Report of the

Public Utilities Commission of Utah

to the Governor

From January 1, 1928, to and including December 31, 1928

THE DESERET NEWS PRESS

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 1928.

COURT CASES

The Supreme Court of Utah rendered reports in the following cases:

Logan City, a Municipal Corporation, Plaintiff,
vs.
Public Utilities Commission of Utah and Utah Power & Light Company, Defendants.
and
Denver & Rio Grande Western Railroad Co., et al., Plaintiffs,
vs.
Public Utilities Commission of Utah, Defendant.

Copy of these decisions 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 1925	1
Cases pending from 1926	3
Cases pending from 1927	21
Cases filed in 1928	77
Total	102

Cases disposed of in 1928	61
Cases pending from 1925	1
Cases pending from 1926	1
Cases pending from 1927	4
Cases pending from 1928	35
Total	102

The Commission also issued 173 Ex parte Orders, 59 Special Dockets, 15 Grade Crossing Permits, and 16 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) THOS. E. McKAY,
(Signed) GEORGE F. McGONAGLE,
Commissioners.

(Signed) F. L. OSTLER,
Secretary.

FINANCES OF THE COMMISSION

The following is a statement of the finances of the Commission from January 1, 1928, to and including December 31, 1928:

SALARIES

Appropriations, Allowances and Receipts:

Unexpended Appropriation, Jan. 1, 1928	$10,617.01
Appropriation, July 1, 1928 to June 30, 1929	22,000.00
Receipts, Jan. 1, 1928 to June 30, 1928	1,108.38
Transfer of Receipts from Office Expenses	100.00
Transfer of Receipts from Interstate Travel	178.50
Recepits July 1, 1928 to December 31, 1928	1,816.05
Total	$35,819.94

Disbursements and Amounts Lapsed into General Fund:

Salaries, Commissioners, Jan. 1, 1928 to Dec. 31, 1928	$12,000.00
Salaries, Clerical, Jan. 1, 1928 to Dec. 31, 1928	12,263.00
Bal. lapsed into Gen. Fund, per. ending 6-30-28	.73
Total	$24,263.73
Available Balance Unexpended, Dec. 31, 1928	11,556.21
	$35,819.94

OFFICE EXPENSES

Unexpended Appropriation, Jan. 1, 1928	$ 1,039.60
Appropriation July 1, to June 31, 1929	900.00
Deficit Appropriation, August, 1928	900.00
Receipts Jan. 1, 1928 to Dec. 31, 1928	9.70
Total	$ 2,849.30

Disbursements and Amount Lapsed into General Fund:

Receipts Transferred to Salaries Account	$ 100.00
Disbursements Jan. 1, 1928 to Dec. 31, 1928	1,908.37
Bal. lapsed into Gen. Fund, per. ending 6-30-28	1.38
Deficit Appropriation Balance lapsed, Sept., 1928	132.82
Total	$ 2,142.57
Available Balance unexpended Dec. 31, 1928	706.73
	$ 2,849.30

TRAVEL

Unexpended Appropriation, Jan. 1, 1928	$ 473.70	
Appropriation, July 1, 1928 to June 30, 1929	750.00	
Receipts, January 1, 1928 to Dec. 31, 1928	101.30	
Total	$ 1,325.00	

Disbursements and Amounts lapsed into General Fund:

Disbursements Jan. 1, 1928 to Dec. 31, 1928	$ 789.73
Bal. lapsed into Gen. Fund, per. ending 6-30-28	168.10
Receipts Transferred to Salaries Account	178.50
Total	$ 1,136.33
Available balance unexpended Dec. 31, 1928	188.67
	$ 1,325.00

EQUIPMENT

Unexpended Appropriation Jan. 1, 1928	$ 133.08	
Appropriation July 1, 1928 to June 30, 1929	250.00	
Total	$ 383.08	

Disbursements and Amounts lapsed into General Fund:

Disbursements, Jan. 1, 1928 to Dec. 31, 1928	$ 183.03
Bal. lapsed into Gen. Fund, per. ended 6-30-28	8.08
Total	$ 191.11
Available Balance unexpended Dec. 31, 1928	191.97
	$ 383.08

AUTOMOBILES OPERATING FOR HIRE

Unexpended Appropriation, Jan. 1, 1928	$ 1,076.34	
Appropriation March 15, 1928 to March 14, 1929	5,000.00	
Total	$ 6,076.34	

Disbursements and Amount lapsed into General Fund:

Disbursements, Jan. 1, 1928 to Dec. 31, 1928	$ 4,949.05
Bal. lapsed into Gen. Fund, per. ending 3-14-1928	71.54
Total	$ 5,020.59
Available Balance unexpended Dec. 31, 1928	1,055.75
	$ 6,076.34

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of J. C. DENTON, for permission to operate an automobile stage line between Magna and Garfield, and between Garfield Townsite and Garfield Depots.	Case No. 353.

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of September 3, 1920, this Commission issued Certificate of Convenience and Necessity No. 90, (Case No. 353) granting J. C. Denton permission to operate an automobile passenger bus line between Magna and Garfield, and between Garfield Townsite and Garfield Depots, Utah.

Upon application of J. C. Denton, the Commission issued Special Authority A-113, November 15, 1926, granting him permission to discontinue automobile passenger service between Garfield and Magna, Utah, on account of insufficient business.

Application having now been made by the said J. C. Denton to discontinue operation of his automobile passenger bus line between Garfield and Garfield Depots, owing to lack of business;

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

IT IS ORDERED, That J. C. Denton be, and he is hereby, authorized to discontinue operation of his automobile passenger bus line between Garfield and Garfield Depots, Utah; that Certificate of Convenience and Necessity No. 90, Case No. 353, issued to him, be, and it is hereby, cancelled and annulled.

Dated at Salt Lake City, Utah, this 16th day of March, 1928.

(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. 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 that for reasons beyond his control, he has failed to secure the necessary capital with which to finance the construction and operation of the tramway authorized in the Commission's said order:

And it further appearing that he now has reasonable assurance that if granted additional time by the Commission to construct and operate said tramway, that the required capital will be provided:

And it further appearing that there is a continuing need for such a tramway:

Now, therefore, by reason of the premises, IT IS HEREBY ORDERED, That said Certificate of Convenience and Necessity No. 228, be, and the same is hereby, extended for the completion and operation of the tramway therein authorized, to and until the 1st day of January, 1929.

Dated at Salt Lake City, Utah, this 23rd day of January, A. D., 1928.

(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 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

In the Matter of the Application of ELMER B. TAYLOR, for permission to operate an automobile freight line from Sigurd, Salina, and Richfield, Utah, to Loa, Fremont, Lyman, Bicknell, Teasdale, Torrey, Fruita, and Notom, Utah. } Case No. 917.

SUPPLEMENTARY REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of January 5, 1927, the Public Utilities Commission of Utah issued Certificate of Convenience and Necessity No. 284 (Case 917), authorizing Elmer B. Taylor to operate an automobile freight line from Sigurd, Salina, and Richfield to Loa, Fremont, Lyman, Bicknell, Teasdale, Torrey, Fruita, and Notom, all in the State of Utah.

The Commission now finds that owing to the failure of Elmer B. Taylor to comply with all of its rules, regulations, and requests; and owing to his using his certificate of con-

venience and necessity for the purpose of acquiring revenue from others operating over the said highways, in violation of law and the authority vested in him, Certificate of Convenience and Necessity No. 284 should be cancelled.

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 284 be, and it is hereby, cancelled, and the right of Elmer B. Taylor to operate an automobile freight line from Sigurd, Salina, and Richfield to Loa, Fremont, Lyman, Bicknell, Teasdale, Torrey, Fruita, and Notom, Utah, be, and it is hereby revoked.

Dated at Salt Lake City, Utah, this 23rd day of November, 1928.

(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

J. C. DAVIS, *Complainant*,
vs.
MURRAY CITY, a Municipal Corporation, *Defendant*.
} Case No. 923.

Appearances:
John E. Pixton, of Murray, Utah. } for Complainant.
Fred R. Morgan, City Attorney, Murray, } for Defendant.

Decided December 21, 1928.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

This matter came on regularly to be heard, before the

Public Utilities Commission of Utah, on the 6th day of October, 1926, on the complaint of the complainant, J. C. Davis, charging that Murray City, a Municipal Corporation in the State of Utah, owns and operates a municipal electric power plant, and it is the only agency through which electrical energy is furnished to businesses and residences for commercial and domestic consumption within the city limits of Murray; that the complainant has opened an automobile service station in said City and has made application to Murray City for electric service to be used in conducting the said business of the complainant; that the Board of Commissioners of Murray City refuses to furnish the complainant with electrical energy for his business upon the same terms and conditions as energy is furnished to every other citizen of Murray.

Complainant prays that a ruling be made by the Commission requiring the city to desist from the alleged discriminatory practices, and that it be required to furnish the complainant electrical energy at the same rates and upon the same conditions as furnished to other citizens and inhabitants of said City.

It appearing that the defendant is a municipal corporation, owning and operating an electric power plant, serving the inhabitants of the City of Murray with electrical energy, for hire, the Commission now concludes that it has no jurisdiction over the rates or practices of the municipal plant or public utility complained of by the complainant herein.

See Logan City Municipal Corporation, Plaintiff, vs. Public Utilities Commission of Utah and Utah Power & Light Company, Defendants, 69 Utah ——.

IT IS THEREFORE ORDERED, That the complaint of J. C. Davis herein be, and the same is hereby, dismissed, for want of jurisdiction.

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

(Seal)
Attest:

(Signed) F. L. OSTLER, Secretary.

HENRY I. MOORE and D. P. ABERCROMBIE, Receivers for the SALT LAKE & UTAH RAILROAD COMPANY,
Complainants,
vs.
UTAH IDAHO CENTRAL RAILROAD COMPANY, P. H. MULCAHY, Receiver for the UTAH IDAHO CENTRAL RAILROAD COMPANY, BAMBERGER ELECTRIC RAILROAD COMPANY, AND UTAH RAILWAY COMPANY,
Defendants.
} Case No. 928.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

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.

Submitted January 31, 1928. Decided April 13, 1928.

Appearances:

F. C. Merriell, Secretary and Treasurer, Grand Junction, Colorado. } for Applicant, The Midland Telephone Company.

REPORT OF THE COMMISSION

By the Commission:

Under date of March 9, 1927, The Midland Telephone Company filed with the Public Utilities Commission of Utah an application, in substance alleging:

That it is a corporation, organized under and by virtue

of the laws of the State of Colorado, licensed to do business in the State of Utah, through its agent, J. W. Corbin, Vice-President and Manager, of Moab, Grand County, Utah; that it owns and operates a telephone and telegraph plant and business in the Counties of Grand and San Juan, Utah, being the only company furnishing local toll and exchange service therein.

That the said The Midland Telephone Company has in the past operated and did operate until on or about January 5, 1927, a grounded system with exchanges at Moab, Monticello and other towns in the counties of Grand and San Juan, Utah, but that on or about the date above mentioned the said company put into operation within the town of Moab, Utah, a complete new plant of outside lines, all metallic; that this change to a metallic plant in said town of Moab was occasioned by the insistence of the Utah Power & Light Company recently purchasers from the Moab Power & Light Company of the electric property in the said town, and that they would very shortly make such changes in their lines and plant as would require the telephone plant to be so changed and that The Midland Telephone Company was required under pressure to make this very expensive change before the said service in the town of Moab really required it.

That the Company was required by the change above mentioned to expend the sum of $3,500.00, and to scrap property for which it had little other use to the probable value of $1,000.00, thus requiring a greatly increased investment for the service of approximately 125 subscribers in the Moab, Grand County Exchange Area. That the subscribers desiring all night service at Moab will add to the increased capital cost above mentioned, an operating cost of not less than $50 per month for such service, in lieu of the fourteen hour service heretofore given.

That the Company finds upon investigation that, for the class of business to be afforded by a modern metallic plant in the town of Moab, its present exchange rates are less than those charged by other companies in other towns of similar size and conditions. That because of the reasons enumerated above, the Company feels that it is entitled to material relief and prays that it be granted an Order giving it permission to place in effect a schedule of exchange rates applying to the

Moab Exchange Area, as set forth in the table below, which shows the schedule in force and the schedule proposed in order to partially compensate it for the increased investment already incurred by it in making the changes set forth as above mentioned:

SCHEDULE OF PRESENT AND PROPOSED RATES

Class of Service	Present Rate	Proposed Rate
1-Party Business F. R.	$36.00 Per Yr.	$48.00 Per Yr.
2-Party Business F. R.		39.00 Per Yr.
M-Party Business F. R.	24.00 Per Yr.	
1-Party Resident F. R.		27.00 Per Yr.
4-Party Residence F. R.	15.00 Per Yr.	21.00 Per Yr.
M-Party Rural F. R. to 2 Mi.	18.00 Per Yr.	
M-Party Rural F. R. over 2 Mi.	24.00 Per Yr.	
M-Party Rural F. R. to 3 Mi.		24.00 Per Yr.
M-Party Rural F. R. Add for 3 Mi.		3.00 Per Yr.
M-Party Business F. R. to 3 Mi.		48.00 Per Yr.
M-Party Bus. F. R. Add for 3 Mi.		3.00 Per Yr.
Installing	3.00 Per Phone	3.50 Per Phone
Extensions		1.00 Ea. Per Mo.

This case came on regularly for hearing, before the Commission, at Moab, Utah, March 24, 1927, at 11:00 A. M., due notice thereof having been given the public for the time and in the manner as required by law.

From the evidence presented at said hearing, and from the annual financial reports of The Midland Telephone Company covering the years 1926 and 1927, and from the inventory of the property of The Midland Telephone Company, as of October 1, 1927, filed with the Commission, December 14, 1927, the Commission finds the facts to be:

That under date of February 5, 1927, and prior to the date of the hearing in Case No. 932, The Midland Telephone Company filed with the Commission its Annual Report covering its financial operations for the year 1926. Said annual report disclosed the fact that the investment of the company as of December 31, 1926, was $20,284.84, and that the total operating revenues as of said date amounted to $13,427.93, and the operating expenses, $9,039.46, leaving an operating income available for return on the investment of $4,388.47, which appeared to be in excess of twenty per cent.

That in view of the facts enumerated, it appeared to the

Commission that no cause existed for the granting of increased rates as sought for by Applicant.

That, thereupon, Applicant advised the Commission that its investment in plant and equipment as reported in its Annual Report, covering the year 1926, was incorrect and that proper records of plant additions and betterments and values had not been kept.

That subsequently, under date of May 19, 1927, The Midland Telephone Company, by its Secretary, F. C. Merriell, requested that the Commission withhold its Report and Order in Case No. 932, "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," to enable Applicant to make and present to the Commission a proper inventory and appraisement of the property of The Midland Telephone Company.

That under date of December 14, 1927, Applicant filed with the Commission an inventory of the property of The Midland Telephone Company, as of October 1, 1927, prepared by Messrs. Corbin and Merriell. A summary of said inventory briefly sets forth the following:

	As of October 1, 1927		
Description	Cost of Reproduction	Depreciation	Net Value
Moab Thompson Toll Line	$10,816.45	$ 618.60	$10,197.85
Moab Outside Plant	5,656.35	*	5,656.35
Moab Monticello Toll Line	9,472.40	3,005.19	6,467.21
Monticello-Bluff Toll Line	8,004.70	2,393.48	5,611.22
Indian Creek Toll Line	2,199.60	879.84	1,319.76
Castleton & Wilson Mesa Line	1,760.10	880.05	880.05
Cisco-Turner Ranch Line	1,544.18	926.51	617.67
Monticello Outside Plant	1,512.50	302.50	1,210.00
Blanding Outside Plant	736.35	**	736.35
Blanding Inside Plant	169.75	**	169.75
Monticello Inside Plant	1,726.50	345.30	1,381.20
Moab Inside Plant	1,673.30	501.99	1,171.31
Telephones on System (227)	4,626.00	1,387.80	3,238.20
Furniture and Fixtures	597.00	179.10	417.90
Tools and General Equipment	1,449.00	434.70	1.014.30
Cost of Reproduction	$51,944.18		
Depreciation		$11,855.06	
Net Value after Depreciation			$40,089.12

* Built 1927.
**Built 1926.

Total Net Value, Physical Plant, Less Depreciation, as above $40,089.12

Interest during Construction, 4%*	1,603.57
Supervision and Organization, 10%	4,008.91
Omissions and Contingencies, 6%	2,405.35
Franchise, Actual Expenditure	419.05
Total Value of Plant and Equipment, as of October 1, 1927, as per Appraisal of Messrs. Corbin and Merriell	$48,526.00

*Calculated on basis of 8 months construction period and 6% interest.

On Page 42, Schedule 19, of the Inventory, Applicant presents a Balance Sheet to conform to the above inventory, as follows:

ASSET SIDE

Investment in Plant and Equipment	$48,526.00
Cash and Deposits	398.23
Accounts Receivable	3,255.77
Material and Supplies	1,464.57
Prepayments	99.01
Unadjusted and Other Debits	1,278.40
Total Asset Side	$55,021.98

LIABILITY SIDE

Capital Stock	$ 8,350.00
Long Term Debt	21,750.00
Notes Payable	2,200.00
Accounts Payable	1,186.09
Reserve for Retirement	1,405.69
Surplus	20,128.20
Total Liability Side	$55,021.98

After having carefully examined the detailed inventory of the property of the Company, it appears to the Commission that same is substantially consistent as to physical values. However, the Commission reserves unto itself the right to make a more careful check of these elements upon the territory of Applicant at a later date. As to Intangibles and Construction Overheads, however, it should be stated that the Commission has repeatedly heretofore gone on record as refusing to allow "Omissions and Contingencies" as an element of value. It is just as probable that an overcount might have been made as an undercount. (See Case No. 206, Public Utilities Commission of Utah Reports, Vol. 4, Page 37. Case No. 44, Public Utilities Commission of Utah Reports, Vol. 1, Page 133, Vol. 3, Page 12.)

Eliminating "Contingencies and Omissions" as set up by

Messrs. Merriell and Corbin in the inventory, the total value as claimed by Applicant would amount to the sum of $46,-120.65, which together with the physical construction values includes interest during construction of $1,603.57, assuming that it would require approximately, as contended by Applicant, eight months to construct its 174.5 miles of toll line and 63.35 miles of exchange lines and that money could be obtained for six per cent; and which amount also includes an allowance of $4,008.91 to cover Supervision, Management, Legal Expenses and other elements of cost during construction.

The Commission will therefore tentatively assume that $46,120.65 is a proper base upon which to calculate the earnings of the Company, reserving unto itself, as hereinabove stated, the right to make a more extensive examination.

The revenues and expenses of the Company for the two years last past, and the income available for return on the above investment would indicate the following results, as disclosed by the annual financial reports on file with the Commission from The Midland Telephone Company:

Operating Revenues:	**Year 1926**	**Year 1927**
Exchange Revenue	$ 2,693.62	$ 4,042.09
Toll Revenue	10,165.16	9,027.89
Miscellaneous Revenue	569.15	27.48
Total Operating Revenues	$13,427.93	$13,097.46
Operating Expenses:		
Repairs to Plant	$ 1,010.05	$ 395.73
Repairs to Equipment	765.67	97.41
Operators' Wages	3,548.65	3,851.10
Gen'l. Office Salaries and Expenses	2,314.48	3,006.14
Depreciation	1,001.59	1,265.31
Other Maintenance Expenses		318.80
Other Traffic Expenses		591.96
Taxes	399.02	430.74
Total Operating Expenses and Taxes	$ 9,039.46	$ 9,957.19
Income Available for Rate of Return	$ 4,388.47	$ 3,140.27
Rate of return on $46,120.65	9.51*	6.80

*As a matter of fact the investment as of December 31, 1926 would be less than $46,120.65, or would be decreased by the net additions to physical plant during the year 1927. The figure here used is for comparative purposes.

It is estimated by Applicant that its annual exchange rev-

enues from its Moab Exchange would be increased by $1,-007.00, if the rates requested were put into effect, assuming that no subscribers would leave the service. This estimate is based upon the following "Exhibit C" introduced by Applicant in Case No. 932, under date of March 24, 1927:

COMPARISON OF PRESENT AND PROPOSED RATES FOR PRESENT SUBSCRIBERS OF MOAB EXCHANGE AREA

Class	Subscribers	Present Rate	Total	Proposed Rate	Total
1 Pty. Business	19	$36.00	$ 684.00	$48.00	$ 912.00
2 Pty. Business	22	24.00	528.00	39.00	866.00
4 Pty. Residence	38	15.00	570.00	21.00	798.00
4 Pty. Rural	20	18.00	360.00	24.00	480.00
M Pty. Rural	7	15.00	105.00	27.00	189.00
4 Pty. Rural 2 Mi.	3	24.00	72.00	27.00	81.00
Total	109		$2,319.00		$3,326.00
					2,319.00
Estimated Annual Increase					$1,007.00

It is estimated by Applicant that in order to increase its service in its Moab, Exchange Area, from 14-hour service to 24-hour service it will be necessary to increase its operating expenses by at least $600.00 per annum by the employment of an additional operator. It would therefore appear, that by the giving of this additional service, Applicant's income available for a return on its investment would only be increased by $407.00, which, applying the operating results of the year 1927, would yield a rate of return to Applicant of approximately 7.6 per cent, which does not appear to the Commission to be excessive in view of the circumstances and the cost of securing money to Applicant.

Applicant's telephone system and the future earnings to be derived therefrom at the rates herein permitted and allowed by the Commission will depend largely upon the development and growth of the oil fields situated in the territory served. It is apparent from the record in this case that unless the oil industry in that territory thrives, the Applicant's earnings will be very materially reduced and that these rates will be inadequate to pay anything like a reasonable return on the capital investment. Therefore, under the existing conditions and circumstances, from any viewpoint a 7.6 per cent return cannot be regarded as an excessive one on the capi-

tal invested by the Applicant, and the rates for telephone service as applied for by Applicant will be granted.

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 April, A. D., 1928.

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.

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, and that applicant, The Midland Telephone Company, a corporation, be and it is hereby, authorized to publish and put in effect the rates set forth on page three of the foregoing report of the Commission, which is made a part hereof.

ORDERED FURTHER, That said new schedule of telephone rates applying to applicant's Moab, Grand County, Utah, Exchange Area, shall become effective May 1, 1928.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Investigation of Railroad Rates on Grain and Grain Products applicable to intrastate traffic in Utah. } Case No. 952.
PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

UTAH SHIPPERS TRAFFIC ASSOCIATION, *Complainant*,
vs.
LOS ANGELES & SALT LAKE RAILROAD CO., OREGON SHORT LINE RAILROAD COMPANY, *Defendants.* } Case No. 956.

ORDER

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

IT IS ORDERED, That the complaint herein of the Utah Shippers Traffic Association vs. Los Angeles & Salt Lake Railroad Company and Oregon Short Line Railroad Company, be, and it is hereby, dismissed without prejudice.

Dated at Salt Lake City, Utah, this 27th day of April, 1928.

(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 UTAH LIGHT & TRACTION COMPANY, for permission to operate an automobile bus line over certain streets in Salt Lake City, Utah. } Case No. 966.
PENDING.

In the Matter of the Investigation of Railroad Rates on Edible Livestock applicable to intrastate traffic in Utah. PENDING. } Case No. 973.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of TONY BONACCIE, for permission to operate an automobile bus line, for the transportation of passengers, between Park City and Heber City, Utah, and intermediate points. } Case No. 974.

In the Matter of the Application of E. J. DUKE, for permission to operate an automobile passenger stage line between Heber City and Park City, Utah. } Case No. 996.

Submitted January 17, 1928. Decided January 31, 1928.

Appearances:

J. E. Johnson and R. R. Hackett, of Park City, Utah. } for Applicant, Tony Bonaccie.

L. C. Montgomery, Attorney of Heber City, Utah, } for Applicant, E. J. Duke.

REPORT OF THE COMMISSION

CORFMAN, Commissioner:

These matters came on regularly to be heard before the Commission, at Park City, Utah, Case No. 974 on the 29th day of September, 1927, and Case No. 996 on the 17th day of January, 1928. After evidence in Case No. 974 had been taken, Case No. 996 was filed with the Commission, and, as these cases were applications for certificates of public convenience and necessity over the same highway between the same points,

the Commission, on the 4th day of January, 1928, made and entered its order that the two cases, for the purpose of hearing and determination by the Commission, should be combined, and that the evidence previously taken in Case No. 974 should be considered as a part of the record herein, as well as the evidence taken in Case No. 996.

By the records and files herein and from the evidence taken at these hearings, it appears:

1. That the applicant in Case No. 974, Tony Bonaccie, is a resident of Park City, Utah, and that for over a year and a half he has been engaged in conducting an automobile taxi business, carrying passengers for hire out of Park City, Utah, to neighboring points; that he is the owner of a five-passenger Dodge sedan, and also part-owner of a Buick Master Six automobile; that the said applicant is experienced in the operation of automobiles for hire, and is financially able to furnish all the necessary equipment for operating an automobile stage line between Heber City and Park City, Utah; that the applicant proposes, if granted a certificate, to make one round-trip each day between Park City and Heber City, Utah, serving all intermediate points.

2. That the applicant in Case No. 996, E. J. Duke, is a resident of Heber City, Utah; that for more than twenty-five years last past this applicant has been engaged in transporting persons and property for hire between Heber City and Park City, Utah, first by horse-drawn vehicles and later by automobiles, and during all of said time has been under contract with the United States Government, for the carrying of mail between said points; that heretofore he has given a daily service, making one round-trip each day between said points on scheduled time and at fixed charges; that this applicant has had many years of experience in the operation of automobiles for hire over said route, and is financially able to provide all necessary automobile equipment for the carrying of persons and property for hire between Heber City and Park City, Utah, and he proposes, if granted a certificate of public convenience and necessity, to make one round-trip daily between said points, serving all intermediate points and providing all necessary equipment therefor; that this applicant at the present time owns and operates over the public highway between said points, two Ford automobiles; that he has placed an order for needed

additional automobile equipment to be used by him over said route as a common carrier for hire, if granted a certificate by the Commission permitting him so to do; that he is the owner of horses and sleighs and other equipment necessary for the successful operation of said route during inclement weather and when the public road between said points is not passable for the operation of automobiles.

3. That Heber City has a population of approximately 2,500 people, and is the terminal of branch lines of the Denver & Rio Grande Western Railroad, and is also the terminal of automobile routes from Uintah Basin points as well as from Salt Lake City, Utah; that Park City is a mining center, with a population of approximately 4,800; that the public highway between Park City and Heber City, Utah, forks at an intermediate point, the Town of Keatly, one branch passing via the Park-Utah Mine, where a large number of men are employed, the other passing on to Heber City, over what is generally known as the main highway. Both branches may be traveled safely and conveniently, except that the branch via the Park-Utah Mine, during inclement weather, is sometimes found impassable for automobiles.

4. That many of the miners working in the Park-Utah Mine reside in Heber City and in neighboring communities, and there is no railroad connecting between Park City and Heber City; that while private automobiles between said points in a large measure accommodate the people, there is considerable passenger traffic and a need for automobile service for hire over the public highway between Heber City and Park City, for the convenience of persons going back and forth who are not provided with privately owned cars; that there is also some need for the carrying of light express between said points; that oftentimes during the winter season the public highway between Heber City and Park City becomes blockaded with snow and the same rendered impassable for automobiles; that at such times the applicant, E. J. Duke, has been required to furnish horses and sleighs, in order to carry the United States Mail and also in order to provide passenger service for hire between the said points; that the applicant, E. J. Duke, has continuously for twenty-five years furnished said combined service and the same has been proved necessary and convenient for the public. That there is not sufficient pas-

senger traffic between Heber City and Park City to support more than one automobile bus line.

From the foregoing facts, the Commission concludes and decides that by reason of the long, continuous and uninterrupted operation of the applicant, E. J. Duke, more especially prior to the enactment of the Public Utilities Laws of the State of Utah, and under the provisions of said Act, that said E. J. Duke is entitled as a matter of law to a certificate of public convenience and necessity to operate an automobile passenger route for hire, carrying both passengers and express between Park City and Heber City, Utah, and serving intermediate points.

That the application of Tony Bonaccie, Case No. 974, to operate an automobile passenger bus line over said route, should be, under all the facts and circumstances as disclosed by the record herein, denied.

The applicant, E. J. Duke, however, will be required to furnish more modern and comfortable automobile equipment, and to make more frequent trips between Heber City and Park City as the public convenience and necessity may require.

That a certificate should not issue until such equipment is provided, and full compliance is made with the statutes of the State of Utah and the rules of the Public Utilities Commission.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
Commissioner.

We concur:

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

(Seal)

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity
No. 310

At a Session of the PUBLIC UTILITIES COMMISSION

OF UTAH, held at its office in Salt Lake City, Utah, on the 31st day of January, 1928.

In the Matter of the Application of TONY BONACCIE, for permission to operate an automobile bus line, for the transportation of passengers, between Park City and Heber City, Utah, and intermediate points.	Case No. 974.
In the Matter of the Application of E. J. DUKE, for permission to operate an automobile passenger stage line between Heber City and Park City, Utah.	Case No. 996.

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 herein of Tony Bonaccie, for permission to operate an automobile bus line, for the transportation of passengers, between Park City and Heber City, Utah, and intermediate points, be, and the same is hereby, denied.

ORDERED FURTHER, That the application herein of E. J. Duke, for permission to operate an automobile passenger stage line between Heber City and Park City, Utah, and intermediate points, be, and the same is hereby granted; that E. J. Duke be, and he is hereby, authorized to transport express as well as passengers over said route.

ORDERED FURTHER, That applicant, E. J. Duke, 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

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. 975.
In the Matter of the Application of R. A. NEILSON, M. C. WEST and JACK MILLER, for permission to operate an automobile freight and express line between Monroe and Salt Lake City, Utah, and certain intermediate points.	Case No. 985.

Submitted March 22, 1928. Decided June 13, 1928.

Appearances:

W. C. Hurd, Attorney, of Salt Lake City, and S. K. Heppler, Attorney, of Richfield, Utah,	for Applicants.
B. R. Howell, Attorney, of Salt Lake, and Henry D. Hays, Attorney, of Richfield, Utah,	for Protestant, Denver & Rio Grande Western Railroad Co.
E. H. Hite, of Salt Lake City,	for Protestant, American Railway Express Co.

REPORT OF THE COMMISSION

McKAY, Commissioner:

Under date of July 9, 1927, application was filed by M. C. West and R. A. Neilson, for permission to operate an automobile freight and express line between Richfield and Milford, Utah, and intermediate points.

Under date of August 5, 1927, an application was filed by R. A. Neilson, M. C. West and Jack Miller, for permission to operate an automobile truck line, for the transportation of freight and express, between Monroe and Salt Lake City, Utah, and certain designated intermediate points.

These cases came on for hearing, at Richfield, Utah, on Monday, December 7, 1927, after due and legal notice had been given. Protests were filed on behalf of the American Railway Express Company, Denver & Rio Grande Western Railroad Company, Los Angeles & Salt Lake Railroad Company, Salt Lake & Utah Railroad Company, Utah Central Truck Line, and the Utah Central Transfer Company.

Considerable testimony was given in these cases both for and against the proposed lines.

The Commission finds, after careful consideration of all of the evidence, that applicants have been operating for hire, transporting freight and express for numerous persons, firms, and corporations, and that applicants have failed to comply with the provisions of Chapter 117, Session Laws of Utah, 1925, and also appear to be in violation of Chapter 42, Session Laws of Utah, 1927; and that such operators who violate the provisions of the State laws, should not be rewarded with certificates of convenience and necessity. The applications should, therefore, be dismissed with prejudice.

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 13th day of June, 1928.

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. 975.
In the Matter of the Application of R. A. NEILSON, M. C. WEST and JACK MILLER, for permission to operate an automobile freight and express line between Monroe and Salt Lake City, Utah, and certain intermediate points.	Case No. 985.

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 applications herein be, and the same are hereby, dismissed, with prejudice.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SALINA TELEPHONE COMPANY, for permission to increase telephone rates at Salina, Redmond, and Aurora, Utah.	Case No. 976.

Submitted May 9, 1928. Decided August 6, 1928.

Appearance:
C. J. Olsen, Secretary-Treasurer, for Applicant, Salina Telephone Company.

REPORT OF THE COMMISSION

CORFMAN, Commissioner:

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, at Salina, Utah, on the 11th day of January, 1928, after due notice given, on the application of the Salina Telephone Company for permission to increase telephone rates at Salina, Redmond, and Aurora, Utah.

No protests were made on the part of telephone users nor any interested party; but, to the contrary, a large number of telephone users recommended, by way of petition to the Commission, that the increased rates applied for should be allowed in order that the service of the applicant might be improved.

It appears that the Salina Telephone Company is a corporation, organized and existing under the laws of the State of Utah; that it is now, and for several years past has been, engaged in rendering telephone service to the towns of Salina, Redmond and Aurora, Utah, these towns having a combined population of approximately 2,800 people; that applicant also has a rural line extending out from its Salina Exchange about six miles, for the purpose of serving a couple of ranches; that applicant has heretofore failed to keep the proper books and accounts, and the original cost of its telephone system is unobtainable. So, too, until of recent years and under the present management, no satisfactory accounting is to be had of the operating revenues and the cost of operation and maintenance.

For the year 1925, the applicant's total operating revenues were $4,635.67 and the operating expenses, $3,362.53; for the year 1926, the operating revenues were $4,491.42 and the operating expenses, $3,838.97, making no allowance for these years for depreciation of its plant or system; that the present depreciated value of the applicant's telephone system, including office and station equipment and exchange lines, only,

is approximately $9,119.72; that the average annual revenue derived from the operation of the system for the past three years has been approximately $4,563.54; that the average annual operating expense for the same years has been approximately $3,600.75, leaving as a return, $962.79, allowing nothing for depreciation of the system, nor any sum for working capital, going value, etc.

It is estimated that a fair allowance for the annual depreciation of the system would be 5% of the present plant value; that an allowance of $500.00 would be a reasonable sum to be allowed applicant as working capital. That being true, under existing rates charged telephone users, applicant is earning, after allowing for depreciation, approximately but five per cent as a net return on its capital investment, allowing nothing whatever as a working capital or for going value, etc. The salaries of the manager and the telephone operators of the system have been and are exceedingly low, as has also been the general office expenses. The telephone service of the applicant should be improved from that at present rendered. This will require a large expenditure on the part of the applicant and a general rehabilitation of the entire system.

The present rates and the proposed rates to be charged telephone users by the applicant, are as follows:

	Present Rates	Proposed Rates
Private Business	$3.00	$4.00
Party Business	2.50	3.50
Private Residence	2.00	2.50
Two Party Residence	1.50	2.00
Four Party Residence	1.50	2.00
Rural Business	2.50	3.75
Rural Residence	1.50	2.00

From the foregoing facts, the Commission concludes and decides that the telephone rates of the applicant, Salina Telephone Company, should be increased as proposed and applied for herein; that the telephone service of the applicant should be materially improved; that the increased rates herein provided for should not become effective until the rehabilitation of applicant's telephone system and more efficient telephone service is rendered to its subscribers.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
Commissioner.

We concur:

(Signed) 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 August, 1928.

In the Matter of the Application of the SALINA TELEPHONE COMPANY, for permission to increase telephone rates at Salina, Redmond, and Aurora, Utah. } Case No. 976.

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 Salina Telephone Company be, and it is hereby, authorized to charge and put in effect the following telephone rates, at Salina, Redmond, and Aurora, Utah:

Private Business	**$4.00**
Party Business	**3.50**
Private Residence	**2.50**
Two Party Residence	**2.00**
Four Party Residence	**2.00**
Rural Business	**3.75**
Rural Residence	**2.00**

ORDERED FURTHER, That the said increase rates shall not become effective until the rehabilitation of applicant's telephone system and more efficient telephone service is rendered to its subscribers.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of the SALINA TELEPHONE COMPANY, for permission to increase telephone rates at Salina, Redmond, and Aurora, Utah. } Case No. 976.

SUPPLEMENTAL ORDER OF THE COMMISSION

By the Commission:

The Commission having made and entered its order herein, on the 6th day of August, 1928, whereby certain rates for telephone service by the applicant were determined and allowed as being just and reasonable, the same to become effective upon the rehabilitation of the applicant s telephone system and more efficient telephone service rendered to its subscribers;

And it now appearing, after due investigation, that said telephone system of the applicant has been rehabilitated and the service thereof materially improved so that its service to telephone users is satisfactory, and that said service was made so on or before September 1, 1928;

Now, therefore, IT IS HEREBY ORDERED, That the Commission's order filed herein, August 6, 1928, be, and the same is hereby, made effective as of September 1, 1928.

Dated at Salt Lake City, Utah, this 4th day of September, 1928.

(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 UTAH LIGHT & TRACTION COMPANY, for permission to discontinue street car service and remove its tracks on Seventh South Street between West Temple Street and Eighth West Street, all in Salt Lake City, Utah. } Case No. 978.

Submitted March 20, 1928. Decided May 10, 1928.

Appearances:

John F. MacLane and George R. Corey, Attorneys, of Salt Lake City. } for Applicant.

William H. Folland, Attorney, } for City of Salt Lake.

D. F. Terrell, of Salt Lake, } for Poplar Grove Community Association.

Paul C. Child, of Salt Lake, } for Pioneer Stake and Poplar Grove Ward.

T. F. Eynon, of Salt Lake, } of Twenty-fifth Ward.

REPORT OF THE COMMISSION

By the Commission:

This case came on for hearing on the 15th day of August, 1927, at Salt Lake City, Utah, on the application of the Utah Light & Traction Company for permission to discontinue street car service and remove its tracks on Seventh South Street between West Temple Street and Eighth West Street, all in Salt Lake City, Utah. After a considerable amount of testimony had been introduced by applicant, Utah Light & Traction Company, and by protestants residing in the territory served and known locally as the Poplar Grove District of Salt Lake City, it was agreed that said hearing be continued for a test period of six months, during which time applicant be permitted to discontinue car service on Seventh South Street between West Temple Street and Eighth West Street, and to reroute said cars via Eighth West Street, West First South Street, Fifth West Street, and West Second South Street, to the business district of Salt Lake City.

The hearing was resumed on March 20, 1928.

After a full consideration of the testimony given and the evidence introduced at both hearings, the Commission finds as follows:

That applicant is a corporation of the State of Utah, owning and operating an electric street railway system in Salt Lake City, Utah; that, as a part of such system, applicant owns and operates a line hereinafter called the "Seventh South Line," extending from its connection with the system at the intersection of West Seventh South Street and West Temple Street, thence along said West Seventh South Street to South Eighth West Street, thence crossing said South Eighth West Street and continuing westerly along said West Seventh South Street to South Eleventh West Street, thence south along said Eleventh West Street to Indiana Avenue, thence west along said Indiana Avenue to its terminus at Cheyenne Street.

That applicant also owns and operates as a part of its said street railway system a double track line hereinafter referred to as the "Eighth West Line, extending from its connection with the said system at the intersection of West Second South Street and West Temple Street, thence westerly along said West Second South Street to Fifth West Street, thence north one block to First South Street, thence west three blocks to South Eighth West Street, thence southerly along said South Eighth West Street to West Seventh South Street, where said Eighth West Line intersects and crosses said Seventh South Line and continues as a single track line to its terminus at West Thirteenth South Street.

That the value of applicant's entire street car system, as of December 31, 1927, is $9,526,929.96; that, based upon said valuation, applicant's rate of return for the year 1927 was 4.26%, with no allowance whatever for depreciation; that if a fair allowance for depreciation were made, the above return would be reduced to approximately 2.22%.

That the section of line proposed to be removed under this application and consisting of eight blocks of single track, extends over and across the tracks of the Salt Lake & Utah Railroad, the Los Angeles & Salt Lake Railroad, and the Denver & Rio Grande Western Railroad, crossing sixteen tracks at grade, owned and operated by these various Railroad Companies, and four crossings of other tracks of the applicant; that the operation of this line, with the heavy maintenance charges entailed by reason of the said railroad crossings, is an unnecessary burden on the street car system as a whole; that the territory now served by this line will be equally as well served by

the Eighth West Line, with very little inconvenience to residents of the Poplar Grove District.

It has been contended that the future growth of this district will require additional street car lines over and above the Eighth West Line above mentioned, and, therefore, the Seventh South car tracks should not be removed. If at any time in the future it should appear that additional transportation facilities are needed in the district affected by this removal, it seems probable that said additional facilities could be more readily furnished by some type of mobile bus transportation instead of street cars, operating over a fixed route.

The Commission is of the opinion that the application of said Traction Company to discontinue street car service and remove its tracks on Seventh South Street between West Temple Street and Eighth West Street, should be granted, and that cars formerly used on this line should be re-routed over what is known as the Eighth West Line.

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 10th day of May, 1928.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to discontinue street car service and remove its tracks on Seventh South Street between West Temple Street and Eighth West Street, all in Salt Lake City, Utah.	Case No. 978.

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 and remove its tracks from Seventh South Street between West Temple Street and Eighth West Street, in Salt Lake City, Utah.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF UTAH

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, to discontinue the operation of its Mill Creek Bus Line. } Case No. 980.

Submitted July 19, 1928. Decided August 8, 1928.

Appearances:

John F. MacLane and George R. Corey, Attorneys, of Salt Lake City, } for Applicant.

David Neff, Oakwood Lane, East Mill Creek, Utah, } for Himself.

T. L. Irvine, of 3050 East 35th South Street, Salt Lake County, Utah, } for Himself.

Jeremiah Stokes, Attorney, Templeton Building, Salt Lake City, Utah, } for Himself.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

Under date of July 18, 1927, the Utah Light & Traction Company filed an application for permission to discontinue the operation of its Mill Creek Bus Line.

The case came on for hearing, October 16, 1927, after due and legal notice had been given. Proof of publication was filed October 15, 1927.

Under date of October 29, 1927, the Commission issued its order, authorizing the discontinuance of said Mill Creek Bus Line as theretofore operated, and the commencement of operation of the bus line in accordance with the stipulation agreed upon by the Utah Light & Traction Company and the protestants, such service to be continued pending the preparation and filing of the Commission's findings and report and order.

The Commission finds, therefore, that, in accordance with said stipulation, the following service has been and is now being rendered by the Utah Light & Traction Company:

> "The main route of the buses is between the terminal at 33rd South and Highland Drive and Nielson's Corner at 23rd East and 48th South via Highland Drive and 48th South Streets. On two trips daily the buses return from Nielson's corner via 23rd East and 33rd South. On school days during the school season two trips daily are operated between the East Mill Creek Ward House and the Granite High School via 33rd South."

IT IS THEREFORE ORDERED, That the service outlined in the preceding paragraph be continued until further order of the Commission.

(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, a Municipal Corporation,
Complainant,
vs.
UTAH POWER & LIGHT COMPANY,
Defendant.
} Case No. 984.

REPORT AND ORDER UPON PETITION FOR RE-HEARING AND RE-CONSIDERATION

By the Commission:

On January 14, 1928, the complainant, Logan City, a Municipal Corporation, filed a petition for rehearing and re-consideration 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 Logan City, a Municipal Corporation, for rehearing and re-consideration in the above-entitled matter, be, and it is hereby, denied.

Dated at Salt Lake City, Utah, this 16th day of January, 1928.

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

(Seal)
Attest:
(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF UTAH

LOGAN CITY, a Municipal Corporation,
Complainant,
vs.
UTAH POWER & LIGHT COMPANY,
a Corporation,
Defendant.
} Case No. 984.

ORDER

Under date of December 23, 1927, the Public Utilities Commission of Utah ordered Logan City, a Municipal Corporation, and the Utah Power & Light Company, a Corporation, to establish and maintain certain uniform schedules of rates or charges for electric service in Logan City, Utah, said schedules to be effective on and after March 1, 1928. For the purpose of identification, said schedules are as follows:

Schedule No. 12-B, Tariff No. 1.
Schedule No. 34, Tariff No. 1.
Schedule No. 35, Tariff No. 1.
Schedule No. 4-A, Tariff No. P. U. C. U. 2, original sheet No. 6-A.
Schedule No. 6, Tariff No. 6.
Schedule No. 7, Tariff No. 6.
Schedule No. 8, Tariff No. 6.
Schedule No. 9, Tariff No. 6.
Schedule No. 10, Tariff No. 6.
Schedule No. 4, Tariff No. P. U. C. U. 2, original sheet No. 6.
Schedule No. 3, Tariff No. P. U. C. U. 2, original sheet No. 5.

On March 9, 1928, stipulation was entered into by Logan City, by Leon Fonnesbeck, City Attorney, and Utah Power & Light Company, by John F. MacLane, its Vice-President and General Counsel, stating that it is deemed necessary to establish certain additional schedules for services not provided for in the Commission's said Order of December 23, 1927, and agreeing to publish and make effective in Logan City, rates named in the following schedules:

Schedule No. 2-A of Utah Power & Light Company, Tariff No. 1, Supplement No. 1, entitled, "Residential and Commercial Lighting Meter Rate; Optional Load Factor Rate."

Schedule No. 3-B of Utah Power & Light Company, Tariff No. 1, Supplement No. 1, entitled, "Wholesale Lighting Meter Rate."

Schedule No. 26 of Utah Power & Light Com-

pany, Tariff No. 1, entitled, "Window Lighting Flat Rate."

Schedule No. 55 of Utah Power & Light Company, Tariff No. 1, Supplement No. 4, entitled "Sign Lighting Flat Rate."

The Commission having caused an investigation to be made, and finding that the above mentioned schedules should be charged and established by Logan City, a Municipal Corporation, and Utah Power & Light Company, a Corporation, for electric service in Logan City; and that for the purpose of interpreting the schedules of Logan City and Utah Power & Light Company for service in Logan City, the rules and regulations of the Utah Power & Light Company, embraced in its Tariff No. 3, P. U. C. U. No. 3, should be applied so far as applicable;

IT IS ORDERED, That the schedules of rates or charges set forth in the Commission's Order of December 23, 1927, above identified, and the foregoing schedules, Nos. 2-A, 3-B, 26, 55, Tariff No. 1, and Tariff No. 3, P. U. C. U. No. 3, of the Utah Power & Light Company, be, and they are hereby, approved.

ORDERED FURTHER, That the last four schedules mentioned and Tariff No. 3, P. U. C. U. No. 3, shall become effective immediately.

Dated at Salt Lake City, Utah, this 20th day of March, 1928.

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

(Seal)

Attest:

(Signed) D. O. RICH, Acting Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

LOGAN CITY, a Municipal Corporation, *Complainant*, vs. UTAH POWER & LIGHT COMPANY, a Corporation, *Defendant*.	Case No. 984.

Appearance:

George R. Corey, Attorney, of Salt Lake City, Utah, } for Utah Power & Light Co.

SUPPLEMENTAL REPORT AND ORDER OF THE COMMISSION

By the Commission:

On the 30th day of July, 1928, the Utah Power & Light Company, the defendant in the above-entitled matter, filed herein its petition for modification of the Commission's order made and entered on the 23rd day of December, 1927, requiring the defendant to serve its customers using electrical energy in Logan City, Utah, at the rates prescribed in said order.

The matter came on regularly for hearing before the Commission, after due notice given, at its office in Salt Lake City, Utah, August 3, 1928. Logan City entered its appearance with respect to the petition applied for by the Utah Power & Light Company and stated that Logan City had no objection to the application nor to the granting of the temporary order sought for by the defendant.

It appearing that on the 23rd day of December, 1927, the Commission ordered that on and after the 1st day of March, 1928, both the complainant, Logan City, a Municipal Corporation, and the defendant, the Utah Power & Light Company, a Corporation, should proceed to serve their respective patrons at Logan City with electrical energy at certain rates set forth and prescribed in said order; and that thereafter Logan City filed with the Supreme Court of Utah its application for a writ to review the Commission's order, and that on January 29, 1928, the Supreme Court issued a Writ of Certiorari to the Commission; that thereafter, on the 27th day of June, 1928, the said Court entered its decision in said case, holding, "that the order of the Commission is annulled and vacated insofar as it fixed the rate or charge required to be made and charged by Logan City and set aside the contracts entered into by it with its customers and consumers of electrical energy;" that thereafter, within the time allowed by the law, and the rules of the Court, to-wit: on the 12th day of July, 1928, the defendant, Utah Power & Light Company, filed with the clerk of

the Supreme Court its application for a rehearing, which said application is still pending and undecided by said Court.

