowan and Cedar City, Iron County, Utah. } CASE No. 912

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of CLARENCE T. MADSEN, for permission to operate an automobile freight line between Gunnison, Centerfield, and Gunnison Railroad Station, Utah. } CASE No. 913

Submitted September 21, 1926. Decided October 9, 1926.

Appearance:

C. M. Edwards, Attorney, } for Applicant.

REPORT OF THE COMMISSION

McKAY, Commissioner:

This application was filed August 23, 1926, showing that Clarence T. Madsen, a resident of Gunnison, Sanpete County, Utah, seeks the right to operate a common carrier freight motor truck line between the towns of Gunnison and Centerfield and the Gunnison Railroad Station, alleging that public convenience and necessity require the rendering of such service.

The case came on regularly for hearing at Gunnison, Utah, September 21, 1926, before the Commission, upon

proper notice to the public. No written protests were received, neither did any protestants appear at the hearing.

The applicant testified that he is engaged in the business of hauling freight by automobile truck and by horse-drawn vehicles, between Gunnison and Centerfield and Gunnison Railroad Station; that the City of Gunnison and the town of Centerfield are located about three-and one-quarter and three and one-half miles, respectively, from Gunnison Railroad Station, on the Denver & Rio Grande Western Railroad.

It was stipulated that all evidence in Case No. 872, in the matter of the application of Jesse L. Bartholomew, for permission to operate an automobile passenger, express and freight line between Centerfield and Gunnison Railroad Station, via Gunnison, Utah, be admitted in the present case.

Subsequent to the hearing of said Case No. 872, the applicant testified that he has purchased all of the business and equipment of Andrew Modeen, one of the protestants to said application of Jesse L. Bartholomew, and that a stipulation has been made and filed herein between the said Jesse L. Bartholomew and applicant, to which stipulation reference is hereby made, whereby applicant and the said Jesse L. Bartholomew stipulated and agreed that applicant is entitled to the exclusive right and privilege of carrying all freight over and along said route, subject to the approval of the Public Utilities Commission of Utah.

It appears from all the circumstances and facts developed at this and also at the hearing of Case No. 872, that it is necessary that all freight shipped into or out of either of said communities, Gunnison or Centerfield, be hauled by truck or wagon between said towns and said railroad station; and that the operation of said freight line by petitioner is a necessity and convenience to the inhabitants of the said Gunnison City and Centerfield, Utah.

The application should accordingly be granted.

An appropriate order will be issued.

(Signed) THOMAS E. McKAY,
Commissioner.

We concur:

(Signed) E. E. CORFMAN,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 279

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 9th day of October, 1926.

In the Matter of the Application of CLARENCE T. MADSEN, for permission to operate an automobile freight line between Gunnison, Centerfield, and Gunnison Railroad Station, Utah.	CASE No. 913

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

IT IS ORDERED, That the application be, and it is hereby, granted, that Clarence T. Madsen be, and he is hereby, authorized to operate an automobile freight line between Gunnison, Centerfield, and Gunnison Railroad Station, Utah.

ORDERED FURTHER, That applicant, Clarence T. Madsen, 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of E. M. SUMNER, for permission to operate an automobile freight line between Salt Lake City and Cedar City, Utah. } CASE No. 914

PENDING.

In the Matter of the Application of the ARROW AUTO LINE, for permission to operate an automobile passenger and express line between Hiawatha and Mohrland, Utah. } CASE No. 915

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WALLACE B. PAXTON, for permission to operate an automobile freight line between Beaver City and Cedar City, Utah. } CASE No. 916

Submitted November 23, 1926. Decided December 4, 1926.

Appearance:

Wallace B. Paxton, } Applicant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly to be heard, before the Public Utilities Commission of Utah, at Cedar City, Utah, on the 19th day of October, 1926, due notice of the time and place of hearing having been given, as required by law and the rules of the Commission.

The application, in brief, sets forth that the applicant, Wallace B. Paxton, is a resident of Beaver City, Beaver County, State of Utah, and that public convenience and necessity requires the operation of an automobile freight line over the public highway between Beaver City,

Utah, and Cedar City, Utah, twice a week, on Monday and Friday of each and every week. Applicant prays that he be granted a certificate of public convenience and necessity authorizing and permitting him to give said service over the route above described.

The evidence adduced for and in behalf of the applicant at the hearing, shows:

1. That the applicant, Wallace B. Paxton, is a resident of Beaver City, Beaver County, Utah.

2. That he is financially able and has had sufficient experience in the operation of automobiles over the public highways to enable him to give efficient service for hire between Beaver City and Cedar City, Utah.

3. That Cedar City is a common railroad point, and that Beaver City is not served at the present time by any railroad or other means of transportation between Cedar City and Beaver City; that Beaver City has a population of approximately 2500 inhabitants; and that large quantities of merchandise are transported by rail and by truck to Cedar City, destined to Beaver City.

4. That public convenience and necessity require the operation of automobile trucks over the public highways between said points for the giving of freight service.

5. That the applicant proposes, if granted a certificate of public convenience and necessity authorizing and permitting him so to do, to operate an automobile freight line over the public highway between Beaver City and Cedar City, Utah, twice each week, to wit: Monday and Friday of each week, increasing the said service when necessary to meet the needs and requirements of the shippers between said points.

6. That the applicant proposes to render said freight service in accordance with the following rate schedule:

From Beaver City to Paragonah....30c per cwt.
From Beaver City to Parowan.....35c per cwt.
From Beaver City to Summit.....40c per cwt.
From Beaver City to Cedar City....55c per cwt.
From Cedar City to Summit.....15c per cwt.
From Cedar City to Parowan.....25c per cwt.
From Cedar City to Paragonah....30c per cwt.
From Cedar City to Beaver City...55c per cwt.

From the foregoing facts, the Commission concludes and decides that public convenience and necessity require the operation of an automobile freight line between Beaver City and Cedar City, including intermediate points, and that the applicant, Wallace B. Paxton, should be granted a certificate of public convenience and necessity as applied for herein.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 280

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, 1926.

In the Matter of the Application of WALLACE B. PAXTON, for permission to operate an automobile freight line between Beaver City and Cedar City, Utah. } CASE No. 916

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

IT IS ORDERED, That the application be, and it is hereby, granted, that Wallace B. Paxton be, and he is hereby, authorized to operate an automobile freight line between Beaver City and Cedar City, Utah, and intermediate points.

ORDERED FURTHER, That applicant, Wallace B. Paxton, 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of ELMER B. TAYLOR, for permission to operate an automobile freight line between Sigurd, Salina, Richfield, Loa, Fremont, Lyman, Bicknell, Teasdale, Torrey, Fruita and Notom, Utah. } CASE No. 917

PENDING.

In the Matter of the Application of ELMER B. TAYLOR, for permission to operate an automobile freight line between Marysvale, Junction, Circleville, Kingston, Coyote and Escalante, Utah. } CASE No. 918

PENDING.

In the Matter of the Application of ELMER B. TAYLOR, for permission to operate an automobile freight line between Marysvale, Junction, Circleville and Panguitch, Utah. } CASE No. 919

PENDING.

In the Matter of the Application of the UTAH IDAHO CENTRAL RAILROAD COMPANY, for permission to abandon its passenger service between Ogden and Plain City, Utah. } CASE No. 920

PENDING.

In the Matter of the Application of THOMAS W. PERRY, for permission to operate an automobile freight line between Heber City and Salt Lake City, Utah, via Midway, Orem, or Provo, Utah. } CASE No. 921

PENDING.

In the Matter of the Application of the UTAH IDAHO MOTOR WAY, a partnership, consisting of Robert H. Lawrence and Harry G. Lawrence, for permission to operate an automobile passenger stage line between Salt Lake City and the Utah-Idaho State Line.	CASE No. 922
	PENDING.
J. C. DAVIS, *Complainant,* vs. MURRAY CITY, a Municipal Corporation, *Defendant.*	CASE No. 923
	PENDING.
In the Matter of the Application of M. C. WEST and R. A. NEILSON, for permission to operate an automobile freight and express line between Richfield and Milford, Utah.	CASE No. 924
	PENDING.
In the Matter of the Application of E. C. NELSON and FLOYD ANDERSON, for permission to operate an automobile freight and express line between Monroe, Utah, and Salt Lake City, Utah, and certain intermediate points.	CASE No. 925
	PENDING.
In the Matter of the Application of PRICE, a Municipal Corporation, for the establishment of grade crossings at Third West Street and at First West Street, in Price City, Utah, over and across the tracks of the Denver & Rio Grande Western Railroad Company.	CASE No. 926
	PENDING.
In the Matter of the Application of E. M. SUMNER, for permission to operate an automobile passenger stage line between Payson and Cedar City, Utah.	CASE No. 927
	PENDING.

HENRY I. MOORE and D. P. ABERCROMBIE, Receivers for the Salt Lake & Utah Railroad Co., *Complainants,* vs. UTAH IDAHO CENTRAL RAILROAD CO., P. H. MULCAHY, Receiver for UTAH IDAHO CENTRAL RAILROAD COMPANY, BAMBERGER ELECTRIC RAILROAD COMPANY, and UTAH RAILWAY COMPANY, *Defendants.*	CASE No. 928
	PENDING.
In the Matter of the Application of THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, for permission to purchase and operate the railroad and appurtenant property of the GOSHEN VALLEY RAILROAD COMPANY.	CASE No. 929
	PENDING.
In the Matter of the Application of THOMAS W. PERRY, for permission to operate an automobile freight line between Heber City and Salt Lake City, Utah, via Kamas and Park City, Utah.	CASE No. 930
	PENDING.
In the Matter of the Application of E. B. PARRY, for permission to operate an automobile passenger stage line between Salt Lake City, American Fork City, Pleasant Grove City, and Provo, Utah, around what is known as the Timpanogos Loop.	CASE No. 931
	PENDING.
In the Matter of the Application of THE MIDLAND TELEPHONE COMPANY, for permission to increase certain subscribers' rates in the Moab, Grand County, Utah, Exchange area.	CASE No. 932
	PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of DIXIE POWER COMPANY, for permission to construct a hydro-electric generating plant on the Santa Clara River in Washington County, Utah. } CASE No. 933

Submitted December 20, 1926. Decided December 22, 1926.

Appearances:

Lafayette Hanchett, of Salt Lake City, Utah, and D. H. Morris, Attorney, of St. George. } for the Applicant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing before the Public Utilities Commission of Utah, on the 20th day of December, 1926, at the office of the Commission in Salt Lake City, Utah.

The application sets forth, in brief, that applicant, Dixie Power Company, is a corporation, engaged in the business of generating and transmitting electric energy in the Counties of Washington and Iron, in the State of Utah, for sale to consumers.

From the evidence adduced for and in behalf of the applicant at the hearing, it appears:

1. That the applicant, Dixie Power Company, is a corporation existing under and by virtue of the laws of the State of Utah, and that it is lawfully engaged in the State of Utah in the business of generating, transmitting, producing, and distributing electric energy in the Counties of Washington and Iron, State of Utah, with its principal office or place of business at Cedar City, Utah.

2. That it has now sold the capacity of its two hydro-electric plants operated within this State, including surplus power purchased from the municipal power plant of Parowan City; that at the present time it is and in the future it will be unable to supply the demands made

upon it for electric energy, unless further facilities are afforded for serving the public; that it has at the present time contracts signed for the delivery of power for pumping water for irrigation purposes for the year 1927, and other power contracts for useful purposes, aggregating a total of 400 horse power, in addition to its present load.

3. That the applicant proposes to construct an additional power plant upon the Santa Clara river, in Washington County, Utah, at a cost of approximately $175,000.00, and place the same in operation not later than May 1, 1927.

From the foregoing facts, the Commission finds that public convenience and necessity require that the applicant, Dixie Power Company, be authorized and permitted to construct the proposed plant as applied for herein.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 282

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 22nd day of December, 1926.

In the Matter of the Application of DIXIE POWER COMPANY, for permission to construct a hydro-electric generating plant on the Santa Clara River in Washington County, Utah. } CASE No. 933

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Dixie Power Company be, and it is hereby, authorized to construct, maintain, and operate a hydro-electric generating plant on the Santa Clara River, in Washington County, Utah.

ORDERED FURTHER, That in the construction or such hydro-electric generating station, applicant, Dixie Power Company, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of JAMES H. WADE, for permission to withdraw from and RAY RALPHS to assume operation of automobile stage line between Price and Emery, Utah, via Huntington, Castle Dale, Orangeville, Ferron, Clauson, and intermediate points. } CASE No. 934

PENDING.

In the Matter of the Application of MORONI CITY, a Municipal Corporation, for permission to purchase, or construct, maintain, and operate an electric light plant for Moroni City, Utah. } CASE No. 935

PENDING.

In the Matter of the Application of HOWARD HOUT, for permission to transfer to J. C. WILSON all his right, title and interest in automobile passenger stage line between Salt Lake City and Coalville, Utah. } CASE No. 936

PENDING.

In the Matter of the Application of HARRY BUTLER, for permission to operate an automobile passenger stage line between Provo and Ironton, Utah. } CASE No. 937

PENDING.

In the Matter of the Application of E. D. LOVELESS and W. H. BRADFORD, Co-partners, doing business as the Utah Central Transfer Co., for permission to transfer to the UTAH CENTRAL TRANSFER COMPANY, a corporation, all their right, title and interest in auto freight line between Provo and Eureka, Utah, and intermediate points. } CASE No. 938

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the City of CASTLE DALE, Emery County, Utah. } CASE No. 939

Submitted December 4, 1926. Decided December 9, 1926.

REPORT OF THE COMMISSION

By the Commission:

Under date of December 4, 1926, the Utah Power & Light Company filed an application with the Public Utilities Commission of Utah, for a certificate of convenience and necessity to exercise the rights and privileges conferred by franchise granted by the City of Castle Dale, Emery County, Utah.

Said franchise granted the "Utah Power & Light Company, its successors and assigns (herein called the 'Grantee'), the right, privilege or franchise, until De-

cember 1, 1976, to construct, maintain and operate electric light and power lines, together with all the necessary or desirable appurtenances (including poles, towers, wires, guys, including anchors and stubs, transmission lines, and telegraph and telephone lines for its own use), in, over and across any or all of the present and future streets, alleys and public places in the City of Castle Dale, so far as the same may be necessary, suitable or desirable for a single electrical transmission line, but this franchise shall extend only to the construction, maintenance and operation of such single transmission line; shall not authorize the erection of a second or additional line, and the Grantee shall not acquire any rights hereunder to furnish electric power or energy to said City or its inhabitants."

After giving full consideration to this application, the Commission finds that a certificate of convenience and necessity should be issued to the Utah Power & Light Company to exercise the rights and privileges as conferred by franchise granted by the City of Castle Dale, Emery County, Utah.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
G. F. McGONAGLE,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity No. 281

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 9th day of December, 1926.

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the City of CASTLE DALE, Emery County, Utah.	CASE No. 939

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

IT IS ORDERED, That the application be, and it is hereby, granted, that the Utah Power & Light Company be, and it is hereby, authorized to construct, maintain and operate electric light and power lines, together with all the necessary or desirable appurtenances (including poles, towers, wires, guys, including anchors and stubs, transmission lines, and telegraph and telephone lines for its own use), in, over and across any or all of the present and future streets, alleys and public places in the City of Castle Dale, so far as the same may be necessary, suitable or desirable for a single electrical transmission line; but, in accordance with the franchise granted by the City of Castle Dale, this authority shall extend only to the construction, maintenance and operation of such single transmission line; the Utah Power & Light Company is not hereby authorized to erect a second or additional line, and shall not furnish electric power or energy to Castle Dale City or its inhabitants.

ORDERED FURTHER, That in the construction of such transmission and distribution lines, applicant, Utah Power & Light Company, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of the UTAH POWER & LIGHT COMPANY, for permission to exercise the rights and privileges conferred by franchise granted by the Town of Ferron, Emery County, Utah. } CASE No. 940

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of WALTER K. JOHNSON to withdraw from and T. W. BOYER, Trustee, to assume operation of automobile passenger stage line between Eureka and Payson, Utah, and intermediate points.	CASE No. 941

Submitted December 20, 1926. Decided December 31, 1926.

Appearances:

T. W. Boyer,	for Eureka-Payson Stage Line.
F. M. Orem,	for Salt Lake & Utah Railroad Co.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing before the Commission, at its office in Salt Lake City, Utah, on the 20th day of December, 1926, upon the application of Walter K. Johnson to withdraw from and T. W. Boyer, Trustee, to assume the operation of automobile passenger stage line between Eureka and Payson, Utah, and intermediate points.

The application sets forth, in substance, that Walter K. Johnson has heretofore operated an automobile bus for the transportation of passengers, for hire, between Payson and Eureka, Utah, under Certificate of Convenience and Necessity No. 187, issued by the Public Utilities Commission of Utah; that the applicant herein has succeeded, by purchase, to the automobile equipment used and devoted to the rendering of automobile bus service under said Certificate of Convenience and Necessity No. 187, and prays that he be granted by the Commission a certificate of public convenience and necessity authoriz-

ing and permitting him, as trustee, to continue the operation of the said automobile stage line.

From the evidence adduced at the hearing, it appears:

1. That on or about the 6th day of August, 1923, the Public Utilities Commission of Utah, in Case No. 644, made and issued its order granting a certificate of public convenience and necessity to Walter K. Johnson, authorizing and permitting him to operate an automobile passenger stage line, for hire, over the public highway, between Payson and Eureka, Utah, and intermediate points.

2. That thereafter said Walter K. Johnson commenced the operation of said stage line and continued the same under said certificate of convenience and necessity until on or about the year 1923, when he sold all of the equipment used in the operation of said stage line to one T. M. Gilmer, and that T. M. Gilmer, from the date of his purchasing of the same, continued the operation of said line until May 24, 1924, when the operation of same was continued by T. M. Gilmer and T. W. Boyer, as trustees for Fred C. Dern, E. J. Raddatz, J. B. Scholefield, Hilda Boyer, and Fannie Loscombe, owners by purchase of the equipment used in said service, until August 18, 1926, at which time said T. M. Gilmer resigned as trustee and since then T. W. Boyer, the applicant herein, has operated the same as trustee for said parties until the present time.

3. That said transfer of the automobile equipment used in rendering this public service and the operation of said line or route in the manner aforesaid, was in good faith, the purchasers thereof believing thereby they acquired the right to operate the same under said Certificate No. 187.

4. That at the present time the public convenience and necessity requires the operation of an automobile stage line, for hire, between Eureka City and Payson City, Utah, and intermediate points, and that the present owners of said automobile equipment are financially able and are in every way capable of rendering to the traveling public prompt, efficient, and dependable automobile service to the traveling public between said points; that the said owners have suitable equipment and have employed competent and experienced operators for the rendering of said stage service, and have duly designated

T. W. Boyer, applicant herein, as their trustee, to act in their behalf.

5. That said W. K. Johnson and T. M. Gilmer, respectively, have abandoned said route, discontinued to operate the same, and disposed of the equipment heretofore used in giving said service, to the applicant, T. W. Boyer, as trustee for the owners of the equipment, in manner aforesaid.

From the foregoing facts, the Commission concludes and decides that public convenience and necessity requires the operation of an automobile stage line, for hire, over the public highway between Eureka City and Payson City, Utah; that a certificate of public convenience and necessity should issue to the applicant, T. W. Boyer, Trustee, as aforesaid, therefor, upon the filing with the Commission of a schedule of rates and time that said service will be rendered to the public, and upon full compliance with the statutes of Utah and the rules and regulations of the Commission as in such cases made and provided.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
Commissioners.

[SEAL]

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Cerificate of Convenience and Necessity No. 283

Cancels Certificate of Convenience and Necessity No. 187

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 31st day of December, 1926.

In the Matter of the Application of WALTER K. JOHNSON to withdraw from and T. W. BOYER, Trustee, to assume operation of automobile passenger stage line between Eureka and Payson, Utah, and intermediate points.	CASE No. 941

This case being at issue upon application 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 and conclusions, which said report is hereby referred to and made a part hereof.

IT IS ORDERED, That the application be, and it is hereby, granted, that Walter K. Johnson be, and he is hereby, authorized to withdraw from the operation of automobile passenger stage line between Eureka and Payson, Utah, and intermediate points; that Certificate of Convenience and Necessity No. 187, issued by the Commission to said Walter K. Johnson, in Case No. 644, be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That T. W. Boyer, Trustee, be, and he is hereby, granted permission to operate an automobile passenger stage line between Eureka and Payson, Utah, and intermediate points.

ORDERED FURTHER, That applicant, T. W. Boyer, Trustee, 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 Statutes of Utah and the rules and regulations prescribed by the Commission governing the operation of automobile stage lines.

By the Commission.

(Signed) F. L. OSTLER,
Secretary.

[SEAL]

In the Matter of the Application of L. G. CHARLES, for permission to operate an automobile passenger stage line between Tooele City and Bauer, Utah. } CASE No. 942

PENDING.

SPECIAL DOCKETS—REPARATION

Number		Amount	
186	Bullion Beck & Champion Mining Company & U. S. Smelting, Refining & Mining Company, vs. Utah Railway Company and the Los Angeles & Salt Lake Railroad Company	$ 51.00	
187	Utah State Road Commission, vs. Denver & Rio Grande Western Railroad Company	115.60	
188	Ohio Copper Company, vs. Bingham & Garfield Railway Company	261.47	
189	Utah Power & Light Company, vs. Salt Lake & Utah Railroad Company	21.39	
190	Utah Power & Light Company, vs. Bamberger Electric Railroad Company	70.72	
191	J. W. Thornley vs. Southern Pacific Company	135.00	
192	Provo Ice & Cold Storage Company, vs. Denver & Rio Grande Western Railroad Company. . . .	66.90	
193	Utah Copper Company vs. Bingham & Garfield Railway Company	6,391.21	
194	The Republic Creosoting Company vs. the Denver & Rio Grande Western Railroad Company. . . .	6.40	
195	Independent Coal & Coke Company vs. the Denver & Rio Grande Western Railroad Company	24.00	
196	Columbia Steel Corporation vs. the Denver & Rio Grande Western Railroad Company	2,855.00	(1)
197	American Smelting & Refining Company vs. Denver & Rio Grande Western Railroad Company	10.13	
198	American Smelting & Refining Company vs. Denver & Rio Grande Western Railroad Company	115.14	

SPECIAL DOCKETS—REPARATION

Number		Amount	
199	American Smelting & Refining Company vs. Denver & Rio Grande Western Railroad Company	16.00	
200	American Smelting & Refining Company vs. Denver & Rio Grande Western Railroad Company	24.29	
201	George Holt, vs. Utah Gas & Coke Company	7.39	(2)
202	United States Fuel Company, vs. Denver & Rio Grande Western Railroad Company	55.72	(3)
203	Amalgamated Sugar Company, vs. Utah Idaho Central Railroad Company, and Oregon Short Line Railroad Company		(4)
204	Chief Consolidated Mining Company vs. Denver & Rio Grande Western Railroad Company	127.25	
205	Bailey & Sons Company, vs. Western Pacific Railroad Company, et al	47.47	
206	R. E. Jones, vs. Denver & Rio Grande Western Railroad Company	20.20	(3)
207	American Asphalt Roofing Company, vs. Denver & Rio Grande Western Railroad Company, and Utah Idaho Central Railroad Company	18.12	
208	P. E. Willardwen, vs. Denver & Rio Grande Western Railroad Company	50.00	
209	Lester D. Freed, vs. Utah Gas & Coke Company	18.33	(2)
		$10,508.73	

(1) Waiver of demurrage charges.

(2) Credit to account.

(3) Waiver of undercharge.

(4) Protect rate.

SPECIAL PERMISSIONS ISSUED DURING YEAR 1926

Name	Number
American Railway Express Co.	1
Arrow Auto Line	1
Bamberger Electric Railroad Co.	1
Bingham & Garfield Railway Co.	3
Denver & Rio Grande Western Railroad Co.	52
Local Utah Freight Bureau	17
Los Angeles & Salt Lake Railroad Co.	23
Mountain States Telephone & Telegraph Co.	1
Oregon Short Line Railroad Co.	27
Pacific Freight Tariff Bureau	19
Price Transportation Co.	1
Salina Telephone Co.	1
Salt Lake & Fillmore Bus Line	1
Salt Lake & Tooele Stage Line	1
Salt Lake & Utah Railroad Co.	3
Streeper Transportation Co.	1
Southern Pacific Co.	3
Telluride Power Co.	1
Tooele Valley Railway Co.	2
Union Pacific System	4
Utah Gas & Coke Co.	1
Utah Idaho Central Railroad Co.	14
Utah Light & Traction Co.	2
Utah Power & Light Co.	1
Utah Railway Co.	2
Wayne County Telephone & Telegraph Co.	1
Western Pacific Railroad Co.	4
Total	188

GRADE CROSSING PERMITS ISSUED IN THE YEAR 1926

Number	Issued To	Location
105	Los Angeles & Salt Lake Railroad Co.	American Fork
106	Oregon Short Line Railroad Co.	Wellsville
107	Salt Lake & Utah Railroad Co.	Salt Lake City
108	Denver & Rio Grande Western R. R. Co.	Manti
109	Utah State Road Commission & Sevier County	Between Sigurd & Richfield
110	Salt Lake & Utah Railroad Co.	Provo
111	Salt Lake & Utah Railroad Co.	Springville
112	Oregon Short Line Railroad Co.	Salt Lake City
113	Oregon Short Line Railroad Co.	Moberly
114	Ogden Union Railway & Depot Co.	Ogden

CERTIFICATES OF CONVENIENCE AND NECESSITY WERE ISSUED AS FOLLOWS:

Certificate No.	Case No.	Classification	Between *At And		To Whom Issued
256	820	Light & Power Line	*Tooele County		Utah Power & Light Co.
257	854	Light & Power Line	*Vernal, Utah		Utah Power & Light Co.
258	855	Light & Power Line	*Uintah County		Utah Power & Light Co.
259	839	Passenger Line	Price	Emery	James H. Wade
260	859	Light & Power Line	*Summit County		Utah Power & Light Co.
261	849	Truck Line	Salt Lake	Murray, Midvale, Sandy	B. & O. Transportation Co.
262	847	Freight & Express Line	Salt Lake	Garfield	Magna-Garfield Truck Line
263	882	Passenger & Express Line	Logan	Utah Idaho State Line	Utah Idaho Central R. R. Co.
264	864	Light & Power Line	*Morgan		Western States Utilities Co.
265	867	Passenger & Freight Line	Salt Lake	Alta	Elbert G. Despain
266	883	Passenger Line	Cedar City	St. George	B. L. Covington
267	889	Passenger Line	Salt Lake	Brighton	Ernest & Nephi Neilson
268	887	Passenger Line	Price	Castle Gate	
			Price & Helper	Gibson	Price Transportation Co.
269	893	Passenger & Freight Line	Salt Lake	Grantsville	Lester A. Bolinder
270	823	Passenger & Express Line	Salt Lake	Ogden	Bamberger Transportation Co.
271	894	Truck Line	Helper	Mutual	Ferdinand P. Fisher
272	902	Passenger Line	*Logan		Utah Idaho Central R. R. Co.
273	814	Truck Line	Vernal	Price	Eastern Utah Transptn. Co.
274	885	Truck Line	Salt Lake	Vernal	Sterling Transportation Co.
275	905	Light & Power Line	*Green River		Utah Power & Light Co.
276	906	Light & Power Line	*Moab		Utah Power & Light Co.
277	907	Light & Power Line	*Grand County		Utah Power & Light Co.
278	872	Passgr. Exp. & Truck Line	Centerfield	Gunnison R. R. Station	Jesse L. Bartholomew
279	913	Truck Line	Gunnison	Centerfield & Gunnison R. R. Station	Clarence T. Madsen
280	916	Truck Line	Beaver City	Cedar City	Wallace B. Paxton
281	939	Light & Power Line	*Castle Dale		Utah Power & Light Co.
282	933	Hydro-Electric Power plant	*Santa Clara River, Washington County		Dixie Power Co.
283	941	Passenger Line	Eureka	Payson	T. W. Boyer

STATEMENT OF PASSENGERS CARRIED, PASSENGER MILES, AND TAXES ASSESSED AUTOMOBILE PASSENGER LINES IN THE STATE OF UTAH. FROM DECEMBER 1, 1925, TO DECEMBER 1, 1926.

Certificate Holders	ROUTE Between	ROUTE And	Total Passengers Carried	Passenger Miles Hard Surface	Tax	Passenger Miles Other	Tax	Total Tax
Alta Auto Bus & Stage Line	Sandy	Alta	1,073	6,980	$ 17.47	7,972	$ 7.98	$ 25.45
Arrow Auto Line	Price	Hiawatha	5,255	.....	.....	146,518	146.54	146.54
Bingham Stage Lines	Salt Lake	Bingham	55,784	1,294,687	3,236.78	224,875	224.88	3,461.66
Bracken, G. L.	St. John	Ophir	204	.....	.....	2,040	2.04	2.04
Coleman, Alva L.	Salt Lake	Heber	3,723	87,008	217.53	99,674	99.68	317.21
Paragonah-Cedar City Stage	Paragonah	Cedar City	1,001	.....	.....	24,889	24.91	24.91
Denton, J. C.	Garfield	Magna	1,617	2,784	6.97	.....	.....	6.97
Dodge Stage Line	Price, Heber	Duchesne, Vernal	4,798	7,296	18.25	196,114	196.07	214.32
Grantsville-Salt Lake Stage	Grantsville	Salt Lake	221	4,420	11.05	4,420	4.42	15.47
Eureka-Payson Stage Line	Eureka	Payson	5,247	34,825	88.47	91,423	91.42	179.89
Fillmore Stage Line	Salt Lake	Fillmore	359	27,489	72.14	16,105	16.11	88.25
Hadley & Peterson	Garland	Deweyville	1,876	3,014	7.37	7,033	7.04	14.41
Hout, Howard	Salt Lake	Coalville	664	4,235	10.59	23,975	23.99	34.58
Hout, Howard	Salt Lake	Park City	23,005	158,669	396.89	559,189	559.20	956.09
Spring Canyon Stage Line	Helper	Mutual	6,792	.....	.....	41,827	41.85	41.85
Lund, L. R. & Covington, B. L.	St. George	Enterprise	72	.....	.....	2,853	2.85	2.85
Lund, William	Enterprise	Modena	60	.....	.....	1,200	1.20	1.20
St. George-Cedar City Stage	St. George	Cedar City	1,145	.....	.....	53,327	53.34	53.34
Mill Creek Bus Line	Sugar House	E. Mill Creek	26,834	90,511	226.29	30	.03	226.32
Moab Garage	Moab	Thompson	1,944	.....	.....	80,965	80.97	80.97
Brighton Stage Line	Salt Lake	Brighton	461	5,993	14.99	6,915	6.93	21.92
O'Driscoll, Isaac	Coalville	Ogden	507	5,045	11.62	15,899	15.89	27.51
Utah & Grand Canyon Trans. Co.	Cedar City	So. Scenic Points	3,570	.....	.....	187,425	187.43	187.43
Pierce-Arrow Sight Seeing Co.	Salt Lake	Was. Drive, Etc.	2,167	144,957	362.41	15,548	15.54	377.95
Price-Emery Auto Line	Price	Emery	1,023	.....	.....	31,310	31.32	31.32
Salt Lake Transp. Co.	Salt Lake	Various Points	2,938	147,756	369.39	39,503	39.51	408.90
Eureka-Dividend Stage Line	Eureka	Dividend	1,514	.....	.....	6,061	6.05	6.05
Salt Lake-Tooele Stage Line	Salt Lake	Tooele	15,942	352,591	881.48	155,835	155.86	1,037.34
Utah Parks Co.	Cedar City	Scenic Utah	7,022	.....	.....	467,180	467.17	467.17
Price Transportation Co.	Price	Rolapp	14,033	80,817	202.30	16,900	16.90	219.20
Winschell, L. F.	Logan	Cutler	10,024	.....	.....	194,140	194.12	194.12
Utah Idaho Central R. R. Co.	Ogden	Logan	38,345	827,145	2,067.91	335,493	335.50	2,403.41
Thomas, W. O.	Salt Lake	Dividend	1,964	1,690	3.98	31,960	31.96	35.94
Utah Light & Traction Co.	N. Salt Lake	Bountiful	58,561	213,122	532.80	62,224	62.22	595.02
TOTAL			299,745	3,501,034	$ 8,756.68	3,150,822	$ 3,150.92	$ 11,907.60

STATEMENT OF FREIGHT CARRIED, TON MILES, AND TAXES ASSESSED AUTOMOBILE FREIGHT LINES OPERATING IN THE STATE OF UTAH

Certificate Holders	ROUTE Between	And	Total Tons Transported	Ton Miles Hard Surface	Tax	Ton Miles Other	Tax	Total Tax
Allen, W. D.	Salt Lake	Bingham	1,633	44,493	$ 296.62	2,951	$ 7.36	$ 303.98
Allsop, Myrle	Crescent	Salt Lake	356	4,277	28.51	1,069	2.66	31.17
Alta Auto Bus & Stage	Sandy	Alta	144	1,328	8.87	1,164	2.94	11.81
Arrow Auto Line	Price	Hiawatha	57	.....	.....	1,693	4.24	4.24
B. & O. Transportation Co.	Salt Lake	Sandy	795	7,774	51.84	.....	.....	51.84
Barton, A. H.	Tooele	Salt Lake	1,648	41,382	275.91	24,828	62.06	337.97
Bateman, Burnell	Lehi	Salt Lake	423	12,263	81.76	.....	.....	81.76
Bingham Stage Line	Salt Lake	Bingham	39	977	6.51	125	.31	6.82
Bracken, G. L.	St. John	Opnir	2	.....	.....	16	.04	.04
Magna Garfield Truck Line	Salt Lake	Garfield	1,164	20,262	135.09	.....	.....	135.09
Barton, J. Lowe	Paragonah	Cedar City	7	.....	.....	173	.43	.43
Grantsville-Salt Lake City Stage	Grantsville	Salt Lake	57	1,156	7.71	1,156	2.90	10.61
Eureka-Payson Stage	Eureka	Payson	38	198	1.30	494	1.23	2.53
Fillmore Stage	Salt Lake	Fillmore	5	217	1.44	155	.38	1.82
Hurricane Truck Line	Hurricane	Cedar City	710	967	6.45	33,508	84.04	90.49
Lund, William	Enterprise	Modena	19	.....	.....	384	.97	.97
Milne, Barton & Hamblin	St. George	Cedar City	538	.....	.....	29,280	73.18	73.18
Milne, J. J.	St. George	Cedar City	325	808	5.39	18,155	45.30	50.69
Barton, A. R.	St. George	Cedar City	454	.....	.....	25,000	62.50	62.50
Hamblin, E. O.	St. George	Cedar City	240	.....	.....	13,776	34.44	34.44
Moab Garage	Moab	Thompson	4,369	.....	.....	206,012	515.03	515.03
Milford-Beaver Truck Line	Beaver	Milford	742	.....	.....	25,252	63.09	63.09
Brighton Stage Line	Salt Lake	Brighton	15	194	1.30	224	.56	1.86
Price Emery Auto Line	Price	Emery	25	.....	.....	857	2.14	2.14
Rolfe and Wilkins	Pl. Green	Salt Lake	492	6,629	44.20	.....	.....	44.20
Salt Lake-Ogden Transp. Co.	Salt Lake	Ogden	8,319	285,476	1,903.18	.....	.....	1,903.18
Salt Lake Tooele Stage Line	Salt Lake	Tooele	61	1,479	9.86	813	2.04	11.90
Streeper, Wells R.	Ogden	Garland	2,058	56,600	377.23	19,344	48.36	425.59
Utah Central Truck Line	Salt Lake	Provo	2,633	109,865	732.42	.....	.....	732.42
Utah Central Transfer Co.	Provo	Silver City	1,707	36,735	244.93	22,779	56.96	301.89
Price Transportation Co.	Price	Rolapp	84	344	2.29	1,115	2.79	5.08
TOTAL CERTIFICATE HOLDERS, FREIGHT			29,218	633,424	$ 4,222.81	430,423	$ 1,075.95	$ 5,298.76

STATEMENT OF PASSENGERS CARRIED, PASSENGER MILES, AND TAXES ASSESSED AUTOMOBILE PASSENGER LINES IN THE STATE OF UTAH, FROM DECEMBER 1, 1925, TO DECEMBER 1, 1926

Non-Certificate Holders	ROUTE		Total Passengers Carried	Passenger Miles Hard Surface	Tax	Passenger Miles Other	Tax	Total Tax
	Between	And						
Berto, Joe O.	Helper	Various Points	52	282	$ .72	1,448	$ 1.62	$ 2.34
Voyanges, James	Price	Various Points	111	481	1.21	1,243	1.55	2.76
Johnson Taxi & Transfer	Logan	Various Points	196	1,633	4.02	1,366	1.38	5.40
Focos, Bill	Price	Various Points	58	228	.58	183	.18	.76
Madsen, A. & C. T.	Gunnison	Depot	147	794	1.98	1,750	1.75	3.73
Hansen, J. F.	Price	Various Points	13	102	.28	84	.09	.37
Morgan, Mike	Helper	Various Points	83	422	1.06	187	.18	1.24
Utah-California Motor Way	Utah	California	188	16,920	42.30	48,692	48.69	90.99
Porter, Dewey	Park City	Various Points	394	431	1.08	4,465	4.46	5.54
J. & M. Transfer Co.	Salt Lake	Various Points	151	1,714	4.29	2,170	2.17	6.46
Marchant, Alonzo & Willard	Peoa	Various Points	131	.....	.....	2,697	2.70	2.70
Cole, C. R. Trans. & Storage	Ogden	Various Points	21	903	2.26	.....	.....	2.26
Peterson, T. W.	Salt Lake	Various Points	95	2,265	5.67	7,302	7.31	12.98
Motor Travel Bureau, Inc.	Salt Lake	California	732	41,069	102.64	132,232	132.23	234.87
Turner, Walter	Utah	Idaho	111	2,664	6.66	12,432	12.43	19.09
Biederman, R.	Utah	California	163	13,242	33.11	40,669	40.67	73.78
Yelloway, Inc.	Utah	California	1,636	89,523	223.73	298,637	298.64	522.37
Lent & Bush	Utah	California	1,592	119,376	298.44	316,953	316.96	615.40
Birchell, Raymond J.	Bingham	Various Points	9	225	.56	27	.03	.59
Bartholomew, Jesse L.	Gunnison	Depot	125	54	.15	352	.36	.51
Jackson Way	Salt Lake	Various Points	25	4,508	11.27	4,928	4.93	16.20
Chopp, Gus	Utah	Idaho	5,603	64,060	160.16	34,723	34.72	194.88
Giron, G.	Columbia	Various Points	16	.....	.....	480	.48	.48
Utah-Idaho Motor Way	Utah	Idaho	1,848	80,168	200.43	67,948	67.94	268.37
McIntyre, B. F.	Price	Various Points	19	133	.33	95	.10	.43
Henderson Auto Travel Agency	Utah	California	560	35,605	89.01	112,085	112.08	201.09
Gardner, Dell	Price	Various Points	30	210	.53	150	.15	.68
Faconis, George	Price	Various Points	23	160	.04	5	.01	.05
Volpi, Angelo	Sunnyside	Various Points	4	32	.08	112	.11	.19
Howarth, Geo.	Salt Lake	Various Points	141	3,525	8.81	2,115	2.13	10.94
Nelson, C. W.	Salt Lake	Various Points	570	7,410	18.52	8,550	8.55	27.07
Columbus Auto & Taxi Service	Salt Lake	Various Points	21	439	1.10	109	.11	1.21
Cox, Henderson E.	St. George	Various Points	12	.....	.....	528	.53	.53
Higginson, Robert H.	Grantsville	Various Points	92	.....	.....	1,073	1.07	1.07
Green, J. S.	Parowan	Various Points	233	16,965	42.42	32,602	32.60	75.02
Bilton, J. H.	Salt Lake	Various Points	10	250	.64	252	.25	.89
Wiseman, J. J.	Salt Lake	California	92	8,280	20.70	24,288	24.28	44.98
Baker, O. M.	Salt Lake	California	73	2,752	6.88	8,486	8.49	15.37
TOTAL			15,380	516,825	$ 1,291.66	1,171,418	$ 1,171.93	$ 2,463.59