And it further appearing that the complainant, Logan City, is now charging and will continue to charge for electrical service rendered its patrons and consumers within Logan City, rates other and lower than those prescribed by the order of this Commission, and is soliciting business from the consumers of the defendant, Utah Power & Light Company, at other and lower rates than prescribed in the order of the Commission, to the injury and damage of the defendant, Utah Power & Light Company, and that said Logan City proposes to continue said rates other than those prescribed by the Public Utilities Commission, notwithstanding said application for rehearing before the said Court has not been heard nor disposed of, the result of which would be that the defendant, Utah Power & Light Company, would be deprived of patronage unless permitted to serve at the same rates as are now being accorded electrical consumers in Logan City by Logan City.

Now, therefore, by reason of the premises, IT IS HEREBY ORDERED, That, pending the final decision of the Supreme Court of the State of Utah on said application for rehearing, the Utah Power & Light Company be, and it is hereby, permitted to serve its customers taking electrical service in Logan City at the same rates as are now or may be charged by Logan City to its customers using electrical energy.

ORDERED FURTHER, That this order shall be effective as of July 1, 1928, and only until the Supreme Court shall have determined the matters involved in said application for rehearing.

Dated at Salt Lake City, Utah, this 4th day of August, 1928.

(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, a Municipal Corporation, *Complainant*,
vs.
UTAH POWER & LIGHT COMPANY, a Corporation, *Defendant*.
} Case No. 984.

SUPPLEMENTAL ORDER OF THE COMMISSION

Application having been made by the Utah Power & Light Company, praying that the terms and provisions of the Order of the Commission, dated August 4, 1928, in the above-entitled matter, be extended to and including January 31, 1929, and that the schedules and tariffs of the Utah Power & Light Company applicable in other cities similar to Logan City be made effective in Logan City, Utah, on and after February 1, 1929;

Good cause being shown therefor, and there appearing no reason why the application should not be granted;

IT IS ORDERED, That the application of the Utah Power & Light Company for permission to extend the terms and provisions of the Commission's Order of August 4, 1928, in the above entitled matter, to and including January 31, 1929, and that the schedules and tariffs of the Utah Power & Light Company applicable in other cities similar to Logan City be made effective in Logan City, Utah, on and after February 1, 1929, be, and it is hereby granted.

Dated this 31st day of December, A. D., 1928, at Salt Lake City, Utah.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of R. A. NEILSON, M. C. WEST, and JACK MILLER, for permission to operate an automobile freight and express line between Monroe and Salt Lake City, Utah, and certain designated intermediate points.
} Case No. 985.

See Case No. 975.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the MORONI TELEPHONE COMPANY, for permission to increase its rates for telephone service.	Case No. 987.

Submitted January 10, 1928. Decided March 3, 1928.

Appearances:

L. H. Fry, Manager of Moroni Telephone Company,	for Applicant.
John E. Jensen, Mayor of Moroni City, Utah,	for Moroni City.

REPORT OF THE COMMISSION

CORFMAN, Commissioner:

On the 22nd day of June, 1927, the Moroni Telephone Company, a Corporation, filed an application with the Public Utilities Commission of Utah, representing that its rates for telephone service are insufficient for the operation and maintenance of its telephone system and to give good service. It filed therewith a schedule of rates showing general rate increases for all classes of service, and requested that it be permitted to make the same effective in all territory served by it.

No protests were filed or made to the proposed rate increases.

The matter came on regularly for hearing before the Commission, at Moroni City, Utah, on the 10th day of January, 1928, and, from the evidence adduced at said hearing, it appears:

That the Moroni Telephone Company is a corporation, organized and existing under the laws of the State of Utah,

with its principal office in Moroni, Utah, and is engaged in carrying on and operating a telephone system covering the towns of Moroni, Wales, Chester, and Freedom, Utah. That it has long-distance connections through The Mountain States Telephone & Telegraph Company, at Mt. Pleasant, Utah; that it owns and maintains about thirteen miles of pole lines, strung with about seventy-five miles of wire; that as part of its equipment it has about 4,500 feet of cable, switchboard, and about 134 telephone instruments in use.

It is estimated that reproduction cost new of the entire system as at present equipped, would be $10,153.14.

The greater portion of the system was built in 1912 and 1913. No records have been kept of the original cost nor of the cost of any additions or betterments since that time. The system at present is in a fair operating condition. Until the first day of March, 1927, practically no accounting was made concerning its operating revenues and expenses or its cost of maintenance.

In March, 1927, all the stock of the Moroni Telephone Company was purchased by the present manager, Leland H. Fry, for $3,000.00. At the time of the purchase of the stock by him, the Company had an outstanding indebtedness against it of approximately $3,000, which has since been charged off and cancelled by its creditors. He estimates the replacement value of the system to be $10,153.90, and the depreciation for the sixteen years since its construction to be but 25%, and he therefore places its present value at $7,715.43.

At the present time, the system has but 131 pay-telephones, of which 116 are residential telephones, and the balance, 15, are business telephones.

That the present charge for telephone service is $1.00 per month for residence party line, and $1.50 for private line service, including in the latter all business telephone service. That under the present schedule of charges, the system has a gross annual income of $2,233.16, including tolls over connecting lines of The Mountain States Telephone & Telegraph Company. Its present annual operating expenses, including taxes, amounting to $2,877.98, resulting in an annual loss of $644.82, without allowing anything for depreciation of present plant values.

That the applicant proposes, if permitted so to do, to make the following charges:

1 party business telephones, $3.00 each per month.

2 party business telephones, 2.50 each per month.

The above rates to apply in Moroni City and in all cases outside Moroni City a charge of 20c extra per mile or fraction thereof will be charged.

1 party residence telephone $2.00 each per month.

2 party residence telephone 1.75 each per month.

4 party residence telephone 1.50 each per month.

The above rates to apply in all cases except business phones; on rural lines a charge of 50c per month extra will be charged.

Extensions to either business or residence telephones, 50c

Extension bells only 25c per month.

All calls by non-subscribers 5c per call.

Installation charges $2.50 each.
per month.

All telephones to be moved at cost of materials and labor.

As pointed out, insufficient records have heretofore been kept of this Company's operations. It is apparent, however, that with its limited number of subscribers, and at the present rates, the system has been heretofore and would in the future continue to be operated at a material loss, if operated at all. There is but little hope that operating conditions in the territory affected may soon be improved. While telephone service of some kind is indispensable for the future welfare of this territory, its present business and social needs are insufficient to make the system a paying proposition. Higher rates than those now proposed by the applicant, would in all probability result in reduced patronage of the system and thereby defeat the applicant's purpose to make the system more self-sustaining.

The present manager of the system has had some nine years of experience in the telephone business. He devotes his entire time to the applicant's service, at the modest salary of

$100.00 per month. In fact, all operating expenses of the applicant have been reduced to a minimum, and at the same time the service under the present management has been materially improved.

We think the rates now proposed by the applicant, are, under existing conditions, reasonable. Any lower rates would ultimately mean discontinuance of service.

It seems from the evidence in this case that the reproduction cost new of the applicant's telephone system at this time would be, as claimed by it, approximately $10,153.90. Applicant estimates that after fifteen years of service, its depreciated or present value is $7,715.43. While it appears that the system is in fairly good operating condition, it ordinarily would have depreciated more than applicant seems willing to allow at this time. We think in the absence of some showing made that material expenditures have been from time to time made for repairs and betterments, the system must have depreciated at least 50% since its construction and its present value should not be found to be more than $5,000.00.

Even on a $5,000.00 valuation, applicant will, under its proposed rates, be unable to earn a fair return, unless a greater number of subscribers are to be had. Again, the applicant should in the future be required to make allowance for at least 5% depreciation annually, based on a $5,000 valuation of its telephone system, and to keep its accounting system or books in accordance with the Commission's standard classification.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
Commissioner.

We concur:

(Signed) 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 3rd day of March, 1928.

In the Matter of the Application of the MORONI TELEPHONE COMPANY, for permission to increase its rates for telephone service.	Case No. 987.

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 applicant, Moroni Telephone Company, a Corporation, be, and it is hereby, authorized to publish and put in effect the rates set forth on Page Three of the foregoing report of the Commission.

ORDERED FURTHER, That the said new schedule of telephone rates shall become effective April 1, 1928.

ORDERED FURTHER, That the Moroni Telephone Company shall in the future keep its accounts in accordance with the Uniform System of Accounts for telephone utilities prescribed by this Commission.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of GEORGE F. PRINCE, for permission to purchase and operate a telephone line between New Harmony and Kanarra, Utah.	Case No. 988.

Submitted July 6, 1928. Decided July 31, 1928.

Appearance:
George F. Prince, Applicant.

REPORT OF THE COMMISSION

By the Commission:

This case came on for hearing at Cedar City, Utah, on the 7th day of February, 1928, before the Public Utilities Commission of Utah.

From the record, the Commission finds that the telephone line between Kanarra and New Harmony was a part of the system formerly owned by the Iron County Telephone Company, and that said Iron County Company sold said system to The Mountain States Telephone & Telegraph Company, in September, 1923.

That The Mountain States Company transferred the Kanarra-New Harmony branch to H. W. McConnell, who subsequently disposed of said branch to the applicant herein.

That the town of New Harmony is served by a telephone system constructed as a mutual system by the citizens thereof, and that the line herein applied for is the connecting link between the New Harmony system and The Mountain States system.

That applicant proposes to charge fifteen cents for each call not exceeding three minutes, and five cents for each additional minute, these rates to apply to both outgoing and incoming calls.

That the public convenience and necessity require the operation of said line and that a certificate should be issued to applicant.

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. 322

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 31st day of July, 1928.

In the Matter of the Application of GEORGE F. PRINCE, for permission to purchase and operate a telephone line between New Harmony and Kanarra, Utah. } Case No. 988.

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 applicant, George F. Prince, be, and he is hereby, authorized to purchase and operate the telephone line between New Harmony and Kanarra, Utah.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of JAMES S. GREEN, for permission to operate an automobile passenger bus line between Parowan and Salt Lake City, Utah. } Case No. 993.

In the Matter of the Application of GREAT WESTERN MOTORWAYS, INCORPORATED, for permission to operate an automobile passenger bus line between Salt Lake City and St. George, Utah, and intermediate points, excluding intermediate points between Salt Lake City and Cove Fort, Utah.	Case No. 994.
In the Matter of the Application of PICKWICK STAGE LINES, INCORPORATED, for permission to operate an automobile passenger bus line between Salt Lake City and the Utah-Arizona State Line, and intermediate points.	Case No. 1002.
In the Matter of the Application of CHESTER A. WHITEHEAD, for permission to transfer Certificate of Convenience and Necessity No. 287 (Case No. 947) to the SOUTHERN UTAH STAGE LINE COMPANY, a Corporation.	Case No. 1006.
In the Matter of the Application of the UTAH PARKS COMPANY, a Corporation, for permission to operate an automobile passenger, express and freight bus line between Cedar City and St. George, Utah.	Case No. 1012.

Submitted March 30, 1928. Decided June 6, 1928.

Appearances:

O. A. Murdock, Attorney, of Beaver City, Utah,	for Applicant and Protestant, James S. Green.
Ball, Musser & Mitchell, Attorneys, and James H. Wolfe, Attorney of Salt Lake City, Utah,	for Applicant and Protestant, Great Western Motorways, Incorporated.

Warren E. Libby and Frank B. Austin, of Los Angeles, California, and George F. Wasson, of Salt Lake City, Attorneys,	for Applicant and Protestant, Pickwick Stage Lines, Incorporated.
D. H. Morris, Attorney, of St. George, Utah,	for Applicant and Protestant, Chester A. Whitehead.
Robert B. Porter and Dana T. Smith, of Salt Lake City, Utah, Attorneys,	for Applicant, Utah Parks Co., and Protestant Union Pacific System.
Dan B. Shields, Attorney, of Salt Lake City, Utah,	for Protestant T. W. Boyer, Trustee for Salt Lake-Fillmore Stage Line.
L. E. Gehan, Agent of Salt Lake City, Utah,	for Protestant, American Railway Express Company.
F. M. Orem, of Salt Lake City,	for Protestant, Salt Lake & Utah Railroad Company.
Van Cott, Riter & Farnsworth, and B. R. Howell, Attorneys of Salt Lake City, Utah,	for Protestant, Denver & Rio Grande Western Railroad Co.
Thomas J. Mastros, of Beaver, Utah,	for Himself, Protestant.
J. Lowe Barton, of Paragonah, Utah,	for Himself, Protestant.
County Commissioners of Utah County,	Protestants.

W. Hal Farr, Assistant Attorney General, for State of Utah.

REPORT OF THE COMMISSION

By the Commission:

These cases came on regularly for hearing, before the Public Utilities Commission of Utah, after due notice given

as required by law. They involve the question as to whether public convenience and necessity requires the operation of additional automobile bus lines, for hire, over the public highways between Salt Lake City and the Utah-Arizona State Line, via St. George, Utah.

Case No. 993 is the application of James S. Green, involving the necessity for and right to operate an automobile passenger bus line between Parowan and Salt Lake City, Utah, serving intermediate points.

Case No. 994 is the application of the Great Western Motorways, Incorporated, for permission to operate an automobile passenger bus line between Salt Lake City and St. George, Utah, serving certain intermediate points, as an intrastate carrier, in conjunction with its established interstate line between Salt Lake City, Utah, and Los Angeles, California.

Case No. 1002 is the application of the Pickwick Stage Lines, Incorporated, involving the right to operate an automobile passenger bus line, intrastate, between Salt Lake City and the Utah-Arizona State Line, via St. George, serving intermediate points, in conjunction with its established interstate line between the same points.

Case No. 1006 is the joint application of Chester A. Whitehead, the holder of Certificate of Convenience and Necessity No. 287, issued by the Commission, February 11, 1927, authorizing him to operate an intrastate automobile passenger line over the public highway between Cedar City and St. George, serving intermediate points, and the Southern Utah Stage Line Company, a Corporation, as a transferee of said bus line, applying for the same rights and privileges.

In this connection is also the application of the Utah Parks Company (Case No. 1012), to operate, twice daily, an automobile passenger, express and freight line between Cedar City and St. George, Utah, over the same public highway.

Case No. 993 came on regularly for hearing, before the Commission, at Beaver City, Utah, November 1, 1927, as did also Case No. 994, at which time these two cases were heard independently of each other. Case No. 994, however, was continued for further hearing at St. George, Utah, on the Third day of November, 1927, at which time, after taking evidence, it

was ordered continued for further hearing at Salt Lake City, Utah, at a date to be fixed later by the Commission, upon notice to all interested parties. By order of the Commission and upon notice, this case was taken up for further hearing at Salt Lake City, Utah, February 14, 1928, at which time all of these cases were combined, by order of the Commission and with the consent of the parties, to be heard and determined as one case but upon their individual merits, the evidence at all hearings, insofar as the same might be applicable to any one case, to be considered and the questions involved to be determined by the Commission accordingly.

From the evidence, the Commission finds:

1. That the applicant James S. Green is a resident of Parowan, Iron County, Utah; that he is a capable and efficient operator of automobiles for hire over the public highway; that he proposes, if granted a certificate of public convenience and necessity permitting him so to do, to operate an automobile passenger bus line over the public highways between Parowan, Iron County, Utah, and Salt Lake City, in Salt Lake County, Utah, making one round-trip per week between said points; that this applicant is financially able to provide suitable automobile equipment for giving said service.

2. That the applicant Great Western Motorways, Incorporated, is a corporation, organized and existing under the laws of the State of Utah, with its principal place of business in Salt Lake City, Utah; that it was organized for the purpose, among other things, to engage, and is now engaged, in the transportation of passengers, for hire, interstate, by automobile bus, over the public highways of Utah and other states; that it is the owner of and has employed in said interstate transportation business, six modern, commodious, parlor car automobile buses, for the accommodation of its patrons; that since the year 1927 it has been engaged in according to the public well managed and dependable automobile bus service between Salt Lake City, Utah, and Los Angeles, California, via St. George, Utah, making one round-trip daily between said points; that it proposes, if permitted to do so, to carry in connection with said service, passengers intrastate from St. George, Cove Fort, and intermediate points, to Salt Lake City, and vice versa; and it further proposes, if the patronage warrants, to serve the traveling public by an exclusive intrastate

bus line, operating between said points, all of which it is financially able to do.

3. That the applicant, Pickwick Stage Lines, Incorporated, is a corporation, organized and existing under and by virtue of the laws of the State of Nevada, with its principal place of business at Carson City, Ormsby County, Nevada; that it is duly qualified under the laws of the State of Utah to conduct, as a foreign corporation, an automobile stage service in Utah; that its principal place of business in this State is at Salt Lake City; that for some time past this applicant has been and now is engaged in transporting passengers over the public highway between Salt Lake City, Utah, and Los Angeles, California, via St. George, Utah, making two round-trips daily between said points; that it is financially able to provide all necessary automobile equipment for the purpose of rendering said service and according to the public commodious and efficient service in every way; that said applicant seeks permission to operate a motor stage service, for the transportation of passengers, baggage, and express between Salt Lake City and the Utah-Arizona State Line, over the highway commonly known as the Zion Park-Arrowhead Trail, serving the Towns of Provo, Nephi, Fillmore, Beaver City, Cedar City, and St. George, including all intermediate points, excepting that applicant does not desire to serve intermediate points between Payson and Salt Lake City, but does desire to pick up and discharge passengers, baggage, and express within said territory when the same originates from or is destined to points outside of said territory between Payson and Salt Lake City, Utah.

4. That the applicant Chester A. Whitehead is the owner of Certificate of Convenience and Necessity No. 287, issued by the Public Utilities Commission of Utah in Case No. 947, February 11, 1927, which authorizes him to carry passengers, for hire, by automobile, between St. George and Cedar City, Utah, and intermediate points; that this applicant and his predecessors in interest have been for many years engaged in rendering to the public efficient and dependable automobile passenger service between said points, and this applicant is now so engaged in rendering said service over the public highway, making one round-trip each day between said points; that applicant desires to and has a contract to dispose of his rights

and automobile equipment used in said service, to his co-applicant, Southern Utah Stage Line Company, a corporation, organized under the laws of the State of Utah, having for its business purpose the conducting of automobile buses over the State highways, for hire; that the Southern Utah Stage Line Company is a subsidiary corporation of the applicant Great Western Motorways, Incorporated, and it desires to continue the said automobile service between Cedar City and St. George, Utah, as heretofore rendered by the said applicant, Chester A. Whitehead.

5. That the Utah Parks Company is an automobile corporation, organized and existing under the laws of the State of Utah; that it was organized largely in the interest of, and is owned and controlled by the Los Angeles & Salt Lake Railroad Company, a railroad corporation of the State of Utah, and a part of the Union Pacific Railroad System; that this applicant is now engaged in the business of encouraging tourists and travelers to visit the scenic attractions of Southern Utah, and, for that purpose, has expended approximately one-half million dollars in the construction of lodges, hotels, and other buildings, for the accommodation of travelers and tourists at Cedar Breaks, Zion National Park, and other points of interest in Southern Utah; that this applicant operates under certificate of public convenience and necessity issued by the Public Utilities Commission of Utah, an automobile bus line between Cedar City and Lund, Utah; that such buses connect with and meet the passenger trains operating over the main line of the Los Angeles & Salt Lake Railroad at Lund; that the Los Angeles & Salt Lake Railroad Company operates trains into and out of Cedar City, daily; that Cedar City is a gateway to all scenic points in Southern Utah; that this applicant desires a certificate of convenience and necessity, authorizing it to operate an automobile bus line, for the transportation of passengers, freight, and express over the public highway between Cedar City and St. George, Utah; that it proposes to make two round-trips each day between said points.

6. That the protestant T. W. Boyer, Trustee for the Salt Lake-Fillmore Stage Line, holds Certificate of Convenience and Necessity No. 286, issued by the Public Utilities Commission of Utah, February 8, 1927, in Case No. 946, authorizing him, as Trustee, to operate, and he as Trustee is now

operating, through a lessee, an automobile passenger and express line between Salt Lake City and Fillmore, Utah, and intermediate points, making one round-trip per week; that this line, as now operated, affords the traveling public efficient and dependable automobile service between said points and offers to and is capable of extending its said service, both with respect to frequency of trips and additional equipment, as public convenience and necessity may at any time require.

7. That the protestant American Railway Express Company is a corporation, rendering efficient, dependable express service, through the medium of the railroad, between Salt Lake City and St. George, Utah, serving all intermediate points.

8. That the protestant Salt Lake & Utah Railroad Company is a railroad corporation, operating an electric railroad line between Salt Lake City and Payson, Utah, carrying passengers, express, and freight; that it operates between said points eight passenger trains each way, daily, and it affords to the traveling public commodious and dependable train service, as required.

9. That the protestant Denver & Rio Grande Western Railroad Company is a railroad corporation, operating a steam railroad, carrying passengers, express, and freight between Salt Lake City, Utah, and Denver, Colorado, via Thistle, Utah, from which point a branch line extends to Marysvale, Utah, with a branch line extending from Nephi and connecting with its said branch line at Ephraim, Utah. It also operates a branch line, affording daily passenger service between Springville, Utah, on its main line, to Eureka City, Utah.

10. That the protestant Thomas J. Mastros operates an automobile stage line daily between Beaver City and Milford, Utah, under Certificate of Convenience and Necessity No. 300, issued by the Public Utilities Commission of Utah, May 25, 1927, in Case No. 958, thus connecting Beaver and intermediate points with the Los Angeles & Salt Lake Railroad.

11. That the protestant J. Lowe Barton, as the holder of Certificate of Convenience and Necessity No. 231, issued by the Public Utilities Commission of Utah, May 11, 1925 (in Case No. 792), operates an automobile passenger bus line between Paragonah and Cedar City, thus connecting the Towns of Parowan and Paragonah, and all intermediate points, with

the Los Angeles & Salt Lake Railroad Company at Cedar City, Utah; that he makes one round-trip daily between said points, and gives efficient and dependable automobile service over said route.

12. That the public highway upon which the applicants herein, Great Western Motorways, Incorporated, and Pickwick Stage Lines, Incorporated, respectively, seek to establish automobile routes from Salt Lake City to the Utah-Arizona State Line, via St. George, by intrastate operations, has been established as and is known as a national highway, under the name of the Zion Park Highway or Arrowhead Trail. In Utah, from Salt Lake City to St. George, it covers a distance of approximately 323 miles; that for the most part it is a gravel surfaced highway of comparatively easy grade and traverses throughout its length the principal cities and towns in the territory through which it extends; that from Salt Lake City to Payson, the most thickly populated territory it closely parallels the lines of two steam railroads, one electric railroad, and one passenger automobile route; that from Payson to Nephi, a territory less populated, it parallels one automobile route and one steam railroad; that from Nephi to Fillmore, a less populated territory, it parallels one automobile route and connects with the terminal of a branch line of the Los Angeles & Salt Lake Railroad connecting with its main line at Delta, Utah; that from Fillmore to Beaver, Utah, a distance of approximately fifty-nine miles, this highway passes through the towns of Meadow, Kanosh, and Cove Fort, these towns having a combined population of approximately 1,050 people, and the countryside through which this highway passes between the last mentioned points, is very sparsely populated; that at Beaver it connects with the highway from Beaver to Milford, over which the protestant Thomas Mastros has an established automobile passenger route, connecting Beaver with the line of the Los Angeles & Salt Lake Railroad, at Milford, Utah; that from Beaver to Paragonah it passes through a very sparsely settled territory and connects at Paragonah with the long established automobile route of the protestant, J. Lowe Barton from Paragonah to Cedar City, which city has a population of approximately 3,750 people; that at Cedar City it connects with the established automobile route of the protestant, Utah Parks Company, extending from Cedar City to Lund, on the line of the Los Angeles & Salt Lake Railroad, and also with the estab-

lished routes of the said protestant, Utah Parks Company, serving Zion National Park and other scenic attractions of Southern Utah; that it also connects at Cedar City with the long established automobile route of the applicant Chester A. Whitehead, extending from Cedar City to St. George; that from St. George to the Utah-Arizona State Line, the said Arrowhead Highway passes through, with the exception of the small village of Santa Clara, practically an uninhabited territory; that St. George has a population of approximately 2,400 people, and the intermediate points between Cedar City and St. George, viz., Kanarraville, Anderson's Ranch, Leeds, and Washington, have a combined population of approximately 950 people, and the countryside is very sparsely populated.

That the main line (extending from Salt Lake City, Utah, to Los Angeles, California) of the Los Angeles & Salt Lake Railroad, exclusive of its branch lines extending from Salt Lake City to Fillmore, via Provo and Nephi, and from Fillmore to Delta, and from Cedar City to Lund, parallels said Arrowhead Trail or highway through Utah at an average distance of approximately thirty miles, and for the most part through a desert area and a very thinly populated territory; that the branch line of the Los Angeles & Salt Lake Railroad Company from its main line from Lund to Cedar City very closely parallels the established automobile route of the Utah Parks Company from Lund to Cedar City; that during the tourist season, and for the accommodation of that class of travelers, pullman cars are diverted from the main line of the Los Angeles & Salt Lake Railroad at Lund and routed to Cedar City, which is the main gateway to all the scenic attractions of Southern Utah, including the Kaibab Forest, and the North Rim of the Grand Canyon of the Colorado, in the State of Arizona.

That the Union Pacific System has expended, for the convenience of the traveling public, $364,987.00, at Cedar City; $417,257.00, at Zion National Park and Cedar Breaks; $500,000.00, at the North Rim of the Grand Canyon; and $343,340.00 at Bryce Canyon; that at all of these points commodious hotels, lodges, and cabins have been provided for the accommodation of tourists, and these scenic points are served by the applicant Utah Parks Company operating commodious automobile passenger buses over interconnected highways.

That St. George is approximately fifty-four miles from Cedar City, the nearest point to the railroad, and that said town is oftentimes visited by tourists and others desiring transportation from Salt Lake City to St. George, and vice versa.

From the foregoing facts, the Commission concludes and decides:

That the application of James S. Green (Case No. 993), to operate an automobile passenger bus line over the public highway, between Parowan and Salt Lake City, should be denied.

That the application of Chester A. Whitehead to withdraw from and the Southern Utah Stage Line Company, a Corporation, to assume and continue the operation of the automobile passenger bus line between Cedar City and St. George (Case No. 1006), should be granted, and a certificate of public convenience and necessity should issue to the Southern Utah Stage Line Company, authorizing it to continue said service.

That the application of the Utah Parks Company (Case No. 1012), for permission to operate an automobile passenger, express, and freight line between Cedar City and St. George, Utah, should be denied, provided, however, said applicant should be permitted to afford to its tourist patrons traveling via the Union Pacific System automobile service between Cedar City and St. George, Utah, whenever and to the extent such service may be required.

That the application of the Great Western Motorways, Incorporated (Case No. 994), for permission to operate an automobile passenger bus line between Salt Lake City and St. George, Utah, and intermediate points, excluding intermediate points between Salt Lake City and Cove Fort, Utah; and also the application of Pickwick Stage Lines, Incorporated (Case No. 1002), for permission to operate an automobile passenger bus line between Salt Lake City and the Utah-Arizona State Line, and intermediate points, excluding local service between Salt Lake City and Payson, Utah, should both be granted. Provided, however, that neither of said applicants shall be permitted to transport passengers or express locally between St. George and Paragonah nor between Fillmore and Salt Lake City, Utah.

There is no doubt that either of the last-mentioned applicants can give commodious and efficient service to the traveling public, where the traffic originates at or is destined to the points they are hereby permitted to serve. These points at present without either direct rail or automobile transportation service, the Commission believes, are entitled to consideration, even though some loss of patronage may result to existing carriers serving by rail or automobile in not far distant territory which ordinarily might be considered tributary to their lines.

These cases have presented facts and circumstances not free from difficulty when it comes to reaching a conclusion just what kind of transportation will be the most advantageous for the public, primarily concerned. Well organized, efficient, and dependable transportation service is always to be desired in the interests of any community. Frequency of opportunity to travel, materially adds to the convenience of the public, even if it does not become an actual necessity in modern transportation methods. The territory to be affected in this case by the Commission's decision, has, south of Nephi, very limited traffic. The private automobile is now, and obviously will in the future, continue to be used extensively in this territory as a means of travel, and that too, largely to the detriment, if not to the exclusion, of intrastate operators for hire.

It is quite apparent from the record in this case that neither the Great Western Motorways nor the Pickwick Stage Lines would undertake to provide three round-trips daily over the public highway between Salt Lake City and St. George, independently of their combined interstate movements. They are seeking at this time to render intrastate service, merely in aid of and as an adjunct to their respective interstate lines, over which this Commission has very limited powers or jurisdiction.

We see no good reason, therefore, why, as long as each of them is to be permitted to conduct an interstate automobile passenger service over the highways of the State, the traveling public should not be permitted to avail itself of either line, as it may choose.

An appropriate order will follow.

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

(Seal)

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificates of Convenience and Necessity
Nos. 317, 318, and 319

(Certificate No. 317 cancels Certificate No. 287)

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 6th day of June, 1928.

In the Matter of the Application of JAMES S. GREEN, for permission to operate an automobile passenger bus line between Parowan and Salt Lake City, Utah.	Case No. 993.
In the Matter of the Application of GREAT WESTERN MOTORWAYS, INCORPORATED, for permission to operate an automobile passenger bus line between Salt Lake City and St. George, Utah, and intermediate points, excluding intermediate points between Salt Lake City and Cove Fort, Utah.	Case No. 994.
In the Matter of the Application of PICKWICK STAGE LINES, INCORPORATED, for permission to operate an automobile passenger bus line between Salt Lake City and the Utah-Arizona State Line, and intermediate points.	Case No. 1002.
In the Matter of the Application of CHESTER A. WHITEHEAD, for permission to transfer Certificate of Convenience and Necessity No. 287, (Case No. 947) to the SOUTHERN UTAH STAGE LINE COMPANY, a Corporation.	Case No. 1006.

In the Matter of the Application of the UTAH PARKS COMPANY, a Corporation, for permission to operate an automobile passenger, express and freight bus line between Cedar City and St. George, Utah.	Case No. 1012.

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 of James S. Green, (Case No. 993), for permission to operate an automobile passenger bus line between Parowan and Salt Lake City, Utah be, and it is hereby denied.

ORDERED FURTHER, That Chester A. Whitehead be, and he is hereby, granted permission to withdraw from the operation of automobile passenger bus line between Cedar City and St. George, Utah; that Certificate of Convenience and Necessity No. 287, issued by the Commission, in Case No. 947, to said Chester A. Whitehead, be, and it is hereby, cancelled and annulled; and that the Southern Utah Stage Line Company, a Corporation, be and it is hereby, authorized to operate said automobile passenger bus line between Cedar City and St. George, Utah, under Certificate of Convenience and Necessity No. 317.

ORDERED FURTHER, That the application of the Utah Parks Company (Case No. 1012), for permission to operate an automobile passenger, express, and freight line between Cedar City and St. George, Utah, be, and it is hereby, denied; provided, however, said applicant shall be permitted to afford to its tourist patrons traveling via the Union Pacific System, automobile service between Cedar City and St. George, Utah, whenever and to the extent such service may be required.

ORDERED FURTHER, That the applicant, Great Western Motorways, Incorporated, (Case No. 994) be, and it is

hereby, granted permission to operate an automobile passenger bus line between Salt Lake City and St. George, Utah, over the public highway known as the Zion Park-Arrowhead Trail, said bus line to be operated under Certificate of Convenience and Necessity No. 318; and that the applicant, Pickwick Stage Lines, Incorporated, (Case No. 1002) be, and it is hereby, granted permission to operate an automobile passenger bus line between Salt Lake City and the Utah-Arizona State Line, over the public highway known as the Zion Park-Arrowhead Trail, said bus line to be operated under Certificate of Convenience and Necessity No. 319. Provided, however, that neither of said applicants, Great Western Motorways, Incorporated, nor Pickwick Stage Lines, Incorporated, shall be permitted to transport passengers or express locally between St. George and Paragonah nor between Fillmore and Salt Lake City, Utah, and that express carried shall be confined to such property as may be conveniently carried on their passenger buses, only.

ORDERED FURTHER, That the Southern Utah Stage Line Company, a Corporation, the Great Western Motorways, Incorporated, and the Pickwick Stage Lines, Incorporated, 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. Provided, however, that said Great Western Motorways, Incorporated, and Pickwick Stage Lines, Incorporated, shall not prescribe rates in their respective schedules for intrastate transportation in excess of three cents (3c) per passenger mile.

Effective June 15, 1928.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of GREAT WESTERN MOTORWAYS, INCORPORATED, for permission to operate an automobile passenger bus line between Salt Lake City and St. George, Utah, and intermediate points, excluding intermediate points between Salt Lake City and Cove Fort, Utah. } Case No. 994.

See Case No. 993.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LION COAL COMPANY, for permission to operate an automobile passenger and freight line between Wattis and Price, Utah. } Case No. 995.

Submitted February 28, 1928. Decided April 23, 1928.

Appearance:

Willard Selby, Agent, Wattis, Utah, } for Applicant.

REPORT OF THE COMMISSION

McKAY, Commissioner:

This matter came on regularly for hearing before the Public Utilities Commission of Utah, on the 28th day of February, 1928, at Price, Utah, upon the application of the Lion Coal Company for permission to operate an automobile passenger and freight line between Wattis and Price, Utah.

No protests thereto were filed.

From the evidence presented at said hearing, and after due investigation made, the Commission now finds and reports as follows:

1. That the Lion Coal Company is a corporation, duly organized and existing under and by virtue of the laws of the State of Utah; that its principal place of business is Ogden, Weber County, State of Utah; and that it owns and operates a coal mine at Wattis, Carbon County, Utah.

2. That there is no passenger or express service in or out of Wattis except that furnished by the daily mail stage operated by the Lion Coal Company between Wattis and Price, Utah; and that the said Company desires to furnish such passenger and express service in connection with the operation of the mail stage.

3. That if the application is granted, the following schedule of time and rates is proposed:

Truck leaving Wattis at 1:00 p. m. each day except Sunday.

Arriving at Price, Utah, at 2:00 p. m.

Truck leaving Price, Utah, at 4:00 p. m.

Arriving at Wattis, Utah, at 5:00 p. m.

Fare for one-way trip between Wattis and Price, $2.00.

Fare for round-trip between Wattis and Price, $3.50.

Express or freight between Wattis and Price, 1c per pound.

Except in case of hauling the U. S. Mail or other instances where special contract hauling may be necessary.

From the foregoing findings of fact, the Commission concludes and decides that the applicant, Lion Coal Company, should be granted a certificate of convenience and necessity, authorizing and permitting it to establish and operate an automobile passenger and freight line between Wattis and Price, Utah.

An appropriate order will be issued.

(Signed) THOMAS E. McKAY,

We concur:

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

(Seal)

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity
No. 312

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 23rd day of April, 1928.

In the Matter of the Application of the LION COAL COMPANY, for permission to operate an automobile passenger and freight line between Wattis and Price, Utah. } Case No. 995.

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 Lion Coal Company be, and it is hereby, authorized to operate an automobile passenger and freight line between Wattis and Price, Utah.

ORDERED FURTHER, That applicant, Lion Coal 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of E. J. DUKE, for permission to operate an automobile passenger stage line between Heber City and Park City, Utah. } Case No. 996.

See Case No. 974.

In the Matter of the Application of THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY, for permission to adjust telephone rates at its Logan Exchange. } Case No. 997.
PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

SPRING CANYON COAL COMPANY.
Complainant.
vs.
THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY,
UNION PACIFIC RAILROAD COMPANY,
UTAH RAILWAY COMPANY,
Defendants. } Case No. 998.

ORDER

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

IT IS ORDERED, That the complaint herein of the Spring Canyon Coal Company vs. The Denver & Rio Grande Western Railroad Company, Union Pacific Railroad Company, and Utah Railway Company, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 16th day of June, 1928.

(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 LOS ANGELES & SALT LAKE RAILROAD COMPANY, a Corporation, for permission to discontinue the maintenance of a station agent and agency station at Beryl, Iron County, Utah.	Case No. 999.

ORDER

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

IT IS ORDERED, That the application herein of the Los Angeles & Salt Lake Railroad Company, a Corporation, for permission to discontinue the maintenance of a station agent and agency station at Beryl, Iron County, Utah, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 19th day of June, 1928.

(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 W. H. LINCK, CLARENCE PEHRSON, and W. L. SCHOENFELD, for permission to operate an automobile freight line between Salt Lake City and Monroe, Utah, and intermediate points, excluding intermediate points between Salt Lake City and Nephi, Utah.	Case No. 1000.

Submitted May 7, 1928. Decided June 26, 1928.

Appearances:

J. H. Haas, Attorney of Salt Lake City, Utah,	for Applicants.
B. R. Howell, Attorney of Salt Lake City, Utah,	for Protestant Denver & Rio Grande Western R. R. Co.
Aldon J. Anderson of Salt Lake City, Utah,	for Protestant, Salt Lake & Utah Railroad Co.
E. W. Schneider of Salt Lake City, Utah,	for Protestant, Utah Central Truck Line.
L. E. Gehan of Salt Lake City, Utah,	for Protestant, American Railway Express Co.
Walter C. Hurd, Attorney of Salt Lake City, Utah,	for Protestant, R. A. Neilson.

REPORT OF THE COMMISSION

By the Commission:

Under date of December 1, 1927, application was filed by W. H. Linck, Clarence Pehrson, and W. L. Schoenfeld, for permission to operate an automobile freight truck line between Salt Lake City and Monroe, Utah, and intermediate points, excluding intermediate points between Salt Lake City and Nephi, Utah.

This case came on for hearing at Salt Lake City, Utah, on Tuesday, March 27, 1928, after due and legal notice had been given.

Considerable testimony and evidence was given both for and against the proposed service.

The Commission finds, after careful consideration of all of the evidence, that applicants have been operating for hire, transporting freight and express for numerous persons, firms, and corporations, and appear to be in violation of Chapter 42, Session Laws of Utah, 1927, and that such operators who violate the provisions of the State Law, should not be rewarded with Certificates of Convenience and Necessity. The application should, therefore, be dismissed with prejudice.

An appropriate order will be issued.

(Signed) E. E. CORFMAN,
THOS. 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 26th day of June, 1928.

In the Matter of the Application of W. H. LINCK, CLARENCE PEHRSON, and W. L. SCHOENFELD, for permission to operate an automobile freight line between Salt Lake City and Monroe, Utah, and intermediate points, excluding intermediate points between Salt Lake City and Nephi, Utah.	Case No. 1000.

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 be, and it is hereby, dismissed, with prejudice.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the LOS ANGELES AND SALT LAKE RAILROAD COMPANY, a Corporation, for permission to discontinue agency station at Frisco, Utah, and reduce train service between Milford and Frisco to one train per week.	Case No. 1001.

Submitted February 8, 1928. Decided April 6, 1928.

Appearances:

R. B. Porter, Attorney, Salt Lake City, Utah, } for Applicant.

Sam Cline, Milford, Utah, } for Newhouse Merc. Co.

A. M. Swallow, Garrison, Utah, } for Murray Sheep Co.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing before the Public Utilities Commission of Utah, on the 8th day of February, 1928, at Milford, Utah, upon the application of the Los Angeles & Salt Lake Railroad Company for permission to reduce its train service between Milford and Frisco, Utah, to one train per week, and for permission to discontinue Frisco, Utah, as an agency station.

Some objections were made before the Commission as to the closing of the agency at Frisco, but no protests were made against the reduction in the train service.

From the evidence adduced at said hearing, the Commission now finds and reports as follows:

1. That the principal place of business of the said railroad company is in Salt Lake City, State of Utah; that it is a corporation, organized and existing under the laws of the said state, and is a common carrier of freight and passengers engaged in the operation of a steam line of railroad through the states of Utah, Nevada and California, and that its termini are the cities of Salt Lake City in the State of Utah, and Los Angeles in the State of California.

2. That as a part of said system, applicant owns and operates a branch line extending from Milford to Frisco, Utah, a distance of 16.9 miles, and from Frisco to Newhouse, Utah, a distance of 6.6 miles.

3. That on February 27, 1925, applicant secured permission from the Commission to discontinue its operations between Frisco and Newhouse, Utah, except as to shipments made up of carload lots;

4. That the total cost of operating said branch line for the year 1927 was $20,925.93, and that the total income for the said year was $2,243.47.

5. That the applicant is willing to operate a weekly service between Milford and Frisco, Utah, on Wednesday of each week, and is also ready and willing to operate trains between said points at any time when necessary to handle carload shipments of freight. Applicant also agrees that freight received at Frisco will be stored under lock and key in the present freight house and that said freight will be in the custody of applicant's section foreman, who will receive and deliver freight, take and give receipts therefor, and be responsible for loss and damage on behalf of said railroad company.

From the foregoing facts the Commission concludes and decides that the application of the Los Angeles and Salt Lake Railroad Company, for an order authorizing it to discontinue Frisco as an agency station, and to reduce the train service between Milford and Frisco, Utah, to one train per week, should be granted.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
THOS. 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 April, A. D., 1928.

In the Matter of the Application of the LOS ANGELES AND SALT LAKE RAILROAD COMPANY, a Corporation, for permission to discontinue agency station at Frisco, Utah, and reduce train service between Milford and Frisco, Utah, to one train per week. } Case No. 1001.

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

IT IS ORDERED, That the applicant, Los Angeles and Salt Lake Railroad Company, be and it is hereby, granted permission to discontinue Frisco as an agency station, and to reduce its train service between Milford and Frisco, Utah, to one train per week.

ORDERED FURTHER, That freight received at Frisco, be stored under lock and key in the present freight house, and that said freight will be in the custody of the applicant's section foreman, who will receive and deliver freight, take and give receipts therefor, and be responsible for loss and damage on behalf of said railroad company.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of PICKWICK STAGE LINES, INC., for permission to operate an automobile passenger bus line between Salt Lake City and the Utah-Arizona State Line, and intermediate points. } Case No. 1002.

See Case No. 993.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF UTAH

In the Matter of the Application of CHARLES A. HARRIS, for permission to operate an automobile passenger bus line between Coalville and Ogden, Utah, and certain intermediate points. } Case No. 1003.

ORDER

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

IT IS ORDERED, That the application herein of Charles A. Harris, for permission to operate an automobile passenger bus line between Coalville and Ogden, Utah, and certain intermediate points, be, and it is hereby, dismissed, without prejudice.

Dated at Salt Lake City, Utah, this 2nd day of February, 1928.

(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, a Municipal Corporation, *Complainant*,
vs.
UTAH POWER & LIGHT COMPANY, a Corporation, *Defendant*. } Case No. 1004.

Submitted February 17, 1928. Decided February 27, 1928.

Appearances:

John F. MacLane and George R. Corey, Attorneys, of Salt Lake City, Utah. } for Defendant.

Leon Fonnesbeck, City Attorney of Logan, Utah, } for Complainant.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

On the 16th day of January, 1928, Logan City, a Municipal Corporation, filed with the Public Utilities Commission of Utah, a complaint, in substance and effect charging that the Utah Power & Light Company, a corporation and public utility, serving its patrons in Logan City with electrical energy for hire, and as a competitor of the municipally owned and operated electric power plant of Logan City, is and has been, in violation of the Commission's orders and its own rules governing its service, offering to do, and is doing, electric wiring free of charge, for the purpose of inducing consumers to receive electrical service from its plant rather than that of the complainant.

The complainant further alleges that said practice on the part of the defendant is discriminatory as to all other patrons served by it and in violation of the Public Utilities Law of the State of Utah and the rules and orders of the Public Utilities Commission, and particularly with respect to the Commission's order placing the municipally owned and operated public utility of the complainant on an equal footing with that of the defendant for a test period, in rendering electrical service for hire to consumers within Logan City.

On the 23rd day of January, 1928, the Commission issued its order requiring the defendant to satisfy the matters complained of, or to answer the complaint of the complainant in conformity with the Rules of Practice and Procedure of the Commission. On the 7th day of February, 1928, the defendant filed its answer, in effect denying the statements and allegations of the complainant with respect to the alleged discriminatory practice, and affirmatively alleging that it is only offering to do and is doing the necessary wiring for the installation of meters, free of charge, in conformity with its rules on file

with the Commission governing such service and in conformity with the orders and rules of the Public Utilities Commission.

A public hearing was had upon the complaint and answer, February 10, 1928, at Logan, Utah.

It appears that the rules of the defendant, Utah Power & Light Company, provide:

> "Rule 13. Company's Lines. The Company will install and maintain its lines and equipment on its side of the point of delivery, but shall not be required to install or maintain any lines, equipment or apparatus, *except meters,* beyond that point.
>
> "Rule 14. Consumer's Wires. All wires and equipment (except the Company's meters and accessories) on the consumer's side of the point of delivery, necessary to utilize service furnished by the Company, must be installed and maintained by and at the expense of the consumer. The consumer's wires shall terminate at the point of delivery, in a manner satisfactory to the Company, for connection with the Company's lines or apparatus.
>
> "Rule 18. Installation. The Company will install and maintain, at its own expense, standard meters to measure the electric service used by the consumer, and will inspect such meters from time to time."

At said hearing a number of witnesses were sworn and gave testimony tending to show that certain agents or solicitors in the employ of the defendant at Logan City, while seeking customers or patronage for its service, had been making representations that the defendant would do wiring free and in excess of that provided for in its established rules. No proof, however, was offered by the complainant tending to show that the defendant had authorized any such representations to be made, nor was it shown that the defendant had acted thereon in a single instance by doing any free wiring in excess of its rules, nor that it had performed any other act not in conformity with its established rules of practice, published and on file with the Commission.

Under Report and Order of the Commission, made on

the 23rd day of December, 1927, in Case No. 984, the public utilities at Logan City of the respective parties to this proceeding, were, both as to rates and rules applicable to service, placed on a uniform basis for a test period of one year. That was done for the purpose of determining whether either one or both of these competing utilities might be able to accord to consumers of electrical energy in Logan City lower rates than those then temporarily established by the Commission's Report and Order.

It was not contemplated by the Commission that unfair advantage or practices would be indulged in by either party.

While representations and offers on the part of solicitors and agents beyond those permissible under the established rules, are not to be commanded, unless the utility acts upon them, we are powerless to correct that practice. This Commission cannot put a stop to the talk of sales-agents of either party and will not undertake to do so.

For the reasons stated, we think the complaint herein should be, and the same is hereby, dismissed.

(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 ISAAC O'DRISCOLL to withdraw from and J. C. WILSON to assume operation of automobile passenger bus line between Coalville and Ogden, Utah, via Echo, Henefer, Croyden, Devil's Slide, and Morgan, Utah.	Case No. 1005.

Submitted March 19, 1928. Decided March 30, 1928.

Appearance:

E. W. Schneider, of Salt Lake City, Utah, } for J. C. Wilson.

REPORT OF THE COMMISSION

By the Commission:

On the 16th day of January, 1928, Isaac O'Driscoll and J. C. Wilson filed with the Public Utilities Commission of Utah their joint application, Isaac O'Driscoll to withdraw from and J. C. Wilson to assume operation of automboile passenger bus line, under Certificate of Convenience and Necessity No. 242, issued by this Commission in Case No. 801, between Coalville and Ogden, Utah.

The matter came on regularly for hearing before the Commission, at its office in the State Capitol, Salt Lake City, Utah, on the 19th day of March, 1928. No protests were made or filed thereto. From the evidence adduced for and in behalf of the applicant, it appears:

1. That the place of residence and post office address of the applicants is Coalville, Utah.

2. That for some time past Isaac O'Driscoll has been operating an automobile passenger bus line between Coalville and Ogden, Utah, under Certificate of Public Convenience and Necessity No. 242, issued by the Commission; that he desires to sell and dispose of his equipment used in said service; and that the applicant J. C. Wilson desires to continue said service under the same time and rate schedules as those now on file under said Certificate of Convenience and Necessity No. 242.

3. That the said J. C. Wilson is an experienced operator of passenger buses over the public highway, for hire, and is at the present time operating an automobile route between Salt Lake City and Coalville, Utah, under Certificate of Convenience and Necessity No. 291, issued by the Commission; that the said J. C. Wilson is financially able to furnish all the necessary equipment for the operation of the bus line applied for herein between Coalville and Ogden, Utah, and that there is a continuing necessity for the operation thereof.

By reason of the foregoing facts, the Commission concludes and decides that Isaac O'Driscoll should be permitted to withdraw from said automobile service; that Certificate of Convenience and Necessity No. 242 should be cancelled and annulled; and that J. C. Wilson should be granted a certificate of public convenience and necessity, authorizing him to operate an automobile passenger bus line between Coalville and Ogden, Utah, via Echo, Henefer, Croyden, Devil's Slide, and Morgan, Utah, upon his filing in the office of the Commission his rate and time schedule and upon full compliance with the statutes of the State of Utah and the rules of the Public Utilities 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

Certificate of Convenience and Necessity
No. 311

Cancels Certificate of Convenience and Necessity
No. 242

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, 1928.

In the Matter of the Application of ISAAC O'DRISCOLL to withdraw from and J. C. WILSON to assume operation of automobile passenger bus line between Coalville and Ogden, Utah, via Echo, Henefer, Croyden, Devil's Slide, and Morgan, Utah.	Case No. 1005.

This case being at issue upon application on file, and hav-

ing 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 Isaac O'Driscoll be, and he is hereby, granted permission to withdraw from the operation of automobile passenger bus line between Coalville and Ogden, Utah, via Echo, Henefer, Croyden, Devil's Slide, and Morgan, Utah; that Certificate of Convenience and Necessity No. 242, issued to Isaac O'Driscoll for the operation of said automobile line, be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That J. C. Wilson be, and he is hereby, authorized to operate an automobile passenger bus line between Coalville and Ogden, Utah, via Echo, Henefer, Croyden, Devil's Slide, and Morgan, Utah.

ORDERED FURTHER, That applicant, J. C. Wilson, 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of CHESTER A. WHITEHEAD, for permission to transfer Certificate of Convenience and Necessity No. 287 (Case No. 947) to the SOUTHERN UTAH STAGE LINE COMPANY, a Corporation. } Case No. 1006.

See Case No. 993.

In the Matter of the Application of ORMAN W. EWING, for permission to establish, construct, and operate a pipe-line for the transportation and distribution of natural gas in Vernal, Uintah County, Utah. } Case No. 1007.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of T. W. BOYER, TRUSTEE, for permission to transport express as well as passengers over the automobile bus line between Eureka and Payson, Utah, and intermediate points. } Case No. 1008.

Submitted May 14, 1928. Decided June 29, 1928.

Appearances:

Dan B. Shields, Attorney, of Salt Lake City, Utah, } for Applicant.

B. R. Howell, Attorney, of Salt Lake City, Utah, } for Protestant, Denver & Rio Grande Western R. R. Co.

L. E. Gehan, Agent, of Salt Lake City, Utah, } for Protestant, American Railway Express 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 14th day of May, 1928, upon the application of T. W. Boyer, Trustee, to amend Certificate of Convenience and Necessity No. 283, issued in Case

No. 941, so that said certificate would authorize the applicant to render express service in connection with its automobile passenger service over its route between Eureka and Payson, and intermediate points.

The protestants have made the claim that public convenience and necessity does not require the proposed service of the applicant, for the reason that all points sought to be served by him are now being adequately served.

From the evidence adduced for and in behalf of the respective parties, the Commission finds the following facts:

1. That the applicant, T. W. Boyer, as Trustee, is the holder of Certificate of Convenience and Necessity No. 283, issued by the Public Utilities Commission of Utah in Case No. 941, authorizing him to operate an automobile bus line between Payson, Utah County, and Eureka, Juab County, Utah, and that he and his predecessors in interest for several years last past have been engaged, and the applicant is now engaged, in rendering passenger automobile service over said route, by making two round-trips each day between said points.

2. That the protestant, Denver & Rio Grande Western Railroad Company, is a railroad corporation, duly authorized to operate, and is now operating, a steam railroad, carrying passengers and freight for hire within the State of Utah; that its main line extends from Denver, Colorado, to Salt Lake City, Utah; that as a part of its railroad system it operates a branch line from Springville, in Utah County, to Eureka City, in Juab County, Utah, said branch line serving all points proposed to be served by the applicant with express service, viz., Payson, Santaquin, Goshen, Elberta, Dividend, and Eureka City. That protestant makes one round-trip daily with its passenger train between Payson and Eureka City, and also operates freight trains, giving daily service on said branch line; that the said protestant maintains an agency station at Payson, Goshen, and Eureka City; that no agency station is maintained by it at Santaquin, Elberta, nor at Dividend.

3. That the protestant, American Railway Express Company, a corporation, is authorized to and is now doing a general express business in connection with the railroad lines operating within the State of Utah, and is giving a daily express service over the branch line of the Denver & Rio Grande West-

ern Railroad from Payson to Eureka City, serving all points proposed to be served by the applicant, and it maintains agency stations at Payson, Goshen, and Eureka City, and non-agency stations at Elberta and Santaquin; that no deliveries are made at Dividend, which point is about six miles distant from the railroad; that the intermediate territory between Eureka City and Payson, Utah, has a population of approximately 2,000 people, including the Town of Goshen, with a population of about 800; Elberta, with a population of approximately 500; and Dividend with a population of approximately 400; that very little express originates between Payson and Eureka City, and that the shippers to and from Goshen and Elberta desire the maintenance of the railroad and express agency stations at Goshen, although the traffic is somewhat limited; that at Goshen and also at Dividend, the business and mining interests have expressed their satisfaction with the express service now being rendered by the American Railway Express Company, and no interested party other than the applicant and his agents make any claim that public convenience and necessity requires an automobile express service over the route of the applicant.

From the foregoing findings and facts, the Commission concludes and decides that public convenience and necessity does not require automobile express service over the route of the applicant between Payson City and Eureka City; that the amendment to the certificate as applied for herein 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 29th day of June, 1928.

In the Matter of the Application of T. W. BOYER, TRUSTEE, for permission to transport express as well as passengers over the automobile bus line between Eureka and Payson, Utah, and intermediate points. } Case No. 1008.

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 be, and it is hereby, denied.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of T. W. BOYER, TRUSTEE, for permission to transport express as well as passengers over the automobile bus line between Eureka and Payson, Utah, and intermediate points. } Case No. 1008.

SUPPLEMENTAL ORDER OF THE COMMISSION

It appearing in the above-entitled case that on June 29, 1928, the Public Utilities Commission of Utah denied the applicant, T. W. Boyer, Trustee, the right to transport express over the automobile bus line operated by him between Eureka and Payson, Utah, and intermediate points, for the reasons set forth in its report filed herein; and that since the rendition of

said report, it has been made to appear that public necessity and convenience requires the transportation of motion picture films over said route of the applicant for the Western Amusement Company, by his automobile stage line;

And it further appearing that all common carriers serving the territory involved have filed with the Commission their expressed waiver and consent that said films may, under existing conditions, be carried by the applicant, T. W. Boyer, Trustee, over his said automobile bus line between Eureka and Payson;

Now, therefore, by reason of the premises, IT IS HEREBY ORDERED, That the said T. W. Boyer, Trustee, be, and he is hereby, permitted and authorized to transport by automobile stage, motion picture films as express matter between Payson, in Utah County, and Eureka, in Juab County, State of Utah, including intermediate points, upon the said applicant filing with the Public Utilities Commission of Utah his tariff or schedule of charges therefor.

By the Commission.

Dated at Salt Lake City, Utah, this 25th day of August, 1928.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the ESCALANTE LIGHT & POWER COMPANY, a Corporation, for permission to construct, operate, and maintain an electric light and heating plant at Escalante, Garfield County, Utah. } Case No. 1009.

Submitted May 14, 1928. Decided June 2, 1928.

Appearance:

Henry E. Beal, Attorney, of Richfield, Utah, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

This case came on for hearing, before the Public Utilities Commission of Utah, on the 14th day of May, 1928, upon the application of the Escalante Light & Power Company, a Corporation, for permission to construct, operate, and maintain an electric light and heating plant at Escalante, Garfield County, Utah.

No protests, written or otherwise, against the granting of this application, were presented.

After full consideration of the testimony offered, the Commission finds as follows:

That the Escalante Light & Power Company is a corporation of the State of Utah; that Escalante has a population of approximately 1,100 people, and is located in Garfield County, Utah; that some years ago, a private corporation owned and operated a steam power electric plant which was financially unsuccessful; that about the year 1920, said plant was taken over by the Town of Escalante and operated by said Town for a period of about two years, at which time the loss entailed in said operation caused the abandonment of the service rendered; that there has been no electric service rendered from 1922 to date.

That the Town of Escalante has now leased to the applicant herein, the distribution and transmission lines owned by said Town, for 5% of the gross receipts of said applicant; that the nearest electric service to the Town of Escalante is operated by the Telluride Power Company, at Panguitch, Utah, which is sixty miles distant; that applicant has at the present time invested $6,000.00 in said electric light plant; that it has a maximum capacity of 92 H. P. and is now generating approximately 40 H. P.; that applicant's plant consists of a canal, a short penstock, and impulse wheel; that the electric line leased from the Town of Escalante consists of two miles of transmission lines and seven miles of distribution lines; that applicant proposes to charge 15c per K. W. H. for the first 25 K. W. Hrs., 10c per K. W. H. for additional energy for lighting purposes, and 5c per K. W. H. for energy used in heating or power; that the customers will be required to purchase and

furnish their own meter, and that a 10% discount will be allowed for prompt payment of bills when rendered.

That the applicant at the present time has no contract with the Town of Escalante, providing for the furnishing of any street lighting system.

The Commission finds that public convenience and necessity requires the operation of said line and the furnishing of said service, and that the application should be granted.

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. 315

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, 1928.

In the Matter of the Application of the ESCALANTE LIGHT & POWER COMPANY, a Corporation, for permission to construct, operate, and maintain an electric light and heating plant at Escalante, Garfield County, Utah.	Case No. 1009.

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 here-

by, granted; that the Escalante Light & Power Company, a Corporation, be, and it is hereby, authorized to construct, operate, and maintain an electric light and heating plant at Escalante, Garfield County, Utah.

ORDERED FURTHER, That in the construction of such electric light and heating plant, applicant, Escalante Light & Power Company, a Corporation, shall conform to the rules and regulations heretofore issued by the Commission governing such construction.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

PUBLIC UTILITIES COMMISSION OF UTAH, *Complainant,*
vs.
BOUNTIFUL LIGHT & POWER COMPANY, a Corporation, *Defendant.*
} Case No. 1010.

Submitted February 17, 1928. Decided December 18, 1928.

Appearances:
Oscar W. Moyle, Attorney, of Salt Lake City, Utah, } for Defendant, Bountiful Light & Power Company.

REPORT OF THE COMMISSION

By the Commission:

On the 6th day of September, 1927, the Public Utilities Commission of Utah, on its own motion, filed herein its complaint against the Bountiful Light & Power Company, in substance charging that the defendant was and is engaged in the business, among other things, of selling and distributing to consumers within the State of Utah electrical energy for heating, lighting and general industrial purposes, to the Town of Bountiful, Davis County, State of Utah, and that defendant is a "public utility" and an "electrical corporation," within the meaning and subject to the provisions of Title 91, Compiled

Laws of Utah, 1917, and the laws of Utah amendatory thereto and the rules and orders of the complainant, the Public Utilities Commission; that under the provisions of said Title 91, Laws of Utah, and the laws amendatory thereto, and the regulatory rules and orders of the complainant, it is made the duty of the defendant, as an electrical corporation and public utility, to prepare and file with the complainant a true and correct report or statement showing, among other things, its operating revenues and expenses, each and every year, and to keep accurate records and books of account of its business affairs and transactions, in the manner and in accordance with the Uniform Classification of Accounts applicable to electrical corporations, as prescribed by and required under the rules and orders of the complainant; that from the yearly reports and statements rendered and filed by the defendant for a four years' period, covering the years 1923, 1924, 1925, and 1926, it appears that the defendant charged its consumers of electrical energy, rates that netted defendant an average net return on its capital investment of 31% per annum, which return was charged by the complainant to be unjust, unreasonable, and in violation of the provisions of said Title 91, Compiled Laws of Utah, 1917.

The defendant was required to satisfy or answer the complaint. In due time the defendant answered by admitting that it had earned on its capital investment (book value) the net returns as stated in the complaint, and affirmatively alleged that before it could determine the fair value of its assets or property devoted to the service rendered consumers, it had been necessary to make, through competent engineers, a revaluation of its property, which is shown by the report of said engineers to be the sum of $99,631.42, including tangible assets of the present depreciated value in the sum of $82,631.42, and intangible assets in the sum of $17,000.00, the total sum of which defendant contends should be considered as the proper rate base for the years complained of by the Commission.

Defendant further answered that its books, reports, and accounts had been audited by a competent certified accountant for the year 1926 and the first half of the year 1927, in order that it might arrive at and determine its operating income and expenses for the years complained of by complainant; that the report of said accountant, dated October 9, 1927, shows the defendant's operating net income to have been for 1926, $5,-

916.53, and for the first six months of 1927, $3,038.89, and that these results are fairly representative for the years 1923, 1924, 1925, and 1926.

Defendant further answered that for many years its officers have, without compensation, devoted much time and free service to the management of the defendant's distributing system, and therefore but very small operating costs have been incurred; that in the course of time, heavy expense will have to be incurred by defendant by reason of obsolescence and deferred maintenance of the system.

It was further claimed by the answer that the rates charged consumers of electrical energy have been reduced from time to time, from an original rate of 17½ cents per kilowatt hour to the present rate of 10 cents. Defendant prayed that under all the facts and circumstances, its present rates be held just and reasonable, and that they be approved by complainant.

From the evidence it appears:

1. That the defendant, Bountiful Light & Power Company, is a corporation, organized and existing under the laws of the State of Utah, with its principal office and place of business at Bountiful, Davis County, Utah; that, among other things, it is empowered to and is now and has for many years last past been engaged in the business of operating an electrical distributing system, serving consumers of electrical energy in the towns and communities of Bountiful, Centerville, South Bountiful, and West Bountiful, in Davis County, in accordance with the rate schedule on file with the Public Utilities Commission of Utah.

2. That the defendant purchases, wholesale, at regularly approved rates, its electrical energy for resale to its patrons, from the Utah Power & Light Company, an electrical corporation, doing business in the State of Utah.

3. That for a period beginning January 1, 1926, and ending June 30, 1927, the average yearly operating income of the defendant was $28,224.57; that for the same period the average yearly operating expenses of the defendant were, allowing for depreciation and taxes, $22,655.03, leaving as a yearly net income for this period $5,569.54.

4. That the present depreciated value of the defendant's

distribution system and other physical property used and useful in rendering electrical service to its patrons, without any allowance for engineering or supervision during construction, amounts to the sum of $70,915.92; that defendant's intangible assets, including organization expenses, going concern value, including good will and franchise rights, amounts to the sum of $5,375.00, making a total valuation upon which the defendant is entitled to earn an operating return of $76,290.92.

5. That the defendant's books of account have not been kept in accordance with the Commission's Order No. 15, made and entered November 24, 1924, adopting a uniform classification of accounts applicable to electrical corporations operating within the State of Utah.

From the foregoing facts, the Commission concludes that the rates now and heretofore charged consumers of electrical energy by the Bountiful Light & Power Company were and are now just and reasonable, and, in fact, did not or do not now exceed an average annual return on its capital investment of 7.2%; that its present retail rates will not be excessive, as long as the present cost wholesale paid by it for electrical energy remains the same, or until operating conditions in general are materially improved.

It further appears that the operating costs of the defendant have been and are now reduced to the minimum, by reason of the officials performing much service for practically no compensation.

We think the books and accounts of the defendant should be kept in accordance with the Commission's Order No. 15 herein referred to, and its reports to the Commission in the future rendered upon the valuations herein found by 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

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 18th day of December, 1928.

PUBLIC UTILITIES COMMISSION OF UTAH, *Complainant,*
vs.
BOUNTIFUL LIGHT & POWER COMPANY, a Corporation, *Defendant.*
} Case No. 1010.

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 books and accounts of the defendant, Bountiful Light & Power Company, a Corporation, be kept in accordance with the Commission's Order No. 15, made and entered November 24, 1924, adopting a uniform classification of accounts applicable to electrical corporations operating within the State of Utah; and the reports of the said Bountiful Light & Power Company to the Commission shall be rendered upon the valuations found by the Commission in the attached report.

ORDERED FURTHER, That the present rates charged consumers of electrical energy by the Bountiful Light & Power Company be, and the same are hereby, confirmed as being just and reasonable.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for permission to abandon certain grade crossings over the main line tracks of the Union Pacific Railroad Company near Uintah Station, in Weber County, Utah.	Case No. 1011.

Submitted March 13, 1928. Decided November 23, 1928.

Appearances:

W. Halverson Farr, Ass't. Attorney General,	for State Road Commission.
John V. Lyle and J. T. Hammond, Attorneys,	for Union Pacific R. R. Co.

REPORT OF THE COMMISSION

By the Commission:

This case came on for hearing at Ogden, Utah, on the 16th day of February, 1928, on the application of the State Road Commission of Utah for authority to construct two underpasses under the main line tracks of the Union Pacific Railroad near Uintah, Utah, the proposed location of said underpasses being at Mile Post 984.05 on the westbound track and 984.18 on the eastbound track; and that the existing grade crossings at Mile Posts 984.18, 984.77, on the eastbound track, and 984.30 and 984.65, on the westbound track of said railroad, be closed and abandoned.

From the record in this case, the Commission finds the following to be the facts:

1. The State Road Commission of Utah and the County Commissioners of Weber County have heretofore begun construction of a new State highway, originating at Ogden, thence running easterly via Uintah and the mouth of Weber Canyon to the Morgan County line;

2. That on the 28th day of July, 1927, the State Road Commission of Utah and the County Commissioners of Weber County entered into a contract with the Union Pacific Railroad, by which said Railroad Company grants to the State and County easements for said public highway upon and across the portions of the Railroad Company's rights-of-way necessary for the construction of the highway. This contract also provides that the Railroad Company shall, at the joint expense of the parties thereto, perform the work of constructing two subways for said highway; that the State shall perform all work in connection with the construction of said highway across said rights-of-way and through said subways, and all other incidental work, such as paving or other wearing surface thereon; that the Railroad Company shall contribute as its proportion of the expense of the construction of each of said subways, the sum of $10,329.00, or a total of $20,658.00 for the two subways to be constructed, said sum being equal to one-half of the estimated cost of two subways extending under said main tracks at right-angles to the center lines of said main tracks; it being understood, however, that the subways to be constructed may be of the skew type, in order that the center lines thereof may coincide with the center line of said highways.

Said contract further provides that the State and County shall cause to be closed to traffic, vacated, and abandoned, certain existing public highways where they cross the rights-of-way and tracks of the Railroad Company at the following locations:

> "(a) Public highway extending at grade across the right of way and northerly, or eastbound, main track of the Railroad Company in the northeast quarter of said Section 26, at Mile Post 984.18, approximately 0.97 of a mile east of the Uintah depot on said eastbound main track, and any other roads or crossings on said right of way in the immediate vicinity thereof;
>
> "(b) Public highway extending at grade across said right of way and northerly, or eastbound, main track of the Railroad Company near the northwest corner of said Section 26, at Mile Post 984.77, approximately 0.38 of a mile east of said Uintah depot on said eastbound main track; and

"(c) Public highway extending at grade across the right of way and southerly, or westbound, main track of the Railroad Company in the northwest quarter of said Section 26, just west of the east line of said section, at Mile Post 984.30, approximately 0.75 of a mile east of the Uintah depot on said westbound main track, being the public highway leading north from the present highway bridge over the Weber River."

The Commission further finds that the public using the aforesaid crossings can, without unreasonable inconvenience, cross the tracks of the Union Pacific Railroad by means of the aforesaid sub-ways in place of the aforesaid crossings.

The Commission further finds that, in the interest of public safety, the aforesaid grade crossings should be abolished, and that public convenience and necessity requires that the two aforesaid sub-ways should be constructed and that the sum of $20,658.00 to be paid by the Union Pacific Railroad Company toward the cost of the subways, is a just and reasonable apportionment of said cost. The crossing on the westbound track at Mile Post 984.65 is on a rural post route, is used to a considerable extent by the public, and would result in considerable inconvenience if closed. Applicant's petition for the closing of crossing at Mile Post 984.65 will be denied.

The State Road Commission has agreed to connect the local roads affected by this report with the new highway, so that any inconvenience that might result will be reduced to a minimum.

An order will issue accordingly.

(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 November, A. D., 1928.

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for permission to abandon certain grade crossings over the main line tracks of the Union Pacific Railroad Company near Uintah Station, in Weber County, Utah. } Case No. 1011.

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, the State Road Commission of Utah, and the Union Pacific Railroad Company, be and they are hereby, authorized to abolish grade crossings over the main line tracks of the Union Pacific Railroad Company near Uintah Station, in Weber County, at Mile Posts 984.18 and 984.77 on the eastbound track, and 984.30 on the westbound track, and to construct in lieu thereof underpasses at Mile Post 984.05 on the westbound track, and at Mile Post 984.18 on the eastbound track, in conformity with the terms of that certain contract between the State Road Commission of Utah, the County Commissioners of Weber County, and the Union Pacific Railroad Company, dated the 28th day of July, 1927.

ORDERED FURTHER, That Applicant's petition for the closing of crossing at Mile Post 984.65, be and it is hereby, denied.

Dated at Salt Lake City, Utah, this 23rd day of November, 1928.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STATE ROAD COMMISSION OF UTAH, for permission to abandon certain grade crossings over the main line tracks of the Union Pacific Railroad Company near Uintah Station, in Weber County, Utah. } Case No. 1011.

SUPPLEMENTARY ORDER OF THE COMMISSION

It appearing that the order of the Commission made and entered in this case on the 23rd day of November, 1928, will become effective on the 13th day of December, 1928, and good cause having been shown why the effective date of the Commission's order should be extended;

Now, therefore, IT IS HEREBY ORDERED, That the effective date of the Commission's order made and entered on the 23rd day of November, 1928, be extended to and until the 5th day of January, 1929.

Dated at Salt Lake City, Utah, this 13th day of December, 1928.

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

(Seal)
Attest:
(Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of the UTAH PARKS COMPANY, a Corporation, for permission to operate an automobile passenger, express and freight bus line between Cedar City and St. George, Utah. } Case No. 1012.

See Case No. 993.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STERLING TRANSPORTATION COMPANY, for permission to publish rates.	Case No. 1013.

Submitted March 14, 1928. Decided April 25, 1928.

Appearances:

H. W. Prickett, of Salt Lake City, and Ray O. Dillman, of Roosevelt, Utah,	for Applicant.
E. Peterson, of Vernal, Utah,	for Various Farmers.
A. Theadore Johnson, of Vernal, Utah,	for Uintah County Farm Bureau.
James H. Wallis and W. S. Henderson, of Vernal, Utah,	for Lions Club of Vernal.
C. H. Wilkinson, of Roosevelt, Utah,	for J. G. Peppard Seed Co.
E. W. Crocker and W. A. Paxton, of Duchesne, Utah,	for Duchesne County Commercial Club.
C. J. Johnson, of Roosevelt, Utah,	for Roosevelt City.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing before the Commission, on the 14th day of March, 1928, at Vernal, Utah.

The application sets forth that the present rates published in Sterling Transportation Company Tariff No. 1, are not in

conformity with the official freight classification known as Intermountain Motor Vehicle Association Freight Classification No. 1; that the operating income of the Sterling Transportaton Company has not been sufficient to pay the expenses thereof nor the return on the investment; that for the purpose of overcoming these disabilities, the applicant has prepared Sterling Transportation Company Tariff No. 2, which it is hoped will provide earnings sufficient to warrant the continued operation of the said Transportation Company.

After a full consideration of the evidence adduced at said hearing, the Commission finds as follows:

That the applicant is a corporation, organized under and existing by virtue of the laws of the State of Utah, and is engaged in the business of intrastate motor freight truck transportation from and to and between Salt Lake City and Vernal, Utah, and certain intermediate points; that said applicant is operating by virtue of Certificate of Convenience and Necessity No. 274 granted by the Commission on October 2, 1926.

That on the 22nd day of March, 1928, the Public Utilities Commission of Utah issued its General Order No. 23, ordering the adoption of a uniform freight classification governing the classification of freight transported by means of automobile trucks operating under certificates of convenience and necessity issued by the Public Utilities Commission of Utah; that applicant is ready and willing to adopt said uniform classification; but that the rates published by said applicant in Freight Tariff No. 1, effective October 23, 1926, were and are inadequate to defray the cost of transportation and with no return whatever on the capital investment; that because of said low rates and consequent lack of earnings, the then stockholders of the Sterling Transportation Company were unable to longer carry on the operations of said Company, and sold and disposed of their stock to new interests which are now before the Commission asking that said rates be increased; that the applicant has submitted the following statement showing property investment, expenses and revenues of the Sterling Transportation Company for the year ended December 31, 1927, and those as estimated for the year 1928:

Items	Year 1927 (Sterling Truck)	Estimated for Year 1928 (Mack Truck)
1. Property investment upon which applicant should receive a return:		
(a) Value of trucks (10)	$54,199.76	$54,220.00
(b) Tarps (10)	50.00	187.50
(c) Tow Chains (10)	46.00	46.00
(d) Skid Chains (10)	250.00	240.00
(e) Cash on hand		5,000.00
(f) Investment in business		7,000.00
(g) Value of furniture	225.00	225.00
Totals	$54,870.76	$66,918.50
2. Return of 8% on property investment	4,389.66	5,353.48
3. Property investment which should be depreciated:		
(a) Value of trucks (10)	$54,199.76	$54,220.00
(b) Value of tarps (10)	150.00	187.50
(c) Value of tow chains (10)	46.00	46.00
(d) Value of skid chains (10)	250.00	240.00
Totals	$54,645.76	$54,693.50
4. Depreciation at 25%	13,661.44	13,673.38
5. Operating expenses:		
(a) Wages and salaries	$23,411.61	$
(b) Drivers (6) at $175 per month, for 5 months		5,250.00
(c) Drivers (10) at $175 per month, for 7 months		12,250.00
(d) Platform men (1) at $125 per month, for 12 months		1,500.00
(e) Bookkeeper (1) at $200 per month, for 12 months		2,400.00
(f) Station agents (4) at $142.50 per month, for 12 months		1,710.00
(g) Mechanic (1) at $175 per month, for 12 months		2,100.00
(h) General office salaries		6,000.00
(i) Legal and traffic expenses		1,200.00
(j) Tires	3,697.94	3,697.94
(k) Gasoline	7,076.49	7,076.49
(l) Oil	1,092.75	1,092.75
(m) Rent and equipment	2,622.00	2,622.00
(n) Repairs to cars	3,036.41	3,036.41
(o) Indemnity insurance	219.51	219.51
(p) Loss and damage freight	251.80	251.80
5. Operating Expenses (Continued):		
(q) Miscellaneous expenses	$ 3,434.17	$ 3,434.17
(r) State road tax	1,521.85	1,521.85
(s) Other taxes	972.58	972.58
(t) Uncollectible a/c	367.24	367.24
Total Operating Expenses	$47,704.35	$56,702.74
6. Return of 8% on investment	4,389.66	5,353.48
7. Depreciation at 25%	13,661.44	13,673.38
	$65,755.45	$75,729.60

	Weight (pounds)	Present Rate	Present Revenue	Proposed Rate	Proposed Revenue
1. Eastbound to Basin Merchandise	3,820,021	$.9188	$35,098.36	$1.36895	$52,294.18
2. Westbound from Basin Merchandise	62,320	.9144	569.88	1.36895	853.13
3. Commodities Westbound from basin:					
(a) Seed	822,589	.6862	5,644.75	.8362	6,878.63
(b) Butter	306,812	.6093	1,869.55	.7593	2,329.77
(c) Livestock	364.069	.69	2,512.42	.8401	3,058.52
(d) Honey	45,138	.6871	310.17	.837	377.88
(e) Poultry	103,788	.7632	792.16	.915	947.84
(f) Wool	82,464	.5421	448.07	.693	571.77
(g) Gilsonite	48,925	.5384	263.40	.688	336.79
4. Non-operating revenue			199.25		199.25
5. Total revenues			$47,708.01		$67,847.76
6. Total expenses depreciation and return on investment			65,935.45		75,709.60
Deficit			$18,227.44		$ 7,861.84

The record shows that Item 1, Line "f," "Investment in Business," $7,000.00 on above statement, representing the purchase price of common stock in the Sterling Transportation Company, is not a part of the rate-base and should be stricken. Item 1, Line "a," "Value of Trucks (10)," $54,220.00, should be revised as follows:

Value of trucks (Six now owned)	$26,715.00
(Four to be acquired)	25,700.40
Total	$52,415.40

It is probable that the volume of business accruing after the harvest season will necessitate the purchase of the four additional trucks. With these corrections, applicant's assumed deficit would become $7,157.47, instead of $7,861.84 as shown.

The Commission is not inclined to accept applicant's statement even as corrected. The records in the past are incomplete and it is not possible to assume the amount of tonnage for the future. Applicant is asking for an average class rate of $1.368 per hundred pounds. It may well be that a high rate would defeat the purpose of the application. The Commission will order that an average class rate of $1.257 per hundred pounds be tentatively established, with the hope that the volume of business secured will justify the continuance of this or perhaps a lower rate. The commodity rates proposed by ap-

plicant, ranging from $.688 to $.915 per hundred pounds, on westbound commodities, are reasonable and should be approved.

NEW CLASS RATES BETWEEN SALT LAKE CITY AND BASIN POINTS

	Classes in Cents per 100 Lbs.			
	1	2	3	4
Vernal	$1.60	$1.40	$1.30	$1.20
Ft. Duchesne	1.49	1.30	1.22	1.12
Roosevelt	1.44	1.25	1.17	1.08
Myton	1.38	1.19	1.13	1.03
Duchesne	1.22	1.05	1.00	.91
Fruitland, etc.	1.00	.88	.82	.75

All rates affecting transportation in and out of the Uintah Basin and territory served by the applicant, will be largely experimental until the needs and requirements of the public are more fully established. This territory is without railroad transportation, is in the development stage, and transportation over the public highways in and out of the Uintah Basin is rendered somewhat difficult by reason of unimproved road conditions and the seasonal storms that prevail in the mountain passes through which the applicant has to travel in rendering the service. Again, shippers in this territory have in times past failed to co-ordinate with and patronize the licensed carriers; but, on the contrary, have from time to time patronized operators who have transported property in and out of the Basin in violation of the laws of the State.

At the hearing of this case, civic organizations, shippers and business interests pretty generally, announced their intention of giving support to the licensed carriers, and their belief that by doing so the public generally would be benefited and that dependable transportation would be secured thereby for the territory now served by the applicant. With such co-operation on the part of the public directly concerned, it is to be hoped that the revenues to be earned in the future by the applicant would be materially increased. Further, there is some promise that in the near future the public highways over which the applicant operates its truck line, will be improved, and by that means the cost of operation considerably reduced.

Therefore, the Commission concludes, all things considered, that while it may be impossible for the applicant, under existing conditions and circumstances, to operate at a fair

profit for the rates herein described and allowed, that the very near future gives promise that they will prove compensatory. As to that, however, it will depend largely upon the good-will and patronage of the public directly concerned.

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 25th day of April, 1928.

In the Matter of the Application of the STERLING TRANSPORTATION COMPANY, for permission to publish rates. } Case No. 1013.

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 applicant, Sterling Transportation Company, be, and it is hereby, authorized to publish and put in effect rates and charges as set forth in and approved by the Commission's Report herein which is made a part hereof.

ORDERED FURTHER, That the Sterling Transportation Company, before charging said new rates, 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.

ORDERED FURTHER, That this order shall become effective on and after May 1, 1928.

By the Commission.

(Seal) (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 street car service upon and remove its tracks from certain streets in Salt Lake City, Utah.	Case No. 1014.

Submitted March 8, 1928. Decided March 23, 1928.

Appearances:

John F. MacLane and George R. Corey, Attorneys, of Salt Lake City, Utah,	for Applicant.
W. H. Folland, City Attorney of Salt Lake City,	for City of Salt Lake.
Ray VanCott and Harold F. Stewart, Attorneys, of Salt Lake City, Utah,	for South Side Civic Improvement League.
John Berry, of Sandy, Utah,	for Himself, Protestant.

REPORT OF THE COMMISSION

By the Commission:

On the 17th day of February, 1928, the Utah Light &

Traction Company filed with the Public Utilities Commission of Utah an application to discontinue street car service and remove its tracks from certain streets in Salt Lake City, Utah, and alleging, among other things, that the operation of these lines is being conducted at a loss, the gross revenues received from traffic originating on and destined to points on said lines being insufficient to pay the cost of operation and maintenance, without any allowance for depreciation or return on investment; and that the continued operation of said lines is not necessary or required in the service of the public.

The case came on regularly for hearing before the Commission, after due notice given, on the 8th day of March, 1928, on the said application and certain protests filed thereto. From the evidence adduced for and in behalf of the respective parties, the Commission now finds and reports as follows:

1. That the applicant is a corporation, duly organized and existing under the laws of the State of Utah, with its principal office or place of business in Salt Lake City, Salt Lake County, in the State of Utah, a copy of its agreement or articles of incorporation being regularly on file in the office of the Commission.

2. That applicant owns and operates an electric street and interurban system in Salt Lake City and Salt Lake and Davis Counties, all in the State of Utah, and, included in said system, the applicant owns and operates the following lines which it proposes to discontinue service upon and remove its tracks from, to-wit:

(a) Designated as *Second South Line*: A double track line extending from the intersection of State and Second South Streets, in Salt Lake City, easterly along said Second South Street to Tenth East Street, thence southerly along said Tenth East Street to Third South Street, being 7,897 feet of double track.

(b) *Fourth South Line*: A double track line extending from the intersection of Third South and Rio Grande Streets, southerly along said Rio Grande Street to Fourth South Street; thence easterly along said Fourth South Street to Seventh East Street; thence southerly along said Seventh East Street to Fifth South Street, being 10,720 feet of double track.

(c) *West Temple Line*: A single track line, extending from the intersection of Ninth South and West Temple Streets, southerly along said West Temple Street to its terminus at Twenty-first South Street, being 9,093 feet of single track.

(d) *Main Street Line*: A double track line extending from the intersection of Main and Fifth South Streets southerly along Main Street to Ninth South Street, being 3,150 feet of double track.

(e) *Fifth East Line*: A double track line extending from the intersection of Fifth South and Fifth East Streets southerly along said Fifth East Street to its terminus at Ninth South Street, being approximately 3,100 feet of double track.

3. Said lines were constructed at various times between the years 1904 and 1914 by applicant's predecessor in interest, and ever since have been operated and maintained under and pursuant to the terms and provisions of franchises duly granted by Salt Lake City Corporation to the applicant or its predecessor in interest.

4. The present operations of the aforesaid lines are now and for several years last past have been conducted at a loss, the gross revenues received from traffic originating on and destined to points on said lines being insufficient to pay the cost of operation and maintenance, without any allowance for depreciation or return on investment.

5. Deferred maintenance on said lines amounts to approximately $344,315.00, which must be made up during the year 1928 if the operation thereof continues.

6. That applicant owns and operates as a part of its said street railway system certain lines which are parallel to and are from one to two blocks distant from the aforesaid lines upon which it operates street cars at frequent intervals between the business and residential sections of Salt Lake City, to-wit:

Applicant affords at the present time a parallel street car service for said Second South Line as follows: A parallel double-track line located one block north on First South Street, extending from Main Street to and beyond Tenth East Street; also a parallel double-track line located one block south on Third South Street, extending from Main Street to Ninth East Street. Further, if this application be granted, it is pro-

posed by the applicant to construct one block of track on Third South Street between Ninth and Tenth East Streets, so that the territory beyond Third South and Tenth East Streets now served by the said Second South Line will hereafter be served by cars routed over Third South from State to Tenth East Streets.

That parallel service for applicant's Fourth South Line (section east of Main Street) is now being rendered by a double-track line located one block north on Third South Street extending from Main Street to and beyond Seventh East Street; also a parallel double-track line located one block south on Fifth South Street extending from Main Street to Fifth East Street. At present cars running to Seventh East and thence to Nibley Park and Thirty-third South Street are routed over said Fourth South Line to Seventh East Street. If the application herein be granted, it is proposed by applicant to extend the Fifth South Line easterly from Fifth East Street over tracks now in place, to Seventh East Street, and the territory beyond Seventh East and Fifth South now served by said Fourth South Line will thereafter be served by cars routed over Fifth South Street from State to Seventh East Streets.

For the Fourth South Line (section west of Main Street) a parallel double-track line is operated one block north on Third South Street, extending from Main Street to Rio Grande Street; also a double-track line located one block south on Fifth South Street extending from Main Street to Second West Street.

A parallel service for applicant's West Temple Line is also given by a double-track line located two blocks east on State Street extending from Ninth South to and beyond Twenty-first South Street; also by a single track line located two blocks west on Second West Street extending from Ninth South to Thirteenth South Street.

For applicant's Main Street Line, it renders parallel service by a double-track line located one block east on State Street, extending from Ninth South Street to the business section of the City; also by a parallel double-track line located one block on West Temple Street, extending from Ninth South Street to the business section of the City. Cars running to and beyond

Sugar House are routed over this section of line at the present time. If the application be granted, these cars are to be routed over applicant's State Street Line.

With respect to applicant's Fifth East Line, a parallel service is rendered by a double-track line located two blocks east on 7th East Street, extending from Fifth South to and beyond Ninth South Street; also by a double-track line located two blocks west on Third East Street, extending from Seventh South Street to Ninth South Street. Applicant proposes, if its application be granted, to provide service from the intersection of Seventh South and Third East Streets, easterly along Seventh South Street one block to Fourth East, thence southerly along Fourth East Street to Ninth South Street, thus affording service parallel to Fifth East Street one block distant.

7. That no protests have been made or filed on the part of the City Commissioners of Salt Lake City, or by any interested party, against the removal and abandonment of street car service by the applicant on any of the aforesaid streets, except the abandonment of the single-track line on West Temple Street.

8. That the South West Temple car line is practically the only street car service had by the southwest portion of Salt Lake City; that this territory has a population of over 3,000 people and is a popular residential section. It also contains a number of industrial plants, and the street car line serving it is fairly well patronized throughout its length by students attending the public schools, the L. D. S. College, and the State University. The lines of the applicant paralleling the South West Temple Line are not readily accessible by the people living in this section, because of the somewhat hazardous traffic conditions that prevail in approaching them. The territory served by the applicant's West Temple Line is at the present time prosperous and promises much in the way of future growth; the street car line serving it the last two years has been poorly maintained with respect to both equipment and the railroad. It is not contemplated that the street upon which the line has been maintained, will be paved in the immediate future, nor will the cost of the maintenance of the applicant's line thereon be for sometime to come excessive. That the fu-

ture growth of this section of Salt Lake City will depend largely upon the street car service now being rendered to it by the applicant, or by reason of the substitution of some other means of transportation not at the present time available; that the population is constantly increasing and new industrial enterprises are looking forward to establishment of their plants in that territory.

From the foregoing facts, the Commission concludes and decides that the applicant's street car system in Salt Lake City is unnecessarily burdened by the operation of its Second South Street car line, its Fourth South Line, its Main Street Line, and its Fifth East Line, hereinbefore mentioned, and that it should be permitted to discontinue rendering street car service on each and all of said lines and remove its tracks and equipment therefrom; that public convenience and necessity requires the continuance of the operation of applicant's West Temple Line hereinbefore mentioned and described, and that the applicant should not be permitted to discontinue its service thereon as applied for; that the applicant should be required to properly maintain the said line so that the same can be operated with greater comfort and convenience to the car-riders patronizing the same.

While it is unquestionably a fact that the cost of maintaining the applicant's extensive street car service in Salt Lake City, casts a heavy burden on the applicant and the street car riders alike, nevertheless it is the only street car system serving Salt Lake City, and it must not be expected that service upon any portion of its lines may be discontinued to the detriment and inconvenience of any particular territory served, without a showing made that the general public welfare will not be subserved thereby.

As pointed out in the findings, the applicant's West Temple Line is being reasonably well patronized by the community it serves. The Commission feels that sufficient showing is made upon the record in this case that it will in the future continue to be fairly well patronized. As an integral part of the street car system of Salt Lake City, it is an important factor in the interests of the public welfare and cannot be disregarded as such at the present time. It must be expected, however, that

the continuance of this line will depend largely upon the patronage it receives in the future.

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, 1928.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to discontinue street car service upon and remove its tracks from certain streets in Salt Lake City, Utah.	Case No. 1014.

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 discontinue service upon and remove its tracks from the following described lines:

(a) Designated as *Second South Line*: A double track line extending from the intersection of State and Second South Streets, in Salt Lake City, easterly along said Second South Street to Tenth East Street, thence southerly along said Tenth East Street to Third South Street, being 7,897 feet of double track.

(b) *Fourth South Line*: A double track line extending from the intersection of Third South and Rio Grande Streets, southerly along said Rio Grande Street to Fourth South Street; thence easterly along said Fourth South Street to Seventh East Street, thence southerly along said Seventh East Street to Fifth South Street, being 10,720 feet of double track.

(c) *Main Street Line*: A double track line extending from the intersection of Main and Fifth South Streets southerly along Main Street to Ninth South Street, being 3,150 feet of double track.

(d) *Fifth East Line*: A double track line extending from the intersection of Fifth South and Fifth East Streets southerly along said Fifth East Street to its terminus at Ninth South Street, being approximately 3,100 feet of double track.

ORDERED FURTHER, That the applicant, upon the removal of its lines herein authorized, shall forthwith proceed to construct, operate, and maintain its parallel and substitute lines as proposed and as mentioned and described in the Commission's findings and report attached hereto and made a part hereof.

ORDERED FURTHER, That the application of the Utah Light & Traction Company to remove its tracks from and discontinue service upon its West Temple Line be, and the same is hereby, denied.

ORDERED FURTHER, That the applicant, with respect to the said West Temple Line, shall proceed to rehabilitate and improve the same for service in a manner to be hereafter prescribed by the Commission.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of ROBERT V. GARDNER and A. DON GARDNER, for permission to operate an automobile freight line between Salt Lake City and Park City, Utah.	Case No. 1015.

In the Matter of the Application of HOWARD HOUT, for permission to transport express over his automobile passenger bus line between Salt Lake City and Park City, Utah.	Case No. 1019.
In the Matter of the Application of the STERLING TRANSPORTATION COMPANY, for permission to operate an automobile freight line between Salt Lake City and Park City, Utah, and intermediate points.	Case No. 1020.

Submitted March 23, 1928. Decided June 18, 1928.

Appearances:

C. R. Bradford, Attorney, of Salt Lake City, Utah,	for Applicants, Robert V. Gardner and A. Don Gardner.
Dan B. Shields, Attorney, of Salt Lake City, Utah,	for Applicant, Howard Hout.
Wilson McCarthy, Attorney, of Salt Lake City, Utah,	for Applicant, Sterling Transportation Co.
B. R. Howell, Attorney, of Salt Lake City, Utah,	for Protestant, Denver & Rio Grande Western Railroad Co.
George H. Smith and Dana T. Smith, Attorneys, of Salt Lake City, Utah,	for Protestants, Oregon Short Line R. R. Co. and Union Pacific Railroad Co.
L. E. Gehan, Agent, of Salt Lake City, Utah,	for Protestant, American Railway Express Co.

REPORT OF THE COMMISSION

By the Commission:

These cases 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 23rd day of March, 1928, upon the applications filed and protests thereto, after due notice given as required by law. The several applications involve

the same question, the need for and the right to transport property, by automobile, for hire, over the public highway between Salt Lake City and Park City, Utah. Therefore, with the consent of all parties interested, the Commission ordered that these cases be combined for hearing.

From the evidence adduced for and in behalf of the respective parties, the Commission finds:

1. The applicants in Case No. 1015, Robert V. Gardner and A. Don Gardner, are residents of Salt Lake County, Utah, are financially able to provide the necessary equipment, and have had sufficient experience with the operation of automobiles to successfully operate and render automobile truck service over the public highway between Park City and Salt Lake City, Utah.

2. That the applicant in Case No. 1019, Howard Hout, at the present time is engaged in operating an automobile passenger stage line between Salt Lake City and Park City, Utah, under Certificate of Convenience and Necessity No. 74, issued by the Public Utilities Commission of Utah, March 4, 1920.

3. That the applicant in Case No. 1020, Sterling Transportation Company, is an automobile corporation, organized under the laws of the State of Utah, and is at the present time engaged in operating an automobile truck line between Salt Lake City and Vernal, Utah, under Certificate of Convenience and Necessity No. 274, issued by the Public Utilities Commission of Utah, October 2, 1926.

4. That the protestant, Denver & Rio Grande Western Railroad Company, is a railroad corporation, duly authorized to conduct business in the State of Utah, and for many years last past it has been operating an interstate railroad between Salt Lake City, Utah, and Denver, Colorado, serving intermediate points, together with branch lines of railroad, among which is the branch line extending from Salt Lake City to Park City, Utah, serving intermediate points; that said protestant, over its Park City branch, carries express matter for the protestant American Railway Express Company on its train leaving Salt Lake City daily at Five A. M., arriving at Park City at 8:20 A. M.; and returning, leaving Park City daily at Nine A. M., arriving at Salt Lake City at One P. M.

5. That the protestants, Oregon Short Line Railroad

Company and Union Pacific Railroad Company, are railroad corporations and part of the Union Pacific System, operating an interstate line of railroad between Salt Lake City and Ogden, in the State of Utah, and Omaha, Nebraska, and elsewhere, together with numerous branch lines of railroad, among which is the branch line from the Union Pacific main line extending from Echo, Utah, to Park City, Utah; that said protestant, Union Pacific Railroad Company, operates and gives daily freight and express service to Park City, Utah, carrying on its passenger train, express matter for the protestant American Railway Express Company; that freight and express service afforded shippers to and from Park City by the respective protestants is dependable, regular and efficient.

6. That Park City is a mining center, with a population of approximately 4,800 people, and in the immediate territory, metal mines are in operation; that in the course of operation of these mines, it becomes necessary from time to time to send ore samples to Salt Lake City for prompt treatment and analysis, and, by reason of that, in times past samples of ore have been carried, for accommodation and without charge, from Park City to Salt Lake City by the applicant Howard Hout, over his automobile passenger stage line between said points; that said service has been needed and is an added convenience for the mine operations in Park City and neighboring district, aside from the service rendered by the protestants, Denver & Rio Grande Western Railroad Company and Union Pacific Railroad Company, in connection with the American Railway Express Company; that occasionally in the operation of the mines in the Park City mining district, breakages occur in the machinery and equipment which require a shut-down of operations pending repairs that must be procured in Salt Lake City, and at such times occasions arise where service is also rendered as an accommodation by the automobile buses of Howard Hout, as above stated; that in the operation of said mines, accidents sometimes occur which require the prompt carrying of surgical supplies and medicines from Salt Lake City for the relief of injured persons; and that upon such occasions, and for prompt delivery of newspapers, the service of the applicant Howard Hout's automobile line is much needed.