STATEMENT OF FREIGHT CARRIED, TON MILES AND TAXES ASSESSED AUTOMOBILE FREIGHT LINES OPERATING IN THE STATE OF UTAH

Non-Certificate Holders	ROUTE		Total Tons Transported	Ton Miles Hard Surface	Tax	Ton Miles Other	Tax	Total Tax
	Between	And						
Campbell, Wm.	Price	Various Points	5	233	$ 1.55	206	$ .51	$ 2.06
Siddoway, John	Vernal	Price	147	1,572	10.49	12,083	30.22	40.71
Beck, Leland	Alpine	Salt Lake	460	13,800	92.01	2,730	6.83	98.84
Bruno	Bingham	Various Points	36	558	3.66	159	.40	4.06
Berto, Joe O.	Helper	Various Points	15	.....	.....	1,561	3.91	3.91
Hay, A. F.	Salt Lake	Various Points	18	593	3.94	77	.19	4.13
Clark, Stanley	Lehi	Salt Lake	413	12,038	80.23	.....	.....	80.23
Tyrrell, Oren P.	Salt Lake	Various Points	11	250	1.67	32	.08	1.75
Ballschweiler, O.	Bingham	Various Points	199	4,670	31.12	401	1.01	32.13
Sowards & Evans, T. S. Alexander	Vernal	Price	394	4,003	27.69	45,021	112.54	140.23
Johnson Taxi & Transfer Co.	Logan	Various Points	9	97	.63	37	.10	.73
Gas Express & Transp. Co.	Salt Lake	Various Points	512	8,675	57.79	1,117	2.78	60.57
Hair, Leland	Duchesne	Various Points	50	605	4.03	2,269	5.67	9.70
Prichard, J. D.	Salt Lake	Various Points	82	3,200	21.33	550	1.38	22.71
Madsen, Anthony & Son	Gunnison	Depot	455	261	1.74	1,561	3.91	5.65
Grant, James P.	Duchesne	Various Points	22	261	1.74	1,001	2.50	4.24
Jepson, Jesse N.	Hurricane	Various Points	10	120	.80	744	1.81	2.61
McPhee Transfer & Storage Co.	Salt Lake	Various Points	28	1,753	12.30	2,159	5.40	17.70
Davis, Albert	Duchesne	Various Points	66	854	5.70	3,731	9.31	15.01
Lucas, R. M., Sterling Trans. Co.	Salt Lake	Vernal	2,545	79,499	530.00	292,701	731.75	1,261.75
Hardy Madsen Transfer Co.	Provo	Various Points	130	4,733	31.55	1,893	4.73	36.28
Pagano, A. M.	Helper	Various Points	34	83	.51	412	1.03	1.54
Johnson, Robert L.	Vernal	Various Points	104	1,400	9.33	12,921	33.30	42.63
Wardell, W. H.	Ft. Duchesne	Various Points	56	615	4.10	4,682	11.70	15.80
Vernon, Eddie	Salt Lake	Various Points	72	514	3.42	2,785	6.95	10.37

STATEMENT OF FREIGHT CARRIED, TON MILES AND TAXES ASSESSED AUTOMOBILE FREIGHT LINES OPERATING IN THE STATE OF UTAH—Continued

Non-Certificate Holders	ROUTE		Total Tons Transported	Ton Miles Hard Surface	Tax	Ton Miles Other	Tax	Total Tax
	Between	And						
Morrison, W. H.	Myton	Various Points	167	1,877	12.50	11,333	28.33	40.83
Pilling, John	Duchesne	Various Points	205	1,057	7.05	6,040	15.09	22.14
George, Rogers	Mt. Emmons	Various Points	7	76	.50	500	1.26	1.76
Utah Garage	Moab	Various Points	211	.....	.....	12,646	31.63	31.63
J. & M. Transfer Co.	Salt Lake	Various Points	205	4,203	28.02	1,461	3.65	31.67
Basin Truck Co.	Roosevelt	Price	42	474	3.16	3,494	8.73	11.89
Wilkins, Paul	Roosevelt	Price	72	806	5.39	5,937	14.85	20.24
Harmston Bros. E. Utah Trans. Co.	Roosevelt	Price	335	3,512	23.42	25,805	64.51	87.93
Mullins, Lester	Roosevelt	Price	36	411	2.75	3,013	7.54	10.29
Marchant, Alonzo & Willard	Peoa	Park City	3	.....	.....	83	.21	.21
Cole, C. R. Trans. & Storage Co.	Ogden	Salt Lake	78	2,903	19.35	72	.18	19.53
Bartholomew, Jesse L.	Gunnison	Various Points	35	117	.78	66	.17	.95
Ashton & Sons, Leslie	Roosevelt	Various Points	72	742	4.95	6,127	15.31	20.26
Duchesne Auto Co.	Duchesne	Various Points	79	948	6.32	2,634	6.58	12.90
Kieler, Roland	Myton	Various Points	19	209	1.39	1,257	3.14	4.53
Mitchell Van & Cold Storage Co.	Salt Lake	Various Points	53	2,056	13.71	313	.78	14.49
Mott, W. R.	Duchesne	Various Points	50	.....	.....	1,481	3.71	3.71
Nelson, C. W.	Salt Lake	Various Points	23	311	2.08	303	.76	2.84
Hafen, Joseph	Washington	Various Points	97	1,337	8.91	7,862	19.66	28.57
Wood, J. A.	Hurricane	Various Points	55	.....	.....	2,377	5.94	5.94
Higginson, Robt. H.	Grantsville	Various Points	6	.....	.....	73	.19	.19
Fassbinder, Floyd P.	Salt Lake	Various Points	28	231	1.55	144	.36	1.91
Dublin, Alfred	Roosevelt	Various Points	10	105	.70	750	1.88	2.58
Olsen, Ted	Bingham	Various Points	5	69	.46	22	.06	.52
Cornelius, Henry	Virgin	Various Points	329	.....	.....	14,210	35.52	35.52
Sargent, Norm.	Panguitch	Various Points	17	.....	.....	879	2.19	2.19
Taylor, Elmer B.	Loa	Various Points	194	.....	.....	8,675	21.69	21.69
Lublin, Alfred	Roosevelt	Various Points	15	144	.96	1,336	3.34	4.30
TOTAL			8,375	161,975	$ 1,081.28	509,726	$ 1,275.27	$ 2,356.55

STATEMENT OF PASSENGERS CARRIED, PASSENGER MILES, FREIGHT CARRIED, TON MILES, AND TAXES ASSESSED AUTOMOBILE LINES OPERATING IN THE STATE OF UTAH, FROM DECEMBER 1, 1925, TO DECEMBER 1, 1926

RECAPITULATION

	Total Passengers Carried	Passenger Miles Hard Surface	Taxes	Passenger Miles Other	Taxes	Total Taxes
Certificate Holders	299,745	3,501,034	$ 8,756.68	3,150,822	$ 3,150.92	$ 11,907.60
Non-Certificate Holders	15,380	516,825	1,291.66	1,171,418	1,171.93	2,463.59
Total Passenger Lines	315,125	4,017,859	$ 10,048.34	4,322,240	$ 4,322.85	$ 14,371.19

	Total Tons Transported	Ton Miles Hard Surface	Taxes	Ton Miles Other	Taxes	Total Taxes
Certificate Holders	29,218	633,424	$ 4,222.81	430,423	$ 1,075.95	$ 5,298.76
Non-Certificate Holders	8,375	161,975	1,081.28	509,726	1,275.27	2,356.55
Total Freight Lines	37,593	795,399	$ 5,304.09	940,149	$ 2,351.22	$ 7,655.31

TOTAL TAXES ASSESSED

Total Passenger Lines	$ 14,371.19
Total Freight Lines	7,655.31
GRAND TOTAL TAXES ASSESSED	$ 22,026.50

STATISTICAL INFORMATION TAKEN FROM ANNUAL REPORTS OF AUTOMOBILE PASSENGER AND FREIGHT CERTIFICATE HOLDERS OPERATING IN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1925

NAME OF LINE OR OPERATOR	ROUTE Between	And	Nature	Total Investment	Total Operating Revenues	Total Operating Deductions	Operating Income	
Allen, W. D.	Salt Lake	Bingham	F	$ 5,930.40	$ 16,082.82	$ 14,464.96	$ 1,567.86	
Allsop Milk Line	Crescent	Salt Lake	M	2,162.50	5,694.31	3,303.29	2,391.02	
Alta Auto Bus & Stage Line	Salt Lake	Alta	PF	8,906.94	3,949.34	4,955.33	1,005.99	Red.
Arrow Auto Line	Price	Hiawatha	P	4,582.50	14,459.60	13,580.86	878.74	
Barton, A. H.	Salt Lake	Tooele	F	10,237.32	13,806.02	13,464.44	341.58	
Barton, J. Lowe	Cedar City	Paragonah	P	1,000.00	1,506.50	1,169.37	337.13	
Bateman, Burnell	Lehi	Salt Lake	F	540.60	2,408.07	1,954.46	453.61	
Bingham Stage Lines Co.	Salt Lake	Bingham	P	85,311.84	86,036.27	81,833.95	4,202.32	
Butters & Speers Co.	Salt Lake	Garfield	F	2,920.30	3,418.07	3,366.34	51.73	
Coleman, Alva L.	Salt Lake	Heber City	P	8,210.50	8,054.76	5,925.10	2,129.66	
Denton, J. C.	Garfield	Magna	P	568.50	319.20	993.99	674.79	Red.
Dodge Stage Line	Price	Vernal	P	5,561.00	21,712.00	13,919.78	7,792.22	
Gilmer, T. M.	Salt Lake	Fillmore	P	14,000.00	1,589.20	3,021.88	1,432.68	Red.
Hout, Howard	Salt Lake	Park City	P	30,671.71	36,400.65	31,212.19	5,188.46	
Hurricane Truck Line	Cedar City	Hurricane	F	8,307.09	9,631.34	4,006.48	5,624.86	
Johnson, Walter K.	Eureka	Payson	P	1,700.00	7,413.36	7,193.69	219.67	
Loveless & Bradford	Provo	Eureka	F	5,252.86	9,017.78	6,177.93	2,839.85	
Magna-Garfield Truck Line	Salt Lake	Garfield	F	4,136.30	4,100.48	4,008.22	92.26	
Mill Creek Bus Line	Salt Lake	Mill Creek	P	9,055.63	2,276.94	4,614.54	2,337.60	Red.
Milne, Barton & Hamblin	Cedar City	St. George	F	10,018.28	16,957.14	12,313.74	4,643.40	
Moab Garage Company	Thompsons	Monticello	PF	11,095.00	45,380.10	48,505.24	3,125.14	Red.
Murdock, R. C.	Milford	Beaver	F	3,942.51	6,745.99	5,206.97	1,539.02	
Nielson, James	Salt Lake	Brighton	P	3,960.00	1,746.55	1,299.16	447.39	
Parry, C. G.	Cedar City	So. Scenic Points	P	13,000.00	12,043.09	9,749.15	2,293.94	
Pierce Arrow Sight Seeing Co.	Salt Lake	Scenic Points	P	96,053.60	25,367.17	26,907.16	1,539.99	Red.
Rolfe & Wilkins	Magna	Salt Lake	M	997.50	623.24	369.50	253.74	
Salt Lake-Ogden Transp. Co.	Salt Lake	Ogden	F	34,489.23	54,773.15	51,907.78	2,865.37	
Salt Lake Transportation Co.	Salt Lake	Scenic Points	P	268,871.08	948.40	1,201.20	252.80	Red.
Spencer, Howard J.	Salt Lake	Tooele	P	11,277.24	21,386.54	14,685.88	6,700.66	
Spring Canyon Stage Line	Helper	Mutual	P	6,885.00	8,933.55	4,054.93	4,878.62	
Streeper, Wells R.	Ogden	Garland	F	6,736.20	11,222.83	11,430.70	207.87	Red.
Utah Central Truck Line	Salt Lake	Provo	F	9,091.78	21,511.93	23,547.83	2,035.90	Red.
Utah-Idaho Central R. R. Co.	Ogden	Logan	P	16,968.94	17,706.29	11,229.15	6,477.13	
Utah Parks Company	Cedar City	So. Scenic Points	P	285,032.07	77,491.93	83,656.85	6,164.92	Red.
Wade, James H.	Price	Rolapp	P	4,469.50	12,711.73	9,679.44	3,032.29	
GRAND TOTAL, 35 LINES				$991,533.92	$583,376.34	$534,911.49	$ 48,464.85	

M—Denotes Milk Line. F—Denotes Freight Line. P—Denotes Passenger Line.