From the foregoing facts, the Commission concludes and decides that the application in Case No. 1015 of Robert V. Gardner and A. Don Gardner, to operate an automobile

freight line between Salt Lake City and Park City, Utah, should be denied; that the application of the Sterling Transportation Company, in Case No. 1020, for permission to operate an automobile freight line between the same points, should also be denied; that the application of Howard Hout, in Case No. 1019, for permission to transport express over his automobile passenger bus line between Salt Lake City and Park City, Utah, should be granted, to the extent and with the limitation that he be permitted to carry, for hire, upon his passenger buses, cut flowers, newspapers, ore samples, and emergency repairs for mining equipment and other machinery, in cases of breakdowns, only; further, that he be permitted to carry as express upon his automobile passenger buses, medicines and surgical supplies between Salt Lake City and Park City, for the relief of sickness and injury to persons, in all emergency cases, and not for any other purposes whatsoever than herein expressly mentioned.

The record in these cases is quite conclusive that the railroad and express service now being accorded by the protestants to Park City meets all the needs and convenience of the people residing there, with the exceptions heretofore specifically pointed out. Numerous business men and citizens, including civic organizations in Park City, have petitioned the Commission and represented that the present freight and express service rendered by the protestants is ample and adequately meets their needs and convenience.

They say, in effect, that the present freight and express service rendered by the rail carriers between Salt Lake City and Park City is indispensable to the public welfare and should not be encroached upon by the automobile carriers. However, the Commission believes that no material harm or impairment of the rail service will result if the applicant Howard Hout is permitted to carry express on his passenger buses to the limited extent herein provided for.

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. 320

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 18th day of June, 1928.

In the Matter of the Application of ROBERT V. GARDNER and A. DON GARDNER, for permission to operate an automobile freight line between Salt Lake City and Park City, Utah.	Case No. 1015.
In the Matter of the Application of HOWARD HOUT, for permission to transport express over his automobile passenger bus line between Salt Lake City and Park City, Utah.	Case No. 1019.
In the Matter of the Application of the STERLING TRANSPORTATION COMPANY, for permission to operate an automobile freight line between Salt Lake City and Park City, Utah, and intermediate points.	Case No. 1020.

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 Robert V. Gardner and A. Don Gardner, for permission to operate an automobile freight line between Salt Lake City and Park City, Utah, be, and it is hereby, denied.

ORDERED FURTHER, That the application of the Sterling Transportation Company, for permission to operate an automobile freight line between Salt Lake City and Park

City, Utah, and intermediate points, be, and it is hereby, denied.

ORDERED FURTHER, That the application of Howard Hout, for permission to transport express over his automobile passenger bus line between Salt Lake City and Park City, Utah, be, and it is hereby, granted, to the extent and with the limitation that he be and he is hereby, permitted to carry as express upon his passenger buses, cut flowers, newspapers, ore samples, and emergency repairs for mining equipment and other machinery, in cases of breakdowns, only; further, that he be, and he is hereby, permitted to carry as express upon his automobile passenger buses, medicines and surgical supplies between Salt Lake City and Park City, for the relief of sickness and injury to persons, in all emergency cases, and not for any other purposes whatsoever than herein expressly mentioned.

ORDERED FURTHER, That applicant, Howard Hout, before beginning operation of his express service, 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of DELBERT DAVIS and J. H. DEGELBECK, for permission to operate an automobile passenger bus line between Keatley and Heber City, Utah, and intermediate points.	Case No. 1016.

Submitted May 16, 1928. Decided June 18, 1928.

Appearances:

Dan B. Shields, Attorney, of Salt Lake City, Utah, } for Applicants.

L. C. Montgomery, of Heber City, Utah, } for Wasatch Chamber of Commerce, et al., Protestants.

REPORT OF THE COMMISSION

CORFMAN, Commissioner:

This matter came on regularly for hearing before the Public Utilities Commission of Utah, at Heber City, Utah, on the 16th day of May, 1928, after due notice given to the public, as required by law. Numerous protests were filed on the part of and in behalf of the general public.

From the evidence, it appears:

1. That the applicants, Delbert Davis and J. H. Degelbeck, are financially able and have had sufficient experience to enable them to establish and operate an automobile bus line service between Keatley and Heber City, Utah; that Keatley, Utah, is a point near the Park-Utah Mine, where a large number of men are employed in mining operations, and who go back and forth between Keatley and Heber City each day, nearly all of whom reside in Heber City or in the immediate neighborhood.

2. That at the present time there is regular bus line service between Heber City and Park City, via Keatley, rendered by E. J. Duke, making one round-trip each day between said points; that said E. J. Duke is prepared and willing to increase said service when the public convenience and necessity so requires.

3. That at the present time and for some time past the employes of the Park-Utah Mine residing at Heber City and nearby points, have made arrangements among themselves for transportation between Keatley and Heber City that are mutual and entirely satisfactory, and that 95% of said employes have represented to the Commission that they would not use

the proposed service of the applicants if the same was offered or tendered them.

The Commission therefore concludes that the public convenience and necessity does not require the operation of an automobile passenger bus line between Park City and Keatley, Utah, and the application herein should be denied.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
Commissioner.

We concur:

(Signed) 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 June, 1928.

In the Matter of the Application of DELBERT DAVIS and J. H. DEGELBECK, for permission to operate an automobile passenger bus line between Keatley and Heber City, Utah, and intermediate points.	Case No. 1016.

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 Delbert Davis and J. H. Degelbeck be, and it is hereby, denied.

By the Commission.
(Seal) (Signed) F. L. OSTLER, Secretary.

E. H. SHULL, JR., *Complainant,*
vs.
DIXIE POWER COMPANY, a Corporation, *Defendant.*
} Case No. 1017.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of THE LOS ANGELES AND SALT LAKE RAILROAD COMPANY, a Corporation, for permission to reduce the train service between Lund and Cedar City, Utah, to six trains per week.
} Case No. 1018.

Submitted March 7, 1928. Decided April 18, 1928.

Appearances:

R. B. Porter, Attorney, Salt Lake City, Utah, } for Applicant, Los Angeles & Salt Lake Railroad Co.

J. M. Foster, Cedar City, Utah, } for Cedar City Chamber of Commerce.

REPORT OF THE COMMISSION

McKAY, Commissioner:

This matter came on regularly for hearing on the 7th day of March, 1928, at Cedar City, Utah, upon the application of the Los Angeles & Salt Lake Railroad Company, for permission to reduce the train service between Lund and Cedar City, Utah, to six trains per week.

A formal protest was entered at the hearing, by the Cedar City Chamber of Commerce.

The application set forth that the principal place of business of the said railroad company is in Salt Lake City, Utah,

and that it is a corporation organized and existing under and by virtue of the laws of said state, and is a common carrier of freight and passengers, and is engaged in operating a steam line of railroad in interstate and intrastate commerce within and through the States of Utah, Nevada and California, and that its termini are the cities of Salt Lake City in the State of Utah, and Los Angeles in the State of California.

That the Los Angeles & Salt Lake Railroad Company is now, and has been operating daily a mixed freight and passenger train service between Lund and Cedar City, Utah, on its Cedar City branch line, and handling carload and less than carload freight, and also passenger and express service.

That the Los Angeles & Salt Lake Railroad Company operates, through a subsidiary, a bus line between Lund and Cedar City, Utah; and that two round trips are made each day for accommodation of passengers, and one round trip daily is made for the transportation of express.

That neither public necessity nor convenience requires the operation of such train service on Sundays, for the reason that there is not sufficient business either in carload or less than carload shipments, to pay the cost of conducting such service; that all express can be handled, and is now being handled through the Utah Parks Company, that is to be handled on Sundays.

It is the purpose and desire of the applicant to continue the operation of said mixed passenger and freight train service on each day of the week, except Sundays, and if necessity requires during the fruit season, or during the time of the movement of sheep and cattle for carload shipments on Sunday, the applicant, upon request, is ready and willing to furnish such service.

A number of witnesses for the protestant, Cedar City Chamber of Commerce, testified in substance as follows:

That much of the freight which is shipped over applicant's railroad consists of livestock, fruit and produce; that said livestock is driven from the open range of Southern Utah, and Northern Arizona, and it is impossible for shippers to determine at what time they will arrive at the railroad shipping point on account of the various delays which take place in

gathering and driving such stock; that it is imperative that the said stock be loaded upon the cars and started on their way to market immediately upon arriving at shipping point for the reason that there is no feed for the stock at said shipping point, and no facilities for holding them, and that if said stock are compelled to remain over Sunday, there will be great loss of weight, as well as extra expense for the shipper.

That the fruit and produce which is shipped is produced largely in Washington County and hauled from there to the railroad at Cedar City, and on account of the warm climate in Washington County, said fruit and produce ripens very fast and if obliged to remain at shipping point over Sunday, there will be great quantities of it spoil.

It was further alleged that the removal of the Sunday service will cause a delay of at least half a day in the distribution of freight, and will also cause a congestion of freight on Mondays, all to the inconvenience and damage of the shippers.

With the mixed train making six trips a week, commodious passenger buses making two round trips daily, in addition to buses for the handling of all mail and express, the Commission is of the opinion that the transportation needs of this district are adequate. The application therefore, of the Los Angeles & Salt Lake Railroad Company to reduce train service between Lund and Cedar City, Utah, to six trains per week will be granted, provided, however, that during the fruit and livestock seasons, the Sunday service be furnished as at present.

An appropriate order will follow:

(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 18th day of April, A. D., 1928.

In the Matter of the Application of the LOS ANGELES AND SALT LAKE RAILROAD COMPANY, a Corporation, for permission to reduce the train service between Lund and Cedar City, Utah, to six trains per week. } Case No. 1018.

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

IT IS ORDERED, That the applicant, Los Angeles and Salt Lake Railroad Company, be and it is hereby, granted permission to reduce its train service between Lund and Cedar City, Utah, to six trains per week, except during the fruit and livestock seasons, when service will be rendered as is furnished at present.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of HOWARD HOUT, for permission to transport express over his automobile passenger bus line between Salt Lake City and Park City, Utah. } Case No. 1019.

See Case No. 1015.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the STERLING TRANSPORTATION COMPANY, for permission to operate an automobile freight line between Salt Lake City and Park City, Utah, and intermediate points.	Case No. 1020.

SUPPLEMENTAL ORDER OF THE COMMISSION

By the Commission:

The Commission having, on June 18, 1928, denied in error the application of the Sterling Transportation Company, for permission to operate an automobile freight line between Salt Lake City and Park City, Utah, and intermediate points, instead of continuing the application without date;

IT IS THEREFORE ORDERED, That the application of the Sterling Transportation Company, Case No. 1020, be, and it is hereby, continued without date.

Dated at Salt Lake City, Utah, this 29th day of December, 1928.

(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 STERLING TRANSPORTATION COMPANY, for permission to operate an automobile freight line between Salt Lake City and Park City, Utah, and intermediate points.	Case No. 1020.

PENDING.

In the Matter of the Application of F. A. MILLER, for permission to operate an automobile passenger bus line between Salt Lake City and Marysvale, Utah. } Case No. 1021.

PENDING.

In the Matter of the Application of JESSE L. BARTHOLOMEW, for permission to operate an automobile passenger bus line between Centerfield and Ephraim, Utah, and intermediate points. } Case No. 1022.

PENDING.

In the Matter of the Application of L. G. CHARLES, for permission to operate an automobile passenger bus line between Payson and Richfield, Utah, and intermediate points. } Case No. 1023.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UNION & JORDAN IRRIGATION COMPANY, for permission to adjust its rates. } Case No. 1024.

Submitted March 26, 1928. Decided May 19, 1928.

Appearance:

James M. Oborn, } for the Applicant.
T. F. Greenwood, } for Protestant.

REPORT OF THE COMMISSION

CORFMAN, Commissioner:

On the 12th day of March, 1928, the Union & Jordan Irrigation Company filed with the Public Utilities Commission of Utah its tariff and rules applicable for water service, showing certain rate increases over the rates theretofore charged for service. Thereupon, on the 14th day of March, 1928, the Commission gave notice to the public that a hearing would be held at Union, Salt Lake County, State of Utah, on the 26th day of March, 1928, for the purpose of determining the reasonableness of the proposed rate increases, as well as the rules applicable to the serivce.

From the evidence for and in behalf of the said applicant at the hearing, it appears:

1. That the Union & Jordan Irrigation Company is a corporation, duly organized and existing under and by virtue of the laws of the State of Utah, with its principal office in Union, Salt Lake County, State of Utah; that said corporation was organized in the year 1895, primarily for the purpose of distributing water to its stockholders for irrigation and domestic use; that about the year 1916 it proceeded to build a pipeline, for the purpose of serving, for hire, customers using water for culinary and domestic purposes; and since that time has been and at present is engaged in rendering such service for hire to the public; and to that extent it is a "water corporation," within the meaning and subject to the provisions of Title 91, Compiled Laws of Utah, 1917, commonly known as the Public Utilities Act.

2. That Union is unincorporated, and it comprises a territory where the inhabitants are largely engaged in agricultural pursuits; that it has many homes besides churches and schools; that it offers many advantages for country home building.

3. That the applicant has constructed, since the year 1916, a pipeline system, consisting of approximately nine miles of pipeline, for the purpose of serving the inhabitants of Union with water for culinary and domestic purposes, at a cost of $62,949.59, including a water right for spring water of the estimated value of $20,000.00. That for the fiscal year, beginning February 1, 1927, and ending January 31, 1928, the

operating revenues from the applicant's pipeline system were $4,394.90; that the operating expenses were $844.80, allowing nothing for depreciation; that, allowing, for that year, 6% on capital investment for depreciation, it would have earned $1,-100.10, or 1.7% only, as a net return on its capital investment.

4. That since said pipeline system was built by applicant, no dividends have been paid to stockholders of the applicant, nothing has been set aside for depreciation, nor has its accounting system been kept independent of its irrigation system.

5. That applicant now proposed to charge its patrons the following rates for service:

Service connection charge	$25.00
Culinary Water for one house use or 1 family per month	1.50
Lawn Water (minimum $2.00 per season), per square rod	.50
Milk cooling (for the whole 12 months), per month	.50
Flushing barns, per month, per head	.02
Water chickens (in excess of 1,000) per 1,000 per month	.50
Watering horses or cattle (in excess of six) per head	.05
Watering sheep, per head, per month	.005
Meter charge (minimum $1.50 per month) per 1,000 gallons	.25

Water for factories, schools, drain pumps, or any other special use, prices on application.

All bills for this service (except meter patrons) are due and payable quarterly in advance on the 10th of the first month of the quarter, without discount.

Service may be discontinued at the discretion of the Company representative, for non-payment in advance.

Ten per cent will be charged on all past due bills.

6. That heretofore the costs of extensions made throughout the territory served by the applicant's pipeline system have been burdensome, and in the future will so continue to be, because of the long distance extensions from its main lines that have to be made from time to time, in order to serve water

users. That the applicant in making these extensions and in the maintenance of its system, has incurred a present indebtedness of $7,500.00, which sum will be greatly augmented if present demands for further extensions are met. That heretofore in making these extensions the applicant has advanced 40% of the cost, and the water-user 60%, to be returned by applicant in water service, at the usual rates charged consumers.

7. That the applicant, with respect to future extensions, now proposes to discontinue building the same at its own cost, except to the extent of paying 14% thereof, the balance to be paid by property owners or parties seeking the extension.

8. That the protestant herein, T. F. Greenwood, is the owner of real property bordering on what is known as Greenwood Avenue, in the district served by applicant. In 1927, the said protestant, under the present rules and practices governing the service of the applicant, applied for an extension of its pipeline system, to be made some 1,200 feet along said Greenwood Avenue, for the use and accommodation of his said property and that owned by others as well, which the applicant then and has since declined to make.

9. That the applicant is desirous of making its rates for future water service to its patrons not only sufficiently high to enable it to pay operating expenses, but also to provide a fund which will in some measure take care of the depreciation of its pipeline system.

From the foregoing facts, the Commission concludes that the proposed rates of the applicant to be charged for water through its pipeline system will, under the facts and circumstances, be just and reasonable, and therefore should be approved and allowed; that the applicant should be permitted to modify its terms, rules, and practices with respect to making extension of its pipeline system, in accordance with its proposal contained in applicant's Exhibit "A," received and on file in this case, subject and without prejudice, however, to any rights the protestant, T. F. Greenwood, may have, if any, by reason of his having heretofore made application for an extension of the applicant's pipeline service in behalf of himself and others, under its present rules and practices. As to

that matter, the Commission believes this case should remain open for further investigation and determination.

An appropriate order will follow.

(Signed) E. E. CORFMAN,
Commissioner.

We concur:

(Signed) 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 19th day of May, 1928.

In the Matter of the Application of the UNION & JORDAN IRRIGATION COMPANY, for permission to adjust its rates. } Case No. 1024.

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 Union & Jordan Irrigation Company be, and it is hereby, authorized to charge and put in effect rates as set forth on Page Three of the foregoing Report of the Commission; and that said applicant be permitted to modify its terms, rules, and practices with respect to making extensions of its pipeline system, in accordance with Applicant's Exhibit "A," received and on file in this case, subject and without prejudice, however, to any rights the protestant, T. F. Greenwood, may have, if any, by reason of his having heretofore made application for an extension of the applicant's pipeline service in behalf of himself and others, under its present rules and practices.

ORDERED FURTHER, That this order shall become effective on and after June 1, 1928.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of N. S. SANDERSON, for permission to operate an automobile passenger bus line between Eureka and Dividend, Utah, and intermediate points.	Case No. 1025.

Submitted May 14, 1928. Decided May 29, 1928.

Appearance:

N. S. Sanderson, Applicant.

REPORT OF THE COMMISSION

McGONAGLE, Commissioner:

This matter came on for hearing, before the Public Utilities Commission of Utah, on the 14th day of May, 1928, at Salt Lake City, Utah, upon the application of N. S. Sanderson for permission to operate an automobile passenger bus line between Eureka and Dividend, Utah, and intermediate points.

From the evidence given at the hearing on behalf of the applicant, the Commission finds as follows:

That Eureka, North Lily, and Dividend, Utah, are points located in what is commonly known as the Tintic Mining District, and that a considerable number of miners are employed at North Lily and at Dividend whose residence is in Eureka; that the distance from Eureka to Dividend is four miles; that applicant proposes to operate three round-trips daily, with a charge of Thirty-five cents per round-trip from Eureka to Dividend, and twenty-five cents per round-trip from Dividend to North Lily, for the transportation of miners employed at North Lily and Dividend, residing at Eureka; that applicant

also proposes to operate as a common carrier and to furnish transportation to all applicants, whether employed by the mines or not, and at the same rates; and that applicant is an experienced operator and driver.

The Commission therefore finds that the public convenience and necessity will be subserved by the operation of said automobile bus line, and that a certificate of convenience and necessity should be granted to N. S. Sanderson.

An appropriate order will follow.

(Signed) G. F. McGONAGLE,
Commissioner.

We concur:

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

(Seal)

Attest:

(Signed) F. L. OSTLER, Secretary.

ORDER

Certificate of Convenience and Necessity
No. 314

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 29th day of May, 1928.

In the Matter of the Application of N. S. ANDERSON, for permission to operate an automobile passenger bus line between Eureka and Dividend, Utah, and intermediate points.	Case No. 1025.

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 N. S. Sanderson be, and he is hereby, author-

ized to operate an automobile passenger bus line between Eureka and Dividend, Utah, and intermediate points.

ORDERED FURTHER, That applicant, N. S. Sanderson, 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of the UTAH CENTRAL TRUCK LINE, for permission to extend operation of its automobile freight and express line between Salt Lake City and Provo, to include Marysvale and intermediate points south of Santaquin, Utah. } Case No. 1026.

PENDING.

In the Matter of the Application of THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, for permission to close its station agency at Spring City, Utah. } Case No. 1027.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the SOUTHERN PACIFIC COMPANY, for permission to discontinue maintaining freight, ticket and Western Union Agency at Lemay, Utah. } Case No. 1028.

Submitted May 17, 1928. Decided May 23, 1928.

Appearances:
F. G. Ruthrauff, District Freight and Passenger Agent, and H. W. Wistner, of Ogden, Utah, } for Applicant.

REPORT OF THE COMMISSION

McKAY, Commissioner:

This matter came on regularly for hearing before the Commission, at Ogden, Utah, on the 17th day of May, 1928, due notice having been given in the manner and for the time as required by law, upon the petition of the Southern Pacific Company.

From the evidence adduced at said hearing for and in behalf of said applicant, and after due investigation, the Commission finds, decides, and reports as follows:

1. That the applicant, Southern Pacific Company, is a railroad corporation, operating and maintaining an interstate railroad, beginning at Ogden, Utah, and extending westward to the Pacific Coast, and elsewhere, with its principal place of business and Post Office address at Ogden, Utah.

2. That for a number of years, a freight, ticket and Western Union agency has been maintained at Lemay, Utah, although very little revenue business is handled at this station, with no prospects of it ever being such that continuance of agency is justified or necessary from the standpoint of service required by the community served.

3. That during the years 1926 and 1927, no carload freight was received or forwarded from said station; and that the total receipts for L. C. L. freight forwarded and received during 1926 was $66.00, and for 1927 only $79.00; that the total revenue from tickets sold for the year 1926 was $212.00, and for 1927, $132.00; that the principal receivers and forwarders of this L. C. L. freight were the Company's employes.

4. That the total expenses for maintaining said station

in 1927 were $6,062.00, or an average monthly expense of $505.17.

5. That Lemay will be continued as a non-agency station; that the nearest agency station east is Lakeside, Utah, a distance of 32.5 miles, and west is Lucin, Utah, a distance of 22.3 miles.

6. That no opposition has been filed or made to said application.

From the foregoing findings of fact, the Commission concludes and decides that applicant's station at Lemay, Utah, is being operated at an unnecessary financial loss; that public convenience and necessity does not require the continuance of such station, and, therefore, the application of the Southern Pacific Company to discontinue maintaining freight, ticket, and Western Union Agency at Lemay, Utah, should be granted.

An appropriate order will follow.

(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 23rd day of May, 1928.

In the Matter of the Application of the SOUTHERN PACIFIC COMPANY, for permission to discontinue maintaining freight, ticket and Western Union Agency at Lemay, Utah.	Case No. 1028.

This case being at issue upon petition on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed

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

IT IS ORDERED, That the application be granted; that the Southern Pacific Company be, and it is hereby, authorized to discontinue maintaining freight, ticket, and Western Union Agency at Lemay, Utah, subject, however, to applicant exercising due care in handling all traffic, so that the traveling public will not be subjected to unnecessary inconvenience, and so freight and express will be properly protected from the elements and from theft while being delivered and received at said point.

ORDERED FURTHER, That said order be made effective upon one day's notice to the public.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the PRICE TRANSPORTATION COMPANY, a Corporation, for permission to operate an automobile passenger bus line between Price and Olsen Mine, Utah, via Helper, Castle Gate, and Rolapp, Utah. } Case No. 1029.

Submitted July 2, 1928. Decided August 17, 1928.

Appearance:

B. W. Dalton, Attorney, of Price, Utah, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

Under date of April 6, 1928, application was filed by the

Price Transportation Company, for permission to extend its bus line to serve Olsen Mine.

This case came on for hearing on the 26th day of June, 1928, after due and legal notice had been given.

The evidence shows that the applicant, Price Transportation Company, is a corporation, duly authorized to do business in the State of Utah; that it is now operating under Certificate of Convenience and Necessity No. 268, issued by the Commission in Case No. 887, which authorizes bus service between Price, Helper, Castle Gate, and Rolapp, Utah; that a new coal camp is being established approximately one mile north of Rolapp, Utah, at a point known as Olsen Mine; that applicant, if granted permission so to do, intends to furnish transportation service to and from Olsen Mine, in conjunction with the service between Price and Rolapp, Utah, including Helper and Castle Gate, Utah; that applicant proposes to charge the following fares:

Between Price and Olsen Mine	$1.25
Between Helper and Olsen Mine	.75
Between Castle Gate and Olsen Mine	.25
Between Rolapp and Olsen Mine	.25

There were no protests to the granting of this application.

The Commission finds:

That convenience and necessity requires that bus service be rendered in order to accommodate the people desiring transportation to and from Olsen Mine, a point about one mile north of Rolapp, Utah.

That the applicant, Price Transportation Company, should render service in conjunction with its present service between Price and Rolapp, Utah, and intermediate points.

That permission should be granted without the issuance of a new certificate of convenience and necessity, for the reason that Olsen Mine is in territory contiguous to that now

served by the Price Transportation Company, and that such territory has not nor does it now enjoy a similar service.

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 August, 1928.

In the Matter of the Application of the PRICE TRANSPORTATION COMPANY, a Corporation, for permission to operate an automobile passenger bus line between Price and Olsen Mine, Utah, via Helper, Castle Gate, and Rolapp, Utah. } Case No. 1029.

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 Price Transportation Company, a Corporation, be, and it is hereby, authorized to operate an automobile passenger bus line between Price and Olsen Mine, Utah, via Helper, Castle Gate, and Rolapp, Utah, under Certificate of Convenience and Necessity No. 268 issued by the Commission in Case No. 887 to the said Price Transportation Company.

ORDERED FURTHER, That applicant, 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of PICKWICK STAGE LINES, INCORPORATED, for permission to operate an automobile passenger bus line between Nephi and Cove Fort, Utah, and intermediate points. } Case No. 1030.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH RAPID TRANSIT COMPANY, for permission to discontinue service upon and remove its tracks from its street car line extending from Five Points to the City Limits on Harrisville Avenue, Ogden, Utah. } Case No. 1031.

Submitted May 1, 1928. Decided May 5th, 1928.

Appearances:
Messrs. DeVine, Howell, Stine and Gwilliam, Attorneys, by Mr. Howell, } for Applicant.

REPORT OF THE COMMISSION

McKAY, Commissioner:

This matter came on regularly for hearing, before the

Public Utilities Commission of Utah, on the 1st day of May, 1928, at Ogden, Utah, upon the application of the Utah Rapid Transit Company for permission to abandon its Harrisville Line.

No protests were made to the granting of said application.

From the petition and from the evidence adduced at the hearing, the Commission finds:

1. That the applicant, Utah Rapid Transit Company, is a railroad corporation, organized and existing under and by virtue of the laws of the State of Delaware, and qualified to do business in Ogden City, Weber County, State of Utah; and is engaged in the operation of city street car lines in the City of Ogden, under a franchise from said City.

2. That, among other lines, said Company has been operating a line along Washington Avenue in the said City of Ogden, from the south limits thereof and at a point thereon designated as Second Street, where the same intersects said Washington Avenue, commonly known as "Five Points," a branch thereof extending to the northwest along Harrisville Avenue to the City Limits; that said Washington Avenue line also extends along Washington Avenue to the City Limits and thence from the City Limits to North Ogden, in said County of Weber, State of Utah.

3. That the cost of operating said Harrisville Avenue line between 2nd Street and North City Limits is as follows:

.576 miles of line.
18 hours operation.
20 minute service.

Average cost per car-mile, year 1927...$ .1741	
Daily cost, $.576X3X18X2X$.1741.... 10.83	
Yearly cost, $10.83X365	$3,952.95

4. That the average revenue per day, based on actual test check made during the months of February and March, 1928, without deduction for portion of revenue earned on line south of 2nd Street:

108 passengers at 7c.....$7.56	
Revenue per year, $7.56X365.....	$2,759.40
Operating Deficit $1,193.55	

Taxes 1927—2666.45X.03562	94.98
Interest on estimated value of $12,694.23 at 6%....	761.65
Total Deficit	$2,050.18

5. That the City of Ogden is about to pave said Harrisville Avenue, and the estimated cost of reconstructing the track and laying same at proposed new grade is $10,870.23.

6. That this application has the approval of the Board of Commissioners of the City of Ogden.

7. That the territory now served by said Harrisville Line is quite adequately served by the line extending along Washington Avenue to North Ogden, commonly called the "North Ogden Line."

From the foregoing findings of fact, the Commission concludes and decides that said application of the Utah Rapid Transit Company to discontinue service upon and remove its tracks from its street car line extending from Five Points to the City Limits on Harrisville Avenue, Ogden, Utah, should be granted.

An appropriate order will follow.

(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 5th day of May, 1928.

In the Matter of the Application of the UTAH RAPID TRANSIT COMPANY, for permission to discontinue service upon and remove its tracks from its street car line extending from Five Points to the City Limits on Harrisville Avenue, Ogden, Utah. } Case No. 1031.

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 Utah Rapid Transit Company be, and it is hereby, authorized to discontinue service upon and remove its tracks from its street car line extending from Five Points to the City Limits on Harrisville Avenue, Ogden, Utah.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of the GREAT WESTERN MOTORWAYS, INCORPORATED, for permission to operate an automobile passenger bus line between Nephi and Cove Fort, Utah, and intermediate points. } Case No. 1032.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of A. H. BARTON, for permission to transfer to THE BARTON TRUCK LINE, a Corporation, Certificate of Convenience and Necessity No. 115, authorizing operation of automobile freight line between Salt Lake City and Tooele, Utah. } Case No. 1033.

Submitted May 14, 1928. Decided May 28, 1928.

Appearances:

E. W. Schneider, of Traffic Service Bureau of Utah, Salt Lake City, } for Applicant.

L. E. Gehan, Agent, of Salt Lake City, Utah, } for Protestant, American Railway Express Co.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, before the Public Utilities Commission of Utah, on the 14th day of May, 1928, at Salt Lake City, Utah, upon the application of A. H. Barton for permission to transfer to The Barton Truck Line, a Corporation, his Certificate of Convenience and Necessity, No. 115, permitting The Barton Truck Line to operate an automobile freight line, for hire, over the public highway between Salt Lake City and Tooele, Utah, and intermediate points.

From the evidence given at the hearing for and in behalf of the applicant, it appears:

1. That upon the 23rd day of June, 1921, A. H. Barton was granted a certificate of convenience and necessity permitting the operation of an automobile truck line, for the transportation of express, between Salt Lake City and Tooele, Utah; that said automobile truck line has heretofore been owned and operated under the name of The Barton Truck Line, the sole owner being A. H. Barton; that said A. H. Barton has now caused to be formed a corporation of the State of Utah, known as The Barton Truck Line, said corporation proposing to render the same service and utilize the same equipment as has been formerly operated by A. H. Barton as an individual.

2. That the property turned over to the corporation consists of four trucks of an approximate value of $8,500, and that additional equipment, such as warehouse equipment, office fixtures, etc., has an additional value of $1,500.00, making the total value of the equipment owned by the corporation, $10,000.00.

3. That it has not heretofore been the policy of this Commission to transfer existing certificates of convenience and necessity, and, therefore, the application of A. H. Barton for a transfer of his certificate to the corporation, will be denied, and, in lieu thereof, Certificate of Convenience and Necessity No. 115, as heretofore issued to A. H. Barton, an individual, will be cancelled and a new certificate, authorizing the transportation of express between Salt Lake City and Tooele, Utah, will be granted to The Barton Truck Line, a Corporation.

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. 313

Cancels Certificate of Convenience and Necessity
No. 115

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 28th day of May, 1928.

In the Matter of the Application of A. H. BARTON, for permission to transfer to THE BARTON TRUCK LINE, a Corporation, Certificate of Convenience and Necessity No. 115, authorizing operation of automobile freight line between Salt Lake City and Tooele, Utah. } Case No. 1033.

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 here-

of, 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. 115, issued by the Commission, in Case No. 415, to A. H. Barton, be, and it is hereby, cancelled and annulled; that The Barton Truck Line, a Corporation, be, and it is hereby, authorized to operate an automobile truck line, for the transportation of freight or express, between Salt Lake City and Tooele, Utah.

ORDERED FURTHER, That The Barton Truck Line, a Corporation, 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of VERN GARDNER and DELBERT RIGGS, for permission to operate an automobile freight line between Salt Lake City and Kanab, Utah, and certain intermediate points.	Case No. 1034.

PENDING.

In the Matter of the Application of PICKWICK STAGE LINES, INCORPORATED, for permission to operate an automobile bus line, for the transportation of passengers, baggage, and express, over the Victory Highway between Salt Lake City and the Utah-Nevada State Line; and over the United States Highway No. 91 between Salt Lake City and Ogden; and over United States Highway No. 30 between Ogden and the Utah-Wyoming State Line; serving said termini and all intermediate points.
PENDING.

} Case No. 1035.

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 Bingham Canyon, Utah.

} Case No. 1036.

Submitted June 18, 1928. Decided June 29, 1928.

Appearance:
R. H. Ashworth, Assistant Commercial Manager, of Salt Lake, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

The above-entitled matter came on regularly for hearing, before the Public Utilities Commission of Utah, at the office of the Commission, in the State Capitol, Salt Lake City, Utah, after due notice given, on the 18th day of June, 1928, on the

application of the Utah Power & Light Company, for permission to exercise the rights and privileges granted it by the Town of Bingham Canyon, Utah.

It appears from the evidence for and in behalf of the applicant that the Utah Power & Light Company is an electrical corporation, duly organized and existing under the laws of the State of Maine, and duly qualified and empowered under the laws of the State of Utah to do business in this State; that it owns and operates an electric power and distributing system for and serves the Town of Bingham Canyon, Utah; that the Town of Bingham Canyon has recently been incorporated and that theretofore it had been served with electrical energy by the applicant; that since being incorporated as the Town of Bingham Canyon, the applicant has acquired the necessary franchise rights to continue said service at the same rates theretofore charged and in accordance with the schedule of rates now on file with the Commission.

No protests have been filed for or in behalf of any interested party.

Therefore, by reason of the premises, the Commission concludes that the Utah Power & Light Company, the applicant herein, should be granted a certificate of public convenience and necessity, authorizing and permitting it to serve the Town of Bingham Canyon with electrical energy, according to the franchise rights granted by said municipality, at the rates and under the rules and regulations of its schedule filed herein in the office of 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

Certificate of Convenience and Necessity
No. 316

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 29th day of June, 1928.

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 Bingham Canyon, Utah. } Case No. 1036.

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 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 Town of Bingham Canyon, 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, 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of CLARENCE W. PACK, for permission to operate an automobile passenger bus line from American Fork, Pleasant Grove, and Lehi, Utah, to Geneva and Saratoga Springs Resorts.	Case No. 1037.

Submitted June 25, 1928. Decided August 2, 1928.

Appearance:
Clarence W. Pack, Applicant.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing before the Public Utilities Commission of Utah, at American Fork, Utah, after due notice given, on the 25th day of June, 1928, at which time the applicant failed to appear and present his evidence in support of the application. Subsequently, the applicant appeared before the Commission, at its office in Salt Lake City, Utah, and consented that his application be dismissed, without prejudice.

Now, therefore, by reason of the premises, IT IS HEREBY ORDERED, That the application of Clarence W. Pack for permission to operate an automobile passenger bus line from American Fork, Pleasant Grove, and Lehi, Utah, to Geneva and Saratoga Springs Resorts, be, and the same is hereby, dismissed, without prejudice.

(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 construct, maintain, and operate an electric bus transportation system in Salt Lake City, Utah, and to discontinue street car service on certain streets.	Case No. 1038.

Submitted June 5, 1928. Decided July 9, 1928.

Appearances:

John F. MacLane and George R. Corey, Attorneys, of Salt Lake City, Utah, for Applicant.

Wm. H. Folland, City Attorney, for Salt Lake City.

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, after due notice given for the time and in the manner required by law.

After due consideration of the admitted facts and the evidence presented at the hearing in this case, the Commission finds and concludes as follows:

1. That the applicant, Utah Light & Traction Company, is a corporation of the State of Utah; that it owns and operates an electric street railway system in Salt Lake City and Salt Lake County, Utah, and, as a part of said system, owns and operates a section of line extending from its connection with the system at the intersection of Seventh South and State Streets, thence easterly along Seventh South Street to Third East, thence southerly on Third East Street from Seventh South to Ninth South, thence from Ninth South and Third

East easterly to Fourth East, thence southerly on Fourth East from Ninth South to Twenty-first South Street, and known as the "Fourth East" Line.

2. That applicant proposes to construct and maintain an electric bus system and service in lieu of existing street car service as now furnished on Seventh South Street between State and Third East, on Third East Street between Seventh and Ninth South, and on Fourth East between Ninth South and Twenty-first South Street, and to discontinue street car service upon and remove its tracks from the sections of streets last above mentioned.

3. That the proposed route of said electric bus transportation system is as follows: Main Street between South Temple and Seventh South Streets, thence on Seventh South between Main Street and Fourth East, thence on Fourth East between Seventh South and Twenty-first South Streets.

4. That the Board of Commissioners of Salt Lake City has heretofore passed an ordinance amending applicant's present street railroad franchises and authorizing the applicant and its successors in interest:

> "* * * until July 1, 1955, to construct, maintain, and operate in any of the streets, alleys, and public places of Salt Lake City described in Section IV (of franchise dated December 3, 1907) hereof, or in any ordinance supplemental to, or amendatory of, said Section IV, in lieu of, or in addition to, the street railway tracks therein described, an electric bus transportation system consisting of poles, span wires, overhead trolley wires for direct transmission and return of electrical current, and all necessary feeder wires and all appurtenances, and electric motor trolley buses operated by electric current from said trolley wires, the same to be operated in conjunction with the street railway system of said Utah Light and Traction Company, in lieu of, or in addition to, any part of said street railway system now existing upon streets, alleys, and public places of Salt Lake City where the street railway tracks are now laid and operated; provided, however, that the Grantee, its successors and assigns, before commencing the construction and/or operation of said electric bus system upon any such street shall procure the permis-

sion of the Board of Commissioners of Salt Lake City and shall procure authority of the Public Utilities Commission of Utah, or of such regulatory body or commission as may hereafter be created by law for the removal of such tracks and the operation of said electric bus system, and in addition to said streets above enumerated, to construct, maintain, and operate said system upon the following streets in Salt Lake City, to-wit:

"On Seventh South Street from Main Street to State Street and from Third East Street to Fourth East Street, thence on Fourth East Street to Ninth South Street."

5. That if the present street railway system is maintained on Fourth East, it will be necessary for applicant to repave the track zone on said street and rehabilitate the tracks, and that said rehabilitation and pavement would cost approximately $170,000.00; that public convenience and necessity does not require the operation of a street railway system on said street, but that the public convenience will be equally if not better subserved by the substitution of electric trolley buses operating on rubber, pneumatic tires, instead of street railway tracks.

6. The Commission therefore further finds, that a certificate of convenience and necessity should issue to said applicant; that applicant be permitted to exercise the rights and privileges conferred on it by the amendment of franchises hereinbefore mentioned, and that it be permitted to construct, maintain, and operate said electric bus system over the routes as heretofore described, for the same fares as are charged for street car service in Salt Lake City.

The Commission further finds that applicant should be authorized to discontinue rendering street car service upon and to remove its tracks and so much of its equipment as may not be necessary or required in the operation of its said electric bus system, over the route heretofore mentioned in Paragraph 2.

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. 321

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 9th day of July, 1928.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to construct, maintain, and operate an electric bus transportation system in Salt Lake City, Utah, and to discontinue street car service on certain streets. } Case No. 1038.

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, permitted to exercise those certain rights and privileges conferred on it by amendment of franchises granted by Salt Lake City, May 16, 1928, as set out in Paragraph No. 4 of the Report of the Commission herein; that the said Utah Light & Traction Company be, and it is hereby, authorized to construct, maintain, and operate an electric bus system, for the transportation of passengers, upon the following streets in Salt Lake City, Utah, to-wit:

> "On Main Street between South Temple and Seventh South Streets, thence on Seventh South Street between Main Street and Fourth East, thence on Fourth East Street between Seventh South and Twenty-first South Streets."

ORDERED FURTHER, That the said electric bus transportation service shall be rendered for the same fares as are charged for street car service in Salt Lake City.

ORDERED FURTHER, That the Utah Light & Traction Company be, and it is hereby, authorized to discontinue rendering street car service upon and to remove its tracks and so much of its equipment as may not be necessary or required in the operation of its said electric bus system on Seventh South Street between State and Third East Streets, on Third East Street between Seventh and Ninth South Streets, and on Fourth East Street between Ninth South and Twenty-first South Streets.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

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, 1928.

UTAH LAKE DISTRIBUTING COMPANY, et al., *Complainants,*
vs.
UTAH POWER & LIGHT COMPANY, a Corporation, *Defendant.*
} Case No. 1039.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

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, 1928;

IT IS ORDERED, That rates or charges for pumping purposes as covered by Order dated March 29, 1922, in Case 441, be in effect until October 31, 1928.

(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 LLOYD M. DeBERRY and DALE C. DeBERRY, for permission to operate an electric lighting system at Bicknell, Utah. } Case No. 1040.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of F. R. BROWN and A. R. THOMPSON, for permission to operate an automobile passenger bus line between Price and Salt Lake City, Utah, and intermediate points. } Case No. 1041.

In the Matter of the Application of J. H. WADE and NICK KARRAS, for permission to operate an automobile passenger bus line between Price, Helper, Heiner, Castle Gate, and Salt Lake City, Utah. } Case No. 1048.

In the Matter of the Application of the PRICE TRANSPORTATION COMPANY, a Corporation, for permission to operate an automobile passenger bus line between Price and Salt Lake City, Utah, via Helper, Castle Gate, and Rolapp, Utah. } Case No. 1050.

Submitted August 28, 1928. Decided September 29, 1928.

Appearances:

C. G. Pope, of Helper, Utah, Attorney, } for Applicants, F. R. Brown and A. R. Thompson.

Vernon Snyder, Attorney, of Salt Lake City, } for Applicants, J. H. Wade and Nick Karras.

F. E. Woods, Attorney, of Price, Utah, } for Applicant, Price Transportation Company.

F. M. Orem, Attorney, of Salt Lake City, Utah, } for Salt Lake & Utah Railroad Company, Protestant.

B. R. Howell, Attorney, of Salt Lake City, of the firm VanCott, Riter & Farnsworth, } for Denver & Rio Grande Western Railroad Company, Protestant.

REPORT OF THE COMMISSION

By the Commission:

These cases came on for hearing before the Public Utilities Commission of Utah, at Price, Utah, on the 26th day of June, 1928, due notice having been given as required by law. By order of the Commission and the consent of the applicants, these cases were combined and heard as one case.

Each application sets forth that no certificate authorizing an automobile stage line between Price and Salt Lake City has yet been granted, that there is a public need for such service, and proposed rates and schedules are set up.

Written protests were received from the Salt Lake & Utah Railroad Company, the Denver & Rio Grande Western Railroad Company, and the Utah State Chairman of the Brotherhood of Locomotive Firemen and Enginemen.

After a careful consideration of the record made at the hearing, the Commission finds as follows:

1. That applicants in Case No. 1041 are now engaged in the automobile business at Helper, Utah.

2. That applicants in Case No. 1048 are experienced stage operators, Nick Karras being Manager of the Arrow Stage Line, operating between Price and Columbia, and Price and Mohrland, in Carbon County, Utah.

3. That the Price Transportation Company, applicant in Case No. 1050, is now operating an automobile stage line between Price and Rolapp, in Carbon County, Utah.

4. That protestant, Denver & Rio Grande Western Railroad Company, is a common carrier of passengers and freight,

for hire, operating a line of railroad between Ogden, Utah, and Denver, Colorado, and serving the territory between Price and Salt Lake City, Utah. That said protestant operates two passenger trains daily between Salt Lake City and Price, and intermediate points, under the following schedule:

Leave Salt Lake City	8:05 A. M.	4:30 P. M.
Arrive Price	1:35 P. M.	9:28 P. M.
Leave Price	6:20 A. M.	2:55 P. M.
Arrive Salt Lake City	11:15 A. M.	8:35 P. M.

5. That protestant, Salt Lake & Utah Railroad Company, is a common carrier, operating eight electric interurban trains each way daily between Salt Lake City and Payson, Utah, and intermediate points.

6. That the distance along the highway between Salt Lake and Price is 124 miles, of which 57 miles between Salt Lake City and Spanish Fork is hard surfaced pavement, 56 miles between Spanish Fork and Castle Gate is earth and gravel, and 11 miles between Castle Gate and Price is concrete pavement. This highway crosses the Wasatch range of mountains at Soldier Summit, 90 miles south of Salt Lake City, at an elevation of 7,440 feet above sea level.

7. That because of the elevation reached by this highway, and the canyons traversed between Spanish Fork and Castle Gate, winter transportation by automobile is hazardous, the road at times becoming impassable during the early spring months.

8. That the service rendered by the Denver & Rio Grande Western Railroad is adequate and efficient, and that no public necessity exists at this time for the additional service proposed by the applicants.

From the foregoing findings of fact, the Commission concludes that the application in each of the three cases 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 29th day of September, 1928.

In the Matter of the Application of F. R. BROWN and A. R. THOMPSON, for permission to operate an automobile passenger bus line between Price and Salt Lake City, Utah, and intermediate points.	Case No. 1041.
In the Matter of the Application of J. H. WADE and NICK KARRAS, for permission to operate an automobile passenger bus line between Price, Helper, Heiner, Castle Gate, and Salt Lake City, Utah.	Case No. 1048.
In the Matter of the Application of the PRICE TRANSPORTATION COMPANY, a Corporation, for permission to operate an automobile passenger bus line between Price and Salt Lake City, Utah, via Helper, Castle Gate, and Rolapp, Utah.	Case No. 1050.

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 applications herein, in Cases Nos. 1041, 1048, and 1050, be, and the same are hereby, denied.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH CENTRAL TRUCK LINE, UTAH CENTRAL TRANSFER COMPANY, J. J. MILNE, E. O. HAMBLIN, BARTON & LUND, BARTON TRUCK LINE, and EASTERN UTAH TRANSPORTATION COMPANY, for permission to publish rates. } Case No. 1042.

Submitted June 18, 1928. Decided June 26, 1928.

Appearance:

E. W. Schneider, of Traffic Service Bureau of Utah, Salt Lake City, Utah, } for Applicants.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, after due notice given, at the office of the Commission in the State Capitol, Salt Lake City, Utah, on the 18th day of June, 1928, upon the application of the applicants herein, for permission to change class rates and freight classification.

It appearing that on the 22nd day of March, 1928, the Public Utilities Commission of Utah, by its General Order No. 23, after hearing, adopted Freight Classification No. 1, prepared by the Traffic Service Bureau of Utah, providing for uniform freight classification governing the classification of freight transported by means of automobile trucks operating under certificates of public convenience and necessity issued by the Commission, insofar as the same might prove applicable to the service of automobile truck lines;

And it further appearing that the applicants herein have duly adopted said classification;

And it further appearing that since the adoption of said

classification, the applicants herein have filed their schedules of rates to be charged under said classification, wherein it appears that in some instances said rates would result in rate increases;

And it further appearing to the Commission, after due hearing had, that all such rate increases are just and reasonable and that no objection is made for or in behalf of any shipper or interested party;

NOW, THEREFORE, IT IS ORDERED, That Freight Tariff No. 3, issued by the Utah Central Truck Line and Utah Central Transfer Company; Freight Tariff No. 3, issued by J. J. Milne, E. O. Hamblin, and Barton and Lund; Freight Tariff No. 2, issued by the Barton Truck Line; and Freight Tariff No. 2, issued by Eastern Utah Transportation Company, be, and the same are hereby, approved, to become effective June 22, 1928.

(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-OGDEN TRANSPORTATION COMPANY, for permission to publish rates. } Case No. 1042.

Submitted June 18, 1928. Decided June 26, 1928.

Appearance:

E. W. Schneider, of Traffic Service Bureau of Utah, Salt Lake City, Utah, } for Applicant.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, after due notice given, at the office of the Commission in the State Capitol, Salt Lake City, Utah, on the 18th day of June, 1928, upon the application of the Salt Lake-Ogden Transportation Company, for permission to publish rates.

From the evidence adduced at the hearing, for and in behalf of the applicant, it appears:

1. That the applicant, Salt Lake-Ogden Transportation Company, is a railroad corporation, organized and existing under the laws of the State of Utah, and it owns and operates an automobile truck line between Salt Lake City and Ogden, Utah, carrying property, for hire.