BINGHAM AND GARFIELD RAILWAY COMPANY, YEAR ENDED DECEMBER 31, 1925

	Operations within the State of Utah—Entire Line. Total	On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenue	$ 594,988.80	$ 104,794.14	$ 490,194.66
Incidental Operating Revenues	9,229.90		9,229.90
Joint Facility Operating Revenue			
Total Railway Operating Revenues	$ 604,218.70	$ 104,794.14	$ 499,424.56
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 111,653.95		
Maintenance of Equipment	111,725.36		
Traffic	17,137.92		
Transportation Rail Line Expenses	151,366.42		
Miscellaneous Operating Expenses	2,139.57		
General Expenses	57,298.92		
Transportation for Investment—CR.			
Total Railway Operating Expenses	$ 451,322.14		
Operating Ratio, Operating Expenses to Oper. Rev.	74.70 Per Cent.		
Net Operating Revenues	$ 152,896.56		
Average Mileage of Road Operated	33.21		
Averages per Mile of Road:			
Operating Revenues	$ 18,193.88		
Operating Expenses	13,589.95		
Net Operating Revenues	4,603.93		
Utah Taxes, Other than U. S. Government, 1925	$ 73,771.77		

THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY
YEAR ENDED DECEMBER 31, 1925

	Total	Operations within the State of Utah. On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$11,341,804.69		
Incidental Operating Revenues	293,716.70	Not Compiled	
Joint Facility Operating Revenue	42,478.60		
Total Railway Operating Revenues	$11,677,999.99		
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 1,724,029.04		
Maintenance of Equipment	2,005,918.18		
Traffic	215,898.90		
Transportation Rail Line Expenses	3,411,990.85		
Miscellaneous Operating Expenses	242,177.04		
General Expenses	346,907.15		
Transportation for Investment—CR	18,938.79*		
Total Railway Operating Expenses	$ 7,927,982.37		
Operating Ratio, Operating Expenses to Oper. Rev.	67.89	Per Cent.	
Net Operating Revenues	$ 3,750,017.62		
Averages per Mile of Road:			
Operating Revenues	$ 17,212.00		
Operating Expenses	11,684.91		
Net Operating Revenues	5,527.09		
Utah Taxes, Other than U. S. Government, 1925	$ 644,585.44		

*Denotes Red.

LOS ANGELES & SALT LAKE RAILROAD COMPANY, YEAR ENDED DECEMBER 31, 1925

	Total	Operations within the State of Utah. On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$10,002,083.73	$ 7,602,220.34	$ 2,399,863.39
Incidental Operating Revenues	389,024.49	135,151.28	253,873.21
Joint Facility Operating Revenues	50,331.93		50,331.93
Total Railway Operating Revenues	$10,441,440.15	$ 7,737,371.62	$ 2,704,068.53
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 1,682,935.82		
Maintenance of Equipment	1,839,576.69		
Traffic	314,184.18		
Transportation Rail Line Expenses	3,221,109.46		
Miscellaneous Operating Expenses	357,418.20		
General Expenses	318,300.29		
Transportation for Investment—CR	72.07		
Total Railway Operating Expenses	$ 7,733,596.71		
Operating Ratio, Operating Expenses to Oper. Rev.	74.07	Per Cent.	
Net Operating Revenues	$ 2,716,417.86		
Average Mileage of Road Operated	568.07		
Averages per Mile of Road:			
Operating Revenues	$ 18,250.70		
Operating Expenses	13,468.86		
Net Operating Revenues	4,781.84		
Utah Taxes, Other than U. S. Government, 1925	$ 472,140.64		

OREGON SHORT LINE RAILROAD COMPANY, YEAR ENDED DECEMBER 31, 1925

	Total	Operations within the State of Utah. On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$ 9,015,000.58	$ 8,254,575.07	$ 760,425.51
Incidental Operating Revenues	94,215.63	94,215.63	
Joint Facility Operating Revenues	10,456.96*	10,456.96*	
Total Railway Operating Revenues	$ 9,098,759.25	$ 8,338,333.74	$ 760,425.51
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 852,284.76		
Maintenance of Equipment	888,996.05		
Traffic	85,722.64		
Transportation Rail Line Expenses	1,572,207.37		
Miscellaneous Operating Expenses	108,473.87		
General Expenses	191,155.17		
Transportation for Investment—CR.	5,558.85		
Total Railway Operating Expenses	$ 3,693,281.01		
Operating Ratio, Operating Expenses to Oper. Rev.	40.59	Per Cent.	
Net Operating Revenues	$ 5,405,478.24		
Average Mileage of Road Operated	242.31		
Averages per Mile of Road:			
Operating Revenues	$ 37,550.08		
Operating Expenses	15,241.97		
Net Operating Revenues	22,308.11		
Utah Taxes, Other than U. S. Government, 1925	$ 342,283.48		

*Denotes Red.

SOUTHERN PACIFIC COMPANY, YEAR ENDED DECEMBER 31, 1925

	Total	Operations within the State of Utah. On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$ 5,833,033.44		
Incidental Operating Revenues	100,549.61		
Joint Facility Operating Revenues	15,434.52		
Total Railway Operating Revenues	$ 5,949,017.57		
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 583,942.57		
Maintenance of Equipment	694,211.59		
Traffic	80,193.03		
Transportation Rail Line Expenses	1,541,731.94		
Transportation Water Line	4,403.54		
Miscellaneous Operating Expenses	87,612.98		
General Expenses	145,377.65		
Transportation for Investment—CR	29,504.62*		
Total Railway Operating Expenses	$ 3,107,968.68		
Operating Ratio, Operating Expenses to Oper. Rev.	52.24	Per Cent.	
Net Operating Revenues	$ 2,841,048.89		
Average Mileage of Road Operated	259.52		
Averages per Mile of Road:			
Operating Revenues	$ 22,923.16		
Operating Expenses	11,975.84		
Net Operating Revenues	10,947.32		
Utah Taxes, Other than U. S. Government, 1925	$ 261,284.65		

*Denotes Red.

UNION PACIFIC RAILROAD COMPANY, YEAR ENDED DECEMBER 31, 1925

	Total	Operations within the State of Utah. On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$ 4,401,326.04	$ 4,135,914.87	$ 265,411.17
Incidental Operating Revenues	86,176.78	86,176.78	
Joint Facility Operating Revenues	5,682.52	5,682.52	
Total Railway Operating Revenues	4,493,185.34	4,227,774.17	265,411.17
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	434,941.03		
Maintenance of Equipment	735,087.58		
Traffic	65,732.20		
Transportation Rail Line Expenses	1,008,773.42		
Miscellaneous Operating Expenses	75,094.31		
General Expenses	115,073.90		
Transportation for Investment—CR	17.99		
Total Railway Operating Expenses	$ 2,434,720.43		
Operating Ratio, Operating Expenses to Oper. Rev.	54.19	Per Cent.	
Net Operating Revenues	2,058,464.91		
Average Mileage of Road Operated	110.17		
Averages per Mile of Road:			
Operating Revenues	40,784.11		
Operating Expenses	22,099.67		
Net Operating Revenues	18,684.44		
Utah Taxes, Other than U. S. Government, 1925	$ 162,560.17		

UTAH RAILWAY COMPANY, YEAR ENDED DECEMBER 31, 1925

	Operations within the State of Utah—Entire Line.		
RAILWAY OPERATING REVENUES:	Total	On Interstate Traffic	On Intrastate Traffic
Rail Line Transportation Revenue	$ 1,737,847.18	$ 755,449.84	$ 982,397.34
Incidental Operating Revenue	1,942.75		1,942.75
Joint Facility Operating Revenue			
Total Railway Operating Revenues	$ 1,739,789.93	$ 755,449.84	$ 984,340.09
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 222,528.74		
Maintenance of Equipment	449,778.44		
Traffic	4,596.75		
Transportation Rail Line Expenses	378,085.34		
Miscellaneous Operating Expenses			
General Expenses	80,318.51		
Transportation for Investment—CR	18.03*		
Total Railway Operating Expenses	$ 1,135,289.75		
Operating Ratio, Operating Expenses to Oper. Rev.	65.25	Per Cent.	
Net Operating Revenues	$ 604,500.18		
Average Mileage of Road Operated	102.15		
Averages per Mile of Road:			
Operating Revenues	$ 17,026.71		
Operating Expenses	11,110.68		
Net Operating Revenues	5,916.03		
Utah Taxes, Other than U. S. Government, 1925	$ 77,023.49		

*Denotes Red.

THE WESTERN PACIFIC RAILROAD COMPANY
YEAR ENDED DECEMBER 31, 1925

	Total	Operations within the State of Utah. On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenue	$ 2,094,755.41	$ 1,903,774.04	$ 190,981.37
Incidental Operating Revenue	66,657.91	8,142.25	58,515.66
Joint Facility Operating Revenue	5,087.95		5,087.95
Total Railway Operating Revenues	$ 2,166,501.27	$ 1,911,916.29	$ 254,584.98
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 283,042.60		
Maintenance of Equipment	310,437.96		
Traffic	58,105.70		
Transportation Rail Line Expenses	662,826.83		
Miscellaneous Operating Expenses	69,179.84		
General Expenses	55,307.54		
Transportation for Investment—CR.	6,269.32*		
Total Railway Operating Expenses	$ 1,432,631.15		
Operating Ratio, Operating Expenses to Oper. Rev.	66.13 Per Cent.		
Net Operating Revenues	$ 733,870.12		
Average Mileage of Road Operated	143.72		
Averages per Mile of Road:			
Operating Revenues	$ 15,074.46		
Operating Expenses	9,968.21		
Net Operating Revenues	5,106.25		
Utah Taxes, Other than U. S. Government, 1925	$ 126,489.31		

*Indicates Red.

SMALL STEAM RAILROADS OPERATING IN THE STATE OF UTAH—OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1925

	Carbon County Ry. Co.	St. John & Ophir R. R. Co.	Deep Creek R. R. Co.	Eureka Hill Ry. Co.
Railway Operating Revenues:				
Rail Line Transportation Revenue	$ 67,297.33	$ 22,504.88	$ 38,953.72	$ 30,297.97
Incidental Operating Revenue	4.00	849.68	1,314.08	
Joint Facility Operating Revenue				
Total Railway Operating Revenues	$ 67,301.33	$ 23,354.56	$ 40,267.80	$ 30,297.97
Railway Operating Expenses:				
Maintenance of Way and Structures	$ 8,344.72	$ 12,085.14	$ 9,461.17	$ 5,629.68
Maintenance of Equipment	488.52	9,495.64	2,614.55	4,688.17
Traffic Expenses	2,220.28	13.75	186.57	
Transportation Rail Line Expenses	6,091.51	13,912.58	9,749.04	17,606.37
Miscellaneous Operating Expenses				
General Expenses	10,644.63	1,042.85	2,347.27	5,597.25
Total Railway Operating Expenses	$ 27,789.66	$ 36,549.96	$ 24,358.60	$ 33,521.47
Net Revenue From Railway Operations	39,511.67	R13,195.40	15,909.20	R3,223.50
Railway Tax Accruals	2,240.83	1,890.90	5,395.50	
Railway Operating Income	$ 37,270.84	$R15,086.30	$ 10,513.70	$ R3,223.50
Total Line Operated at End of Year (Miles)	6.10	8.92	46.00	7.00

R: Denotes Deficit.