2. That on the 22nd day of March, 1928, after due hearing, the Public Utilities Commission issued its General Order No. 23, adopting Uniform Freight Classification No. 1, as prepared by the Traffic Service Bureau of Utah, governing the classification of freight transported by means of automobile trucks operating under certificates of public convenience and necessity issued by the Public Utilities Commission of Utah, insofar as the same might be applicable to the service of the several automobile carriers in the State of Utah.

3. That the applicant herein has duly adopted said classification.

4. And it further appearing that since the adoption of said classification, applicant herein filed its Freight Tariff No. 4 applicable thereto, which said tariff rates in some instances result in rate increases;

5. And it further appearing, after hearing, that said increased rates are just and reasonable as set forth in applicant's Tariff No. 4, filed May 23, 1928, to which tariff reference is made and the same made a part hereof;

6. And it further appearing that said classification with respect to empty cans, nested, is not applicable to the service of the applicant, and the same should have been classified as "first-class" instead of "double first-class;"

NOW, THEREFORE, IT IS ORDERED, That applicant's classification be, and the same is hereby, modified to read "Empty Tin Cans, Nested, First-Class."

IT IS FURTHER ORDERED, That the applicant's tariff or schedule of rates, with the exceptions made therein, be, and the same is hereby, approved and allowed to become effective June 22, 1928.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
(Seal) Commissioners.
Attest:
(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of MAGNA-GARFIELD TRUCK LINE, for permission to change freight classification and class rates. } Case No. 1043.

Submitted June 18, 1928. Decided June 23, 1928.

Appearance:

J. W. Orton, of Salt Lake City, Utah, } for Applicant.

REPORT AND ORDER 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 18th day of June, 1928, upon the application of the Magna-Garfield Truck Line, for permission to change its freight classification and class rates.

It appearing that on the 22nd day of March, 1928, the

Public Utilities Commission of Utah, by its General Order No. 23, after hearing, adopted Freight Classification No. 1, prepared by the Traffic Service Bureau of Utah, providing for uniform freight classification governing the classification of freight transported by means of automobile trucks operating under certificates of public convenience and necessity issued by the Commission, insofar as the same might prove applicable to the service of automobile truck lines;

And it further appearing that the applicant herein has duly adopted said classification;

And it further appearing that the applicant herein, on the 19th day of May, 1928, filed its schedule of rates to be charged under said classification, wherein it appears that in some instances said rates would result in rate increases;

And it further appearing to the Commission, after due hearing had, that all such rate increases are just and reasonable and that no objection is made for or in behalf of any shipper or interested party;

NOW, THEREFORE, IT IS ORDERED, That the applicant's Freight Tariff No. 3, filed May 19, 1928, as aforesaid, be, and the same is hereby, approved, to become effective June 22, 1928.

(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-BINGHAM FREIGHT LINE, for permission to change class rates and freight classification. } Case No. 1044.

Submitted June 18, 1928. Decided June 23, 1928.

Appearance:

J. W. Orton, of Salt Lake City, Utah, } for Applicant.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, after due notice given, at the office of the Commission in the State Capitol, Salt Lake City, Utah, on the 18th day of June, 1928, upon the application of the Salt Lake-Bingham Freight Line, for permission to change class rates and freight classification.

It appearing that on the 22nd day of March, 1928, the Public Utilities Commission of Utah, by its General Order No. 23, after hearing, adopted Freight Classification No. 1, prepared by the Traffic Service Bureau of Utah, providing for uniform freight classification governing the classification of freight transported by means of automobile trucks operating under certificates of public convenience and necessity issued by the Commission, insofar as the same might prove applicable to the service of automobile truck lines;

And it further appearing that the applicant herein has duly adopted said classification;

And it further appearing that the applicant herein, on the 19th day of May, 1928, filed its schedule of rates to be charged under said classification, wherein it appears that in some instances said rates would result in rate increases;

And it further appearing to the Commission, after due hearing had, that all such rate increases are just and reasonable and that no objection is made for or in behalf of any shipper or interested party;

NOW, THEREFORE, IT IS ORDERED, That the applicant's Freight Tariff No. 2, filed May 19, 1928, as aforesaid, be, and the same is hereby, approved, to become effective June 22, 1928.

(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 HURRICANE TRUCK LINE, for permission to publish rates. } Case No. 1045.

Submitted June 18, 1928. Decided June 29, 1928.

Appearance:

Ether Wood, of Hurricane, for Applicant.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, after due notice given, at the office of the Commission in the State Capitol, Salt Lake City, Utah, on the 18th day of June, 1928, upon the application of the Hurricane Truck Line, for permission to change class rates and freight classification.

It appearing that on the 22nd day of March, 1928, the Public Utilities Commission of Utah, by its General Order No. 23, after hearing, adopted Freight Classification No. 1, prepared by the Traffic Service Bureau of Utah, providing for uniform freight classification governing the classification of freight transported by means of automobile trucks operating under certificates of public convenience and necessity issued by the Commission, insofar as the same might prove applicable to the Service of automobile truck lines;

And it further appearing that the applicant herein has duly adopted said classification;

And it further appearing that the applicant herein, on the 11th day of June, 1928, filed its schedule of rates to be charged under said classification, wherein it appears that in some instances said rates would result in rate increases;

And it further appearing to the Commission, after due hearing had, that all such rate increases are just and reasonable and that no objection is made for or in behalf of any shipper or interested party;

NOW, THEREFORE, IT IS ORDERED, That the Hurricane Truck Line's Freight Tariff No. 656, filed June 11, 1928, as aforesaid, be, and the same is hereby, approved, to become effective June 22, 1928.

(Signed) E. E. CORFMAN,
THOMAS E. McKAY,
(Seal) G. F. McGONAGLE,
Attest: Commissioners.
(Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the BAMBERGER ELECTRIC RAILROAD COMPANY, for permission to publish rates: } Case No. 1046.

Submitted June 18, 1928. Decided June 25, 1928.

Appearances:

Irvine, Skeen, and Thurman, Attorneys, of Salt Lake City, Utah, } for Applicant.

REPORT AND ORDER OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing, after due notice given, at the office of the Commission in the State Capitol, Salt Lake City, Utah, on the 18th day of June, 1928, upon the application of the Bamberger Electric Railroad Company, for permission to publish rates.

From the evidence adduced at the hearing, for and in behalf of the applicant, it appears:

1. That the applicant, Bamberger Electric Railroad Company, is a railroad corporation, organized and existing under the laws of the State of Utah, and it owns and operates an electric railroad between Salt Lake City and Ogden, Utah, carrying passengers, freight, and express, for hire.

2. That in connection with its said railroad operations, it has inaugurated and accords to the shipping public in Salt Lake City and Ogden, automobile pick-up-and delivery service, for hire.

3. That on the 22nd day of March, 1928, after due hearing, the Public Utilities Commission issued its General Order No. 23, adopting Uniform Freight Classification No. 1, as prepared by the Traffic Service Bureau of Utah, governing the classification of freight transported by means of automobile trucks operating under certificates of public convenience and necessity issued by the Public Utilities Commission of Utah, insofar as the same might be applicable to the service of the several automobile carriers in the State of Utah.

4. That the applicant herein has duly adopted said classification.

5. And it further appearing that since the adoption of said classification, applicant herein filed its schedule of rates or tariff applicable thereto, which said tariff rates in some instances result in rate increases.

6. And it further appearing, after hearing, that said increased rates are just and reasonable, excepting as modified by applicant's Tariff No. 81-A, filed June 22, 1928, to which tariff reference is made and the same made a part hereof.

7. And it further appearing that said classification with respect to empty cans, nested, is not applicable to the service of the applicant, and the same should have been classified as first-class instead of double first-class;

NOW, THEREFORE, IT IS ORDERED, That applicant's classification be, and the same is hereby, modified to read "Empty Tin Cans, Nested, First Class."

IT IS FURTHER ORDERED, That the applicant's Tariff or schedule of rates, with the exceptions made therein, be, and the same is hereby, approved and allowed to become effective June 22, 1928.

(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 HAROLD I. BOWMAN, for permission to operate an automobile freight and passenger line between Marysvale and Kanab, Utah, and intermediate points. } Case No. 1047.

PENDING.

In the Matter of the Application of J. H. WADE and NICK KARRAS, for permission to operate an automobile passenger bus line between Price, Helper, Heiner, Castle Gate, and Salt Lake City, Utah. } Case No. 1048.

See Case No. 1041.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH RAPID TRANSIT COMPANY, a Corporation, for permission to operate sight-seeing buses in Ogden City, in Weber County outside of Ogden City, and general bus transportation in Ogden Canyon, in Weber County, Utah. } Case No. 1049.

Submitted July 2, 1928. Decided August 7, 1928.

Appearance:

D. L. Stine, Attorney, of Ogden, Utah, } for Applicant.

REPORT OF THE COMMISSION

McKAY, Commissioner:

On June 19, 1928, application was filed by the Utah Rapid

Transit Company for permission to operate sight-seeing buses in Ogden City and in Weber County outside of Ogden City, also general bus transportation in Ogden Canyon, Weber County, Utah.

The case came on for hearing at Ogden, Utah, July 2, 1928, after due and legal notice had been given.

No protests, neither written nor verbal, were made to the granting of the application. Proof of publication was filed at the hearing.

The evidence shows that applicant, Utah Rapid Transit Company, is now, and has been for many years, a corporation, organized and existing by virtue of the laws of Delaware, and is duly qualified to do business in the State of Utah; that for many years past applicant has been engaged in the operation of a street railway system in Ogden, Utah, and an interurban line to Huntsville, in Ogden Canyon, Utah; that Ogden is a junction point of practically all railroads running into Utah, and, by reason of being a junction, and the train connections out of here, there are many passengers both eastbound and westbound who have from two to six hours' lay-over in Ogden; that Ogden Canyon is one of the real scenic spots of the west; that the sight-seeing trip will include a ride through the canyon, through the business district of Ogden and also the new residential district, taking in all twenty-six miles and consuming about an hour and fifty minutes; that a fare of $1.50 for the round-trip will be charged; that in addition to this sight-seeing trip, it is proposed to develop a definite business through the installation of scheduled trips over the territory in Ogden Canyon covered by summer homes; that the proposed bus operation will not conflict with or disturb the present rail operation of said Utah Rapid Transit Company; that applicant has the necessary facilities for such transportation service; that Ogden City and Weber County officials have issued franchises to the applicant covering said service.

The Commission therefore concludes:

That convenience and necessity requires sight-seeing and bus service in Ogden City and Ogden Canyon, in Weber County; that applicant is financially able to operate such a service in connection with street car service which it now ren-

ders; that the application should be granted and a certificate of convenience and necessity should be issued.

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. 324

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 7th day of August, 1928.

In the Matter of the Application of the UTAH RAPID TRANSIT COMPANY, a Corporation, for permission to operate sight-seeing buses in Ogden City, in Weber County outside of Ogden City, and general bus transportation in Ogden Canyon, in Weber County, Utah.	Case No. 1049.

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 Rapid Transit Company, a Corporation, be, and it is hereby, authorized to operate sight-seeing buses in Ogden City, in Weber County outside of Ogden City, and a general bus transportation in Ogden Canyon, in Weber County, Utah.

ORDERED FURTHER, That applicant, Utah Rapid Transit 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of the PRICE TRANSPORTATION COMPANY, a Corporation, for permission to operate an automobile passenger bus line between Price and Salt Lake City, Utah, via Helper, Castle Gate, and Rolapp, Utah. } Case No. 1050.

See Case No. 1041.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of L. J. LLOYD, for permission to operate an automobile passenger and express line between Price and Emery, Utah, via Huntington, Castle Dale, Ferron, Clauson, and Orangeville, Utah. } Case No. 1051.

Submitted September 6, 1928. Decided September 22, 1928.

Appearance:

Arthur J. Lee, Attorney, of Price, Utah, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

On the 20th day of June, 1928, the applicant, L. J. Lloyd, of Price, Utah, filed his application herein for a certificate of public convenience and necessity to operate an automobile passenger and express line between Price, in Carbon County, and Emery, in Emery County, Utah, via Huntington, Castle Dale, Ferron, Clauson, and Orangeville, Utah.

The matter came on regularly for hearing, before the Public Utilities Commission of Utah, at Price, Utah, September 6, 1928, after due notice given. From the evidence adduced at the hearing, it appears:

That the applicant is a resident of Price, Utah, over the age of twenty-one years, and that he has had many years' experience in the operation of automobiles, particularly over the route sought to be served, between Price, in Carbon County, and Emery, in Emery County; that the distance between the last mentioned points is approximately sixty miles, and that at the present time there is no transportation service by automobile or otherwise over the said route; that the applicant is financially able to furnish all the necessary automobile equipment and facilities for the successful operation of an automobile passenger and express line between said points; that the traveling public is in need of the service applied for by the applicant.

No protests, written or otherwise, were filed or made to the granting of the application.

The Commission therefore concludes that the application herein should be granted, upon the applicant's filing a schedule of rates and charges and otherwise complying with the statutes of the State of Utah and the rules and regulations of the Public Utilities 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

Certificate of Convenience and Necessity
No. 325

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, 1928.

In the Matter of the Application of L. J. LLOYD, for permission to operate an automobile passenger and express line between Price and Emery, Utah, via Huntington, Castle Dale, Ferron, Clauson, and Orangeville, Utah. } Case No. 1051.

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 L. J. Lloyd be, and he is hereby, authorized to operate an automobile passenger and express line between Price and Emery, Utah, via Huntington, Castle Dale, Ferron, Clauson, and Orangeville, Utah.

ORDERED FURTHER, That applicant, L. J. Lloyd, 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.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of VIRGIL L. FERRIN to withdraw from and WALLACE M. WHITE to assume operation of automobile freight line between Ogden and Kamas, Utah, via Weber Canyon and Echo, Utah, with Willis P. White, under the firm name of the WHITE TRUCKING COMPANY.	Case No. 1052.

Submitted July 2, 1928. Decided August 1, 1928.

Appearance:

David J. Wilson, Attorney, of Ogden, Utah, for Applicants.

REPORT OF THE COMMISSION

McKAY, Commissioner:

Under date of June 20, 1928, application was filed by Virgil L. Ferrin, to withdraw from, and Wallace M. White, to assume the operation of automobile freight line between Ogden and Kamas, Utah, via Weber Canyon and Echo, Utah, with Willis P. White, under the firm name of the White Trucking Company.

The application sets forth that the petitioners are holders of Certificate of Convenience and Necessity No. 297, issued in Case No. 949, in the name of Ferrin and White, authorizing operation of automobile freight service between Ogden and Kamas, Utah; that applicant Virgil L. Ferrin desires to transfer his interest in the business to Wallace M. White.

The case came on for hearing at Ogden, Utah, July 2, 1928, after due and legal notice had been given.

No protests, either written or verbal, were made to granting the application. Proof of publication was filed at the hearing.

The Commission finds: That under date of April 29, 1927, in Case No. 949, Certificate of Convenience and Necessity No. 297 was issued to Ferrin and White, authorizing automobile freight service between Ogden and Kamas, Utah; that applicant Virgil L. Ferrin now desires to withdraw from and applicant Wallace M. White desires to assume the operation of said freight line and to operate in connection with Willis P. White, under the firm name of the White Trucking Company; that the White Trucking Company owns five trucks and is prepared to furnish the necessary service; that it is the intention of said Willis P. White and Wallace M. White to carry on the said transportation line in the same manner as it has been conducted by the aforesaid Virgil L. Ferrin and Willis P. White, under the same freight rates and schedule; that convenience and necessity has heretofore been established, and that necessity has increased since the original certificate was issued.

The Commission therefore concludes that the application should be granted; that a new certificate should be issued to the White Trucking Company, authorizing the operation of automobile freight line between Ogden and Kamas, Utah, and that Certificate No. 297, issued in Case No. 949, 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. 323

Cancels Certificate of Convenience and Necessity
No. 297

At a Session of the PUBLIC UTILITIES COMMISSION OF UTAH, held at its office in Salt Lake City, Utah, on the 1st day of August, 1928.

In the Matter of the Application of VIRGIL L. FERRIN to withdraw from and WALLACE M. WHITE to assume operation of automobile freight line between Ogden and Kamas, Utah, via Weber Canyon and Echo, Utah, with Willis P. White, under the firm name of the WHITE TRUCKING COMPANY.	Case No. 1052.

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 Virgil L. Ferrin be, and he is hereby, authorized to withdraw from operation of automobile freight line between Ogden and Kamas, Utah, via Weber Canyon and Echo, Utah; that Certificate of Convenience and Necessity No. 297, issued by the Commission in Case No. 949, to said Virgil L. Ferrin and Willis P. White, be, and it is hereby, cancelled and annulled.

ORDERED FURTHER, That Wallace M. White be, and he is hereby, granted permission to operate an automobile freight line between Ogden and Kamas, Utah, via Weber Canyon and Echo, Utah, with Willis P. White, under the firm name of the White Trucking Company.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of the GREAT WESTERN MOTORWAYS, INC., for permission to operate an automobile bus line, for the transportation of passengers, baggage, and express, over the Victory Highway between Salt Lake City and the Utah-Nevada State Line, and over United States Highway No. 91 between Salt Lake City and Ogden, and over U. S. Highway No. 30 between Ogden and Utah-Wyoming State Line, and all intermediate points. } Case No. 1053.

PENDING.

In the Matter of the Application of the DIXIE POWER COMPANY, for permission to construct an hydro-electric generating plant on the Virgin River near the Town of LaVerkin, in Washington County, State of Utah. } Case No. 1054.

PENDING.

In the Matter of the Application of the GREAT WESTERN MOTORWAYS, INCORPORATED, for permission to combine the service now rendered by the Southern Utah Stage Line Company between St. George and Cedar City, Utah, with the service rendered by Great Western Motorways, Inc., between Salt Lake City and St. George, and certain intermediate points. } Case No. 1055.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to extend its existing lines and facilities to render street car service to the shops and yards of the Denver & Rio Grande Western Railroad Company near Fifth West and Twenty-first South Streets. } Case No. 1056.

Submitted July 30, 1928. Decided August 9, 1928.

Appearance:

George R. Corey, Attorney, of Salt Lake City, Utah, } for Applicant.

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 Salt Lake City, Utah, after due notice given, as required by law, July 30, 1928.

It appears:

1. That the petitioner is a corporation under the laws of the State of Utah, with its principal office in Salt Lake City, Utah, and that it is duly authorized to do business in this State, particularly to own and operate an electric street railroad in Salt Lake City and Salt Lake and Davis Counties, all in the State of Utah, and that it is now engaged in said transportation business.

2. That the Denver & Rio Grande Western Railroad Company has constructed new shops and yards at or near Fifth West and Twenty-first South Streets, in Salt Lake County, Utah, where it will employ a large number of workmen and employees, and that transportation over the railway system of the petitioner will be needed for their accommodation.

3. That the Denver & Rio Grande Western Railroad

Company has entered into an agreement with the petitioner whereby the existing tracks of the said Denver & Rio Grande Western Railroad Company between West Temple and the intersection of Fifth West and Twenty-first South Streets may be used by the petitioner for the operation of street cars thereon and thereover.

4. The Board of County Commissioners of Salt Lake County, Utah, has passed an ordinance amending an existing franchise ordinance authorizing the petitioner and its successors in interest until July 1, 1955, to construct, maintain, and operate a single track street railroad on West Temple Street from the termination of the existing street car line of the petitioner on 21st South Street to the tracks of the Park City branch of the Denver & Rio Grande Western Railroad, and across Second West and Fourth West Streets, where said Park City branch now crosses said streets.

5. That the proposed extension of street car service of the petitioner will not be a burden upon its present street car system, and should be compensating and earn a fair return on the capital required for the giving of said service.

By reason of the premises, the Commission concludes and decides that the petition of the petitioner herein as prayed for should be granted; that is to say, that the petitioner, Utah Light & Traction Company, should be authorized to operate street railway service over and along the following described route in Salt Lake City, Utah, to-wit:

> On West Temple Street from Twenty-first South Street to the Park City branch of the Denver & Rio Grande Western Railroad Company, thence westerly and north-westerly along and over the tracks of the said Denver & Rio Grande Western Railroad Company to the intersection of Fifth West and Twenty-first South Streets.

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 9th day of August, 1928.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to extend its existing lines and facilities to render street car service to the shops and yards of the Denver & Rio Grande Western Railroad Company near Fifth West and Twenty-first South Streets. } Case No. 1056.

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 operate street railway service over and along the following described route in Salt Lake City, to-wit:

> On West Temple Street from Twenty-first South Street to the Park City branch of the Denver & Rio Grande Western Railroad Company, thence westerly and northwesterly along and over the tracks of the said Denver & Rio Grande Western Railroad Company to the intersection of Fifth West and Twenty-first South Streets.

By the Commission.

(Seal) (Signed) F. L. OSTLER, Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the OGDEN GAS COMPANY, a Corporation, for permission to serve gas for all purposes in the Counties of Weber and Davis and the Cities of Bountiful, Farmington, and Kaysville, and the Towns of Layton, Centerville, and Clearfield, all in the State of Utah, and to construct, maintain and operate the necessary mains and service pipes and lines.	Case No. 1060.
In the Matter of the Application of JOHN McFADYEN and L. B. DENNING, for permission to construct, maintain, and operate gas distributing plants or systems, for the purpose of supplying gas for light, heat, power, and other purposes, to the Counties of Salt Lake, Tooele, Davis, and Weber, in the State of Utah, to the Cities of Ogden, Kaysville, Farmington, Bountiful, Murray, and Tooele, and the Towns of Layton, Clearfield, and Centerville, in the State of Utah, and the inhabitants thereof.	Case No. 1061.
In the Matter of the Application of JOHN McFADYEN and L. B. DENNING, for permission to construct, maintain, and operate gas distributing plants or systems, for the purpose of supplying gas for light, heat, power, and other purposes, to Salt Lake City, Midvale City, Summit County and Daggett County, in the State of Utah, and to the inhabitants thereof.	Case No. 1066.

Submitted December 21, 1928. Decided December 31, 1928.

Appearances:

Bagley, Judd and Ray, Attorneys, of Salt Lake City, Utah,	for Applicant, Ogden Gas Co. and Protestant, Utah Gas & Coke Company.
Ray and Rawlins, Attorneys, of Salt Lake City, Utah, and DeVine, Howell, Stine and Gwilliam, Attorneys, of Ogden, Utah,	for Applicants, John McFadyen and L. B. Denning.
Fabian and Clendenin, Attorneys, of Salt Lake City, Utah,	for Protestants, Utah Coal Producers' Association.
Wm. H. Folland, City Attorney,	for Salt Lake City, a Municipal Corporation.
VanCott, Riter & Farnsworth, Attorneys, and B. R. Howell, Attorney, of Salt Lake City, Utah,	for Protestants, Denver & Rio Grande Western Railroad Co. and Utah Railway Co.
Messrs. Dalton, McGee and Ruggeri, of Price, Utah, Attorneys,	for Price Chamber of Commerce and various other protestants in Carbon County.

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, in its hearing-room in the State Capitol, Salt Lake City, Utah, on the 28th day of August, 1928, upon the application of the Ogden Gas Company, a Corporation, (Case No. 1060) filed with the Commission, August 9, 1928, for a certificate of public convenience and necessity for permission to serve gas for all purposes in the counties of Weber and Davis and the Cities of Bountiful, Farmington, and Kaysville, and the Towns of Layton, Centerville, and Clearfield, all in the State of Utah, and to the inhabitants thereof; to construct, maintain, and operate the necessary mains and service pipes and lines; and upon the

application of John McFadyen and L. B. Denning (Case No. 1061), filed with the Commission, August 11, 1928, for a like certificate of public convenience and necessity for the purpose of supplying gas for all purposes to the Counties of Salt Lake, Davis, and Weber, and to the Cities of Ogden, Kaysville, Farmington, Bountiful, Murray, and Tooele, and the Towns of Layton, Clearfield, and Centerville, all in the State of Utah, and to the inhabitants thereof; and the application of said John McFadyen and L. B. Denning (Case No. 1066), filed with the Commission, September 21, 1928, for a like certificate to serve with gas for all purposes Salt Lake City, Midvale City, Summit County, and Daggett County, all in the State of Utah, and to the inhabitants thereof.

Because the several applications, if granted, would affect the interests of both applicants and their service would be for practically the same territory, for convenience, the cases were combined, by consent of counsel and order of the Commission.

Formal protests were filed with the Commission to the applications in Cases Nos. 1061 and 1066 for and in behalf of the Utah Coal Producers Association, the Denver & Rio Grande Western Railroad Company, Utah Railway Company, Price Chamber of Commerce, and various other civic organizations representing more especially the public interests of Carbon County, Utah. Numerous individuals, business, civic, and social organizations and labor unions filed resolutions and petitions, some in favor and others against the granting of certificates of public convenience and necessity as applied for in Cases Nos. 1061 and 1066.

Upon motion of the protestants representing Carbon County interests, public hearings bearing on the questions involved were also ordered and held at Price, Carbon County, Utah, on the 6th day of September and the 10th day of October, after which hearings were resumed at Salt Lake City, the final hearing thereon being held, October 24, 1928. The cases were submitted to the Commission for determination upon written briefs and arguments of counsel for the respective parties, November 13, 1928.

Afterwards, December 21, 1928, upon the motion of the applicants, John McFadyen and L. B. Denning and a showing made by them that they and those they represent had, since the

case was submitted, acquired the control and management of the corporate business and affairs of both the applicant Ogden Gas Company and the protestant Utah Gas & Coke Company, the case was re-opened for further hearing, at Salt Lake City, at which time the protests of the last named parties to the granting of certificates of public convenience and necessity as applied for in Cases 1061 and 1066, were withdrawn.

From the evidence adduced at the hearings and admitted of record for and in behalf of interested parties, it appears:

That the applicant in Case No. 1060, the Ogden Gas Company, is a public service corporation, organized and existing under the laws of the State of Utah, with its general office at Ogden, in Weber County, Utah; that for more than twenty-five years last past it and its predecessors have owned, and it now owns, a manufacturing plant at Ogden, Utah, used for the manufacture of artificial gas, and the necessary connections thereto for the distribution of gas to the inhabitants of Ogden, a city with a population of approximately 40,000 people; that this applicant proposes, if granted a certificate of public convenience and necessity, to serve gas for all purposes in the Counties of Weber and Davis, Cities of Bountiful, Farmington, Kaysville, and the Towns of Layton, Centerville, and Clearfield, all of which, with the exception of Ogden, are without gas service. This applicant also proposes to connect its main pipeline with the gas plant and distribution system of the Utah Gas & Coke Company, a public service corporation, organized and existing under the laws of the State of Utah, with its principal office and place of business in Salt Lake City. The Utah Gas & Coke Company now owns a manufacturing plant and distribution system, and is now engaged in serving manufactured gas for all purposes to the inhabitants of Salt Lake City, a city with a population of approximately 140,000 people.

The applicant, Ogden Gas Company, also owns at the present time thirty-one miles of gas mains in Salt Lake City, which are now being operated under lease from the Ogden Gas Company to the Utah Gas & Coke Company. These mains are connected with and form at present a part of the distribution system of the Utah Gas & Coke Company.

Primarily, the Ogden Gas Company seeks, by its applica-

tion herein, to serve the Counties of Weber and Davis, and various intermediate cities and towns therein along the State Highway between Ogden and Salt Lake City, with gas. Further, its purpose is that of tying in and connecting properties and distribution systems of the Ogden Gas Company and the Utah Gas & Coke Company so that a stand-by service may be provided and a more economical management had of each of these properties, both of which are now under the same control and management.

The Ogden Gas Company now owns forty-three miles of gas mains, connected with and serving 3,492 customers in Ogden City. Its Ogden gas plant and distribution system represents a capital investment of $1,073,932.31; it has outstanding common stock in the sum of $366,250.09; preferred stock in the sum of $198,750.00, and first mortgage bonds in the sum of $500,000.00, or a total of $1,065,000.09, in securities issued to and held by the investing public.

The Utah Gas & Coke Company, operating a gas manufacturing plant and distribution system in Salt Lake City, owns and operates 266 miles of gas mains, connected with and serving 18,760 customers in said city. Its gas plant and distribution system represents a fixed capital investment of $6,445,602.15. It now has outstanding capital stock in the sum of $2,473,000.00, preferred stock in the sum of $1,402,463.75, and first mortgage bonds in the sum of $2,268,000.00, or a total of $6,143,463.75 in securities held by the investing public.

Both of the public utilities last named are now operating under franchises granted by municipal authorities of Salt Lake City and Ogden respectively, and the applicant, Ogden Gas Company, has procured and filed with the Public Utilities Commission, as required by law, the necessary franchises from Davis and Weber Counties and the cities and towns proposed to be served therein, authorizing it to construct the extensions and give the service to the public as proposed in its application. Both of them are now using the product of the Utah coal mines in the manufacture of gas for distribution to their respective patrons, but they offer to take and serve natural gas whenever the same is made available and found advantageous to the consuming public. Their service is efficient and reasonably

dependable, and the applicant, Ogden Gas Company, is financially able to make the extensions and serve the cities and towns that it proposes to serve as applied for herein.

The applications in Cases Nos. 1061 and 1066, by John McFadyen and L. B. Denning, are made in a representative capacity. Mr. McFadyen is a resident of Casper, Wyoming, and Mr. Denning is a resident of Dallas, Texas. They are associated with Mr. George W. Crawford, of Pittsburg, Pennsylvania, Chairman of the Board of the Columbia Gas & Electric Corporation; Mr. F. W. Crawford, Vice-President and Chairman of the Board of the Ohio Group of the Columbia Gas & Electric Corporation; and Mr. T. B. Gregory, of Pittsburg, Pennsylvania, who is Chairman of the Board of the Manufacturers' Group of the Columbia Gas & Electric Corporation. They and their associates are capitalists who have been in the gas business for many years and have had varied experiences in developing oil and gas in the western territory. These applicants and those they represent, including public service corporations operating in other states and with which they are connected, propose to introduce natural gas into the State of Utah, to be used for all purposes, and, if granted certificates of public convenience and necessity as applied for in Cases 1061 and 1066, to serve with natural gas the Counties of Salt Lake, Tooele, Davis, and Weber, the Cities of Ogden, Kaysville, Farmington, Bountiful, Murray, Tooele, and the Towns of Layton, Clearfield, and Centerville, Salt Lake City, Midvale City, Summit County, and Daggett County, all in the State of Utah, and the inhabitants thereof.

The interests represented by the applicants, John McFadyen and L. B. Denning, have developed and own gas fields in what is known as Baxter Basin and North Baxter Basin, in the State of Wyoming, the Hiawatha Field, in Colorado, and the Clay Basin Field, on the Utah-Wyoming state line. Eighty-five per cent of those fields are under the control of these applicants and their associates. They have developed, own, and control sufficient wells to produce over 300,000,000 feet of continuous flow. They are also constructing additional wells, which they actually own and control. They represent and say that they will furnish to the inhabitants of the municipalities sought to be served in Utah, natural gas of a quality double the heat value of that now being served by the applicant, Og-

den Gas Company, at the following rates, for domestic use:

First	400 cu. ft. or part thereof	$.90	
Next	600 cu. ft.	.15	per 100 cu. ft.
Next	1000 cu. ft.	.12	per 100 cu. ft.
Next	1000 cu. ft.	.07½	per 100 cu. ft.
Next	2000 cu. ft.	.06	per 100 cu. ft.
All over	5000 cu. ft.	.05	per 100 cu. ft.

(Domestic uses when the source of supply is limited, to be given preference over the use of gas for industrial purposes.)

Their proposed rates being approximately one-half of the rates now being charged consumers and patrons for domestic uses by the applicant, Ogden Gas Company, and the Utah Gas & Coke Company, in Ogden and Salt Lake City, respectively.

They propose to construct a main interstate pipeline connecting by field lines with and extending from the gas fields owned and controlled by them and their associates, to Salt Lake City and other municipalities to be served. They also propose to construct or maintain distributing systems for the several municipalities sought to be served by them with natural gas. The cost of the interstate pipeline, the field lines connecting therewith, compressors, and the necessary distributing systems for rendering the service proposed by them, will be approximately $20,317,372.00.

It is estimated that the cost of construction of the main pipeline, including the field lines connecting the gas fields with the main pipeline, would be approximately $9,180,614.00; compressor stations for the main line and the connecting field lines, $2,796,700.00; main service lines connecting the several municipalities to be served with the main pipeline, $1,485,698.00. a total of $13,463,012.00; the cost of distribution systems for the several municipalities to be served, $6,854,360.00.

Under the preorganization plans, the gas fields are to be owned and controlled by one corporation, the interstate pipeline by another, and the distributing systems for the municipalities in the State of Utah, by still other corporations, all of which, with the exception of the Utah Gas & Coke Company, now controlled by them, are organized under the laws of the

State of Delaware and authorized to do business in the State of Utah as foreign corporations.

The applicants have procured and entered into the necessary franchise contracts with all the municipalities they propose to serve with natural gas, authorizing them to construct their mains and distributing systems, in the form and manner required by law.

Fuel, both for domestic and industrial uses in the State of Utah, consists at the present time almost entirely of raw coal produced from Utah mines, the greater number of mines being located and operated in Carbon County, Utah. In the municipalities sought to be served by the applicants in Cases Nos. 1061 and 1066, raw coal is now the predominant fuel. The gas used by the inhabitants of Salt Lake City and Ogden at the present time, from local plants, is also manufactured largely from raw coal. The annual output of Utah coal mines is approximately 5,000,000 tons.

The total expense of coal mine operations in the State of Utah for the year 1927 was as follows:

Taxes	$ 281,974.80
Supplies	1,437,778.35
Payroll	6,525,957.30
Electric energy	354,054.44
Total	$8,599,764.95

It is estimated that the use of natural gas in Utah would supplant or cause the displacement of 850,000 tons of coal annually. It is also estimated that the use of natural gas in Utah would displace and throw out of employment approximately 734 miners, and would cut the annual payroll of the coal mines $1,044,000.00. Presumably, it would cause the removal from the State of Utah of approximately 5,000 people.

Price City, with a population of approximately 4,100 people, Helper, with a population of approximately 2,400, and other towns in Carbon County, have grown up and large business interests established, mainly dependent for their existence and future growth, upon the coal mining industry. Farming interests of Eastern Utah are largely dependent upon the coal

camps of Carbon County for the marketing of their products. The Carbon County coal fields are served by the Denver & Rio Grande Western Railroad Company, operating its main line between Denver, Colorado, and Salt Lake City. Fifty-four per cent of the freight traffic handled by this transportation company consists of coal hauled from the mines of Emery and Carbon Counties. This railroad has expended $2,012,000.00 in building branch lines for the exclusive accommodation of these coal fields. The coal cars of this protesting railroad that are assigned to the Utah coal trade, represent a present depreciated value of $3,900,000.00; locomotives that are assigned to handling Utah coal represent depreciated value of $4,300,000.00; its main line between Helper and Thistle, Utah, was double tracked entirely to accommodate the traffic of Utah coal, at an expense of $10,000,000.00, of which $5,000,000.00 is attributable to the coal traffic exclusively.

The protestant, Utah Railway Company, is a railroad corporation, owning and operating a line of railroad between Provo and Thistle, in Utah County, a distance of twenty miles. This line parallels that of the Denver & Rio Grande Western Railroad between these two points. By mutual arrangements, the two tracks are used by both companies as a system of double track railway. From Thistle to Utah Railway Junction, a distance of fifty-two miles, the Utah Railway Company has a trackage right over the double track line of the Denver & Rio Grande Western Railroad, and from Utah Railway Junction to Mohrland, in Emery County, Utah, a distance of approximately twenty-five miles, it owns its own single track line, with branches up Spring Canyon and Gordon Creek and to the mine of the Lion Coal Company, in Carbon County, Utah, making a total branch operating mileage for serving Utah coal mines of 111 miles. These lines were constructed and are now operated almost exclusively for the serving of seven coal mines in Carbon and Emery Counties, and represent a total capital investment of $9,700,000.00.

The introduction of natural gas in Utah and the displacement of 850,000 tons of coal, would occasion a loss of $272,000.00 gross revenue to this railroad per annum. This displacement would represent about 18% of its total tonnage and about 20% of its total gross revenue. About 45% of its tonnage carried is intrastate and about 55% interstate.

The cost to domestic consumers in making transition from the use of present fuels to natural gas, is wholly problematical and will depend upon the individual requirements of the consumer.

The protestant Columbia Steel Corporation, by its protest filed herein, represents that it is a corporation of the State of Delaware, doing and authorized to do business in the State of Utah. It is now operating a large industrial plant in the County of Utah, at the Town of Ironton, adjacent to the City of Provo, in Utah County. In its industrial operations, or processes in the treatment of iron ores, it produces from coal, in excess of its own requirements, large quantities of gas suitable for lighting and heating of homes and for industrial uses. Such gas has been and is now produced in excess of 10,000,000 cubic feet per day, or more than 3,600,000,000 cubic feet per year. Said excess gas largely is now and for a long time past has been going to waste. A pipeline from this protestant's industrial plant, constructed for the serving of Salt Lake City and Ogden with gas, would be approximately seventy-five miles in length. In carrying on its operations at its Ironton plant, this protestant has employed more than 900 persons. In its manufacturing processes, it consumes almost wholly Utah products, raw coal and iron ore.

Mr. A. A. Roberts, of Salt Lake City, Utah, a fuel engineer and fuel carbonization chemist for twenty-five years, testified that he has made investigation of the fuel problem and the smoke problem as applied to Salt Lake City and Utah in general; that he is interested in a process for the carbonization of Utah coal and the production of smokeless fuel therefrom that will meet every requirement and condition, at a low cost to the consumer; that in his manufacturing processes, he would produce from the carbonization of coal sufficient gas of equal efficiency of that now being used for fuel purposes, at half of the cost now charged in Salt Lake City by the Utah Gas & Coke Company; that he has already constructed such plants at Chattanooga, Tennessee, for the Chattanooga Coke & Gas Company; one in Canal Dover, Ohio; and one in Granite City, Illinois, just across the Mississippi River from St. Louis; that he contemplates building a carbonization plant in Salt Lake City, of such proportions that his fuel products will not only take the place of raw coal in Utah now used for fuel

purposes, but will also supply the demands of neighboring states. The Utah Gas & Coke Company has expressed its willingness to accept and use such gas at any time it will enable it to effect a material saving to consumers of gas in Salt Lake City.

Mr. E. J. Raddatz, a citizen of Salt Lake City, Utah, engaged in the mining business in this State, including the production of coal from Utah mines, as well as many industrial, commercial, and financial institutions of the State, testified that he has made an effort to produce a smokeless fuel from Utah coal; that, after considerable investigation, he has reached the conclusion that the German Lurgi process now extensively used in Europe, would prove both economical and practical for manufacturing at reasonable prices, smokeless fuel out of Utah coal; that at the present time there is being constructed in North Dakota a plant for using the Lurgi process for the treatment and manufacture of smokeless fuel; that as soon as that plant is completed and the results are made known as to the cost of production, it is his intention to construct a similar plant in Salt Lake City, to manufacture smokeless fuel out of Utah coal; that such plant would cost approximately $400,000 or $500,000; that in its operation it would be able to supply as a by-product a large quantity of artificial gas and sufficient for general consumption in Salt Lake City; that he has already had tests and experiments made of Utah coal, and that such a plant could be operated and smokeless fuel furnished at the same price as is now being charged consumers of the raw products, provided the marketing of gas and other by-products would be available.

The foregoing are the salient facts as found in the record and from which the Commission must reach a conclusion as to whether or not certificates of public convenience should, in the interest of public welfare, be issued to the applicants, or to either of them. Further reference, however, will be made to the evidence in the discussion that is to follow:

At the outset, it should be kept in mind that the Commission in determining whether an application should be granted or denied in a particular case, must arrive at its conclusions from evidence produced for the benefit of the record, and, under the law, it cannot do otherwise. As pointed out in the case now under consideration, numerous individuals and

organizations of various kinds have presented appeals, some for, others against, granting the applications. Some have attached exhibits to their petitions, and given information supporting their views, while others have given no supporting facts whatever. All are appreciated, and have been helpful to the Commission, coming as they have from an interested public; but we remark that such communications are of much more value when attended with the facts or information upon which the communicant's views are based.

The Public Utilities Act, under which the Commission functions, expressly provides that its hearings are open to the public, and that any interested party or citizen is entitled to be heard. The Commission believes it to be its duty in all these cases where applications are made for permission to serve in the capacity of a public service corporation or utility, that every interest that will be affected is entitled to be represented and should be heard.

In the instant case, it is an admitted fact that the introduction of natural gas into Utah will not only come into competition with one of our greatest natural resources, bituminous coal, but will also, for a time at least, seriously affect some of the long established industries and transportation systems of the State.

The extent and quality of the deposits in Utah of bituminous coal is well known and far-famed. The development of these resources, and the use of coal as a fuel has been one of the principal aids to the building up of the industrial and commercial life of every city and community within the State. The effects of bringing natural gas into Utah from a foreign state, and the admitted displacement it will cause of our own fuel, and the attending results it may have not only upon the comfort, convenience, and welfare of the inhabitants of the cities and towns immediately concerned, but upon the general welfare of all Utah people, commands, we believe, not only the thoughtful consideration of this Commission, whose highest responsibility and bounden duty is that of subserving the public interest, but also that of Utah citizens in general. This is more especially true when applicants seeking to serve the public, have, by their pre-organization plans, placed themselves in a position that in a very great measure precludes the State's duly constituted authorities from determining the justness and

the reasonableness of the price of the service they propose to sell to the consuming public.

Early in the hearing of this case, the applicant's attention was called to the fact that neither this Commission nor any other regulatory body will have under their pre-organization plans, any jurisdiction over charges for the gas at the producing fields nor for transporting it to the gates of the municipalities where it is to be taken and distributed to the consumer by their local distributing organizations. That therefore they, and not this Commission, would ultimately have the sole right and power of determining the reasonableness of their charges to the consuming public.

Similar cases quite recently arose in the States of Missouri and Kansas, where under like conditions and circumstances the public utilities commissions of those states found themselves powerless to preclude rate increases over those theretofore established.

Missouri vs. Kansas Natural Gas Company, 265 U. S. 298.

The case above cited presented the precise question, whether the Kansas Natural Gas Company, engaged in the business of transporting natural gas from one state to another for sale, and its sale and delivery to distributing companies, was interstate commerce and free from state interference.

The facts, as stated by Mr. Justice Sutherland, who wrote the opinion for the court, were:

> "The Supply Company (Kansas Natural Gas Company) is a Delaware corporation, engaged in producing and buying natural gas, mostly in Oklahoma but some in Kansas, and, by means of pipe lines, transporting it into Kansas, and from Kansas into the State of Missouri, and in each state selling and delivering it to distributing companies, which then sell and deliver it to local consumers in numerous communities in Kansas and Missouri. The gas originating in Kansas is mingled for transportation in the same lines with that originating in Oklahoma. The pipe lines are continuous from the wells to the place of delivery."

The difficulty arose from the action of the Supply Company in making rate increases for gas delivered to consumers without the consent and approval of the Public Utility Commissions of Kansas and Missouri. The powers of the Commissions were challenged upon the ground that the rates were not subject to state control.

Under the facts, the United States Supreme Court commented and held:

> "The contention that, in the public interest, the business is one requiring regulation, need not be challenged. But Congress thus far has not seen fit to regulate it, and its silence, where it has the sole power to speak, is equivalent to a declaration that that particular commerce shall be free from regulations." Again,
>
> "That some or all of the distributing companies are operating under state or municipal franchises, cannot affect the question. It is enough to say that the Supply Company is not so operating and is not made a party to these franchises by merely doing business with the franchise holders."

The applicants here have advanced the argument that theirs will be a competing fuel and that they will be necessarily compelled to accord reasonable rates to the consumer, as otherwise the user of natural gas will resort to the use of coal and other Utah fuels that will always be available. Doubtless there is some merit in this contention, but once the abandonment of Utah fuels has been accomplished, consumers will be slow after entailing the expense of the necessary fixtures and appliances for the use of natural gas, to go back to other fuels. These objections, however, have been largely eliminated from the case by reason of the fact that the applicants have taken over the control and management of the local distributing plants, that of the Ogden Gas Company and the Utah Gas & Coke Company, serving Ogden and Salt Lake City, respectively. As the case now stands, the last named distributing plants propose to serve either manufactured gas or natural, as will be for the best interests of the consuming public. That is to say that if and when either manufactured gas or natural gas from other sources than are now available, and either can be had for their local distributing systems in Utah, at materially

lower rates than those now obtaining for manufactured gas or those proposed for natural gas, the applicants will take and serve the same through their distributing systems, so that the benefits of lower rates for gas may accrue to their Utah patrons.

Moreover, the applicants have agreed with the Commission that they will require their separate corporate organizations, their successors and assigns, controlling the gas fields that will be the source of supply of natural gas and transporting the natural gas to the gates of the Utah municipalities now to be served, to enter into contracts with their distributing corporate organizations, that will assure the consuming public that charges for natural gas used by their patrons in Utah will not exceed for a period of ten years the rates now proposed to be charged by them, as herein set forth.

The introduction of natural gas into Utah, to be used as a fuel for all purposes, and the consequential displacement of Utah coal as a universal fuel, will of necessity be attended with some economic disturbances and result for a time at least in financial losses to the private interests engaged in the well established coal producing industry. Such is always the price of progress, to be paid in passing from the old to new and better things. Magnanimously, the coal producers of this State have come into the open and stated to this Commission and for the benefit of the record in this case, that they are not opposed to the introduction of natural gas into Utah, if it be found that its use will benefit the public and promote the general welfare of the State. Eastern Utah interests, including the people of Carbon and Emery Counties, in the presentation of their opposition, have been equally magnanimous and have voiced the same sentiment.

The territory proposed to be served by the applicants with natural gas, contains within its confines approximately one-half of the population of the entire State. The use of raw coal as a fuel, is rendering living conditions in the thickly populated centers of Utah almost intolerable, especially so in the Cities of Salt Lake and Ogden. The soot and smoke laden air in these cities at times becomes a general nuisance, if not a serious menace, to the health of their people. For years there has been a concerted effort to do away with these conditions, with no apparent results. Obviously, relief is not to be obtained without a change from raw coal to a smokeless fuel of some kind.

It is asserted that a smokeless fuel to be used for all purposes can be manufactured from Utah coal, and a by-product in the form of artificial gas produced therefrom, in sufficient quantities to supply the demand of gas consumers, and all with commercial success. The Commission has no reason to doubt but that such results in the future may be accomplished in the treatment of Utah coal. It has been done elsewhere with considerable success. Therefore, it would seem the same results might be ultimately attained here. The difficulty confronting the Commission lies in the fact that a smokeless fuel is absolutely necessary at this time for the comfort, convenience, and general welfare of the people of this State, and none is available for general use at a reasonable price, except natural gas. This Commission has to meet and act upon conditions as it finds them. To what extent the use of natural gas will abate the so-called "smoke nuisance" depends upon the extent of its adoption for fuel purposes in the cities and towns where it may be had. It is shown that natural gas is a clean fuel and serviceable for practically all purposes, but more especially so for domestic uses.

It is conceded that for general industrial purposes, natural gas cannot now nor probably never can compete with slack coal, because of the comparative costs of the two fuels. The bringing of natural gas into Utah and its use for domestic purposes alone, however, ought to materially relieve a situation that is deeply deplored at the present time.

The Commission believes that upon the findings made and for the reasons stated, the applications herein of the Ogden Gas Company and of John McFadyen and L. B. Denning, in their representative capacity, should be granted, subject, however, to the conditions with which they have expressed their willingness to comply.

An appropriate order will follow.

(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 P. B. STEELE and C. D. JUDD, for permission to operate an automobile freight line between Marysvale and Kanab, Utah, under the name of Mercantile Truck Line Service. } Case No. 1057.

PENDING.

In the Matter of the Application of P. B. STEELE, C. D. JUDD, and IRA C. CRAWFORD, for permission to operate an automobile passenger bus line between Marysvale, Kanab and Utah-Arizona State Line, and intermediate points. } Case No. 1058.

PENDING.

In the Matter of the Application of the MOAB GARAGE COMPANY, for permission to publish rates in accordance with uniform classification. } Case No. 1059.

PENDING.

In the Matter of the Application of JOHN McFADYEN and L. B. DENNING, for permission to construct, maintain, and operate gas distributing plants or systems, for the purpose of supplying gas for light, heat, power, and other purposes, to the Counties of Salt Lake, Tooele, Davis, and Weber, in the State of Utah, to the Cities of Ogden,, Kaysville, Farmington, Bountiful, Murray, and Tooele, and the Towns of Layton, Clearfield, and Centerville, in the State of Utah, and the inhabitants thereof. } Case No. 1061.

See Case No. 1060.

In the Matter of the Application of the MILFORD & BEAVER TRANSPORTATION COMPANY, for permission to revise its rates.
PENDING. } Case No. 1062.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to discontinue operation of its automobile bus line between a point known as White's Hill, through Val Verda District to the State Highway in the City of Bountiful, Davis County, Utah.
PENDING. } Case No. 1063.

In the Matter of the Application of the MILLVILLE WATER WORKS COMPANY, for permission to revise certain rates.
PENDING. } Case No. 1064.

In the Matter of the Application of the CONSOLIDATED TRUCK LINES, a Corporation, for permission to operate an automobile freight and express line between Salt Lake City and Marysvale, Utah, and intermediate points, excluding intermediate points between Salt Lake City and Payson, Utah.
PENDING. } Case No. 1065.

In the Matter of the Application of JOHN McFADYEN and L. B. DENNING, for permission to construct, maintain, and operate gas distributing plants or systems, for the purpose of supplying gas for light, heat, power, and other purposes, to Salt Lake City, Midvale City, Summit County and Daggett County, in the State of Utah, and to the inhabitants thereof.
See Case No. 1060. } Case No. 1066.

In the Matter of the Application of JOE FARNSWORTH, B. E. FARNSWORTH, and MAESER DALLEY, co-partners, for permission to operate an automobile passenger and express line between Cedar City, Utah, and the Utah-Arizona State Line, serving intermediate points in Kane County, Utah. } Case No. 1067.

PENDING.

In the Matter of the Application of E. W. SCHNEIDER, for permission to operate an automobile passenger, freight, and express bus line between Fish Lake, Utah, on the one hand, and points between Salt Lake City and Fish Lake, Utah, on the other (including Richfield, Utah), and side trips into Wayne County, Utah. } Case No. 1068.

PENDING.

In the Matter of the Application of WILLARD BARKER, for permission to operate an automobile freight and express line between Marysvale, Piute County, Utah, and Escalante, Garfield County, Utah, and intermediate points. } Case No. 1069.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the EUREKA HILL RAILWAY COMPANY, for permission to discontinue operation of its railroad service. } Case No. 1070.

Submitted December 3, 1928. Decided December 10, 1928.

Appearances:

Mr. C. H. Wilkins, of the firm of Cheney, Jensen & Marr, Attorneys, Salt Lake City, Utah, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing before the Public Utilities Commission of Utah, at its hearing room in the State Capitol, Salt Lake City, Utah, after due notice given, on the 30th day of November, 1928.

The applicant seeks to discontinue rail service between Silver City, Utah, and the so-called "Knight mines and neighboring mines in the Tintic Mining District, Juab County, Utah. No protests or objections were filed to the discontinuance of the service as applied for.

From the evidence taken at the hearing, it appears:

1. That the Eureka Hill Railway Company is a public service corporation, organized and existing under and by virtue of the laws of the State of Utah, with its principal office at Provo, Utah.

2. That applicant owns and has heretofore operated about seven miles of narrow gauge railroad between Silver City, Utah, and the so-called "Knight mines," including the neighboring mines known as the Swansea, Starr, Black Jack, Dragon, Tintic Central, Iron Blossom, Carisa, Sioux, Colorado and Yankee mines in the Tintic Mining District, Juab County, State of Utah.

3. That heretofore and now the applicant is entirely dependent upon these mines for traffic, and that the railroad of the applicant was constructed solely for the purpose of serving said mines, and largely as an adjunct to their operation.

4. That these mines have been worked out, and are no longer productive.

5. That the operation of the railroad at the present time is at a loss, and will continue to be in the future.

From the foregoing facts, the Commission concludes that the application of the Eureka Hill Railway Company to discontinue its rail service, should be granted.

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 10th day of December, A. D., 1928.

In the Matter of the Application of the EUREKA HILL RAILWAY COMPANY, for permission to discontinue operation of its railroad service. } Case No. 1070.

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, and that the Eureka Hill Railway Company, be, and it is hereby, authorized to discontinue and abandon rail service between Silver City, Utah, and the so-called "Knight Mines," and the neighboring mines in the Tintic Mining District, Juab County, Utah.

Dated at Salt Lake City, Utah, this 10th day of December, A. D., 1928.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, to discontinue operation of passenger trains Nos. 409 and 410 between Springville and Silver City, Utah. } Case No. 1071.

PENDING.

In the Matter of the Application of RIO GRANDE MOTOR WAY OF UTAH, INC., for permission to operate an automobile passenger and freight line between Springville and Silver City, Utah, and intermediate points. } Case No. 1072.

PENDING.

In the Matter of the Application of THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY to curtail and change certain train service on its Marysvale Branch. } Case No. 1073.

PENDING.

In the Matter of the Application of RIO GRANDE MOTOR WAY, INC., for permission to operate automobile passenger and freight line between Salt Lake City and Marysvale, Utah, and certain intermediate points, and between Manti and Marysvale, and intermediate points. } Case No. 1074.

PENDING.

In the Matter of the Application of the UTAH LIGHT & TRACTION COMPANY, for permission to discontinue a part of its street car service on Beck Street, to extend bus service in lieu thereof, and to revise schedules for bus service to Val Verda and Centerville. } Case No. 1075.

PENDING.

BEFORE THE PUBLIC UTILITIES COMMISSION OF UTAH

In the Matter of the Application of the ST. JOHN & OPHIR RAILROAD COMPANY, for permision to discontinue and abandon its line of railroad between the Town of Ophir and the Station of St. John, both in Tooele County, State of Utah. } Case No. 1076.

Submitted December 3, 1928. Decided December 10, 1928.

Appearances:
Critchlow & Critchlow, Attorneys, Salt Lake City, Utah, } for Applicant.

REPORT OF THE COMMISSION

By the Commission:

This matter came on regularly for hearing before the Public Utilities Commission of Utah, at its hearing room in the State Capitol, in Salt Lake City, Utah, after due notice given, on the 30th day of November, 1928, upon the application of the applicant to discontinue and abandon its line of railroad between the Town of Ophir and the Station of St. John, both in Tooele County, Utah. No protests or objections were filed with the Commission opposing the application.

From the evidence taken at the hearing, it appears:

1. That the applicant, St. John & Ophir Railroad Company is a public service corporation organized and existing under and by virtue of the laws of the State of Utah, and is a common carrier by rail, subject to the jurisdiction of the Interstate Commerce Commission of the United States, and of the Public Utilities Commission of the State of Utah.

2. That the applicant owns and operates a line of railroad entirely in Tooele County, State of Utah, the total length of which is 8.56 miles. One terminus of said line is at the Town of Ophir, and the other terminus is at the Station of St. John, both in Tooele County, Utah.

3. That said line of railroad was constructed in the year 1912, primarily for the purpose of transporting ore from the mines located in Ophir Canyon, Utah, to a point of connection with the main line of the San Pedro, Los Angeles & Salt Lake Railroad at St. John, Tooele County, Utah, and that said line has been continuously operated since 1912 until the present time.

4. That the mines served by the applicant have discontinued to be productive and that since the year 1919 the operation of the railroad has been at a great loss; that the ore deposits in the mines for which the railroad was built to serve are now entirely exhausted, and that there are now no producing mines in the territory now served by it that are dependent upon the applicant for service.

5. That since 1922, the annual loss to the applicant in the operation of said railroad has been approximately $22,000.00 per annum, and that since the year 1918, the applicant has sustained a total loss in the operation of said line of $192,241.58; that the applicant is without funds to conduct its operations, and is no longer able to procure the necessary means to do so.

6. That the Interstate Commerce Commission has duly made and entered its order allowing the discontinuance and abandonment of the applicant's said railroad.

From the foregoing facts, the Public Utilities Commission of Utah concludes that the application herein as applied for, should be granted.

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 10th day of December, A. D., 1928.

In the Matter of the Application of the ST. JOHN & OPHIR RAILROAD COMPANY, for permission to discontinue and abandon its line of railroad between the Town of Ophir and the Station of St. John, both in Tooele County, State of Utah. } Case No. 1076.

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, and that the St. John & Ophir Railroad Company, be, and it is hereby, authorized to discontinue and abandon its line of railroad between the Town of Ophir and the Station of St. John, both in Tooele County, State of Utah.

Dated at Salt Lake City, Utah, this 10th day of December, A. D., 1928.

(Seal) (Signed) F. L. OSTLER, Secretary.

In the Matter of the Application of WELLS R. STREEPER, for permission to publish freight rates. } Case No. 1077.

PENDING.

In the Matter of the Application of ROY N. DUNDAS and J. M. GOETHE for permission to operate an automobile freight and express line between Salt Lake City and Park City, Utah. } Case No. 1078.

PENDING.

In the Matter of the Application of the DIXIE POWER COMPANY, for permission to adjust its rates. } Case No. 1079.

PENDING.

SPECIAL DOCKETS—REPARATION

Number		Amount
245	Utah Idaho Cement Company vs. Denver & Rio Grande Western Railroad Company....$	586.62
246	Utah Idaho Cement Company vs. Denver & Rio Grande Western Railroad Company....	863.86
247	Fred Darvill vs. Utah Gas & Coke Company	1.56*
248	Sweet Coal Company vs. Denver & Rio Grande Western Railroad Company and Utah Railway Company	34.56
	Supplemental special docket	16.06
249	Alexander Buchanan, Jr., vs. Utah Gas & Coke Co.	3.53*
250	Mrs. C. Christensen, vs. Utah Gas & Coke Co.	5.00*
251	Mr. R. A. Brown, vs. Utah Gas & Coke Co...	19.44*
252	Mrs. L. L. Coray, vs. Utah Gas & Coke Co...	1.14*
253	Steelform Construction Company, vs. Denver & Rio Grande Western Railroad Company..	102.60
254	Utah Copper Company, vs. Denver & Rio Grande Western Railroad Company.....	121.57
255	Mrs. Zellah Cunningham, vs. Utah Gas & Coke Co.	2.96*
256	A. W. Raybould, vs. Utah Gas & Coke Co...	17.56*
257	P. A. Bradney, vs. Utah Gas & Coke Co.....	.47*
258	George R. Duncan, vs. Utah Gas & Coke Co.	5.17*
259	Garfield Chemical & Manufacturing Co., vs. Denver & Rio Grande Western Railroad Company	155.43
260	Mrs. W. T. Benson, vs. Utah Gas & Coke Co.	.56*
261	Mrs. George W. Glenny, vs. Utah Gas & Coke Co.	4.20*
262	Anderson & Sons Company, vs. Denver & Rio Grande Western Railroad Company	3.60 7.20†
263	Gibbons & Reed Company, vs. Los Angeles & Salt Lake Railroad Company	137.36
264	Mrs. Belle Harris, vs. Utah Gas & Coke Co.	1.50*

Number		Amount
265	Dean Bryan, vs. Utah Gas & Coke Company	1.59*
266	Henry E. Weiss, vs. Utah Gas & Coke Co...	1.37*
267	R. W. Todd, vs. Utah Gas & Coke Company	8.60*
268	V. J. Del Duke, vs. Utah Gas & Coke Co....	5.87*
269	George F. Grover, vs. Utah Gas & Coke Co...	15.54*
270	Mrs. G. T. Nelson, vs. Utah Gas & Coke Co.	1.25*
271	C. G. Parry, vs. Utah Gas & Coke Co.....	3.12
272	Mrs. E. R. Bryner, vs. Utah Gas & Coke Co.	.40*
273	Mr. W. W. Norton, vs. Utah Gas & Coke Co.	2.21*
274	James W. Collins, vs. Utah Gas & Coke Co..	98.67*
275	D. A. Fields, vs. Utah Gas & Coke Co.....	5.11*
276	Mrs. C. Spencer vs. Utah Gas & Coke Co...	6.45*
277	Union Portland Cement Company, vs. Denver & Rio Grande Western Railroad Company..	2,675.49
278	Smith Brokerage Company, vs. Denver & Rio Grande Western Railroad Company	2.12
279	Anderson & Sons Company, vs. Denver & Rio Grande Western Railroad Company.....	3.60†
280	Alonzo B. Irvine, vs. Utah Gas & Coke Co...	14.65*
281	Mrs. A. B. Winton, vs. Utah Gas & Coke Co.	5.26*
282	Union Portland Cement Company, vs. Denver & Rio Grande Western Railroad Company..	20.14
283	Anderson & Sons Company, vs. Denver & Rio Grande Western Railroad Company	3.60†
284	Utah Packing Corporation, vs. Denver & Rio Grande Western Railroad Company.....	26.52† 189.63
285	Montana Bingham Consolidated Mining Company, vs. Denver & Rio Grande Western Railroad Co., Western Pacific Railroad Co., and Tooele Valley Railway Company	42.44
286	Union Portland Cement Company, vs. Denver & Rio Grande Western Railroad Co.....	10.07
287	United States Fuel Company, vs. Salt Lake & Utah Railroad Co., and Utah Railway Co.	14.70
288	Columbia Steel Corporation, vs. Denver & Rio Grande Western Railroad Company....	230.50† 282.28
289	Utah Idaho Sugar Company, vs. Denver & Rio Grande Western Railroad Company....	15.27
290	A. S. Nichols, vs. Utah Gas & Coke Company	2.17*
291	E. W. Smith, vs. Utah Gas & Coke Company	2.20*
292	Alex Smith, vs. Utah Gas & Coke Company..	1.87*

Number		Amount
293	Western Paper Products Co., vs. Denver & Rio Grande Western Railroad Company....	95.09
294	C. O. Stott, vs. Denver & Rio Grande Western Railroad Company	22.82 2.68†
295	E. F. McPherson, vs. Utah Gas & Coke Co..	.27*
296	Utah Oil Refining Company, vs. Bamberger Electric Railroad Company and Utah Idaho Central Railroad Company	28.07
297	Utah Idaho Sugar Company, vs. Salt Lake & Utah Railroad Company	69.51
298	Mrs. H. Christiansen, vs. Utah Gas & Coke Company	7.00*
299	O. C. Richardson, vs. Utah Idaho Central Railroad Company	15.00
300	American Asphalt Roof Co., vs. Southern Pacific Company and Oregon Short Line Railroad Company	140.27
301	Utah Railway Company, vs. Los Angeles & Salt Lake Railroad Company, Western Pacific Railroad Company, and Tooele Valley Railway Co.	642.30
302	J. F. Kinnard, vs. Utah Gas & Coke Company	.57*
	Total	$6,808.29

*Credit to account.
†Waive collection of undercharges.

SPECIAL PERMISSIONS ISSUED DURING THE YEAR 1928

Name	Number
Bamberger Electric Railroad Company	3
Barton Truck Line	1
Bingham Stage Line	1
Denver & Rio Grande Western Railroad Company.....	50
Eastern Utah Transportation Company	3
Eureka Payson Stage Line	1
Howard Hout Stage Line	1
Jones, B. T., Agent	1
Local Utah Freight Tariff Bureau.....	30
Los Angeles & Salt Lake Railroad Company.....	10

Milne, Hamblin, Barton & Lund Stage Line	1
Oregon Short Line Railroad Company	14
Pacific Freight Tariff Bureau	4
Paragonah-Cedar City Stage Line	1
Salt Lake-Ogden Transportation Company	2
Salt Lake-Tooele Stage Line	1
Salt Lake & Utah Railroad Company	1
Sterling Transportation Company	2
Union Pacific System	18
Utah Central Truck Line	1
Utah Idaho Central Railroad Company	16
Utah Power & Light Company	5
Utah Railway Company	4
Western Pacific Railroad Company	2
Total	173

GRADE CROSSING PERMITS ISSUED DURING THE YEAR 1928

Number	Issued To	Location
121	Denver & Rio Grande Western Railroad Co.	Provo
122	Ogden Union Railway & Depot Company	Ogden
123	Denver & Rio Grande Western Railroad Co.	Salt Lake City
124	Denver & Rio Grande Western Railroad Co.	Provo
125	Denver & Rio Grande Western Railroad Co.	Salt Lake City
126	Brigham City Sand & Silica Company	Brigham
127	Oregon Short Line Railroad Company	Call's Fort
128	Denver & Rio Grande Western Railroad Co.	American Fork
129	Ogden Union Railway & Depot Company	Ogden
130	Ogden Union Railway & Depot Company	Ogden
131	Ogden Union Railway & Depot Company	Ogden
132	Salt Lake & Utah Railroad Company	Provo
133	Denver & Rio Grande Western Railroad Co.	Ogden
134	Oregon Short Line Railroad Company	Salt Lake City
135	Ogden Union Railway & Depot Company	Ogden

CERTIFICATES OF CONVENIENCE AND NECESSITY WERE ISSUED AS FOLLOWS:

Certificate No.	Case No.	Classification	Between	*At	And	To Whom Issued
310	996	Passenger & Express Line	Heber City		Park City	E. J. Duke
311	1005	Passenger Line	Coalville		Ogden	J. C. Wilson
312	995	Passenger & Freight Line	Wattis		Price	Lion Coal Company
313	1033	Freight Line	Salt Lake City		Tooele	Barton Truck Line, a Corp.
314	1025	Passenger Line	Eureka		Dividend	N. S. Sanderson
315	1009	Light & Heat Plant		*Escalante		Escalante Light & Power Co.
316	1036	Light & Power Line		*Bingham		Utah Power & Light Co.
317	1006	Passenger Line	St. George		Cedar City	Southern Utah Stage Line Co.
318	994	Passenger Line	Salt Lake City		St. George	Great Western Motorways, Inc.
319	1002	Passenger Line	Salt Lake City		Utah-Ariz. State Line	Pickwick Stage Lines
320	1019	Passenger & Express Line	Salt Lake City		Park City	Howard Hout
321	1038	Electric Bus Line		*Salt Lake City		Utah Light & Traction Co.
322	988	Telephone Line	New Harmony		Kanarra	George F. Prince
323	1052	Freight Line	Ogden		Kamas	White Trucking Company
324	1049	Sight-seeing Bus Line	Ogden		Weber County	Utah Rapid Transit Co.
325	1051	Passenger & Express Line	Price		Emery	L. J. Lloyd

STATEMENT OF PASSENGERS CARRIED, PASSENGER MILES, AND TAXES ASSESSED AUTOMOBILE PASSENGER LINES IN THE STATE OF UTAH FROM DECEMBER 1, 1927 TO DECEMBER 1, 1928

Certificate Holders	ROUTE		Total Passengers Carried	Passenger Miles Hard Surface	Tax	Passenger Miles Other	Tax	Total Tax
	Between	And						
Arrow Auto Line	Price	Sunnyside	4,138	85	$ .22	103,863	$ 103.87	$ 104.09
Bamberger Transportation Co.	Salt Lake City	Ogden	13,589	423,184	1,057.96	.....	.....	1,057.96
Bartholomew, Jesse	Centerfield	Gunnison	636	10,764	26.95	13,990	13.99	40.94
Barton, J. Lowe	Paragonah	Cedar City	870	.....	.....	20,010	20.04	20.04
Bingham Stage Lines Co.	Salt Lake City	Bingham	39,098	935,069	2,337.68	163,365	163,37	2,501.05
Bolinder, Lester A.	Grantsville	Salt Lake	1,259	28,150	70.37	22,210	22.18	92.55
Boyer, T. W.	Payson	Eureka	4,015	17,259	43.16	41,698	41.69	84.85
Boyer, T. W.	Salt Lake City	Fillmore	160	11,613	29.05	6,129	6.14	35.19
Coleman, Alva L.	Salt Lake City	Heber City	3,700	101,070	252.70	92,423	92.43	345.13
Despain, Elbert G.	Salt Lake City	Alta	328	2,060	5.15	3,264	3,28	8.43
Dodge Stage Line	Duchesne	Heber City	4,195	15,940	39.87	306,998	306.99	346.86
Great Western Motorways, Inc.	Salt Lake City	Various	10,948	820,832	2,052.10	2,255.652	2,255.72	4,307.82
Hadley & Peterson	Tremonton	Deweyville	1,467	2,662	6.68	5,820	5.81	12.49
Hout, Howard	Salt Lake City	Park City	19,900	151,023	377.57	457,079	457.11	834.68
Moab Garage Company	Moab	Thompson	976	.....	.....	44,818	44.82	44.82
Mastros, Thomas	Milford	Beaver	710	.....	.....	18,236	18.23	18.23
Nielson, Ernest & Nephi	Salt Lake City	Brighton	898	7,184	17.96	17,960	17.96	35.92
O'Driscoll, Isaac	Coalville	Ogden	292	1,752	4.38	6,371	6.37	10.75
Pickwick Stage Line	Salt Lake City	Various	32,584	2,198,311	5,495.85	5,906,793	5,906.77	11,402.62
Pierce Arrow Sight Seeing Co.	Salt Lake City	Various	1,712	115,367	288.43	43,789	43.79	332.22
Price Transportation Co.	Price	Gibson	18,277	104,134	260.35	28,072	28.09	288.44
Salt Lake Transportation Co.	Salt Lake City	Various	3,595	97,645	244.13	14,771	14.77	258.90
Spencer, Howard J.	Salt Lake City	Tooele	13,143	280,910	702.27	108,176	108.17	810.44
Spring Canyon Stage Line	Helper	Mutual	5,856	172	.43	36,502	36.49	36.92
Utah-Idaho Central R. R. Co.	Ogden	Logan	51,924	856,513	2,141.31	398,657	398.64	2,539.95
Utah Parks Company	Cedar City	Scenic Points	25,836	.....	.....	1,332,787	1,332.78	1,332.78
Utah Light & Traction Company	No. City Limits	Centerville	723,769	2,107,449	5,268.64	247,351	247.37	5,516.01
Wilson, J. C.	Salt Lake City	Coalville	2,064	9,766	25.45	61,147	61.16	86.61
Whitehead, Chester A.	St. George	Cedar City	447	.....	.....	20,007	20.02	20.02
Totals			986,386	8,298,914	$20,748.66	11,777,938	$11,778.05	$32,526.71

STATEMENT OF PASSENGERS CARRIED, PASSENGER MILES, AND TAXES ASSESSED AUTOMOBILE PASSENGER LINES IN THE STATE OF UTAH FROM DECEMBER 1, 1927 TO DECEMBER 1, 1928

Non-Certificate Holders	ROUTE		Total Passengers Carried	Passenger Miles Hard Surface	Tax	Passenger Miles Other	Tax	Total Tax
	Between	And						
Adamson, Hyrum	American Fork	Various	119	2,193	$ 5.48	11,411	$ 11.41	$ 16.89
Arrowhead Stages	Grand Junction	Salt Lake City	145	8 016	20.04	27,338	27.34	47.38
Barrutia, Pat	Bingham	Salt Lake City	33	825	2.06	87	.08	2.14
Bee Hive Stages	Salt Lake City	Various	14,221	879,575	2,198.92	195,294	195.31	2,394.23
Biederman, R.	Salt Lake City	Various	40	1,360	3.40	2,840	2,84	6.24
Bilton, J. H.	Salt Lake City	Various	89	4,299	10.75	392	.39	11.14
Blue and White Stages	Salt Lake City	Various	442	13,159	32.90	29,572	29.57	62.47
Bonacci, Tony	Park City	Various	730	588	1.47	10,066	10.07	11,54
Booker, C. D.	Salt Lake City	Ely	377	9,048	22.62	41,093	41.09	63.71
Colorado Utah Motor Way	Grand Junction	Salt Lake City	61	2,666	6.67	11,923	11.92	18.59
Cox, Henderson E.	St. George	Various	12	.....	.....	540	.55	.55
Cox. Monty	Salt Lake City	Denver	29	986	2.47	2,059	2.06	4.53
Duke, E. J.	Heber	Park City	403	.....	.....	8,060	8.06	8.06
Eagleberger, Guy	Monticello	Blanding	81	.....	.....	1,782	1.78	1.78
Ferres, S. T.	Salt Lake City	Denver	10	340	.85	710	.71	1.56
Gorman, E. T.	Salt Lake City	Denver	36	252	.63	2,484	2.48	3.11
Green, J. S.	Parowan	Various	21	1,260	3.15	2,387	2.39	5.54
Halverson, A. V.	Salt Lake City	Denver	52	1,768	4.42	3,692	3.69	8.11
Inter-State Bus Lines Inc.	Salt Lake City	Denver	1,943	64,676	161.69	129,909	129.92	291.61
J. &. M. Transfer Co.	Salt Lake City	Sunnyside	50	3,250	8.13	1,750	1.75	9.88
Johnson Taxi & Transfer Co.	Logan	Various	180	1,131	2.85	1,744	1.76	4.61
Lewis, Orson	Salt Lake City	Denver	346	8,147	20.37	37,108	37.10	57.47
Lion Coal Co.	Wattis	Price	71	.....	.....	1,588	1.58	1.58
Louvrich, Peter	Bingham	Various	294	.....	.....	479	.48	.48
Marchant, Williard	Peoa	Park City	146	.....	.....	2,482	2.49	2.49
McManus, James B.	Salt Lake City	Denver	48	336	.84	3,312	3.31	4.15
Miga, Sata	Bingham	Various	525	1,003	2.52	904	.90	3.42
Morton Salt Company	Grantsville	Salt Lake City	11,152	.....	.....	133,818	133.83	133.83
Price Emery Auto Line	Price	Emery	267	.....	.....	9,361	9.36	9.36
Sanderson, G. L.	Eureka	Dividend	7,286	.....	.....	29,144	29.14	29.14
Seerey, Harry J.	Salt Lake City	Denver	45	315	.79	3,105	3.11	3.90
Sweatfield, John	Park City	Various	8	416	1.04	197	.19	1.23
Utah Idaho Rap. Trans. (H. Hout.)	Salt Lake City	Various	994	52,498	131.24	13,768	13.77	145.01
Utah Idaho Rap. Trans. (H. Spenc)	Salt Lake City	Various	507	27,740	69.34	7,292	7.29	76.63
Wiseman, J. J.	Salt Lake City	Various	87	2,958	7.40	6,177	6.18	13.58
Young, Carl	Salt Lake City	Various	54	378	.95	3,726	3.73	4.68
Totals			40,904	1,089,183	$ 2,722.99	737,494	$ 737.63	$ 3,460.62

STATEMENT OF FREIGHT CARRIED, TON MILES, AND TAXES ASSESSED AUTOMOBILE FREIGHT LINES, OPERATING IN THE STATE OF UTAH FROM DECEMBER 1st, 1927 TO DECEMBER 1st, 1928

Certificate Holders	ROUTE		Total Tons Transported	Ton Miles Hard Surface	Tax	Ton Miles Other	Tax	Total Tax
	Between	And						
Arrow Auto Line	Price	Sunnyside	231	28	$ .19	6,455	$ 16.14	$ 16.33
B. &. O. Transportation Co.	Salt Lake City	Sandy	902	8,580	57.20	.....	.....	57.20
Bartholomew, Jesse L.	Centerfield	Gunnison R. R. Sta.	381	2,134	14.20	1,222	3.08	17.28
Barton & Lund	St. George	Cedar City	2,963	493	3.29	155,883	389.71	393.00
Barton, A. H.	Tooele	Salt Lake City	1,679	40,345	268.98	23,534	58.84	327.82
Barton, J. Lowe	Paragonah	Cedar City	83	.....	.....	1,704	4.27	4.27
Bateman, Burnell	Lehi	Salt Lake City	518	14,429	96.22	.....	.....	96.22
Bingham Stage Lines	Salt Lake City	Bingham	18	449	3.01	57	.15	3.16
Bolinder, Lester A.	Salt Lake City	Grantsville	172	3,902	26.05	3,060	7.67	33.72
Boyer, T. W.	Eureka	Payson	2	6	.04	18	.04	.08
Despain, Elbert G.	Salt Lake City	Alta	24	204	1.34	257	.65	1.99
Eastern Utah Trans. Co.	Price	Vernal	2,585	31,272	208.47	234,329	585.83	794.30
Hamblin, E. O.	St. George	Cedar City	349	.....	.....	19,547	48.87	48.87
Hout, Howard	Salt Lake City	Park City	18	137	.94	446	1.12	2.06
Hurricane Truck Line	Hurricane	Cedar City	1,491	.....	.....	73,083	182.71	182.71
Madsen, Clarence T.	Gunnison	Centerfield	208	1,746	11.66	3,817	9.55	21.21
Magna-Garfield Truck Line	Salt Lake City	Garfield	1,079	18,763	125.10	.....	.....	125.10
Milne, J. J.	St. George	Cedar City	957	212	1.42	51,680	129.18	130.60
Moab Garage	Moab	Thompson	1,286	.....	.....	69,327	173.33	173.33
Murdock, R. C.	Beaver	Milford	1,449	.....	.....	46,407	116.01	116.01
Nielson, Ernest & Nephi	Salt Lake City	Brighton	30	247	1.64	582	1.45	3.09
Pickwick Stage Lines	Salt Lake City	Various	10	512	3.42	1,323	3.31	6.73
Price Transportation Co.	Price	Gibson	138	601	4.02	1,944	4.87	8.89
Salt Lake Bingham Freight Line	Salt Lake City	Bingham	1,273	31,907	212.73	2,339	5.85	218.58
Salt Lake Ogden Trans. Co.	Salt Lake City	Ogden	8,601	291,933	1,946.23	.....	.....	1,946.23
Spencer, Howard J.	Salt Lake City	Tooele	100	2,550	17.00	1,296	3.23	20.23
Sterling Transportation Co.	Salt Lake City	Vernal	2,776	104,409	696.03	333,619	834.04	1,530.07
Streeper, Wells R.	Ogden	Garland	2,806	76,815	512.09	51,532	128.84	640.93
Utah Central Truck Line	Salt Lake City	Provo	2,618	113,959	759.74	.....	.....	759.74
Utah Central Transfer Co.	Provo	Eureka	1,497	24,171	161.15	15,149	37.87	199.02
White Trucking Co.	Ogden	Kamas	741	4,921	32.79	32,825	82.07	114.86
Totals			37,085	774,725	$ 5,164.95	1,231,535	$ 2,828.68	$ 7,993.63

STATEMENT OF FREIGHT CARRIED, TON MILES, AND TAXES ASSESSED AUTOMOBILE FREIGHT LINES, OPERATING IN THE STATE OF UTAH FROM DECEMBER 1st, 1927 TO DECEMBER 1st, 1928

Non-Certificate Holders	ROUTE		Total Tons Transported	Ton Miles Hard Surface	Tax	Ton Miles Other	Tax	Total Tax
	Between	And						
Ashton and Sons	Roosevelt	Various	636	3,873	$ 25.82	46,648	$ 116.63	$ 142.45
Bollschweiler, O.	Bingham	Various	325	7,705	51.36	755	1.89	53.25
Bateman, Waldo	Alpine	American Fork	91	.....	.....	784	1.97	1.97
Baxter, Harold	Neola	Price	10	304	2.03	2,403	6.01	8.04
Beal, Henry	Myton	Price	52	883	5.90	3,197	7.99	13.89
Benson, Ezra T.	Centerville	Salt Lake City	441	5,286	35.24	.....	.....	35.24
Bowman, Harold I.	Marysvale	Kanab	119	.....	.....	9,927	24.82	24.82
Bracken, Harry L.	Salt Lake City	Various	9,850	29,558	197.05	29,558	73.92	270.97
Brinkerhoff, Wm.	Sigurd	Bicknell	50	.....	.....	2,500	6.25	6.25
Campbell, Wm.	Price	Various	339	5,625	37.50	12,279	30.71	68.21
Carroll, Frank W.	Price	Vernal	13	93	.62	1,061	2.65	3.27
Chase, W. B.	Vernal	State Line	235	2,116	14.13	21,637	54.11	68.24
Christensen, E.	Price	Emery	30	.....	.....	1,219	3.05	3.05
Clark, Stanley	Lehi	Various	497	14,395	95.97	.....	.....	95.97
Cole Transfer & Storage Co.	Ogden	Various	101	3,430	22.87	489	1.23	24.10
Cottrell, H. J.	Kaysville	Salt Lake City	23	446	2.98	11	.03	3.01
Covington, B. L.	St. George	Cedar City	6	.....	.....	500	1.25	1.25
Cox, Angus	Price	Huntington	154	.....	.....	3,388	8.49	8.49
Cox, Frank L.	Cedar City	St. George	55	27	.18	2,943	7.36	7.54
Davis, S. P.	Bingham	Various	34	951	6.35	355	.89	7.24
DuLany, D. D.	Craig, Colo.	Vernal	217	.....	.....	8,492	21.23	21.23
Duke, Elisha Jones	Heber	Park City	25	.....	.....	470	1.18	1.18
Eagleberger, Guy	Monticello	Blanding	4	.....	.....	100	.25	.25
Eldredge, Earl	Roosevelt	Salt Lake City	153	1,806	12.03	11,717	29.30	41.33
Elliot, Charles A.	Salina	Loa	17	.....	.....	935	2.34	2.34
Fisher, T. F.	Helper	Standardville	143	.....	.....	858	2.14	2.14
Flanigan, Don	Cedar City	Springdale	98	.....	.....	5,344	13.37	13.37
Fuller, Amos L.	Smithfield	Ogden	15	517	3.44	252	.63	4.07
Barrett Transfer & Storage Co.	Salt Lake City	Pocatello	940	48,952	326.35	18,799	47.00	373.35
Gas Express & Transfer	Salt Lake City	Various	23	189	1.26	.....	.....	1.26
Graff & Reber	Salt Lake City	St. George	23	2,115	14.10	5,523	13.81	27.91
Grant, Edward G.	Various	Various	2	12	.08	10	.03	.11
Hadley Transfer Co.	Salt Lake City	Various	93	4,036	26.91	1,802	4.51	31.42
Hafen, Joseph	Washington	Various	9	.....	.....	815	2.04	2.04

STATEMENT OF FREIGHT CARRIED, TON MILES, AND TAXES ASSESSED AUTOMOBILE FREIGHT LINES, OPERATING IN THE STATE OF UTAH FROM DECEMBER 1st, 1927 TO DECEMBER 1st, 1928

Non-Certificate Holders	ROUTE		Total Tons Transported	Ton Miles Hard Surface	Tax	Ton Miles Other	Tax	Total Tax
	Between	And						
Hair, Leland	Duchesne	Various	61	383	$ 2.56	2,892	$ 7.23	$ 9.79
Hardy Madsen Transfer	Provo	Various	40	2,026	13.49	224	.57	14.06
Harmston, Floyd E.	Roosevelt	Various	85	2,556	17.07	9,363	23.42	40.49
Harris, J. D.	Price	Gordon Creek	1,843	3,686	24.58	3,686	9.22	33.80
Haycock, J. B.	Helper	Rains	65	.....	.....	287	.73	.73
Haynes, Homer	Price	Moffat	124	1,382	9.23	10,556	26.41	35.64
Heaton, Glen	Cedar City	Alton Divide	146	.....	.....	6,695	16.74	16.74
Highway Garage	Cedar City	Kanab	524	.....	.....	52,274	130.68	130.68
J. &. M. Transfer Co.	Salt Lake City	Sunnyside	241	6,249	41.67	3,085	7.72	49.39
Jetter, M., Jr.	Salt Lake City	Various	2	40	.27	.....	.....	.27
Johnson, E. C.	Salt Lake City	Idaho Line	20	2,100	14.00	.....	.....	14.00
Johnson Taxi & Transfer Co.	Logan	Various	28	605	4.07	362	.91	4.98
Johnstun, Robert L.	Vernal	Various	87	951	6.34	9,131	22.83	29.17
Jones, W. E.	Price	Sweets	19	88	.60	245	.62	1,22
Laris, Louis	Salt Lake City	Roosevelt	35	303	2.02	2,489	6.22	8.24
Linck, W. H.	Salt Lake City	Monroe	242	26,430	176.20	14,200	35.50	211.70
Lion Coal Co.	Wattis	Price	38	.....	.....	887	2.22	2.22
Lublin, Alfred	Roosevelt	Various	255	3,150	21.02	20,692	51.75	72.77
Ludlow, C. W.	Price	Helper	5	20	.13	67	.17	.30
Marchant, Williard	Peoa	Park City	11	.....	.....	198	.51	.51
Matthews, Jeff	Roosevelt	Price	20	219	1.46	1,349	3.37	4.83
McDowell, J. W.	Tremonton	Ogden	265	6,280	41.87	4,437	11.10	52.97
Mercantile Truck Line Service	Marysvale	Kanab	505	744	4.96	39,183	97.96	102.92
Messinger, Blake	Salt Lake City	Payson	7,446	138,135	920.81	16,228	40.59	961.40
Michael, Wm.	Myton	Price	9	102	.68	592	1.48	2.16
Mitchell Van & Storage Co.	Salt Lake City	Various	2	46	.30	.....	.....	.30
Mullins, H.	Roosevelt	Price	51	561	3.74	4,131	10.33	14.07
Ogden Transfer & Storage Co.	Ogden	Various	28	1,028	6.86	541	1.36	8.22
Olsen, Fred	Bingham	Various	8	166	1.11	36	.09	1.20
Orme, George W.	Deweyville	Ogden	39	813	5.42	653	1.63	7.05
Pagano, A. N.	Helper	Various	7	44	.30	208	.52	.82
Pehrson, Clarence	Salt Lake City	Monroe	175	18,755	125.02	8,459	21.16	146.18
Perry, Thomas W.	Kamas	Salt Lake City	321	12,862	85.76	9,958	24.90	110.66
Pierce, Lee	Torrey	Sigurd	10	.....	.....	470	1.18	1.18
Pierce, Willard L.	Mohrland	Price	20	.....	.....	287	.72	.72
Pierson, H. A.	Duchesne	Price	107	1,085	7.23	4,988	12.48	19.71

STATEMENT OF FREIGHT CARRIED, TON MILES, AND TAXES ASSESSED AUTOMOBILE FREIGHT LINES, OPERATING IN THE STATE OF UTAH FROM DECEMBER 1st, 1927 TO DECEMBER 1st, 1928

Non-Certificate Holders	ROUTE		Total Tons Transported	Ton Miles Hard Surface	Tax	Ton Miles Other	Tax	Total Tax
	Between	And						
Pilling, John	Heber	Various	78	545	$ 3.64	3,977	$ 9.94	13.58
Pitt, J. M.	Roosevelt	Price	13	189	1.26	998	2.49	3.75
Price Emery Auto Line	Price	Emery	8	.....	.....	221	.56	.56
Pulos, George	Roosevelt	Salt Lake City	98	928	6.18	4,253	10.64	16.82
Richens, H. T.	Myton	Price	17	182	1.21	1,144	2.86	4.07
Robinson, John	Roosevelt	Price	26	277	1.84	1,913	4.79	6.63
Robinson, Leo	Roosevelt	Price	139	1,665	11.11	11,189	27.98	39.09
Robinson, Collie	Roosevelt	Price	40	869	5.80	4,141	10.36	16.16
Rogers, George	Mt. Emmons	Various	35	389	2.60	2,240	5.60	8.20
Ross, Iven	Price	Whiterocks	55	1,334	8.89	5,808	14.52	23.41
Salt Lake Transfer Co.	Salt Lake City	Various	595	17,456	116.42	1,570	3.94	120.36
Schoenfeld, W. L.	Salt Lake City	Monroe	139	14,930	99.54	7,059	17.67	117.21
Siddoway, John	Vernal	Various	228	3,164	21.09	23,922	59.80	80.89
Sim, L. S.	Ogden	Various	155	717	4.80	7,770	19.43	24.23
Slaugh, George A.	Price	Vernal	32	498	3.31	3,133	7.84	11.15
Snyder, A. L.	Duchesne	Various	66	759	5.07	3,214	8.04	13.11
Soward & Evans	Vernal	Various	49	540	3.60	5,353	13.38	16.98
Spiers, D. A.	Salt Lake City	Ogden	30	107	.72	.....	.....	.72
Stevenson, Brig.	Antelope	Price	33	365	2.43	1,734	4.33	6.76
Stover, John	Antelope	Price	15	121	.82	631	1.58	2.40
Stuchi & Wittwer	Salt Lake City	St. George	5	428	2.86	1,116	2.79	5.65
Thomley, J. H.	Layton	Salt Lake City	45	1,027	6.85	.....	.....	6.85
Thompson, David P.	Salt Lake City	Various	16	763	5.08	425	1.07	6.15
Timpson, H. E.	Price	Sunnyside	400	.....	.....	9,108	22.53	22.53
Truitt, J. M.	Salt Lake City	Various	78	2,965	19.81	1,262	3.16	22.97
Ungricht, W. F.	Castle Dale	Various	52	118	.80	1,749	4.40	5.20
Utah Central Moving & Stor. Co.	Provo	Various	76	2,140	14.26	3,175	7.95	22.21
Utah Service Co.	Salt Lake City	Various	126	7,915	52.77	.....	.....	52.77
Veater, Ruland	Price	Sunnyside	78	.....	.....	2,149	5.37	5.37
Vernon, Eddie	Salt Lake City	Various	79	624	4.16	2,952	7.38	11.54
Wardle, Don	Roosevelt	Price	266	2,938	19.62	20,203	50.52	70.14
Wardell, W. M.	Ft. Duchesne	Various	323	3,571	23.82	24,431	61.08	84.90
White, Elmer N.	Ranger Station	Castle Gate	29	68	.46	918	2.30	2.76
Williams, David J.	Malad, Idaho	Ogden	181	5,324	35.51	4,641	11.61	47.12
Wood, J. A.	Hurricane	Various	89	.....	.....	4,531	11.33	11.33
Wood, John F.	Salt Lake City	Tintic Giant M.	3	210	1.40	48	.12	1.52
Workman, E. I.	Kiz	Price	3	.....	.....	49	.12	.12
Zirker, John E.	Myton	Price	134	1,669	11.15	9,463	23.66	34.81
Totals			31,541	437,926	$ 2,919.82	600,114	$ 1,500.54	$ 4,420.36

STATEMENT OF PASSENGERS CARRIED, PASSENGER MILES, FREIGHT CARRIED, TON MILES, AND TAXES ASSESSED AUTOMOBILE LINES OPERATING IN THE STATE OF UTAH, FROM DECEMBER 1st, 1927, TO DECEMBER 1st, 1928

RECAPITULATION

	Total Passengers Carried	Passenger Miles Hard Surface	Tax	Passenger Miles Other	Tax	Total Tax
Certificate Holders	986,386	8,298,914	$20,748.66	11,777,938	$11,778.05	$32,526.71
Non-Certificate Holders	40,904	1,089,183	2,722.99	737,494	737.63	3,460.62
Total Passenger Lines	1,027,290	9,388,097	$23,471.65	12,515,432	$12,515.68	$35,987.33

	Total Tons Transported	Ton Miles Hard Surface	Tax	Ton Miles Other	Tax	Total Tax
Certificate Holders	37,085	774,725	$ 5,164.95	1,231,535	$ 2,828.68	$ 7,993.63
Non-Certificate Holders	31,541	437,926	2,919.82	600,114	1,500.54	4,420.36
Total Freight Lines	68,626	1,212,651	$ 8,084.77	1,831,649	$ 4,329.22	$12,413.99

TOTAL TAXES ASSESSED:	
Total Passenger Lines	$35,987.33
Total Freight Lines	12,413.99
Grand Total Taxes Assessed	$48,401.32

STATISTICAL INFORMATION TAKEN FROM ANNUAL REPORTS OF AUTOMOBILE PASSENGER AND FREIGHT CERTIFICATE HOLDERS OPERATING IN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1927

NAME OF LINE OR OPERATOR	ROUTE		Nature*	Total Investment	Total Operating Revenues	Total Operating Deductions	Operating Income	
	Between	And						
Alta Stage Line	Salt Lake City	Alta	FP	$ 6,240.00	$ 4,762.05	$ 5,472.30	$ 710.25	Red
Arrow Auto Line	Price	Hiawatha	PE	7,760.00	14,778.10	14,917.92	139.82	Red
Bamberger Transportation Co.	Salt Lake City	Ogden	P	25,002.23	9,919.17	12,915.75	2,996.58	Red
Bartholomew, Jesse L.	Centerfield	Gunnison	PFE	1,024.00	1,614.90	926.80	688.10	
Barton, A. H. Truck Line	Salt Lake City	Tooele	F	13,000.80	20,551.93	13,483.11	7,068.82	
Barton, J. Lowe	Paragonah	Cedar City	P	2,600.00	2,707.16	1,232.48	1,474.68	
Bingham Stage Lines Co.	Salt Lake City	Bingham	PE	134,554.10	76,514.51	69,566.46	6,948.05	
Brighton Stage Line	Salt Lake City	Brighton	PF	2,000.00	1,656.65	1,458.35	198.30	
B. &. O. Transportation Co.	Salt Lake City	Sandy, Murray	F	10,690.49	4,456.49	4,551.73	95.24	Red
Coleman, Alva L.	Salt Lake City	Heber City	P	4,730.00	8,342.25	6,296.02	2,046.23	
Dodge Stage Line	Price	Vernal	P	3,074.00	20,314.68	20,314.68	.....	
Eureka-Payson Stage Line	Payson	Eureka	P	1,700.00	6,351.13	8,279.83	1,928.70	Red
Eastern Utah Transportation Co.	Price	Vernal	FE	34,049.65	46,377.57	47,145.47	767.90	Red
Grantsville-Salt Lake Stage Line	Grantsville	Salt Lake City	PF	4,506.97	5,031.03	5,681.59	650.56	Red
Hadley & Peterson	Garland	Deweyville	P	1,055.00	3,698.75	1,589.30	2,109.45	
Hurricane Truck Line	Cedar City	Hurricane	F	7,698.19	18,480.42	14,124.23	4,356.19	
Mastros, Thomas	Milford	Beaver	P	1,152.00	1,909.00	1,882.10	26.90	
Madsen, Clarence T.	Centerfield	Gunnison	F	1,200.00	2,232.64	560.75	1,671.89	
Magna-Garfield Truck Line	Salt Lake City	Garfield	F	3,766.30	6,774.53	6,038.92	735.61	
Milne, Jos. J.	Cedar City	St. George	F	2,270.00	3,298.35	1,986.78	1,311.57	
Moab Garage Co.	Thompson	Monticello	PF	39,335.00	41,444.97	43,705.05	2,260.08	Red
Murdock, R. C.	Milford	Beaver	PF	5,522.51	19,266.78	16,577.10	2,689.68	
Price Transportation Co.	Price	Gibson	PE	5,500.00	13,403.49	14,168.42	764.93	Red
Salt Lake-Bingham Freight Line	Salt Lake City	Bingham	F	11,765.74	9,608.93	9,759.74	150.81	Red
Salt Lake-Fillmore Bus Line	Salt Lake City	Fillmore	PE	6,000.00	704.75	1,928.36	1,223.61	Red
Salt Lake-Ogden Transportation Co.	Salt Lake City	Ogden	F	34,405.88	57,087.84	49,791.92	7,295.92	
Salt Lake-Park City Stage Line	Salt Lake City	Park City	P	20,557.35	40,013.50	34,326.56	5,686.94	
Salt Lake Transportation Co.	Salt Lake City	Various	P	277,244.85	1,151.15	1,544.50	393.25	Red
Salt Lake-Tooele Stage Line	Salt Lake City	Tooele	P	14,437.49	25,124.28	23,198.32	1,925.96	
Spring Canyon Stage Line	Helper	Mutual	P	6,600.00	9,462.25	9,177.83	284.42	
Sterling Transportation Co.	Salt Lake City	Vernal	F	26,790.00	47,508.76	56,286.22	8,777.46	Red
Utah Central Transfer Co.	Provo	Silver City	F	4,538.13	9,477.60	10,741.64	1,264.04	Red
Utah Central Truck Line	Salt Lake City	Provo	F	19,368.36	23,652.84	22,990.23	662.61	
Utah Parks Company	Cedar City	Scenic Points	P	908,443.60	301,995.54	254,079.51	47,916.03	
Wilson, John C.	Salt Lake City	Coalville	P	736.72	1,792.75	1,890.23	97.48	Red
Totals				$1,649,763.38	$861,466.74	$788,590.10	$72,876.64	

*P—Denotes Passenger Line. F—Denotes Freight Line. E—Denotes Express Line

ELECTRIC LIGHT & POWER UTILITIES OPERATING IN UTAH—OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1927

	Utah Power & Light Co.	Telluride Power Co.	Dixie Power Co.	Big Spring Power Co.*
Operating Revenues:				
Sales of Current	$ 9,710,600.67	$ 194,653.84	$109,012.74	$ 5,071.98
Other Revenues	260,197.86	13,484.51	3,021.65	
Total Operating Revenues	$ 9,970,798.53	$ 208,138.35	$112,034.39	$ 5,071.98
Operating Expenses:				
Steam Power Generation	113,656.70			
Hydro-Electric Generation	372,248.68	23,862.26	12,997.08	651.02
Miscellaneous Production Expenses	278,754.30		4,120.03	
Transmission Expenses	191,381.22	10,625.33	1,456.99	81.28
Distribution Expenses	383,877.61	17,291.33	5,093.11	208.53
Utilization Expenses	140,396.47	3,020.50	639.59	
Commercial Expenses	315,623.73	12,664.58	6,242.47	204.41
New Business Expenses	127,989.33	5,468.51	203.95	
General and Miscellaneous Expenses	607,654.42	64,918.59	21,185.01	967.89
Gas Power Generation			6,924.19	
Other Operating Expenses	211,643.99†			
Total Operating Expenses	$ 2,743,226.45	$ 137,851.10	$ 58,862.42	$ 2,113.13
Total Accounts Uncollectible	24,760.80	1,422.44	377.06	30.00
Taxes	1,420,167.02	16,500.00	10,343.07	411.10
Total Revenue Deductions	$ 4,188,154.27	$ 155,773.54	$ 69,582.55	$ 2,554.23
Operating Income	$ 5,782,644.26	$ 52,364.81	$ 42,451.84	$ 2,517.75
Plant Rental	593,447.42			
Operating Income, for return	$ 5,189,196.84	$ 52,364.81	$ 42,451.84	$ 2,517.75
Investment in Fixed Capital	$74,728,983.83	$1,390,887.27	$822,341.00	$99,954.89

*For three months period ended December 31, 1927. †Auxiliary Operations.