SMALL STEAM RAILROADS OPERATING IN THE STATE OF UTAH—OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1925

	Goshen Valley R. R. Co.	Tooele Valley R. R. Co.	Uintah Railway Company
Railway Operating Revenues:			
Rail Line Transportation Revenue	$ 65,657.63	$283,450.37	$419,170.82
Incidental Operating Revenue	11.00	16,332.01	34,171.58
Joint Facility Operating Revenue			
Total Railway Operating Revenues	$ 65,668.63	$299,782.38	$453,342.40
Railway Operating Expenses:			
Maintenance of Way and Structures	$ 12,971.28	$ 25,928.00	$107,382.91
Maintenance of Equipment	1,632.60	52,283.33	73,453.32
Traffic Expenses	146.88	3,713.13	1,426.41
Transportation Rail Line Expenses	11,831.72	142,096.82	109,111.16
Miscellaneous Operating Expenses			34,607.97
General Expenses	6,500.87	13,160.22	71,589.24
Total Railway Operating Expenses	$ 33,083.35	$237,181.50	$397,571.01
Net Revenue From Railway Operations	32,585.28	62,600.88	55,771.39
Railway Tax Accruals	2,523.82	4,779.06	31,705.81
Uncollectable Railway Revenues			193.91
Railway Operating Income	$ 30,061.46	$ 57,821.82	$ 23,871.67
Total Line Operated at End of Year (Miles)	11.44	8.70	(Utah)—17.72

ELECTRIC RAILROAD UTILITIES—OPERATIONS WITHIN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1925

	Bamberger Electric R. R. Co.	Salt Lake & Utah R. R. Co.	Utah-Idaho Central R. R. Co.	Salt Lake-Garfield & Western R. R. Co.
Railway Operating Revenues:				
Revenue from Transportation	$577,411.36	$715,655.51	$746,468.85	$106,785.75
Revenue from Other Railway Operations	6,163.37	18,379.76	38,801.18	763.34
Total Operating Revenues	$583,574.73	$734,035.27	$785,270.03	$107,549.09
Railway Operating Expenses:				
Way and Structures	$ 74,675.74	$ 84,341.41	$ 89,731.56	$ 14,386.01
Equipment	60,527.29	63,657.65	67,048.55	24,987.91
Power	64,295.25	77,192.56	82,584.45	16,829.24
Conducting Transportation	75,791.05	122,188.12	174,422.26	22,361.92
Traffic	17,450.79	30,256.86	11,356.86	2,184.25
General and Miscellaneous Expenses	155,290.73	205,821.43	110,335.92	19,169.66
Transportation for Investment—CR		R3,524.00	R215.10	
Total Operating Expenses	$448,030.85	$579,934.03	$535,266.50	$ 99,918.99
Operating Ratio, Oper. Expenses to Oper. Revenues	76.77%	79.01%	68.16%	92.90%
Net Revenue from Railway Operations	$135,543.88	$154,101.24	$250,003.53	$ 7,630.10
Total Mileage of Road Operated at end of year	36.25	76.10	117.11	16.73
Total Taxes, Including U. S. Government	$ 40,720.81	$ 62,330.13	$ 65,725.59	$ 11,522.65

R: Denotes Red.

STREET RAILWAY UTILITIES—OPERATIONS WITHIN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1925

	Utah Light & Traction Co.	Utah Rapid Transit Co.
Railway Operating Revenues:		
Revenue from Transportation	$1,828,750.65	$ 250,711.17
Revenue from Other Railway Operations	12,310.17	1,421.04
Total Operating Revenues	$1,841,060.82	$ 252,132.21
Railway Operating Expenses:		
Way and Structures	$ 159,207.19	$ 27,122.57
Equipment	178,121.40	36,846.05
Power	253,067.31	31,909.19
Conducting Transportation	528,058.81	85,140.33
Traffic	13,683.42	153.49
General and Miscellaneous	315,245.79	40,666.38
Transportation for Investment—CR	R73.81	
Total Operating Expenses	$1,447,310.11	$ 221,838.01
Operating Ratio, Oper. Expenses to Oper. Revenues	78.6%	87.9%
Net Revenue from Railway Operations	$ 526,950.71*	$ 30,294.20
Total Mileage of Road Operated at end of year	143.97	39.11
Total Taxes, Including U. S. Government	$ 133,200.00	$ 9,662.24

R: Denotes Red.

*Item of $526,950.71 does not take into account item of $133,200.00 taxes paid.

ELECTRIC LIGHT AND POWER UTILITIES OPERATING IN UTAH—OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1925

	Bountiful Light & Power Co.	Western States Utilities Co.	Swan Creek Electric Co.	Electric Power & Milling Co.
Operating Revenues:				
Sales of Current	$24,399.72	$16,604.73	$ 5,267.05	$ 3,020.85
Other Revenues	1,465.09	R266.69		
Total Operating Revenues	$25,864.81	$16,338.04	$ 5,267.05	$ 3,020.85
Operating Expenses:				
Steam Power Generation				
Hydro-Electric Generation			2,489.60	
Electric Energy from Other Sources	8,677.59	4,200.14		
Transmission Expenses		1,227.66	795.30	Segregation
Distribution Expenses			510.35	
Utilization Expenses				Not
Commercial Expenses				
New Business Expenses		687.15		Shown
General & Miscellaneous Expenses	5,102.76	2,929.31	35.50	
Depreciation		1,650.98		
Other Expenses			100.00	
Total Operating Expenses	$13,780.35	$10,695.24	$ 3,930.75	$ 2,973.15
Uncollectible Accounts	50.00	68.39		
Taxes	442.94	324.25	109.65	262.58
Total Revenue Deductions	$14,273.29	$11,087.88	$ 4,040.40	$ 3,235.73
Operating Income	$11,591.52	$ 5,250.16	$ 1,226.65	$ R214.88
Investment in Fixed Capital	$36,977.92	$39,954.15	$31,000.00	$15,000.00

R: Indicates Red, or Deficit.

ELECTRIC LIGHT AND POWER UTILITIES OPERATING IN UTAH—OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1925

	Utah Power & Light Co.	Telluride Power Co.	Dixie Power Co.	Uintah Power & Light Co.	Big Spring Electric Co.
Operating Revenues:					
Sales of Current	$ 9,013,167.05	$ 171,092.74	$ 89,881.66	$ 31,070.45	$ 14,067.53
Other Revenues	252,556.51	11,313.49	3,147.00	1,061.42	8.62
Total Operating Revenues	$ 9,265,723.56	$ 182,406.23	$ 93,028.66	$ 32,131.87	$ 14,076.15
Operating Expenses:					
Steam Power Generation	$ 312,725.77	$ 926.82			
Hydro-Electric Generation	395,621.57	22,547.65	12,874.02		2,495.50
Electric Energy from Other Sources	109,757.60				
Transmission Expenses	201,137.46	9,724.39	795.95	Segregation	600.00
Distribution Expenses	400,199.44	16,173.29	4,486.62		908.78
Utilization Expenses	116,320.74	1,632.71	602.17	Not	
Commercial Expenses	270,807.22	11,816.24	6,105.49		202.00
New Business Expenses	97,211.82	4,201.39	145.94	Shown	
General & Miscellaneous Expenses	613,416.29	20,596.47	15,540.74		1,324.46
Total Operating Expenses, Other	214,545.24		4,364.64*		
Depreciation		38,138.79	5,000.00		4,004.83
Total Operating Expenses	$ 2,731,743.15	$ 125,757.75	$ 49,915.57	$ 11,825.74	$ 9,535.57
Total Accounts Uncollectible	45,957.92	915.18	507.93	3,100.00	
Taxes	1,188,206.47	19,967.44	5,591.36	2,603.74	1,449.58
Total Revenue Deductions	$ 3,965,907.54	$ 146,640.37	$ 56,014.86	$ 17,529.48	$ 10,985.15
Operating Income	$ 5,299,816.02	$ 35,765.86	$ 37,013.80	$ 14,602.39	$ 3,091.00
Plant Rental	555,125.27		923.00		
Oper. Income, for Rate of Return	$ 4,744,690.75	$ 35,765.86	$ 36,090.80	$ 14,602.39	$ 3,091.00
Investment in Fixed Capital	$70,454,012.68	$ 1,339,667.42	$627,869.92	$336,939.17	$142,638.18

*Gas Power Generation.

GAS UTILITIES OPERATING IN THE STATE OF UTAH—OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1925

	Utah Gas & Coke Co., Salt Lake City	Utah Power & Light Co., Ogden	Utah Valley Gas & Coke Co.
Operating Revenues:			
Metered Sales to General Consumers	$ 656,631.48	$ 94,108.47	
Merchandise and Miscellaneous	3,373.87	4,024.81	
Total Operating Revenues	$ 660,005.35	$ 98,133.28	Report
Operating Expenses:			
Operation—Gas Production	$ 255,181.91	$ 81,594.08	Not
Maintenance—Gas Production	14,466.43	8,693.15	
Residuals, Miscellaneous Production, etc.	R103,199.84	R24,127.86	Available
Transmission and Distribution Expenses	38,485.29	9,911.11	
Commercial Expenses	40,325.57	7,467.92	
New Business Expenses	6,546.77	1,140.33	
Depreciation	45,429.06		
General and Miscellaneous Expenses	45,617.35	17,262.52	
Total Operating Expenses	$ 342,852.54	$ 101,941.25	
Uncollectable Accounts	1,616.77	*	
Taxes	6,329.95	*	
Total Revenue Deductions	$ 404,799.26	$ 101,941.25	
Operating Income	$ 255,206.09	$ R3,807.97	
Book Value of Physical Plant at end of Year	$6,179,296.02	*	

R: Indicates Red.

*Figures not available. Amounts included in consolidated report of Utah Power & Light Co. for year ended Dec. 31, 1925.

THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY

OPERATIONS WITHIN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1925

Revenues

Telephone Operating Revenues....		$ 2,639,828.18

Expenses and Deductions

Commercial Expenses.....	$ 201,384.04		
Insurance, Accidents and Damages, and Law Expenses connected with Damages.....	3,371.09		
Telephone Franchise Requirements.	262.00		
Compensation Net.....	11,300.35		
Maintenance Expenses.....	769,053.03		
Traffic Expenses.....	643,675.68		
General Expense, Employes Benefit Fund, etc.....	81,658.99		
Uncollectible Operating Revenues..	8,144.02		
Taxes, Franchises, Occupation, Income, and General.....	271,007.75		
Non Operating Revenues.....	5,552.25	Red	
Rent and Other Deductions.....	15,229.09		
Amort. of Intangibles & Rt. of Way.	2,443.23		
Total Expenses and Deductions.....			$ 2,001,977.02
Telephone Operating Income.....			$ 637,851.16

FIXED CAPITAL ACCOUNTS

Exchange Plant.....	$ 7,123,164.40	
Toll Plant.....	1,472,970.63	
Total Physical Plant.....		$ 8,596,135.03

Intangible and Miscellaneous

Going Value.....	$ 744,380.90	
Interest During Construction.....	371,110.96	
Estimated Working Capital.....	386,368.49	
Total Intangible and Miscellaneous..		$ 1,501,860.35
Total Fixed Capital Accounts.....		$10,097.995.38

STATISTICS OF SMALL TELEPHONE UTILITIES AND WATER UTILITIES OPERATING IN THE STATE OF UTAH, FOR YEAR ENDED DECEMBER 31, 1925, FROM ANNUAL REPORTS ON FILE WITH THE COMMISSION

SMALL TELEPHONE UTILITIES Name of Utility	Location	Investment in Fixed Capital	Operating Revenues	Operating Expenses	Taxes	Operating Income	
Bear River Valley Telephone Co.	Tremonton, Utah	$ 48,525.53	$ 16,912.23	$ 12,210.50	*$	$ 4,701.73	
Big Spring Electric Co.	Fountain Green, Utah	3,857.42	2,820.92	2,238.33	*	582.59	
Castle Dale Telephone Co.	Castle Dale, Utah	2,211.75	1,482.52	1,657.12	*	174.60	Red.
Escalante Telephone Co.	Escalante, Utah	2,500.00	1,257.74	1,008.34	28.30	221.20	
Garfield Co. Telephone & Telegraph Co.	Panguitch, Utah	17,515.00	8,663.43	5,074.02	415.52	3,173.89	
Grouse Creek Telephone Co.	Grouse Creek, Utah	1,425.00	391.63	187.06	17.00	187.57	
Gunnison Telephone Co.	Gunnison, Utah	5,000.00	5,369.53	3,380.68	61.69	1,927.16	
Kamas-Woodland Telephone Co.	Kamas, Utah	10,000.00	2,748.00	3,218.00	159.00	629.00	Red.
Manti Telephone Co.	Manti, Utah	15,000.00	8,845.71	6,340.18	262.45	2,243.08	
Midland Telephone Co.	Moab, Utah	19,616.49	9,528.03	7,843.36	595.57	1,089.10	
North Logan Telephone & Electric Co.	North Logan, Utah	3,500.00	2,044.82	1,444.21	*	600.61	
Park Valley-Rosette Telephone Co.	Rosette, Utah	3,555.71	198.70	134.30	5.00	59.40	
Salina Telephone Co.	Salina, Utah	3,350.00	7,126.11	6,193.23	84.62	848.26	
Southern Utah Telephone Co.	St. George, Utah	15,000.00	8,719.84	5,466.71	453.94	2,799.19	
Uintah Telephone Co.	Vernal, Utah	102,702.00	37,938.26	24,982.63	2,678.13	10,277.50	
Utah-Wyoming Ind. Telephone Co.	Randolph, Utah	5,405.00	3,029.86	2,758.55	73.28	198.03	
Total, 16 Companies		$259,163.90	$117,077.33	$ 84,137.22	$ 4,834.40	$ 28,105.71	
SMALL WATER UTILITIES							
Birch Creek Canyon Water Company	Ogden, Utah	$ 20,000.00	$ 1,697.10	$ 453.00	$ 25.00	$ 1,219.10	
Layton Water System	Layton, Utah	38,953.29	3,924.35	1,385.96	10.81	2,527.58	
Mammoth Mining Company	Mammoth, Utah	30,816.43	12,757.16	14,736.11	961.87	2,940.82	Red.
Miller Ditch Company	Murray, R. D. Utah	10,078.18	1,152.80	310.87	36.25	805.68	
Moab Pipe Line Co.	Moab, Utah	12,770.00	2,477.43	2,112.18	90.64	274.61	
Pioneer Water Company	Manti, Utah	3,000.00	351.54	105.65	*	245.89	
Pleasant Green Water Company	Magna, Utah	73,469.77	12,758.02	7,373.19	699.59	4,685.24	
Riverton Pipe Line Co.	Riverton, Utah	32,842.56	6,013.50	2,482.60	88.25	3,442.65	
Ukon Water Company	Garland, Utah	60,199.35	444.66	127.10	*	317.56	
Total, 9 Companies		$282,129.58	$ 41,576.56	$ 29,086.66	$ 1,912.41	$ 10,577.49	

*Not Listed.