ELECTRIC LIGHT & POWER UTILITIES OPERATING IN UTAH—OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1927

	Western States Utilities Co.	Swan Creek Electric Co.	Electric Power & Milling Co.	Pahvant Power & Light Co.	Uintah Power & Light Co.
Operating Revenues:					
Sales of Current	$18,943.68	$ 7,225.13	$ 5,128.60	$29,780.10	$ 33,549.67
Other Revenues	1,098.76	98.50	440.48	1,099.78	
Total Operating Revenues	$20,042.44	$ 7,323.63	$ 5,569.08	$30,879.88	$ 33,549.67
Operating Expenses:					
Hydro-Electric Generation		$ 2,685.14			
Miscellaneous Production Expenses	5,856.22			18,678.84	
Transmission Expenses		161.25		3,425.16	
Distribution Expenses	3,590.66	796.37		4,384.56	
Utilization Expenses	132.86			532.79	
Commercial Expenses	923.51			2,427.93	
New Business Expenses	370.62			422.80	
General and Miscellaneous Expenses	4,450.38	1,138.61	4,384.13	2,421.32	30,979.74
Total Operating Expenses	$15,324.25	$ 4,781.37	$ 4,384.13	$32,293.40	$ 30,979.74
Total Accounts Uncollectible	38.90				
Taxes	314.06	65.10	298.15	834.72	3,306.02
Total Revenue Deductions	$15,677.21	$ 4,846.47	$ 4,682.28	$33,128.12	$ 34,285.76
Operating Income, for return	$ 4,365.23	$ 2,477.16	$ 886.80	$ 2,248.24R	$ 736.09R
Investment in Fixed Capital	$44,639.67	$29,600.00	$15,000.00	$93,438.70*	$336,357.14

R Depotes Deficit.
*As of December 31, 1927. Figure taken from report of Pahvant Power Co.

GAS UTILITIES OPERATING IN THE STATE OF UTAH—OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1927

	Utah Gas & Coke Co. Salt Lake City	Utah Power & Light Co. Ogden	Utah Valley Gas & Coke Co., Provo
Operating Revenues:			
Metered Sales to General Customers	$ 665,972.24	$90,858.01	$ 68,973.16
Merchandise and Miscellaneous	2,257.88-Red	6,194.91	1,641.82-Red
Total Operating Revenues	$ 663,714.36	$97,052.92	$ 67,331.34
Operating Expenses:			
Operation—Gas Production	$ 267,512.10	$81,317.06	$ 2,962.39
Maintenance—Gas Production	14,919.46	6,665.81	204.62
Residuals, Miscellaneous Production, etc.	95,968.10-Cr.	24,869.65-Cr.	3,167.01-Cr.
Transmission and Distribution Expenses	34,095.69	9,937.25	5,312.22
Commercial Expenses	32,268.14	7,060.46	3,514.60
New Business Expenses	30,074.78	1,095.39	2,250.88
Depreciation			
General and Miscellaneous Expenses	61,837.65	17,084.07	15,196.00
Gas Purchased			23,064.67
Total Operating Expenses	$ 344,739.72	$98,290.39	$ 49,338.37
Uncollectible Accounts	1,690.64	227.14	430.62
Taxes	65,896.95	†	2,163.13
Total Revenue Deductions	$ 412,327.31	$98,517.53	$ 51.932.13
Operating Income	$ 251,387.05	$ 1,464.61*	$ 15,399.22
Fixed Capital at End of Year	$6,343,153.17	†	$681,347.52

*Denotes Deficit, or loss from operation.
†Included in system report as a whole of Utah Power & Light Co. to the Commission. Gas department valuation not separately made.

ELECTRIC RAILROAD UTILITIES—OPERATIONS WITHIN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1927

	Bamberger Electric R. R. Co.	Salt Lake & Utah R. R. Co.	Salt Lake-Garfield & Western R. R. Co.	Utah-Idaho Central R. R. Co.
Railway Operating Revenues:				
Total Revenue From Transportation	$552,155.58	$623,845.27	$146,978.81	$707,125,49
Total Revenue From Other Railway Operations	7,074.24	14,444.30	1,261.40	61,440.93
Total Operating Revenues	$559,229.82	$638,289.57	$148,240.21	$768,566.42
Railway Operating Expenses:				
Way and Structures	$ 90,046.33	$104,929,67	$ 13,696.30	$ 99,658.91
Equipment	53,559.63	74,535.90	26,849.65	65,066.36
Power	65,734.99	81,616.42	18,149.12	88,689.09
Conducting Transportation	69,961.32	132,216.95	22,684.40	182,004.60
Traffic	18,545.84	40,285.98	5,629.72	12,008.82
General and Miscellaneous	146,863.32	193,210.51	18,738.32	99,399.61
Transportation for Investment—Cr.		3,072.00-Red		
Total Operating Expenses	$444,711.43	$623,723.43	$105,747.51	$546,827.39
Net Revenue—Railway Operations	$114,518.39	$ 14,566.14	$ 42,492.70	$221,739.03
Taxes Assignable to Railway Operations	34,068.08	44,756.10	5,667.41	52,795.72
Operating Income	$ 80,450.31	$ 30,189.96-Red	$ 14,563.22*	$168.943.31
Total Mileage Operated	36.25	76.10	16.73	114.55
Operating Ratio—Oper. Expenses to Oper. Rev.	79.52%	97.72%	71.33%	71.49%

*After Auxiliary Operations.

BINGHAM AND GARFIELD RAILWAY COMPANY

Operations within the State of Utah—Entire Line
Year ended December 31, 1927

	Total	On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$ 479,774.22		
Incidental Operating Revenues	5,882.41		
Joint Facility Operating Revenues			
Total Operating Revenues	$ 485,656.63		
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 107,082.68		
Maintenance of Equipment	99,258.12		
Traffic	17,299.40		
Transportation Rail Line Expenses	119,996.76		
Miscellaneous Operating Expenses	1,350.09		
General Expenses	60,060.72		
Transportation for Investment—Cr.			
Total Railway Operating Expenses	$ 405,047.77		
Net Operating Revenues	$ 80,608.86		
Operating Ratio—Oper. Exp. to Oper. Rev.	83.4%		
Average Mileage of Road Operated	33.59		
Averages per Mile of Road:			
Operating Revenues	$ 14,462.68		
Operating Expenses	12,062.17		
Net Operating Revenues	2,400.51		
Utah Taxes Other than U. S. Government—1927	$ 55,161.33		

THE DENVER & RIO GRANDE WESTERN RAILROAD CO.

Operations within the State of Utah
Year Ended December 31, 1927

	Total	On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$11,006,163.89		
Incidental Operating Revenues	258,425.08	Not Compiled	
Joint Facility Operating Revenues	35,799.97		
Total Operating Revenues	$11,300,388.94		
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 1,946,877.20		
Maintenance of Equipment	1,967,113.94		
Traffic	213,963.50		
Transportation Rail Line Expenses	3,108,307.36		
Miscellaneous Operating Expenses	204,373.38		
General Expenses	325,253.32		
Transportation for Investment—Cr.	37,029.74 Red		
Total Railway Operating Expenses	$ 7,728,858.96		
Net Operating Revenues	$ 3,571,529.98		
Operating Ratio—Oper. Exp. to Oper. Rev.	68.39%		
Average Mileage of Road Operated	689.36		
Averages per Mile of Road:			
Operating Revenues	$ 16,477.19		
Operating Expenses	11,269.51		
Net Operating Revenues	5,207.68		
Utah Taxes Other than U. S. Government—1927	$ 645,029.50		

LOS ANGELES AND SALT LAKE R. R. CO.

Operations within the State of Utah
Year ended December 31, 1927

RAILWAY OPERATING REVENUES:	Total	On Interstate Traffic	On Intrastate Traffic
Rail Line Transportation Revenues	$10,112,337.15	$7,947,132.42	$2,165,204.73
Incidental Operating Revenues	682,144.37	220,132.66	462,011.71
Joint Facility Operating Revenues	47,750.61		47,750.61
Total Operating Revenues	$10,842,232.13	$8,167,265.08	$2,674,967.05

RAILWAY OPERATING EXPENSES:	
Maintenance of Way and Structures	$ 1,865,557.36
Maintenance of Equipment	1,854,426.03
Traffic	366,131.34
Transportation Rail Line Expenses	3,097,487.37
Miscellaneous Operating Expenses	498,421.25
General Expenses	360,411.04
Transportation for Investment—Cr.	1,179.97
Total Railway Operating Expenses	$ 8,041,254.42
Net Operating Revenues	$ 2,800,977.71
Operating Ratio—Oper. Exp. to Oper. Rev.	74.17%
Average Mileage of Road Operated	570.33

Averages per Mile of Road:

Operating Revenues	$ 18,526.00
Operating Expenses	13,710.76
Net Operating Revenues	4,815.23

Utah Taxes Other than U. S. Government—1927 ..... $ 468,790.26

OREGON SHORT LINE RAILROAD CO.

Operations within the State of Utah
Year ended December 31, 1927

	Total	On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$ 9,213,743.25	$8,519,588.34	$ 694,154.91
Incidental Operating Revenues	83,291.34	83,291.34	
Joint Facility Operating Revenues	687.11 Red	687.11 Red	
Total Operating Revenues	$ 9,296,347.48	$8,602,192.57	$ 694,154.91
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 863,623.32		
Maintenance of Equipment	884,493.40		
Traffic	95,711.00		
Transportation Rail Line Expenses	1,578,992.57		
Transportation Water Line Expenses			
Miscellaneous Operating Expenses	106,167.90		
General Expenses	222,674.60		
Transportation for Investment—Cr.	2,176.90		
Total Railway Operating Expenses	$ 3,749,485.89		
Net Operating Revenues	$ 5,546,861.59		
Operating Ratio—Oper. Exp. to Oper. Rev.	40.33%		
Average Mileage of Road Operated	244.33		
Averages per Mile of Road:			
Operating Revenues	$ 38,127.91		
Operating Expenses	15,378.09		
Net Operating Revenues	22,749.82		
Utah Taxes Other than U. S. Government—1927	$ 340,504.28		

SOUTHERN PACIFIC COMPANY

Operations within the State of Utah
Year ended December 31, 1927

	Total	On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$ 6,008,657.02*	$5,727,877.44	$ 74,357.48
Incidental Operating Revenues	101,354.60*	93,158.62	737.70
Joint Facility Operating Revenues	47,558.22		47,558.22
Total Operating Revenues	$ 6,157,569.84	$5,821,036.06	$ 122,653.40
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 587,912.54		
Maintenance of Equipment	718,476.66		
Traffic	96,225.33		
Transportation Rail Line Expenses	$ 1,468,501.49		
Transportation Water Line Expenses	4,160.52		
Miscellaneous Operating Expenses	96,093.42		
General Expenses	159,783.83		
Transportation for Investment—Cr.	12,543.55		
Total Railway Operating Expenses	$ 3,118,610.24		
Net Operating Revenues	$ 3,038,959.60		
Operating Ratio—Oper. Exp. to Oper. Rev.	50.65%		
Average Mileage of Road Operated	259.52		
Averages per Mile of Road:			
Operating Revenues	$ 23,726.76		
Operating Expenses	$ 12,016.84		
Net Operating Revenues	$ 11,709.92		
Utah Taxes Other than U. S. Government—1927	$ 258,939.17		

*Includes Operating Revenues that cannot be allocated to either Interstate or Intrastate traffic.

UNION PACIFIC RAILROAD COMPANY

Operations within the State of Utah
Year ended December 31, 1927

	Total	On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:			
Rail Line Transportation Revenues	$ 4,539,193.80	$4,177,530.47	$ 361,663.33
Incidental Operating Revenues	72,831.35	72,831.35	
Joint Facility Operating Revenues	5,838.14	5,838.14	
Total Railway Operating Revenues	$ 4,617,863.29	$4,256,199.96	$ 361,663.33
RAILWAY OPERATING EXPENSES:			
Maintenance of Way and Structures	$ 432,628.40		
Maintenance of Equipment	763,513.69		
Traffic	71,154.83		
Transportation Rail Line Expenses	1,016,266.57		
Miscellaneous Operating Expenses	71,125.97		
General Expenses	127,308.78		
Transportation for Investment—Cr.	202.62		
Total Railway Operating Expenses	$ 2,481,795.62		
Net Operating Revenues	$ 2,136,067.67		
Operating Ratio—Oper. Exp. to Oper. Rev.	53.74%		
Average Mileage of Road Operated	110.17		
Averages per Mile of Road:			
Operating Revenues	$ 41,915.79		
Operating Expenses	22,526.96		
Net Operating Revenues	19,388.83		
Utah Taxes Other than U. S. Government—1927	$ 226,689.39		

UTAH RAILWAY COMPANY

Operations within the State of Utah
Year ended December 31, 1927

RAILWAY OPERATING REVENUES:	Total
Rail Line Transportation Revenues	$ 1,812,852.85
Incidental Operating Revenues	354.67
Joint Facility Operating Revenues	
Total Railway Operating Revenues	$ 1,813,207.52
RAILWAY OPERATING EXPENSES:	
Maintenance of Way and Structures	$ 250,774.53
Maintenance of Equipment	451,503.59
Traffic	4,516.13
Transportation Rail Line Expenses	355,029.83
Miscellaneous Operating Expenses	
General Expenses	63,666.54
Transportation for Investment—Cr.	
Total Railway Operating Expenses	$ 1,125,490.62
Net Operating Revenues	$ 687,716.90
Operating Ratio—Oper. Exp. to Oper. Rev.	62.07%
Average Mileage of Road Operated	111.02
Averages per Mile of Road:	
Operating Revenues	$ 16,332.26
Operating Expenses	10,137.73
Net Operating Revenues	6,194.53
Utah Taxes Other than U. S. Government—1927	$ 82,084.51

THE WESTERN PACIFIC RAILROAD CO.

Operations within the State of Utah
Year ended December 31, 1927

	Total		On Interstate Traffic	On Intrastate Traffic
RAILWAY OPERATING REVENUES:				
Rail Line Transportation Revenues	$ 2,131,193.79		$1,970,367.00	$ 160,826.79
Incidental Operating Revenues	63,933.45		12,980.61	50,952.84
Joint Facility Operating Revenues	4,386.74			4,386.74
Total Railway Operating Revenues	$ 2,199,513.98		$1,983,347.61	$ 216,166.37
RAILWAY OPERATING EXPENSES:				
Maintenance of Way and Structures	$ 372,627.31			
Maintenance of Equipment	372,806.91			
Traffic	70,186.47			
Transportation Rail Line Expenses	681,718.42			
Miscellaneous Operating Expenses	82,236.21			
General Expenses	68,566.84			
Transportation for Investment—Cr.	6,331.23	Red		
Total Railway Operating Expenses	$ 1,641,810.93			
Net Operating Revenues	557,703.05			
Operating Ratio—Oper. Exp. to Oper. Rev.	74.64%			
Average Mileage of Road Operated	143.72			
Averages per Mile of Road:				
Operating Revenues	$ 15,304.16			
Operating Expenses	11,423.68			
Net Operating Revenues	3,880.48			
Utah Taxes Other than U. S. Government—1927	$ 122,960.92			

SMALL STEAM RAILROADS OPERATING IN THE STATE OF UTAH, OPERATIONS FOR THE YEAR ENDED DECEMBER 31, 1927

Railway Operating Revenues:	Deep Creek R. R. Co.	St. John & Op hir R. R. Co.	The Uintah Ry. Co.	Tooele-Valley Railway Co.	Eureka-Hill Railway Co.	Carbon County Railway Co.
Rail Line Transportation Revenues	$ 12,878.82	$ 2,334.51	$419,029.22	$287,829.61	$17,846.77	$68,244.78
Incidental Operating Revenues	369.29	796.29	17,990.47	5,624.65		
Joint Facility Operating Revenues						
Total Railway Operating Revenues	$ 13,248.11	$ 3,130.80	$437,019.69	$293,454.26	$17,846.77	$68,244.78
Railway Operating Expenses:						
Maintenance of Way and Structures	$ 3,890.69	$ 13,320.44	$104,948.83	$ 21,286.76	$ 3,562.50	15,719.79
Maintenance of Equipment	1,116.12	4,939.71	102,146.85	47,144.14	2,232.28	316.64
Traffic	82.26		3,073.77	3,941.06		2,140.69
Transportation Rail Line Expense	7,113.76	6,354.01	105,478.78	146,011.91	5,873.13	5,720.61
Miscellaneous Operating Expenses			19,978.23			
General Expenses	2,213.75	1,148.35	69,308.02	10,277.69	5,086.92	10,673.90
Transportation for Investment—Cr.						
Total Railway Operating Expenses	$ 14,416.58	$ 25,762.51	$404,934.48	$228,661.56	$16,754.83	$34,571.63
Net Revenue from Railway Operations	$R1,168.47	$R22,631.71	$ 32,085.21	$ 64,792.70	$ 1,091.94	$33,673.15
Railway Tax Accruals	5,751.04	911.38	29,311.25	4,852.65		2,121.76
Railway Operating Income	$R6,922.09*	$R23,543.09	$ 2,773.96	$ 59,784.51*	$ 1,091.94	$31,551.39
Total Line Oper. at End of Year (Miles)	47.15	8.92	17.72	8.70	7.00	6.10

R Denotes Deficit.

*Allowance made for Uncollectible Operating Revenues.

STREET RAILWAYS UTILITIES—OPERATIONS WITHIN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1927

	Utah Light & Traction Co.	Utah Rapid Transit Co.
Railway Operating Revenues:		
Revenue from Transportation	$1,854,662.27	$219,042.08
Revenue from Other Railway Operations	10,999.62	1,456.11
Total Operating Revenues	$1,865,661.89	$220,498.19
Railway Operating Expenses:		
Way and Structures	$ 175,211.58	$ 20,352.73
Equipment	206,647.85	26,289.32
Power	267,116.19	30,487.08
Conducting Transportation	488,697.83	78,235.80
Traffic	18,962.09	306.51
General and Miscellaneous	197,740.76	33,415.81
Transportation for Investment—Cr.	1,727.04 Red	
Total Operating Expenses	$1,352,649.26	$189,087.25
Net Revenue, Railway Operations	513,012.63	31,410.94
Taxes Assignable to Railway Operations	106,707.00	6,612.02
Operating Income	$ 406,305.63	$ 24,798.92
Operating Ratio—Operating Expenses to Operating Revenues	78.2%	85.755%
Total Miles of Road Operated at Close of Year	120.85	38.71

THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY

OPERATIONS WITHIN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1927

Revenues

Telephone Operating Revenues	$ 2,948,832.99

Operating Expenses and Deductions

Commercial Expenses	$ 287,535.32	
Insurance, Accidents and Damages, and Law Expenses Connected with Damages	4,535.57	
Telephone Franchise Requirements	12.00	
Compensation Net	14,647.58	
Maintenance Expenses	851,774.10	
Traffic Expenses	702,824.69	
General Expense, Employes' Benefit Fund, Etc.	116,272.89	
Uncollectible Operating Revenues	13,550.24	
Taxes, Franchise, Occupation, Income and General	310,334.34	
Non-Operating Revenues	7,212.62*	
Rent and Other Deductions	22,096.50	
Total Operating Expense and Deductions		$ 2,316,370.61
Operating Income		$ 632,462.38

FIXED CAPITAL ACCOUNTS

Tangible

Exchange Plant	$7,968,327.92	
Toll Plant	1,692,731.66	
Total Physical Plant		$ 9,661,059.58

Intangible and Miscellaneous

Going Value	744,380.90	
Interest During Construction	373,722.41	
Estimated Working Capital	432,365.41	
Total Intangibles and Miscellaneous		$ 1,550,468.72
Total Fixed Capital Accounts		$11,211,528.30

*Denotes Credit.

STATISTICAL INFORMATION TAKEN FROM ANNUAL REPORTS OF SMALL TELEPHONE UTILITIES OPERATING IN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1927

NAME OF TELEPHONE COMPANY	Location	Number of Customers	Investment At End Of Year	Gross Revenues	Total Operating Deductions	Operating Income
Bear River Valley Telephone Co.	Tremonton, Utah	509	$ 50,100.53	$ 18,582.35	$ 15,923.09	$ 2,659.26
Big Springs Power Co.	Fountain Green, Utah	122	4,016.92	427.60	369.10	58.50*
Castle Dale Telephone Co.	Castle Dale, Utah	70	2,211.75	1,409.29	1,460.61	51.32 Red
Escalante Telephone Co.	Escalante, Utah	73	2,500.00	1,042.25	978.78	63.47
Garfield County Tel. & Tel. Co.	Panguitch, Utah	108	26,190.00	9,100.39	8,433.19	667.20
Grouse Creek Telephone Co.	Grouse Creek, Utah	41	1,425.00	382.43	161.13	221.30
Gunnison Telephone Co.	Gunnison, Utah	237	18,846.77	5,034.04	3,705.90	1,328.14
Kamas-Woodland Telephone Co.	Kamas, Utah	96	10,000.00	2,964.00	3,651.00	687.00 Red
Manti Telephone Co.	Manti, Utah	400	15,000.00	10,037.64	7,884.35	2,153.29
Midland Telephone Co.	Moab, Utah	200	25,027.14	13,097.46	9,957.19	3,140.27
Millard County Tel. & Tel. Co.	Fillmore, Utah	175	38,845.19	9,182.04	7,956.25	1,225.79
Moroni Telephone Co.	Moroni, Utah	133	5,000.00	2,044.45	3,119.04	1,074.59 Red
North Logan Telephone Co.	North Logan, Utah	36	7,792.55	3,178.34	2,761.32	417.02
Park Valley-Rosette Tel. Co.	Rosette, Utah	29	3,911.14	331.27	281.16	50.11
Peoples Telephone Co.	Fillmore, Utah	279	48,412.58	13,853.45	12,115.61	1,737.84
Southern Utah Telephone Co.	St. George, Utah	341	31,648.38	12,009.07	10,617.85	1,391.22
Uintah Telephone Co.	Vernal, Utah	562	110,932.67	40,330.76	30,140.36	10,190.40
Utah-Wyo. Independent Tel. Co.	Randolph, Utah	121	5,405.00	3,821.28	3,326.36	494.92
Totals		3,532	$407,265.62	$146,828.11	$122,842.29	$23,985.82

*Denotes figures are for three month period—Oct. 1 to Dec. 31.

STATISTICAL INFORMATION TAKEN FROM ANNUAL REPORTS OF SMALL PRIVATE WATER UTILITIES OPERATING IN THE STATE OF UTAH, YEAR ENDED DECEMBER 31, 1927

NAME OF WATER UTILITY	Location	Number of Customers	Investment At End Of Year	Gross Revenues	Total Operating Deductions	Operating Income
Birch Creek Canyon Water Co.	Ogden, Utah	138	$ 20,000.00	$ 1,604.26	$ 943.75	$ 660.51
Echo Water System	Echo, Utah	19	2,125.00	176.00	92.00	84.00
Independent Water Co.	Copperfield, Utah	45	25,000.00	2,059.00	2,006.01	52.99
Layton Water System	Layton, Utah	169	49,471.48	4,444.85	1,562.67	2,882.18
Mammoth Mining Co.	Mammoth, Utah	190	31,684.74	9,920.40	16,234.63	6,314.23 Red
Maxwell Pipe Line	Moab, Utah	3	1,000.00	83.00	23.00	60.00
Miller Ditch Co.	Salt Lake County	101	11,573.18	850.00	1,063.37	213.37 Red
Moab Pipe Line Co.	Moab, Utah	162	12,541.89	3,961.14	1,729.42	2,231.72
Pioneer Water Co.	Manti, Utah	45	3,000.00	324.12	114.00	210.12
Pleasant Green Water Co.	Magna, Utah	753	57,123.42	12,409.15	7,312.22	5,096.93
Riverton Pipe Line Co.	Riverton, Utah	212	36,180.56	5,843.08	2,457.22	3,385.86
Teasdale Water Works Co.	Teasdale, Utah	4	8,657.00	56.54	52.76	3.78
Ukon Water Company	Garland, Utah	82	60,199.35	383.36	62.75	320.61
Totals		1,923	$318,556.62	$ 42,114.90	$ 33,653.80	$ 8,461.10

OPINIONS OF ATTORNEY GENERAL

March 24, 1928.

Public Utilities Commission
Building.

Gentlemen:

Your letter of recent date to this office concerning construction to be placed upon Section 6 of Chapter 117, Session Laws of Utah, 1925, particularly with reference to transportation of persons to and from any public school, is at hand.

In your letter you state that "The Commission is confronted with the fact that persons and private corporations are using buses to transport students, athletic teams, bands, glee clubs, theatrical companies, and others between points in the State of Utah," and you now desire the opinion of this office as to whether or not those persons or corporations that are referred to in your letter are exempt under the provisions of Section 6, of Chapter 117, Session Laws of Utah, 1925. That section reads as follows:

> "This Act shall not apply to or be so construed as to apply to any person, firm, association or corporation who solely transports by motor vehicle his or its own property, or employees, or both, or who solely transports by motor vehicle persons to or from any public school or to the delivery system of merchants or vehicles used therein."

Before indulging in a discussion of the question which your letter presents, I desire to direct your attention to another opinion of this date which has to do with the same section, and a part of what was there stated is in a measure applicable here. The section itself should, so far as it affects the question here presented, be read thus:

> "This Act shall not apply to or be so construed as to apply to any person, firm, association or corporation * * * who solely transports by motor vehicle persons to or from any public school."

The first question that arises is what is a public school within the meaning and intent of the statute?

All schools whether supported by general taxation or controlled by private corporation are in a sense, public. This is particularly true with reference to the former and as to the latter they are public in the sense that they allow any one to attend who has the necessary qualifications and who are willing to comply with and abide by their rules and regulations.

It is one of the cardinal rules of statutory construction that words are to be taken in their common or ordinary meaning. With this rule to guide us we must then, if possible, determine what was meant by the phrase "any public school" as it appears in the statute under construction.

Public or common schools, and the two are used interchangeably, have been rather variously defined but I believe the following definition contained in Vol. 25, Amer. Eng. Ency. of Law, 2nd Ed. at page 7, is generally accepted by the courts and text writers.

> "Common or Public Schools—the term 'schools' in its ordinary acceptation refers to common or public schools. Common or public schools are, as a general rule schools supported by general taxation, open to all of suitable age and attainments, free of expense, and under the control of agents appointed by the voters, and are distinguishable from private schools which are supported and managed by individuals, and from colleges and academies organized and maintained under special charters for promoting the higher branches of learning, and not especially intended for nor limited to the inhabitants of a particular locality. But the words 'public school' as generally used are not limited to the schools of the lowest grade, but may include grammar schools or high schools. Nor can public or common schools be limited to schools wholly supported by the public."

In the case of Clinton vs. Worcester Cons. St. R. R. Co. 199 Mass. 279, the court differentiates between the meaning of the word "school" as applied to institutions of higher learning and one applied to "schools" of a lesser degree and said—

> "Ordinarily and without something to indicate that a wider meaning was intended to be given to this

> word, it will not be taken to include such higher institutions of learning as colleges or universities or institutions for teaching trades, professions or business."

Black's Law Dictionary defines schools thus:

> "An institution of learning of a lower grade below a college or university; a place of primary instruction. The term generally refers to the common or public school maintained at the expense of the public."

To the same effect is the holding in Pike vs. State Land Commissioner, 113 Pac. 447; State vs. Kalaher, 129 M. W. 1060; Lichentag vs. Tax Collector, 15 So. 176.

"School" is also defined in 3 Boviers Law Dictionary at page 3010 in this language:

> "An institution of learning of a lower grade than a college or university. A place of primary learning." (Webster's Dictionary.) As used in American Reports the term generally refers to common or public schools existing under the laws of each state and maintained at the expense of the public.
>
> "Public school is synonymous with common school but the term is not limited to a school of the last grade, but includes all schools from its lower than grammar schools, to those of high schools, etc."

From a survey of the authorities then it would seem that by the use of a phrase "public school" or "public or common school," they being used synonymously or interchangeably, is meant a school of a lower grade than that of a college or university and one which owes its existence to the laws of the State and is maintained at the expense of the public. That, then, is the construction which should ordinarily be placed upon the phrase "any public school." However, I am of the opinion that that phrase as used in the statute under consideration, should receive a broader construction for various reasons.

To begin with, section 4740 of the Compiled Laws of 1919, provide as follows:

Section 4740—Compiled Laws:

Utah, 1917, and Chapter 92 of the Session Laws of Utah,

"Every parent, guardian, or other person having control of any child between eight and sixteen years of age shall be required to send such child to a public, district, or private school in the district in which he resides, at least twenty weeks in each school year, ten weeks of which shall be consecutive; provided that in cities of the first and of the second class such children shall be required to attend school at least thirty weeks in each school year, ten of which shall be consecutive; provided that in each year such parent, guardian, or other person having control of any child shall be excused from such duty by the school board of the district or the board of education of the city, as the case may be, whenever it be shown to their satisfaction that one of the following reasons exists:

"1. That such child is taught at home in the branches prescribed by law for the same length of time as children are required by law to be taught in the district school;

"2. That such child has already acquired the branches of learning taught in the district schools;

"3. That such child is in such physical or mental condition (which may be certified by a competent physician if required by the board) as to render such attendance inexpedient or impracticable. If no such school is taught the requisite length of time within two and one-half miles of the residence of the child by the nearest road, such attendance shall not be enforced;

"4. That such child is attending some public, district, or private school;

"5. That the services of such child are necessary to the support of a mother or an invalid father.

"The evidence of the existence of any of these reasons for non-attendance must be in each case sufficient to satisfy the superintendent of the county or city in which the child resides; and the superintendent, upon

the presentation of such evidence, shall issue a certificate stating that the holder is exempted from attendance during the time therein specified."

Chapter 92—Laws of Utah, 1919:

"Every parent, guardian, or other person having control of any minor between sixteen and eighteen years of age, or any minor under sixteen years of age who has completed the eighth grade, shall be required to send such minor to a regular public or private school at least thirty weeks each school year, unless such minor is legally excused to enter employment; and if such minor is so excused, the said parent, guardian or other person shall be required to send such minor to a part-time school or a continuation school at least 144 hours per year; provided that in each year such parent, guardian, or other person having control of such minor may be excused from such duty by the district Board of Education for any of the following reasons:

"1. That such minor has already completed the work of a senior high school.

"2. That such minor is taught at home the required number of hours.

"3. That such minor is in such physical or mental condition (which must be certified by a competent physician if required by the Board) as to render such attendance, inexpedient or impracticable.

"4. That no such school is taught the requisite length of time within two and one-half miles of the residence or the place of employment of the minor unless free transportation is provided.

"The evidence of the existence of any of these reasons for non attendance must be in each case sufficient to satisfy the superintendent of the district in which the child resides; and the superintendent, upon the presentation of such evidence, shall issue a certificate stating that the holder is exempted from attendance during the time therein specified.

"Section 2. Penalty for Neglect. Any parent, guardian, or other person having control of any child who comes within the provisions of this Act who wilfully fails to comply with its requirements shall be guilty of a misdemeanor.

"Section 3. (Amended by Chapter 107, Laws of Utah, 1921). Offenses—duties of board of education and juvenile court officers. It shall be the duty of the board of education of every district within its respective jurisdiction to inquire into all cases of misdemeanor defined in this title; and to report the same and the offenders concerned, when known, to the juvenile court of the district within which the offense shall have been committed and it is hereby made the duty of the officers of said juvenile court to proceed immediately to investigate and take the necessary action.

"Section 4. Powers of Board for vocational education. The State Board for Vocational Education shall establish rules and regulations governing the organization and administration of part-time schools or classes, and shall expend from the funds appropriated for the promotion of vocational education such sums of money as are necessary for the proper enforcement of this Act."

It will be noted that the statutes specifically provide for compulsory education within certain age limits and provide that all children between those limits must attend either a regular public or private school for a certain length of time, unless they are excused by the Board from such duty for any of the reasons set forth in the statute. This plainly contemplates that one may attend a private school which is on a parity with a public school and he must attend either one or the other, if he falls within the purview of that statute.

If we assume, then, that the regular public school falls within the exception named in the statute as being exempt,—and I think it does,—why then should the owner of the motor bus who hauls to a private school, which is on a parity with the public school, be required to pay the tax. There is no sound basis for such discrimination, particularly in view of the statute itself compelling attendance at one or the other. Unquestion-

ably the Legislature in making such an exception had in mind facilitating the education of school children, regardless of whether they attended a public school or a private school, which was the equivalent of the public school, and I cannot believe, nor is it my opinion, that the exemption applies to one and not to the other.

As was said in the Massachusetts case of Commonwealth vs. Conn. Valley St. R. R. Co., 196 Mass. 309-312, under a statute very similar to ours—

> "There are schools of theology, schools of law, schools of medicine, schools of dentistry, schools of music, of art, of architecture, of agriculture, and many others, which, in a broad sense, are private schools. Students in these schools are not in the same class with pupils in public schools, in reference to the purpose of this enactment. The public schools referred to are intended to provide general instruction for all children and youth. Even if they cover a broad field, they are not intended to take the place of technical schools, or of colleges, or of others of the higher institutions of learning. In addition to the subjects specially designated in R. L. c 42, Sec. 1, the most advanced of the public schools are limited to such 'subjects as may be required for the general purpose of training and culture, as well as for the purpose of preparing pupils for admission to the state normal schools, technical schools and colleges.' These latter institutions are here recognized as of a different class from the public schools referred to in the same section. In R. L. c 44, Sec. 2, there is a provision for the approval of private schools by the school committee, when they furnish instruction in the English language in all the studies required by law, and when the instruction equals that in the public schools in thoroughness, efficiency, and in the progress of the pupils under it. *A private school; properly approved under this section, is within the statute before us.*
>
> "It is quite plain that colleges, technical and professional schools, and other institutions of learning which do not cover substantially the same field as the

schools maintained under R. L. c 42, sections 1 and 2 are not within the statute."

That the foregoing is true, is, in a measure, borne out by the provisions of subdivision 4 of section 1 of Chapter 92, Session Laws of 1919. It will be noted that under that provision a student is exempt from attending school unless the school is within two and one-half miles of the residence or place of employment or unless free transportation is provided by the school. Of course if free transportation is provided, the school board must pay the bill and if they have not their own bus then they must contract with those who have, and if they are required to pay a tax, it must, of course, be passed on to the school board, and I feel sure that that was one of the things the Legislature had in mind and desired to avoid. Moreover it is a matter of common knowledge that in many parts of the state buses or means of transportation, which are free, are provided for not only in grammar schools but high schools as well, both of which fall within the compulsory attendance law, but this is not true of colleges, universities or institutions of higher learning.

I am therefore of the opinion that the exemption applies equally to those schools both public and private, to which attendance is compulsory, and this of course contemplates only those schools which come within the definition of public or common schools, which, of course, excludes such schools as fall within the class of colleges or universities.

In reaching this conclusion I am not unmindful of the fact that under the provisions of section 2 of Article 10 of the Constitution our public school system includes—"kindergarten schools; common school, consisting of primary and grammar grades; high schools and agricultural colleges; universities and such other schools as the Legislature may establish." But for reasons already stated, I do not believe the Legislature ever intended to include within the exemption, colleges and universities or schools which are classified as institutions of higher learning.

That brings us then to the question as to whether or not persons or private corporations who use their buses to transport students, athletic teams, bands, glee clubs, etc., between points in the state, are exempt from the payment of the tax

when so doing; or to put the question more concretely, does the exemption apply to only those who transport students to and from school for the purpose of having them attend school, or does it cover transportation of students outside of school hours for purposes other than attending school. I am not unmindful of the fact that athletic teams, bands, etc., are a part of the school activities, but I cannot bring myself to the conclusion that because a person or private corporation owns buses and transports students to or from school for hire, for any of the purposes above enumerated, that they are thereby exempt from paying the tax. If they are, then it is a very simple matter for any bus owner to reap a rich harvest and travel over the state highways tax free, by the simple expedient of having students all meet at some school, picking them up there and taking them on a short jaunt or whatnot, wherever they might desire to go, and yet it might be said they were exempt from the tax because they were transporting persons to or from a public school.

Many other illustrations might be drawn which would demonstrate the case with which the statute and its purpose, as I view it, might be circumvented, if such a construction were to prevail. The intent of the Legislature is quite clearly expressed in the title and section 1 of the Act, which are set forth below:

> "An Act providing for the taxing of automobile corporations and other persons and corporations using the public streets and highways of the State for hire, denominating all of them operators, providing for certain reports to be made and providing punishment for the failure to truthfully so report."
>
> "Section 1. Operating automobile corporation defined—tax—freight and passenger service. Every automobile corporation, as defined in subdivision 13, section 4782, Compiled Laws of Utah, 1917, and in addition thereto every corporation, partnership or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, and hereinafter referred to as 'operators' engaged in the business of transporting passengers or freight, merchandise or other property for compensation or hire by means of

> motor vehicles as defined in Chapter 45, Session Laws of Utah, 1923, whether holding a certificate of convenience and necessity issued by the public utilities commission or not, on any public streets, roads or highways between any two or more cities or towns within this State, shall pay taxes for the maintenance and upkeep of said public highways as follows: * * *"

While I am aware that the statute is not as clear as it might be, I am rather inclined to the view and feel constrained to hold that what the Legislature really intended by this exemption was to permit the transporting of students for the purpose of attending school, to and from the school and on school days, free from tax, thereby not only facilitating the education of the children but also allowing such transportation to be secured at a minimum cost. In many cases the owner of the bus enters into a contract with the school board and is paid out of the funds derived from taxation, and if he is compelled to pay the tax necessarily the school board must pay a higher price for the transportation of the students, which might necessitate an increase in the levy for school purposes. This would indirectly result in a tax imposed upon a taxing unit and undoubtedly the Legislature had that in mind in writing that exemption into the law.

It may be that certain school districts or boards of education, as the case may be, have entered into contracts with owners of buses, which include not only the transportation of students to and from school, for the purpose of attending school, but also the transportation of them on various other activities which might take a state wide range (however this is extremely doubtful) and however laudable such a purpose may be, nevertheless I do not believe that it comes within the letter of the law, for if it did it would deprive legitimate operators, who own and operate transportation lines for that very purpose and who are compelled to pay the tax and comply with the utilities law in all respects, of business which rightfully belongs to them.

No doubt the Legislature has the power to include such operation within the exemption in the Act, but I do not think it has done so nor intended to do so. As has been stated before, I believe that all that was intended was to exempt from pay-

ment of the tax those operators who haul or transport for hire persons and/or from such schools as are herein held to come within the purview of the Act for the purpose of attending those schools and not otherwise.

There may seem to be an apparent conflict between the opinion on this question and the opinion on the other exemption in section 6 which has been hereinbefore referred to, but I think the conflict is more apparent than real. While it is true that both operators in both cases are operating for hire, yet I can perceive substantial reasons why the one should be exempt and not the other, and those reasons have hereinbefore been given. It may also be claimed that it results in a discrimination but if it does, it is fully justified, for there are substantial reasons for such discriminations, and in this connection we need but refer to the numerous cases which deal with the question of reduced fares on transportation lines for students. There is in that case, in a sense, a discrimination as between the fare allowed students and the general public, but the courts have uniformly held the right to so discriminate.

Your Commission in the case of re Utah Idaho Central R. R. Co. (P. U. R. 1919A—235-242) sounded the underlying reason for such discrimination in this language:

> "The cause of education is of paramount importance to the communities served by this petitioner; and we are not inclined, under present conditions, to permit any action that would tend to discourage or retard grade school, high school, and college training."

Again in the case of re Springfield Cons. R. Co. (1029-E P. U. R.—474-483) The Illinois Commission said:

> "The children's ticket fare should not be changed from that prescribed in the schedules now in force. The public interest requires that no obstacle, however slight, should be placed in the way of the education of the children of the poor."

In Commonwealth vs. Interstate Cons. St. R. Co., 187 Mass. 436; 11 L. R. A. 973-977, the court had this to say relative to the right to reduced fare for school children and as to whether or not discrimination resulted therefrom:

"There is nothing in it to prevent the defendant from making its regular fare for passengers within the limits of a town 6 or 7 cents, instead of 5 cents, charging pupils in the public schools one-half of the price so established.

"Rev. Laws, Chap. 112, Sec. 1, leaves unchanged the provisions of law in force at the time of its enactment, which were applicable to the Boston Elevated Railway Company. That company is thereby exempted from these provisions as to pupils of the public schools. It is contended that this makes a discrimination, which deprives the defendant of the equal protection of the laws. The constitutional principle invoked in this contention does not require that the same laws shall be enacted for all street railway companies in different parts of a state. * * *"

"The most important and difficult question in the case is whether there is constitutional justification for a discrimination between pupils of the public schools and other persons. If this were an absolute and arbitrary selection of a class, independently of good reasons for making a distinction, the provision would be unconstitutional and void. As was said by Mr. Justice Brewer in Gulf, C. & S. F. R. Co. vs. Ellis, 165 U. S. 150, 156, 41 L. ed 666, 668, 17 Sup. Ct. Rep. 255: 'Arbitrary selection can never be justified by calling it classification. The equal protection demanded by the 14th Amendment forbids this.' The subject of compelling of railroad company to make an exception as to its rates, in favor of a certain class of persons, was considered elaborately in Lake Shore & M. S. R. Co. vs. Smith, 173 U. S. 684, 43 L. ed. 858, 19 Sup. Ct. Rep. 565, and it was held that ordinarily the legislature has not power to compel such action. The subject is also referred to in Wisconsin, M. & P. R. Co. vs. Jacobson, 179 U. S. 287, 301, 45 L. ed. 194, 201, Sup. Ct. Rep. 115. But if the difference is founded on a reasonable distinction in principle, such discrimination does not deny the equal protection of the laws. Opinion of Justices, 166 Mass. 589, 34 L. R. A. 58, 44 N. E. 625; Pacific Exp. Co. v. Seibert,

142 U. S. 339, 35 L. ed. 1035, 3 Inters. Com. Rep. 810, 12 Sup. Ct. Rep. 250; American Sugar Ref. Co. v. Louisiana, 179 U. S. 89, 92, 45 L. ed. 102, 103, 21 Sup. Ct. Rep. 43. In this case the selection of a class is not entirely arbitrary. The education of children throughout the commonwealth is a subject for legislation, which has occupied the thoughts of our lawmakers from early times. The duty of legislatures and magistrates to be diligent in the promotion of education among all the people is specially declared in Chapter 5, Section 2 of the Constitution of the Commonwealth. Compulsory attendance of children in the schools is provided for by our laws. Rev. Law, Chap. 44, Sec. 1. Money may be appropriated by cities and towns for conveying pupils to and from the public schools. Rev. Laws, Chap. 25, Sec. 15. It cannot be said that the legislature may not concern itself with the transportation of children to the public schools in the interest of popular education, just as it provides such children with books and other necessary articles, Rev. Laws, Chap. 42, Sec. 35. So far as this statute merely gives help to these pupils in connection with their acquisition of knowledge in the schools, it is justified. As a police regulation in the interest of education, the law may well require street railway companies to permit these children to ride to school upon their cars, without profit to the companies, provided it can be done without causing them loss."

Other cases might be referred to which are to the same effect, but the foregoing, I believe, suffice for the purposes of this opinion.

In conclusion I desire to say that while the question presented has not been entirely free from difficulty, yet I am of the opinion that the conclusion reached is both amply supported by authority and fully justified under the statute.

Yours very truly,

(Signed) HARVEY H. CLUFF,
Attorney General.

March 24, 1928.

Public Utilities Commission,
Building.

Gentlemen:

Your letter of recent date is at hand and contents noted. From your letter it appears that a certain individual owning a motor bus, entered into a contract with a company to haul their employes from the city to their place of work, which was some little distance out of the city at a fixed price per month and that in hauling and transporting these employes to and from their work the owner of the bus travels the state highway, and you now desire the opinion of this office as to whether or not the owner of the bus comes within the purview of Chapter 117, Session Laws of Utah, 1925, so as to make him liable for the passenger mile tax therein provided for. So far as it is material here the provisions of Chapter 117, Session Laws of Utah, 1925, are as follows:

> "An Act providing for the taxing of automobile corporations and other persons and corporations using the public streets and highways of the State for hire, denominating all of them operators, providing for certain reports to be made and providing punishment for the failure to truthfully so report.
>
> "Sec. 1. Operating automobile corporation defined—tax—freight and passenger service. Every automobile corporation, as defined in subdivision 13, Section 4782, Compiled Laws of Utah, 1917, and in addition thereto every corporation, partnership or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, and hereinafter referred to as 'operators' engaged in the business of transporting passengers or freight, merchandise or other property for compensation or hire by means of motor vehicles as defined in Chapter 45, Session Laws of Utah, 1923, whether holding a certificate of convenience and necessity issued by the public utilities commission or not, on any public streets, roads or highways between any two or more cities or towns within this State, shall pay taxes for the maintenance and upkeep of said public highways as follows: (a) * * *

'(b) For passenger service of any kind, two and one-half (2½) mills per passenger mile, on all hard surfaced streets, roads or highways; on all other roads one (1) mill per passenger mile. To determine the passenger miles, multiply the actual number of passengers carried by each motor vehicle by the number of miles carried.

"Section 6. Not applicable to transport of employes, to school, or to merchant's delivery system. This Act shall not apply to or be so construed as to apply to any person, firm, association or corporation who solely transports by motor vehicle his or its own property, or employes, or both, or who solely transports by motor vehicle persons to or from any public school or to the delivery system of merchants or vehicles used therein."