Note—Municipal Utilities not included.

(Filed June 2, 1926, Supreme Court of Utah.)

IN THE SUPREME COURT OF THE STATE OF UTAH

T. M. GILMER,
Plaintiff,

vs.

PUBLIC UTILITIES COMMISSION OF UTAH, et al.,
Defendants.

FRICK, J.

The plaintiff applied for and obtained the usual writ of review for the purpose of reviewing an order of the Public Utilities Commission of the State of Utah, hereinafter, for convenience, called the Commission.

To afford the reader a better understanding of what is before this court for review we deem it necessary to make a brief statement of the proceedings leading up to the particular order that is presented for review.

The record shows that in the year 1918, after the Public Utilities Act went into effect, one Joseph Carling, pursuant to the provisions of said Act, made application to the Commission for permission to operate an automobile stage line for the transportation of passengers and express between Salt Lake City, Utah, and Fillmore, Utah. A protest opposing the application was duly filed, whereupon a hearing was ordered by the Commission. After that hearing the Commission made the following order:

> "IT IS ORDERED, That applicant, JOSEPH CARLING, be, and he is hereby, granted a certificate of convenience and necessity, and is authorized to operate an automobile stage line for the transportation of passengers and express, between Salt Lake City, Utah, and Fillmore, Utah.
>
> "ORDERED FURTHER, That applicant shall file with the Commission and post at each station on his route, a printed or typewritten schedule of rates and charges, 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."

The record also shows that pursuant to such order Mr. Carling filed a schedule of trips and rates with the Commission in which he stated that he would operate the stage line "one trip each way a week." That is, he would make one trip to Fillmore from Salt Lake City and vice versa each week. The record further discloses that in January, 1924, Mr. Carling and the plaintiff herein filed their joint petition or application with the Commission wherein they asked the Commission for permission to transfer the permit or certificate of convenience and necessity theretofore issued to Mr. Carling to the plaintiff. At the hearing on the application plaintiff was asked the following questions which he answered as indicated:

> "Q. What service do you contemplate giving between Salt Lake and Fillmore? A. The same service that Mr. Carling is now giving. Q. One trip each way per week. A. The same service that he is giving. Q. Your present proposition is to operate the time schedule and rate schedule of Mr. Carling? A. Yes."

After the hearing the Commission made the following order:

> "After full consideration of all material facts that may or do have any bearing upon this case, we are of the opinion and decide that the public will be as equally well served by the applicant T. M. Gilmer, as the present holder of the certificate, Joseph M. Carling; that Joseph Carling be permitted to relinquish his service; that his application to cancel his certificate be granted that the same be cancelled; that T. M. Gilmer be permitted to succeed him in the giving of said service, and that a certificate of convenience and necessity be issued to the said T. M. Gilmer, authorizing him to give the said service.
>
> "IT IS ORDERED, that Joseph Carling be, and he is hereby permitted to relinquish his automobile stage line service, between Salt Lake City and Fillmore, Utah; that certificate of convenience and necessity No. 48 (Case No. 148) issued to the said Joseph Carling, be, and it is hereby cancelled.

"ORDERED FURTHER, That T. M. Gilmer be, and he is hereby, granted permission to take over and assume the operations of said automobile passenger and express line between Salt Lake City and Fillmore, Utah, under certificate of convenience and necessity No. 214.

"ORDERED FURTHER, That T. M. Gilmer, 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.

"ORDERED FURTHER, That this order shall become effective January 10, 1925."

Immediately after the foregoing order became effective, to wit, on the 13th day of January, 1925, plaintiff filed with the Commission a schedule under which he proposed to make daily trips between Salt Lake City and Fillmore, and with the schedule he filed his application asking the Commission to approve the schedule aforesaid. Protests were filed and the matter was held in abeyance for reasons not material here. On March 31, 1925, however, the Commission entered an order suspending the right to operate the stage line except upon the schedule hereinbefore referred to until the 29th day of July, 1925, or until the further order of the Commission. After this there were more protests filed upon which further hearings were had. Finally, on September 30, 1925, the Commission made the following order:

"IT IS THEREFORE ORDERED, That the applicant's T. M. Gilmer's schedule P. U. C. U. No. 4, providing for additional automobile stage service for the transportation of passengers and express over the public highway between Salt Lake City and Fillmore, Utah, be not approved, and that the same be and remain permanently suspended, that is to say, until upon a proper showing made before the Commission that public convenience and necessity require such additional service; that said Schedule P. U. C. U. No. 4, as to rates to be charged, be, and the same is hereby approved.

> "IT IS FURTHER ORDERED, That the order of the certificate of public convenience and necessity No. 214, issued by the Public Utilities Commission of Utah to T. M. Gilmer on the 30th day of December, 1924, in case No. 690, be, and the same is hereby modified and expressly limited to conform to and with his time schedule P. U. C. U. No. 3, filed with the Commission January 10, 1925, in case No. 767, providing for one round trip each week between Salt Lake City and Fillmore, Utah, being the same service applied for by him and that rendered theretofore by Joseph Carling under certificate of convenience and necessity No. 48 in case No. 148, issued to said Joseph Carling, June 10, 1919."

By a supplemental order the foregoing order became effective November 1, 1925.

Application for a rehearing was duly filed which was denied by the Commission, and the applicant, within the time required by the Public Utilities Act, made application to this court for a writ of review as hereinbefore stated.

Plaintiff contends that the orders of the Commission denying him the right to make daily trips between Salt Lake City and Fillmore should be vacated and annulled. So that there may be no mistake with regard to what plaintiff's counsel are contending for we here set forth the opening statement as the same is contained in their printed brief. They say:

> "Tersely stated, there is here presented, as one of the questions at issue, the following: Must there be a hearing, with all the opportunities for delay necessarily resulting, each time a railroad company changes its time tables or a public utility improves conditions for the benefit of the public?"

Upon the other hand, in order to show what counsel for the Commission contend for we here append the opening statement contained in their brief as follows:

> "The only questions involved in this appeal relate to the extent of the powers of the Utilities Commission. Can it regulate the practices of common carriers or public utilities? Can it de-

termine what service is reasonably necessary? Can it in granting a certificate of public convenience and necessity to an automobile transportation company limit or decide what service will reasonably meet that convenience and necessity. Does it possess the power, after having granted a certificate of convenience and necessity to an automobile transportation company, to supervise and regulate the service that that transportation company may give?"

It now becomes necessary to refer to certain provisions contained in the Public Utilities Act. Com. Laws of Utah 1917, Sec. 4798, where the Act as first enacted is found, reads as follows:

> "The Commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in this state, as defined in this title, and to supervise all of the business of every such public utility in this state, and to do all things, whether herein specifically designated, or in addition thereto, which are necessary or convenient in the exrcise of such power and jurisdiction."

Sec. 4818, as amended by Spec. Laws Utah 1919, defines what constitutes a public utility, which includes automobile stage lines or automobile or other motor vehicles which are operated for hire or profit on the publich highways as common carriers.

Sec. 4820, Comp. Laws Utah 1917, reads:

> "All hearings, investigations, and proceedings shall be governed by this title and by rules of practice and procedure to be adopted by the Commission, and in the conduct thereof the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the Commission."

Sec. 4831 provides:

> "The Commission may at any time, upon notice to the public utility affected, and after opportunity to be heard as provided in the case of com-

> plaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the public utility affected, have the same effect as is herein provided for original orders or decisions."

While there are many other provisions in the Public Utilities Act that are material, yet the foregoing, in our judgment, are quite sufficient to make clear the powers that are vested in the Commission respecting the supervision, regulation and control of all public utilities.

In this connection, we also desire to refer the reader to Public Utilities Comm. v. Garviloch, 54 Utah 406, 181 Pac. 272; Salt Lake City v. Utah L. & T. Co., 52 Utah 210, 173 Pac. 556, and United States S. R. & M. Co. v. Utah P. & L. Co., 58 Utah 168, 197 Pac. 902, where special provisions of the Public Utilities Act are more fully considered.

In view of the foregoing provisions, when considered in the light of the purposes of the Public Utilities Act, as they must be, there can be but little if any doubt respecting the right and power of the Commission to regulate and control the operation of auto stage lines or other motor vehicles which use the public highways and streets for the purpose of transporting either freight or passengers as common carriers. Nor is there any doubt that the state, in the exercise of its police or governmental powers, may exclude all vehicles that are being used or operated for the purposes aforesaid from the public streets or highways altogether. If that be so, it necessarily follows as a corollary that the state may impose such conditions as it may deem fair and just upon those who use the public streets or highways for the purposes aforesaid. Mr. Spurr, by reason of his position as the editor of the Public Utilities reports, is no doubt well qualified to speak upon the subject of state control of public utilities. In discussing that subject in Vol. 1 of his work entitled Guiding Principles of Public Service Regulaton, at p. 31, the author says:

> "What do these provisions of the statutes with reference to certificates of public convenience and necessity signify? As a matter of policy, why should a public utility company require Commission consent before beginning operation while those engaged in private enterprises can do busi-

ness where they will? Public and private industries were once on the same footing in this respect. The maxim that competition is the life of trade was held to apply to public as well as private business. Competition, being thought well of, was welcomed in all kinds of business. Experience proved, however, that business rivalry in the public utility field was bad both for the companies and the public. So the policy of discouraging rather than encouraging competition between public service companies, was adopted."

Pond, in the 3d and last edition of his excellent work entitled Public Utilities, discusses the subject of regulation of public utilities by the state, through public utility commissions, at considerable length. In view that Mr. Pond covers the very questions involved on this review we take the liberty of quoting and adopting some of the language used by the author. In Sec. 723, in speaking of the adjustment of the service of motor vehicles operating as common carriers, the author says:

"The proper adjustment of the service of motor vehicles operating as common carriers to that of rail and electric carriers is of the greatest importance and requires early attention and practicable and equitable solution. * * * "

Secs. 732 and 733 read as follows:

732. "The policy of state regulation of motor vehicles, operating as common carriers, is legislative and administrative, and, having determined on the agency of the state for such purpose, it then becomes the duty of the state to define the operating conditions for this new form of transportation. The general trend of statutory regulation on the subject provides for the issuing of permits of public convenience and necessity through the public utility commissions. These permits may issue as a matter of course and fairness to such motor systems of conveyance as are operating in good faith when the statutory legislation is enacted, and if such is the policy decided upon by any particular state, it should be expressly enacted in the statute.

733. "On the other hand if the state decides the matter should be left open to be determined on the merits of each particular case as it arises, the Commission should be given discretion in deciding the matter as they must in all new cases arising for their decision. Just when and under what conditions motor vehicle lines should be permitted to enter a field is a business problem and it should be decided by a competent, impartial body, acting for the state with the question of the public service always outstanding and with future conditions as well as present ones in view."

In Secs. 754 and 755 the author lays down the following propositions:

754. "The power of the state thus to regulate the use of its public thoroughfares is as fully established and generally recognized as the police power itself upon which it is founded. And as it includes the power to prohibit, the conditions of its exercise and enjoyment are subject to the broadest restrictions and regulations consistent with equality and other constitutional property rights. In fact few legal propostions are more fully and firmly established than the right of the state in the exercise of its police power to regulate or prohibit the use of our streets and highways as places of private business, or as the chief instrumentality of conducting such business as that of operating motor vehicle systems for profit."

755. "The power to prohibit includes the power to regulate even to the extent of prohibition, and the reasonableness of the conditions of regulation may only be questioned in the light of constitutional provisions and limitations imposed upon the legislature. As no one has the inherent right to use the streets and public thoroughfares as a place wherein to conduct a private business, permission so to use them may be afforded certain parties, but always subject to the right to regulate and control their use in the interest of the public and for the common good of all. The public safety and the general business policy of providing public service are logical and necessary questions to consider in determining the nature and extent and in defining the conditions of public

regulation and control of motor vehicles operating as common carriers."

In view of what has been said, therefore, there can be no doubt respecting the state's right, when acting through its authorized agent, the Public Utilities Commission, to do precisely what the Commission ordered to be done in this case. Moreover, it requires but a moment's reflection to convince the reasonable mind that the foregoing statements are as reasonable as they are just and practical. The public streets and highways must necessarily be under the control and regulation of the state or its authorized agencies. If that be so, then it must follow that the state may regulate and control their use by those who seek to use them as common carriers for private gain. The question, therefore, is not precisely as it is stated by counsel for plaintiff, to which we have already called attention. The question is not whether a common carrier owning and operating a railroad, which it constructed at great cost on its own right of way, must apply to the Commission each time it desires to increase the number of its trains. We are not now dealing with such a common carrier and it is not now necessary for us to express an opinion respecting the powers of the Commission in that respect. We are here dealing with a case where one is using the public streets and highways as a common carrier for private gain, which streets and highways are constructed and maintained by the public, by means of taxation and otherwise. If it be once conceded that one may use the public highways for the purposes aforesaid without the consent of the state, any number may do the same thing and thus those who seek to use the highways for the purposes for which they are intended may be unduly hampered in their use of them, or may be driven from them altogether. We are not unmindful of counsel's contention that to add one more motor vehicle to those that are now using the highway between Salt Lake City and Fillmore would, in its effect on the highway, be negligible; that is, that no one could seriously be inconvenienced by the addition of two more vehicles each day between those cities, one going and one coming. That, however, is a question for the Commission and not for us to determine and to decide. Besides, the question does not depend alone upon whether the addition of two more vehicles daily would unduly congest travel on the highway or not. There is the element of danger which is

increased with each vehicle that is added to those that regularly use the highway, and that danger, we all know, is greatly enhanced by the use of heavy trucks and passenger cars upon the highways. Then again, as contemplated by Sec. 4818, supra, it is the duty of the Commission to consider the effect that the addition of freight trucks and passenger stages may have upon other common carriers which are operating their own cars and vehicles upon their own tracks and right of way. The statute expressly provides that such matters must be taken into consideration by the Commission in granting certificates of convenience and necessity. It may well be that a railroad company has constructed a railroad from a central point like Salt Lake City to some outlying and undeveloped territory. For a hundred miles of that distance the country may be well developed and thickly populated while for another hundred miles or more the country may be sparsely settled and almost wholly undeveloped. The railroad is, however, making it possible to develop and to populate the undeveloped and sparsely settled portion of the country. It does so by drawing upon the income which it derives from the well developed and thickly settled portion of its line of railroad. Through the thickly populated territory the state later constructs a concrete highway to accommodate those that live in that territory. The auto bus owner now conceives the idea that it would be profitable to operate an auto stage line through the thickly settled portion of the country and over the concrete highway. In order to carry his proposition into effect, he applies to the Commission for a certificate of convenience and necessity to operate a stage line as a common carrier once a week. The Commission, after investigation, finds that such a service would be expedient and beneficial, grants his request, and issues a certificate of convenience and necessity to him. Within a few days or weeks after the certificate is issued, however, the owner of the stage line increases the service from one trip each way each week to a daily trip each way or to as many trips as he may elect to make. In making the weekly trip he may not seriously have affected the receipts of the railroad, while in making daily trips he may so reduce its receipts as to make it impossible to pay the operating cost of the railroad. Its rates must thus be increased or it must go into the hands of a receiver, while the bus line is reaping a large reward by serving only territory already served by the railroad company. The railroad rates may thus have to be in-

creased to such an extent that those living in the sparsely settled territory can no longer afford to pay the rates and thus development must cease altogether. The Utilities Act was conceived to prevent just such unfair and destructive competition, and the Commission is the agency that is created with power to regulate and to adjust such contingencies when they arise. To a greater or lesser extent such seems to be the condition which prevails in this case. The Commission had all of the facts before it and made its findings, conclusions and orders accordingly. In view, therefore, that the plaintiff seeks to use the public highways as a common carrier for profit, he cannot complain if he is limited in that use. True he insists that what he is seeking to do is to give better service to those living in the territory through which he operates his motor vehicles. Whether a contemplated service is beneficial or justified, however, is a matter that is left to the judgment of the Commission and no one else. The Commission has found against plaintiff's contentions in that regard and he must abide by its decision.

The foregoing observations and legal propositions are well supported by the authorities. See Motor Transit Co. vs. Railroad Comm., 189 Cal. 573, 209 Pac. 586; J. E. Sheets Taxicab Co. vs. Commonwealth, 125 S. E. 431; Modeste vs. Connecticut Co., 117 Atl. 495; State vs. Darazzo, 118 Atl. 81; Maine Motor Coaches vs. Pub. Util. Comm., 130 Atl. 866; Lane vs. Whittaker, 275 Fed. 476; Westhoven vs. Pub. Util. Comm., 147 N. E. 759; Estabrook vs. Pub. Util. Comm., 147 N. E. 761. Practically every proposition that is urged by plaintiff's counsel in their brief is considered and decided against their contention in the foregoing cases. For example: It is contended that Mr. Carling operated the stage line before the Utilities Act was adopted and hence that he had acquired a property right which he had a right to transfer to the plaintiff without being controlled by the Commission. That contention is fully answered against plaintiff in Westhoven vs. Pub. Util. Comm., Estabrook vs. Pub. Util. Comm., and Lane vs. Whittaker, supra. It is further contended that inasmuch as the Commission did not in express terms forbid Carling or plaintiff to increase the number of auto vehicles and the number of trips, he could increase both at his pleasure without obtaining the consent of the Commission. That contention is also answered in the case of Motor Transit Co. vs. Railroad Comm., supra, and in Lane vs. Whittaker, supra, against counsel's contention. True

it is that in Pub.Util. Comm. vs. Garviloch, supra, we said that the certificate issued by the Commission constituted a "limited franchise." We were there, however, considering to what extent such a certificate, when issued by the Commission, protected the holder from interference by another public utility where such interference has not been sanctioned by the Commission. Let it be understood once for all, however, that because we said that the certificate constituted a "limited franchise" that such a statement does not enlarge the rights that are conferred under the same. Mere names are not controlling. What we held in the Garviloch case, however, was that the holder of the certificate could not be interfered with by another utility. We did not hold that the Utilities Commission, when acting within its authority as an arm of the state, could not do so. The latter proposition was not involved and hence was not considered or discussed. While it is true that the Commission did not in express terms limit the number of motor vehicles that Mr. Carling or the plaintiff might operate, the Commission did, in all of the orders, provide that they "shall at all times operate in accordance with the rules and regulations prescribed by the Commission governing the operation of automobile stage lines." The Commission thus placed a strict limitation upon their right to operate contrary to the rules or regulations of the Commission, or contrary to the provisions of the Public Utilities Act. Every public utility necessarily must operate in accordance with both the letter and the spirit of the Public Utilities Act and the authorized conditions imposed by the Commission. The very purpose of the Utilities Act is to prevent one public utility from destroying another. When, therefore, it is made apparent to the Commission that the increase of the number of vehicles or trips by a common carrier which is using the public streets and highways must necessarily result in seriously affecting the ability of another utility to render service, or perhaps destroy its ability to do so, where the service is rendered by the other public utility partly in the same territory and partly in territory extending beyond the territory served by the utility first mentioned, the Commission undoubtedly may interfere to prevent such disastrous results. The Commission was created for that very purpose and where its orders are within its jurisdiction and the bounds of reason, and are not capricious and arbitrary, this court cannot interfere.

It is, however, also insisted that the Commission exceeded its authority in suspending the operation of the certificate of convenience and necessity as first issued to the plaintiff. There are several answers to that contention: (1) As already pointed out the order by which plaintiff was authorized to substitute himself for Carling was conditional merely. (2) The Utilities Act (Sec. 4831, supra) in express terms clothed the Commission with power to "alter or amend any order or decision made by it." (3) The authorities, if authority were required, hold that under statutes like ours the Commission may do precisely what is complained of here. See Modeste vs. Connecticut Co., supra.

It is argued, however, that if the Commission is permitted to alter or amend former orders, etc., that it may result in serious injury to the common carrier affected, since it may prevent him from using his equipment for which he may have expended large sums of money. We have already shown that a common carrier using the public highways may not do so without permission from the Commission and that the Commission will determine the extent and character of the service that may be necessary and that the carrier may render. That being so, the carrier always knows the nature and number of vehicles he may employ in the service. We have also held that in case he has entered upon the service and desires to increase it he, before doing so, must apply to and obtain permission from the Commission. He thus always is advised respecting the use of equipment and hence cannot be injured. In using the public highways as a common carrier he must, however, always do so subject to the right of the Commission to regulate him in the use he makes of them. As held in the Garviloch case, supra, the law protects him from interference as against others who desire to use the highway for the same purpose but as against the orders of the Commission when based upon public necessity and convenience he is not immune.

There is also some complaint that the order of the Commission was irregular. If that were so, however, in view of the statute (Sec. 4820, supra) it would not invalidate the order of the Commission that is complained of here.

A careful examination of this record convinces us that the Commission not only did not act arbitrarily or

capriciously but that its orders affecting the plaintiff are fair, just and reasonable, and hence should be, and they accordingly are, all affirmed with costs.

We concur:

(Signed)

VALENTINE GIDEON, C. J.
S. R. THURMAN, J.
J. W. CHERRY, J.
D. N. STRAUP, J.

Salt Lake City, Utah,
January 22, 1926.

Honorable Harvey Cluff,

Attorney General, State of Utah,
Building.

Dear Sir:

Under date of January 20, 1926, the State Treasurer's office submitted to this Commission a list of automobile carriers, for hire, over the public highways, who have failed to pay the taxes due the State of Utah, in compliance with Chapter 117, Session Laws of Utah, 1925.

The question arises: Upon whom does the duty devolve of enforcing against the property used in the giving of automobile service, the lien provided for in Section 3 of the aforesaid Act?

Said Section 3 provides, among other things, that the Public Utilities Commission shall, on or before the 20th of each month, certify to the State Treasurer the total amount of the tax due from each operator operating over the public highways, for the preceding month. It further provides that thereupon the State Treasurer shall notify the operator of the amount of the taxes due, not later than the last day of the month, and, upon payment thereof to the State Treasurer, the same shall be credited to the State Road fund, etc.

In this connection, your attention is also invited to the provisions of Section 4818X of the Public Utilities Act, which, among other things, provides:

> "Said Commission (Utilities Commission) shall also require a satisfactory bond in such amount and in such form and containing such terms and conditions as the Commission may determine, conditioned for the payment of all fees, taxes or charges which may be due the State, or any government unit of the State, under any certificate granted by the Commission and for the faithful carrying out of the conditions of *any certificate* granted by the Commission."

It is to be observed from the reading of Section 4818X, that its provisions above quoted are confined to certificate holders, exclusively, while the provisions of Chapter 117 apply not only to automobile carriers operating under certificates of convenience and necessity granted by the Utilities Commission, but to all other operators for hire over the public highways of the State as well. Such being the case, the mere fact that the Utilities Commission must require operators to whom it grants certificates to give a bond, lends no aid in seeking to ascertain upon whom the duty devolves of enforcing the lien on the operators' property, provided for in Chapter 117.

However, it would seem that the duties and responsibilities of the Public Utilities Commission with respect to seeing that the provisions of this tax law are properly observed, cease when it has performed all the duties that the statute, both expressly and impliedly, requires it to perform.

Again calling your attention to the provisions of Section 3 of Chapter 117, which plainly states that after the Utilities Commission has certified to the State Treasurer the total amount of the tax due, "thereupon, the State Treasurer shall notify the operator of the amount of taxes due, which shall be payable not later than the last of the month and upon payment thereof to the State Treasurer, as herein provided, the State Treasurer shall credit such sum to the State Road fund, etc."

Clearly, as we view it, the giving of notice by the State Treasurer to the operator is tantamount to demand of payment of the tax and demand of payment carries with it the corresponding right and duty always, unless other-

wise expressly provided, of enforcement of the demand.

Not a word is to be found in the statute saying that the Utilities Commission shall demand, receive or receipt for the tax owing by delinquent operators to the State. Such duties, under the plain provisions of the statute, are left with the State Treasurer to perform. The Public Utilities Commission, for the reasons stated, will not proceed to enforce compliance with the demands of the State Treasurer, until at least advised to do otherwise.

Your prompt opinion with regard to this matter will be greatly appreciated.

Yours truly,

PUBLIC UTILITIES COMMISSION
OF UTAH,
By (Signed) F. L. OSTLER,
Secretary.

CC:

Honorable John Walker,
State Treasurer.
State Road Commission.

Salt Lake City, Utah,
February 16, 1926.

Public Utilities Commission,
Building.

Dear Sirs:

In answer to your communication of January 22nd, relative to the payment of the tax by automobile carriers, that is, those who are subject to the provisions of Chapter 117, Session Laws of Utah, 1925, will say that it is the opinion of this office that the Public Utilities Commission has done its full duty under this law, when it certifies to the State Treasurer the total amount of the tax due from each operator operating over the public highways.

We think it is the duty of the State Treasurer to notify the operator of the amount of the taxes due and that the giving of notice by the State Treasurer to the operator (as you suggest in your communication) is tantamount to the demand of payment of the tax, and that

demand of payment carries with it the corresponding right and duty to enforce the demand, that is to say, it is the duty of the State Treasurer, in our opinion, to make demand upon the operator for the payment of the tax, and if the demand is not complied with, then it is the duty of the State Treasurer to take the necessary steps to enforce the payment of the tax.

Trusting this sufficiently answers your inquiry, I am

Yours truly,

(Signed) HARVEY H. CLUFF,
Attorney General.

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