Subdivision 13 of Section 4782 of the Compiled Laws of Utah, 1917, defines automobile corporation in the following language:

"The term 'automobile corporation' when used in this title, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in, or transacting the business of, transporting passengers or freight, merchandise or other property for compensation, by means of automobiles or motor stages on public streets, roads or highways along established routes within this State."

It would appear from the language above quoted that any person operating a motor vehicle on any public street, road or highway between any two or more cities and towns within the State and carrying freight or passengers for hire, must pay a tax, which tax is used for the maintenance and upkeep of the highways. Such would seem, is the plain import of the language used in Section 1 above quoted, and unless the owner of the motor bus, referred to in your communication, comes within the provisions of Section 6 of the 1925 Act, which is above set forth, such is my opinion.

It will be noted that the provisions of Section 6, enum-

erate three classes that are exempt from the payment of the tax, namely:

> (1) Any person, firm, association or corporation *who* solely transports by motor vehicle *his* or *its* own property, or employees, or both,—
>
> (2) Or who solely transports by motor vehicle persons to or from any public school,—
>
> (3) Or to the delivery system of merchants or vehicles used therein;

These three are the only exemptions allowed by the Act.

Manifestly the owner of the motor bus with which we are here concerned does not fall in the latter two classes, so that if he is exempt at all it is by reason of the provisions of the first class. A perusal of the language there used makes it quite clear, at least to my mind, that he does not fall in that class, because he is not transporting his own employes. In other words, that exception should be read thus—

> "Any person, firm, association or corporation who solely transports by motor vehicle his * * * own * * * employes."

From the facts stated in your communication and upon which this opinion is based, I do not understand the owner of the bus to contend that he is transporting his own employes, but that he is transporting the employes of the company to and from their work for a stipulated sum per month, the amount received varying according to the number hauled each month, and if such be the case I am of the opinion that he does not come within the provisions of Section 6.

It is quite clear to my mind that what is meant by the language used in Section 6 in referring to class one, is that those persons, etc., who haul, transport or carry (carry being synonymous with transport) solely by means of their own motor vehicle, their own property or employes, shall not be subject to the Act.

Obviously the purpose of the Act was to require those who

operated over the highway for hire and who received compensation for such operation, whether they had a certificate or not, to pay a tax for the maintenance and upkeep of such highways, based upon the load they carry and the distance traveled. That such was the intent is clearly expressed in the Act itself, as well as the title which is hereinbefore set forth.

Manifestly in the present instance the company is not doing the transporting but rather is paying the owner of the motor vehicle to do the transporting and he is receiving compensation for his operation over the highway. In view of what has been said hereinbefore, it is my opinion that where one hauls or transports passengers or freight, or both, for hire or compensation, whether holding a certificate of convenience and necessity issued by the Public Utilities Commission, or not, on any public streets or highways between any two or more cities or towns within this State and who does not come within the provisions of Section 6 of Chapter 117, Session Laws of Utah, 1925, comes squarely within that Act and is liable for the tax.

Yours very truly,
(Signed) HARVEY H. CLUFF,
Attorney General.

April 26, 1928.

Public Utilities Commission,
Building.

Gentlemen:

I have your letter of April 25th, in which you ask for my opinion as to whether or not it is permissible under the Public Utilities Act to give free transportation to secretaries and employes of Chambers of Commerce.

A careful checking of the Act leads me to the opinion that it would not be permissible, as I understand the duties of these secretaries and the work of the various Chambers of Commerce. Section 4787, Compiled Laws of Utah, 1917, Subdivision 3, prohibits the issuance of any free ticket or free pass or reduced rate, except in certain cases mentioned in said Section. The language in Subdivision 3, of said Section which comes nearest to including such parties as secretaries and employees of Chambers of Commerce is as follows:

> "Inmates of hospitals or charitable or eleemosynary institutions, and persons exclusively engaged in charitable or eleemosynary work, and persons and property engaged or employed in educational work or scientific research or in patriotic work, when permitted by the commission."

If this language is not broad enough to include secretaries and employes of Chambers of Commerce, and as before stated, I do not believe it is, then I do not see anything in the statute that would include them or that would justify you in permitting transportation companies to issue free transportation to such parties.

Yours truly,

(Signed) HARVEY H. CLUFF,
Attorney General.

IN THE SUPREME COURT OF THE STATE OF UTAH

Logan City a municipal corporation, *Plaintiff,* vs. Public Utilities Commission of Utah and Utah Power & Light Company, *Defendants.*	No. 4679.

(Filed June 27, 1928.)

STRAUP, J.

Logan City owns and operates its own electric plant and distributing system by means of which electrical energy is furnished and supplied to light its streets and public buildings and for use of inhabitants of the city for lighting, heating, cooking and for other domestic and commercial purposes. The Utah Power & Light Company is a public utility owning and operating a number of extensive hydro-electric and interconnected generating plants, transmission and distributing systems in and throughout the state, among which is a plant

owned and operated by it at or near Logan City by means of which it also furnishes and supplies inhabitants of the city for the same use and purposes for which the city furnishes and supplies electrical energy.

The first electric plant built and operated at or near Logan, by means of which the inhabitants of Logan City were furnished and supplied electrical energy, was built by Lundberg and Garff some time prior to 1890. At that time the city acquired the plant from them and operated it in furnishing and supplying electrical energy to the inhabitants of the city. In about 1896 or 1897 the predecessors of the Utah Power & Light Company built and operated an electric plant at or near Logan City, by means of which they also furnished energy, among others, to the inhabitants of Logan City, for all general purposes. Later they or the company acquired the plant owned and operated by the city. Soon after the plant was acquired from the city, the company or its predecessors raised the rates or charges for electrical energy furnished inhabitants of the city to 75 cents per month for each 40-watt lamp on a flat rate service. That continued until 1903 when the city, claiming that the charge was excessive and that the energy could be furnished for 33 1/3 cents per 40-watt lamp, voted and issued bonds to build and operate the city's present plant and distributing system. As soon as the city's plant and system was built and the city began to furnish and supply inhabitants of the city with electrical energy at the reduced rate, the company reduced its rate to a flat rate of 10 cents per kilowatt hour per month for lighting purposes. The city thereupon reduced its rate to 15 cents. The rates of both for other purposes was less, but all service was on a flat or unmeasured rate. Such operations on a flat rate basis continued until the early spring of 1927, when the city and the company, recognizing that the service of both on a flat or unmeasured rate caused a great waste and an extravagant use of electrical current and energy, agreed to abandon the service on a flat rate, to install meters and to change from the one to the other system by September 1, 1927. In pursuance of the agreement the city solicited and procured about fourteen hundred customers, inhabitants of the city, and entered into a written contract with them to serve them and were ready to serve all other inhabitants of the city who desired to purchase electrical energy from it on a meter basis, the city to furnish the meters at its own expense, and to

supply electrical energy for a period of three years at a rate of five cents per kilowatt hour for the first fifty kilowatt hours consumed per month for lighting purposes, four cents for the next 150 kilowatt hours, three cents for all electricity used over and above 800 kilowatt hours per month with ten per cent discount on prompt payment, two cents per kilowatt hour for all monthly consumption for general heating and cooking purposes with five per cent discount for prompt payment, five to two cents per kilowatt hour up to a monthly consumption of 1200 kilowatt hours and one cent in excess thereof with five per cent discount for prompt payment for general power purposes. In pursuance of the agreement the city also, at great expense, procured and installed meters for its customers and made necessary changes and improvements in its distributing system to put it on a meter basis. Among its customers so procured and who entered into contracts with the city to take electricity on a meter basis, and for whom meters were installed, were a number who, prior thereto, had been customers of the company. Such prior customers by written notice to the company notified it that they had entered into contracts with the city to take electrical energy from it on a meter basis and requested the company to remove its wires and equipments on their premises. The company, in some instances, declined to do so unless such customers appeared in person at the company's office. Agents and servants of the company at Logan in some instances gave out to customers of the company that it had no intention of going on a meter basis and that it would continue to furnish and supply its customers, and all others who desired to take electricity from it, on a flat or unmeasured rate or charge and at which it had theretofore furnished and supplied its product in Logan City, and that the company had not indicated to them any intention to go on a meter basis service. Some of the customers who had signed contracts with the city to purchase electrical energy from it on a meter basis and preferring a service on a flat instead of a meter rate declined to go on with their contracts with the city, claiming that they had entered into the contracts with the understanding that both the company and the city were to go on a meter basis.

Thereupon the city filed a petition with the Public Utilities Commission of the State alleging the foregoing and other facts: that a flat rate service caused a waste and an extrava-

gant use of electricity, a detriment and a needless expense to both the city and the company, and asked that a hearing be had and that the company be required to abandon its flat or unmeasured rate service and install a meter system. The city by its petition did not, nor did it otherwise, ask that the Commission fix a rate or charge either for itself or for the company. All it did was to petition the Commission for the reasons stated in the petition to require the company to abandon its service on a flat or unmeasured rate and install a meter system in Logan City.

The company answered the petition admitting that a flat or unmeasured rate service led to a waste of electrical energy and to an extravagant use of it; that the flat rate system was improper and should be abandoned and that the service ought to be on a meter system basis; and that the company was willing to abandon its flat rate service and go on a meter basis provided reasonable rates or charges were established by the Commission for both the city and the company in lieu of the flat rate theretofore charged. The company further alleged that the meter rates fixed and adopted by the city were unjust, unreasonably low and below cost of service; that the rate so fixed by the city, if applied to the systems of both the company and the city, would produce a less gross revenue than the rates theretofore charged on a flat rate service and would not produce a sufficient revenue to pay expenses of operation, maintenance of the plant, interest charges, and provide for a sinking fund, and that if the city be permitted to establish and carry out its proposed rate the company, in order to continue in business furnishing electrical energy to inhabitants of the city, would be required to meet such rate which would result in a great loss to it, and to a destruction of its business.

Forty-six taxpayers of the city, customers of the company, filed a petition in intervention in which they alleged, on information and belief, that the proposed rate or schedule of meter rates of the city were inadequate to pay operating and maintenance expenses of the City's plant, interest on bonds floated for the construction of the plant and a sinking fund for the payment of the bonds; that for many years such petitioners, being taxpayers of the city, were taxed to maintain the city's plant and to make up a deficit resulting from the operation of its plant on a flat rate basis and if the proposed rate of the city

should be permitted large deficits would continue to exist from the operation of the city's plant which would have to be met by taxation, and that they desired to have a rate or charge fixed for the city sufficiently high to meet all costs and expenses, interest payments on and a sinking fund for payment of the bonds, so that a sufficient revenue would be obtained from charges of operation without requiring a levy of taxes.

Seven hundred and sixty tax payers of the city filed a counter petition in intervention in which, among other things, they alleged that the flat rate system was wasteful and led to an extravagant use of electrical currents and to a loss to both the city and the company; that the city, in pursuance of contracts entered into with it, had installed meters in more than fourteen hundred homes and business places of citizens and taxpayers of the city; that it was to the best interest of the citizens of the city to go on a meter basis and on the rates as fixed by ordinance and resolution of the Board of the City Commissioners and that the Board's action in such respect met the approval of over ninety per cent of the voters and taxpayers of the city; that the petition filed by the intervening customers of the company was filed to hinder and obstruct the city in conducting its plant and to aid the company; that it was the desire of a great majority of the citizens and taxpayers of the city that the city be permitted to carry out its agreements and that the rates and charges proposed by it be neither increased nor decreased.

The city demurred to the answer of the company, among other things, challenging the power and jurisdiction of the Commission to fix rates or charges to be charged by the city in furnishing electrical energy for the use of the city and its inhabitants by means of the plant owned and operated by it exclusively for such purposes. It also filed a reply denying all affirmative matters stated in the answer, and alleged that on the meter rates fixed by it sufficient revenues would be derived to meet all operating and maintenance expenses, pay interest on its bonds and provide a sinking fund to pay the principal of the bonds, and denied that the rate or charge fixed by it was unjust or unreasonable or below cost of service as in the company's answer alleged. It further averred that prior to the city building and constructing its plant and its distributing system in 1903, the predecessor of the company charged an un-

reasonably high rate of seventy-five cents per month for a sixteen kilowatt lamp, but immediately after the city had built its plant and distributing system and furnished citizens of the city electrical current at the rate of three lamps for one dollar per month, the predecessor of the company reduced its flat rate to twenty cents per month for each sixteen kilowatt power lamp, and when the city met that rate the company further reduced its rate to ten cents per sixteen kilowatt power lamp per month, which rate was also met by the city until 1909 when it raised its rate to fifteen cents per lamp per month which rate was maintained by the city until in March, 1925, when it again reduced its rate to ten cents per month per 40-watt lamp; but that the company continued to maintain its flat rate of ten cents per 40-watt lamp per month, and for larger lamps in proportion, and that to permit the company to continue its flat or unmeasured rate of service would result in an irreparable loss to the city and of its municipal plant.

Upon these issues a hearing was had before the Public Utilities Commission, the city objecting to the Commission proceeding to hear or determine or fix any rate or charge for it and challenging the power and jurisdiction of the Commission to so interfere with its municipal and corporate affairs. All of the objections were either overruled or disregarded by the Commission, it, in effect, holding that Logan City, in operating and conducting its plant, was a public utility within the meaning of the Public Utilities Act and subject to the same supervision, regulation, and control by the Commission as was any private or public utility company or corporation. Evidence was adduced by the city to show the necessity of the city to build and operate its municipal plant to protect itself against what it claimed to be excessive charges and as in its petition and reply alleged; that the flat rate service practiced by both the city and the company resulted in waste and in an extravagant use of electrical currents furnished consumers and a loss of revenue to both the city and the company; the agreement entered into between the city and the company to abandon the flat rate service and go on a meter system basis; the ordinance and resolution adopted by the Board of Commissioners of the city to go upon a meter system basis, installing meters and fixing a meter rate or charge as in the petition of the city alleged; the expenses incurred by the city in installing meters and in improving and changing its distributing system to adapt it for

such purpose; procuring and entering into numerous contracts with citizens and taxpayers of the city to furnish and supply them with electrical current for a period of three years at the rate or charge alleged in the petition of the city, a number of whom were prior customers of the company; the refusal of the company to go on a meter basis and its continuing to furnish electrical current on its theretofore flat rate service; agents and servants of the company at Logan City giving out that the company did not intend to go on a meter service basis; the refusal of the company, in some instances where its prior customers had contracted with the city to purchase from it electrical current on a meter basis, to remove wires and equipment of the company; and the refusal of some customers of the city who had entered into contracts with it to go on with their contracts because the company had not gone on a meter basis, as to all of which, there is no substantial conflict in the evidence. That no counter evidence as to such matters was offered may, however, be assumed was largely because of views urged by the company that all such matters were immaterial and that the rate fixed by the city and the contracts entered into between it and its customers were, in so far as the Public Utilities Commission was authorized to fix and determine a reasonable rate or charge, of no binding effect and could be, as they were, wholly disregarded, though neither party to any of the contracts was complaining or seeking any relief with respect to any of the terms of the contract, if upon a determination by the Commission the rate so fixed by the city and contracted for by it was unjust or unreasonable. Evidence, however, was also adduced by the city to show that the meter rate fixed by it would, as estimated by it and as shown by the short time that electrical currents were furnished by it on a meter basis, raise sufficient revenue to pay the operating and maintenance expenses of the plant, interest on the bonds, and provide a sinking fund with which to pay the principal of the bonds when they mature. On the contrary, considerable evidence was given on behalf of the company and of its intervening customers to show that the rate fixed and proposed by the city would not raise sufficient revenue to maintain and provide all of such expenses and conditions, and that the adoption of such rates and charges by the city as proposed by it necessarily would result in deficits which would have to be met by taxation as theretofore had to be done on a flat rate service.

The Commission found all of such contentions against the city and that the annual revenues based on the number of its customers as of September 1, 1927, and on its proposed meter rates, would be only about $41,819.18 and that its operating expenses would be approximately $37,642.16, leaving not anything for depreciation, or interest on its bonded indebtedness, nor for a sinking fund, nor to meet other contingencies that might arise. The company, and especially its intervening customers among whom were bankers and others engaged in commercial enterprises in the city and among them some of the largest taxpayers of the city, urged that the Commission fix a rate to be charged by the city which would produce for it a sufficient revenue with which to pay all operating and maintenance expenses, interest on its bonds, provide for a sinking fund to pay the principal of the bonds when they mature and a reasonable allowance for depreciation of the city's plant, so that there would be no necessity for the city in the future to levy or collect any taxes for any such purposes. The Commission in the main found that the city was required to do so and that the rate proposed by it would not meet such requirements. It found that the equities of the case were with the contention of the intervening customers of the company, and that so long as taxpayers were required to continue to pay taxes to maintain and operate the city's plant in order that its customers may be served with electrical energy below cost to the city, the rates established by the city were unjust, unreasonable and in violation of law. It further found that the flat rate service was extravagant and wasteful and not an economical or a proper method of service, and as was conceded by both the city and the company. The Commission thus ordered that both the city and the company abandon the flat or unmeasured rate service and adopt a meter system service. It further found that until the flat rate service was abandoned by both the city and the company and the meter system adopted by both, it was uncertain just what the consumption of electrical energy in the city would be. It however found that the rate proposed by the city was unreasonably low and unjust and would not raise sufficient revenue to meet all of the expenses and conditions hereinbefore indicated.

Evidence was given to show that some of the cities of the state and a number of cities elsewhere in this country, owning and operating electrical plants furnishing and supplying their

inhabitants with electrical energy on a meter basis, furnished and supplied it at about the same rate proposed to be charged by Logan City. Evidence was also given to show what the standard rate or charge was that was fixed and charged by the company in furnishing and supplying electrical energy on a meter system basis under similar conditions to cities and towns and to the inhabitants thereof elsewhere in the state. The Commission found that the standard rate so charged by the company was a just and reasonable rate to be charged by the city. It thus ordered that both the city and the company be required to abandon the flat rate service and adopt a meter system rate or charge of ten cents per kilowatt hour for the first 250 kilowatt hours per month consumption, nine cents for the next 250 kilowatt hours, eight cents for the next 250, six cents for the next 250, and five cents per kilowatt hour for all additional kilowatt hours of monthly consumption in excess of 1250 kilowatt hours, which was the standard rate or charge of the company throughout the state. It was estimated that the average monthly consumption of customers in the city would be less than 250 kilowatt hours. The Commission further ordered that all rates, contracts, and regulations made by either the city or the company in conflict with the rate so fixed by the Commission be declared null and void and vacated.

On application of the city we issued a writ of certiorari to review the proceedings before the Commission.

The controversy is chiefly between the city and the company. It is the contention of the city that the Commission has no authority to fix or determine rates or charges to be made or charged by a municipality owning and operating its own plant by means of which electrical energy is furnished for its own use and for the use of citizens or inhabitants of the city to whom only the city here furnished and supplied electrical energy; that such a municipality is not a public utility within the meaning of the Public Utilities Act; that if it be held to be within the act, then the act in such particular is in conflict with provisions of our State Constitution; that the Commission was unauthorized to annul or vacate the contracts entered into by the city with its customers and with whom it had contracted to furnish electrical energy; that the basis of the rate to be charged by the city was unauthorized; and that the Commission's action in the premises constituted an unlawful inter-

ference with private and corporate municipal affairs of the city.

The constitutional provisions drawn in question are sections 27 and 29 of Article VI of the Constitution of the state. Section 27 is:

> "The Legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or person to the state, or to any municipal corporation therein."

Section 29 is:

> "The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal functions."

The statutes drawn in question are Chapter 3, Title 16, Comp. Laws of Utah 1917, which, among other things, authorizes cities to control the finances and property of municipal corporations; to construct and maintain waterworks, gas works, electrical works, etc., or to purchase or lease any or all of such works; to contract with and authorize any person, company or association to construct gas works, electrical or other lighting works in the city; to regulate the sale and use of gas and electric or other lights and electric power charged therefor within the municipality; and to borrow money and issue bonds on the credit of the municipality for corporate purposes. Chapter 25 of the same title, Comp. Laws of Utah 1917, relating to "Bonding for Water, Light, or Sewers," authorizing a city or town to incur indebtedness (not exceeding a stated aggregate), the issuing of bonds to supply the city or town with water, artificial light, or sewers, when the works for supplying such water, light and sewers shall be owned and controlled by the municipality, and providing the manner of voting for and issuing of such bonds, and by section 794 of that chapter providing that:

> "The city council or the board of trustees, as the

> case may be, shall provide by ordinance for the issuance and disposal of such bonds, *provided,* that no such bonds shall be sold for less than their face value. The city council or board of trustees, as the case may be, *shall annually levy a sufficient tax to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof* within twenty years from the time of contracting the same." Italics added.

The Public Utilities Act, (Comp. Laws Utah 1917) was passed in 1917, subsequent to the statutes just referred to. By section 4782 of that act it is provided that the term "corporation" as used in that act, includes, among other corporations, municipal corporations; that the term "municipal corporation" includes cities, towns and municipalities; that the term "electrical corporation" includes "every corporation or person, their lessees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating or managing any electrical plant, or in anywise furnishing electric power for public use within this state, except where electricity is generated on or distributed by the producer through private property alone, solely for his own use or the use of his tenants and not for sale;" that the term "public utility" includes "every common carrier, gas corporation * * * electric corporation, * * * water corporation, heat corporation, * * * where the service is performed or the commodity delivered to the public or any portion thereof," and that the term "public or any portion thereof * * * means the public generally, or any limited portion of the public, including a person, private corporation, municipality, or other political subdivision of the state, to which the service is performed or to which the commodity is delivered," etc.

In 1921, three years after the Public Utilities Act was adopted, section 794, Comp. Laws of Utah 1917, relating to bonding for water, light, or sewers, was amended (Laws Utah 1921, Ch. 19) so as to read:

> "The board of commissioners, city council or board of trustees, as the case may be, shall provide by ordinance for the issuance and disposal of such bonds, provided that no such bonds shall be sold for less than

their face value. The board of commissioners, city council, or board of trustees, as the case may be, *shall annually levy a sufficient tax to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund* for the payment of the principal thereof within the time for which such bonds are issued. Water or sewer bonds may be issued for a term not exceeding forty years. All other bonds may be issued for a period not exceeding twenty years. Such bonds may be either serial or term bonds." Italics added.

That section was again amended in 1925 (Laws Utah 1925, Ch. 58). The amendment took effect March 12, 1925, seven years after the adoption of the Public Utilities Act. The section as amended is in the exact language of the section as amended in 1921, with the only change that after the words "water or sewer bonds," the words *"or any bonds issued to refund such bonds"* are inserted. At the same session of the Legislature, in 1925, section 794 was further amended by Chapter 63, Laws Utah 1925. This amendment took effect March 13, 1925, the next day after the section as amended by Chapter 58 took effect. It is as follows:

"The board of commissioners, city council or board of trustees, as the case may be, shall provide by ordinance for the issuance and disposal of such bonds, provided that no such bonds shall be sold for less than their face value. The board of commissioners, city council, or board of trustees, as the case may be, shall annually levy a sufficient tax to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund for the payment of the principal thereof within the time for which such bonds are issued; *provided that whenever bonds shall have been issued for the purpose of supplying any city or town with artificial light, water or other public utility, the rate or charges from the operation of the system or plant constructed from the proceeds of such bonds may be made sufficient to meet such payments, in addition to operating and maintenance expenses, and taxes shall be levied to meet any deficiencies.* Water or sewer bonds may be issued for a term not exceeding forty years. All other

bonds may be issued for a period not exceeding twenty years. Such bonds may be either serial or term bonds." (Italics added.)

It is seen that the only change made in Chapter 58 by Chapter 63 are the words italicized in Chapter 63 just quoted. By Chapter 58, as well as by the act of 1921, cities or towns by their boards or councils *were required to levy taxes to meet interest payments on and the principal of bonds.* By Chapter 63 they are given an *option or discretion* to meet such payments by taxation, or by charges from operation of the plant.

It is the contention of the company that by reason of the provisions of the Public Utilities Act defining the terms "municipal corporation," "electric corporation," and "public utility," all municipal corporations owning and operating a system of waterworks, gas, or electric light plants, etc., though only for the use and benefit of the municipality and of its inhabitants, are "public utilities" and thus subject to supervision, regulation, and control by the Commission in the conduct of such business, including the fixing of rates and charges, to the same extent that the Commission is authorized to supervise, regulate and control and fix rates and charges of any public utility doing business in the state. On the other hand, it is the contention of the city that by the Public Utilities Act it was not the intention of the Legislature to include municipalities owning and operating their own plants or utilities when operated only for the use of the municipality and of its inhabitants and that it was not the intention to confer power or jurisdiction on the Commission to interfere with, or regulate or control, municipalities with respect to such corporate affairs; that while the Public Utilities Act has taken from municipalities the power to fix rates and charges of public utilities doing business within the limits of a city or town and conferred such power upon the Commission, yet, it has not conferred any such power with respect to waterworks systems or electric light or other utility plants owned and operated by the city or town for its own use and for the benefit of its inhabitants, *and that the Legislature did not do so is manifested by the acts referred to and passed subsequent to the Public Utilities Act;* but if the Utilities Act is considered and construed so as to include municipalities owning and operating their own waterworks systems, electric light

and other utility plants, that then the act is in conflict with the constitutional provisions referred to.

Looking alone to the definitions referred to of the Utilities Act, there is much force to the contention that municipalities owning and operating their own plants are included within the Act. Still, such a conclusion seems inconsistent with the subsequent acts of the Legislature referred to. Laws Utah 1921 and Chapter 58 Laws Utah 1925 require the city commission or board of trustees of the city or town to levy a sufficient tax to pay interest on the bonds as it falls due and also to provide a sinking fund for the payment of the principal of the bonds issued and sold to construct and operate a waterworks system or electric light plant, etc. Thereunder such payments may be met *only by taxation.* Such statutes requiring the levy of a tax for such purpose seem to be mandatory. To give the Utilities Commission authority to fix rates and charges for such purpose, as well as for operating and maintenance expenses, is, in effect or indirectly, to give it power to levy taxes or not to levy them. In other words, if the Commission has power to fix rates and charges for a city owning and operating its own plant it may fix rates and charges sufficiently high to meet all interest on and principal of the bonds of the city as well as its operating and maintenance expenses, and thus the Commission may determine, as in fact it here did, that the rate should be sufficiently high as not to require the levy of any taxes. Yet such statutes referred to are mandatory that the interest on and the principal of the bonds shall be raised by taxation. When we look at Chapter 63 Laws Utah 1925, an option or discretion is given the city commission or board of trustees to pay the interest on and principal of the bonds either by taxation or from revenues derived from operation of the plant, as well as to meet all operating and maintenance expenses, *and if there be any deficiency to meet the deficit by taxation.* So, whether the interest on and principal of the bonds shall be raised and met by taxation or from charges from operation of the plant is a discretion given the city and not the Utilities Commission. But here the Utilities Commission itself exercised the option and determined that all of such payments, as well as operating and maintenance expenses, must be met from revenues produced from charges of operation and that a rate or charge which does not produce a

revenue sufficient for such purpose is unreasonable, unjust, and in violation of law.

The acts subsequent to the Utilities Act are, as we think, strongly indicative of an intention that the power of a municipality owning and operating its own utility to fix and determine its own rates and charges and what interest payments on and principal of bonds shall or may be met by taxation and what not was not intended to be and was not disturbed by the Utilities Act, and that the municipal power in such respect remained after as before the Utilities Act was adopted. The view that municipalities owning and operating their own plants were not intended to be included within the Public Utilities Act is also supported by several provisions of the Utilities Act itself, among them, that each public utility is required to have an office in the county of the state in which its property or some portion thereof is located, shall keep in such office all such books, accounts, papers and records as shall be required by the Commission to be kept within the state and not to remove any from the state except upon conditions as may be prescribed by the commission; giving the Commission its agents and employes the right at any time and at all times to inspect all accounts, books, papers and documents of a public utility; providing that every public utility when ordered by the Commission *before entering into any contract for construction work or for the purchase of any facilities, or with respect to other expenditures, to submit such proposed contract, purchase or other expenditure to the Commission for its approval,* and if disapproved by it, it may order other contracts, purchases or expenditures in lieu thereof for any legitimate purpose and the economical welfare of the utility; requiring every public utility when required by the Commission to deliver to the Commission copies of any and all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers and records in its possession or in any way relating to its property or affecting its business, matters wholly inapplicable to and inconsistent with the regular and due administration of municipal affairs. It is somewhat difficult to perceive that a municipality and its taxpayers, though authorized to issue bonds for the construction of waterworks, electrical and other utility plants, to enter into contracts, purchase facilities, incur expenses with respect thereto, to determine whether interest on and principal of bonds shall be met by taxation or by charges

from operation, yet, before doing so, are required to get the approval of the Utilities Commission and thus turn over to it the direction and control of such mere municipal corporate affairs and functions.

It of course is urged on behalf of the company that the Legislature under its police power had the right to confer, and that it in effect, or in the main, by the Utilities Act, had conferred such power on the Commission as well as to fix rates and charges of municipally owned and operated utility plants; that if there be any statute in conflict therewith it must give way to the Utilities Act as must all contracts made by or with a public utility as to rates, charges or service, whether made prior or subsequent to the adoption of the Utilities Act, and that even constitutional provisions in such particulars do not operate as a limitation upon nor interfere with the exercise of such a police power. While the police power is an attribute of sovereignty and is inherent in the state, yet it is not without its limitations, for the Legislature under the guise of police power may not invade mere private rights or violate rights and privileges guaranteed or safeguarded by the Constitution. In other words, however broad the police power may be, it nevertheless is subject to the fundamental principle that the Legislature may not exercise a power forbidden it by either the federal or the state Constitution. (12 C. J. 928; 6 R. C. L. 196.) For the same reason may the Legislature not delegate a power which by constitutional provisions is otherwise vested, conferred or forbidden. That in the absence of constitutional restriction the Legislature may in the exercise of its police power fix or determine rates and charges of public utilities doing business within the state, or delegate the power so to do, and within limitations and restrictions regulate and control their service, is well settled. That is on the theory of protection to the public against unreasonable, unjust or excessive rates and charges and for public safety and convenience and public good, and not protection to or for the benefit of public utilities themselves whose rates and charges are fixed and service regulated and controlled, except not to fix rates or charges or regulate or control their service so as to deny them reasonable compensation for service, and certainly not so as to impair or destroy their business or deprive them of property or of a legitimate and proper use and enjoyment of it. So, here, the primary purpose, under the police power, to fix rates and

charges and to control and regulate the service of public utilities, is protection to the public and for public good and public safety, but as a necessary incident thereto not to fix such rates and charges or regulate or control the service so as to deny public utilities reasonable compensation or means of an efficient service, or deprive them of property rights or privileges guaranteed by the Constitution.

In a number of cases this court has held that because of the police power of the state and of a delegation of it to the Utilities Commission to fix rates and charges of public utilities, no contract made by or with a public utility with respect to rates and charges, whether entered into before or after the adoption of the Utilities Act, is, in such respect, of any binding effect, if in the judgment of the Commission the rate or charge so fixed by contract, though fair and reasonable when made, has, by reason of changed conditions or otherwise, become unreasonably low or discriminatory; and that hence the Commission may and should disregard such contracts and fix a higher rate or charge which in the judgment of the Commission is reasonable and just and not discriminatory, and that neither the federal nor the state Constitution forbidding the impairment of contracts operates against the exercise of such a power. Salt Lake City v. Utah L. & Tr. Co., 52 Utah 210, 173 Pac. 556; Murray City v. Utah L. & Tr. Co., 56 Utah 437, 191 Pac. 421; United States S. R. & M. Co. v. Utah Power & L. Co., 58 Utah 168, 197 Pac. 902; Utah Copper Co. v. Public Utilities Comm., 59 Utah 191, 203 Pac. 627; Utah Hotel Co. v. Public Utilities Comm., 59 Utah 389, 204 Pac. 511; City of St. George v. Public Utilities Comm., 62 Utah 453, 220 Pac. 720. In all such cited cases a public utility sought the Utilities Commission for and was granted relief from contract entered into by and with the public utility company with respect to rates and charges, on the ground that the rates and charges contracted for by it were or had become unreasonably low, and was granted a higher rate or charge as fixed by the Commission. While no case has yet come to this court where the Utilities Commission set aside a contract on the ground that the rate or charge as fixed by contract was unreasonably high and where a lower rate or charge was fixed by the Commission, still, its power in such respect to also fix a lower rate or charge is undoubted. This, however, is the first case coming to this court where the Commission undertook to fix or determine the rea-

sonableness of a rate or charge to be made by a municipality of the state owning and operating its own utility, such as a system of waterworks, electrical or other utility plant. The case of the City of St. George v. Public Utilities Comm., supra, is cited as a case of such character. But it is not. The case is one where the Dixie Power Company, a public utility, applied to the Utilities Commission, for public good, public safety and general welfare, to abrogate its contract entered into by it with the city to furnish it electrical energy for lighting and other purposes at a stipulated rate and to have the Commission fix a higher rate or charge which it did. True, in that case this court said that municipal corporations, by express terms, are included within the Utilities Act and subject to the same supervision and control by the Commission as are other corporations affected and controlled by it. But that was wholly unnecessary to the decision. The power and jurisdiction of the Commission to fix rates and charges for the Dixie Power Company was in no particular dependent upon the proposition or fact of whether it had contracted to serve a municipal or private corporation or company, or an individual or group of individuals. In such respect it was wholly immaterial whether the contract made or service rendered by the Dixie Power Company was made with or rendered to a municipality, a private or other corporation, or a mere individual. The question in such particular was the same as in all of the other cited cases.

We thus have a different situation and question. Let it be conceded that since the adoption of the Utilities Act, municipalities no longer have power to fix or establish rates or charges to be made by a public utility company furnishing and supplying the city or its inhabitants with water or electrical energy, etc., or otherwise operating and doing business within the limits of the municipality. That is well settled by our prior decisions. But that does not answer the question now before us of whether the Legislature by the Utilities Act has taken from municipalities the power to fix their own rates and charges in operating their own plants or systems of waterworks or electrical or other utilities for their own use and for the use of their inhabitants and conferred the power on the Utilities Commission; and if so, whether it was competent for the Legislature so to do. Such a power relating so directly to municipal corporate affairs and functions and the taking of it from municipalities and conferring it elsewhere bordering on if not

transgressing constitutional provisions, to justify a conclusion that the Legislature has done so, it ought to be made to appear by unmistakable language that such a power was intended to be taken from municipalities and conferred on the Utilities Commission. The Utilities Act does not in express language declare that a municipality owning and operating its own utility for its own use or for the use of its inhabitants is a "public utility" and thus subject to the provisions and administration of the act. It is only by considering definitions and making deductions from them that such a conclusion is reached, and, too one which, as has been seen, is, if not incompatible with yet inapplicable to other provisions of the Utilities Act, inconsistent with subsequent acts of the Legislature, and repugnant to section 29, Article VI of our Constitution. The undoubted purpose of such constitutional provision is to hold inviolate the right of local self-government of cities and towns with respect to municipal improvements, money, property, effects, the levying of taxes, and the performance of municipal functions.

Stress is laid on the words in the section, "special commission," that the power shall not be delegated to a special commission, and that the Utilities Commission is a general and not a special commission, and hence whatever power may have been delegated to the commission in such respect is not in violation of such constitutional provision, to support which, the case of Public Utilities Commission v. City of Helena, 52 Mont. 527, 159 Pac. 240, is cited. Such a construction of the section is too narrow and one which in effect destroys the very essence and purpose of it, deprives cities and towns of local self-government, and interferes with their power to levy taxes and in the performance of their municipal corporate affairs. Town of Holyoke v. Smith, 75 Colo. 286, 226 Pac. 158. Here, as has been seen, the city, in harmony with the Constitution, had the undoubted right to own and operate an electric utility for its own use and for the use of its inhabitants, and to determine whether it by taxation or charges from operation shall meet interest payments on and principal of bonds issued to construct and equip the plant. But the Commission held, and it is urged that it had the right so to do, that all such statutory and constitutional provisions are either inapplicable, or are required to give way to the police power of the state conferred on the Commission to supervise, control, and fix rates and charges of pub-

lic utilities, including municipalities owning and operating municipal plants; and that a municipality desiring to own and operate a utility must make a rate or charge sufficient to produce a revenue from operation to pay all interest payments on and principal of bonds as well as operating and maintenance expenses and to provide for all other contingencies, without levying a tax, and that any rate or charge which does not meet such requirements is unreasonable, unjust, and in violation of law. And because the rates and charges proposed by the city did not, as found by the Commission, meet all such requirements, its rates and charges as fixed by it were held unreasonable and unlawful, and all contracts entered into by and with the city declared null and vacated, notwithstanding neither party to any of the contracts was complaining and the rights of all of them, except the city, condemned unheard. Regardless of the annulment of the contracts, we think the exercise of the power in other particulars, as was done, was not a legitimate exercise of the police power, but an invasion of private rights and of private property, and an unauthorized and forbidden interference with municipal corporate affairs and functions.

The crux of the situation, and as is apparent on the record the difficult question presented to the Commission, grew out of a competitive condition between the company and the city, each furnishing to and supplying inhabitants of the city with electrical energy for the same general purpose. The Commission found that each was capable of serving all present needs of all consumers of the city with electrical energy "effectively and well." While there was patronage only for one, yet each in competition with the other was striving to hold what it had and to obtain as much more as it legitimately could. Evidently it was the desire of the Commission to fix a rate or charge under which both could continue to operate. Therein lay the rub. It was no easy matter of solution. Both of course were entitled to consideration. To do that, it was necessary that the Commission find and hold, as it did, that both were public utilities and each equally under the supervision, regulation, and control of the Commission, and hence whatever rate or charge was to be fixed by it was required to be reasonable and just to both, and to give each an equal opportunity required the same rate to be fixed for the one as for the other. Evidence was heard by the Commission and findings made by it as to the amount of capital invested by the city in its plant

and system, its present bonded indebtedness, the amount of interest payments, and the amount necessary to provide for the payment of the bonds when they mature, costs and expenses of operation and maintenance of the city plant, and a reasonable allowance for depreciation. No evidence was given and no findings were made with respect to such matters as to the company. In fixing the rate or charge for both the city and the company, the Commission took the standard rate and charge which the company charged throughout the state under similar conditions. The reasonableness of that rate or charge the Commission found was not challenged. That the rate so fixed by the Commission was the standard rate of the company was not disputed. But that such a rate or charge was a reasonable or proper rate or charge for the city, or that such a rate or charge was necessary to meet the requirements of the city even as found by the Commisison was disputed. That was one of the material controversies before the Commission, the city contending and the company disputing that the rates or charges proposed by the city were sufficient to meet all such requirements. Nor did the Commission find that a lower rate or charge than the standard rate of the company would not meet all such requirements of the city. It may be that a municipality owning and operating a utility for its own use and for the use and benefit of its inhabitants and not for gain and profit but only at cost, and free from taxes, franchise and license fees, may be able to furnish and supply the product of the utility at a rate or charge less than a public utility company operating its plant for gain or profit and required to pay taxes on its property, costs of franchises, easements, assessments and license privileges—a subject of debate and controversy but here of no concern. However, regardless of whether a municipality owning and operating its own plant, not for gain or profit, may or may not be able to furnish and supply its inhabitants with the product of its utility at a rate or charge less than a public utility company can do, the Commission, in fixing a rate and charge for the city, took into consideration substantially the same factors and elements usually considered in fixing a rate or charge for a public utility company operating for gain and profit, chiefly, the amount of capital invested, operating and maintenance expenses, depreciation of the plant, other necessary contingencies, and a reasonable rate of interest on the amount of capital invested or reasonable net profits of

the business. If taxpayers and citizens of a town or city desire, through their municipality, to own and operate their own plant for their own use and for the use of the municipality they ought not be denied the right or privilege because a competitive public utility company operating a plant for gain and profit at the same place may not be able profitably to furnish the product of its utility at a rate or charge lower than its standard rate or charge or at a rate or charge proposed by the municipality. To say a municipality and its taxpayers and citizens have the right to own and operate a utility, subject however to the supervision, regulation, and control of the Utilities Commission, and subject to its power to fix a rate or charge on the same basis and from a consideration of the same factors or elements usually considered in fixing a rate or charge for a public utility company engaged for gain or profit in the same business under similar circumstances, as here was done, is in effect to deny to a municipality whatever advantage or ability it may have to furnish and supply a product at a lower rate or charge.

Because patrons, customers or consumers of a product of a privately owned public utility as a rule have no voice in the handling and management of the business, nor in fixing and establishing rates and charges, and no adequate remedy or redress against unreasonable or excessive or unjust rates or charges fixed by a public utility company, there are good legal reasons for the state, under its police power for public good and protection, to fix a reasonable and just rate or charge for such a public utility, or to delegate the power so to do to a commission or board of its creation. But no such ground exists to so safeguard and protect tax payers and citizens of a town or city owning and operating its own utility for its own use and for the use and benefit of its inhabitants, for the consumers of the product and the citizens and taxpayers of the town or city have a voice in the management and handling of the plant and as to the rates or charges to be fixed. The plant is their plant. It is their property. It is for them through their chosen officers and boards to determine not only the character of the plant to be owned and operated, but also the rates and charges to be made and whether the interest on and principal of the bonds shall be met by taxation or from charges from operation or partly from the one and partly from the other. If officers, boards or agents chosen and selected by them do not comply with their demands or requests, or fix an

unfair or an unreasonably low or high rate or charge, others can be chosen or selected to establish a proper and fair rate or charge. To take such power from them and confer it elsewhere is, as it seems to us, an unauthorized interference with the performance of mere corporate and municipal affairs forbidden by the Constitution.

That, however, does not mean that the state, under its inherent police power or by a delegation of it to some officer, commission, or board, may not, within the legitimate scope of such power, for public good, public safety, public health and general welfare and within proper restrictions and limitations, supervise or regulate a municipality owning and operating a utility. For instance, though a municipality owning and operating its own waterworks system to furnish its inhabitants potable water, and though it be given police power, as cities and towns in such respect are given, to prevent a contamination or pollution of the water, yet if the town or city should furnish or supply its inhabitants with polluted, deleterious, or unwholesome water, the power of the state, through its police power, to interfere, prevent or abate the nuisance and to so regulate and control municipalities by legislation as to prevent and safeguard against such conditions and to require municipalities to furnish wholesome and potable water, is undoubted. So may the state legitimately do in many other particulars. But to delegate a power to supervise or interfere with municipal improvements, property, effect, or to levy taxes or to perform mere municipal functions, is quite another thing. That is forbidden, and that, as we view the matter, is involved in fixing a rate or charge to be made by a city or town owning and operating its own utility for its own use and for the use of its inhabitants and in determining as was here done, that the charge or rate fixed must be sufficient from charges of operation to meet all requirements without levying a tax and that a municipality may not fix a rate or charge lower than the standard authorized rate or charge throughout the state of a public utility company in competition with the city.

Inasmuch as the only complaint here made of the order of the Utilities Commission, and the only relief sought with respect to it, involves the rate and charge as fixed by the Commission under which the city by means of its plant is permitted to furnish electrical energy to itself and to its inhabitants and the annulment of contracts in such particular entered into be-

tween it and its customers, the review and judgment of this court necessarily must be restricted to such matters. The judgment of this court, therefore, is that the order of the Commission is annulled and vacated, in so far as it fixed a rate or charge required to be made and charged by the city and set aside the contracts entered into by it with its customers and consumers of electrical energy. As no complaint is made and no relief sought against the order otherwise, it is undisturbed in all other particulars. Costs to Logan City as against the Utah Power & Light Company.

We concur:

(Signed) ELIAS S. HANSEN, J.

I dissent:

(Signed) J. W. CHERRY, J.

GIDEON, J. (Concurring in part.)

As stated by Mr. Justice Straup in his opinion, the principal and controlling question here under review has not been heretofore passed upon by this court.

As I read the Public Utilities Act, it seems reasonably clear that the Legislature intended to, and by the language used in the Act, did, declare its intent that the Public Utilities Commission be given jurisdiction over all public utilities, including those owned and operated by municipalities. The language used in the Act does not seem to be susceptible of any other construction and any other construction makes certain provisions of the law meaningless and without place or relationship to the subject-matter of the legislation. It is provided in Chapter 2 of the Act that "the term 'corporation', when used in this title, includes a corporation, an association, a municipal corporation * * * It is further provided that "the term 'municipal corporation,' when used in this title, shall include all cities, counties, or towns, or other governmental units created or organized under any general or special law of this state." Unless it was the intent of the legislature to make municipalities owning and operating a municipally-owned utility subject to the provisions of the act defining what shall be included in the term "municipal corporation" would seem to be foreign to any purpose for which the law was enacted. That apparent intent of the Legislature, in my judgment, is not

overcome or defeated by other provisions of the Act requiring the utility to deliver copies of its contracts; franchises, books, etc., necessary to enable the Commission to determine a reasonable rate to be charged for services to be rendered by such utility. Nor do I think this apparent intent of the Legislature is overcome by subsequent legislation authorizing municipalities to levy taxes for the payment of the interest on bonds or for the redemption of bonds of the municipality.

Whether the provisions of our State Constitution (Art. 6, Sec. 29) prohibit the enactment of any law that takes from a municipality the right to determine and fix the price to be charged for the service of the municipally-owned utility presents a more difficult question. The provisions of Art. 6, Sec. 29, of the Constitution, are:

> "'The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal function."

Incorporated cities in the Territory of Utah were, by Comp. Laws Utah, 1888, Sec. 14, Art. 4, p. 622 authorized:

> "to construct and maintain water works, gas works, electric light works, street railways," etc.

It will thus be seen that at the time of the adoption of our State Constitution owning and operating an electric light plant was a recognized municipal function in the Territory of Utah That is to say, municipalities in the then territory were authorized to construct and maintain electric light works as part of the powers and duties granted by the legislature of the territory. It is also a matter of history that municipalities of the territory did own and operate water works and other municipally-owned utilities at the time of and prior to the adoption of the Constitution; and likewise that the question of municipal ownership had been considered and discussed by the people of the territory prior to the adoption of the Constitution. It is difficult to perceive just what the purpose of inserting Section 29, supra, in the Constitution was if it was not to preserve to each municipality the right to own and control in its own way

municipally-owned electric light works or other utilities specified and recognized at that time as a privilege of the then existing municipalities free from any interference by legislative enactment. It is true the words "special commission" are used in the Constitution. The intent of the constitution-makers ought not to be defeated by designating a commission either general or special. Public Utility Commissions, or like commissions under other names with the extensive jurisdiction now given to and exercised by them, were not generally known and recognized as arms of the state at the time of the adoption of the State Constitution; and it may be seriously doubted whether the framers of that instrument contemplated the existence of a general or permanent commission having control of utilities such as power and light companies. The jurisdiction of such commissions was not extended by any of the states to include utilities such as electric light plants earlier than the year 1902. Our Constitution was adopted in 1896.

In the case entitled The Town of Holyoke v. Smith, 226 Pac. 158, the Supreme Court of Colorado had before it a constitutional provision identical with Article 6, Section 29 of our State Constitution. The conclusion of the Colorado court in that case was that a municipally-owned electric light and power plant was not subject to the control of the Public Utilities Commission. A like question was before the Supreme Court of Montana in Public Service Commission v. City of Helena, 159 Pac. 24. The Montana court reached a different conclusion than that of the Colorado court. The provisions of the Montana Constitution are also identical with said section 29 quoted of our Constitution. So far as I have been able to find from the cases cited in the briefs of counsel and from an independent search no other court of last resort except Colorado and Montana has had under consideration constitutional provisions such as ours. The reasoning of the Colorado court in denying jurisdiction to the Public Utilities Commission over a municipally-owned utility seems to be more in consonance with the spirit of local government guaranteed to municipalities by the section of the constitution quoted.

It is true, as contended by counsel for the defendants in this case, that certain language used by this court in City of St. George v. Dixie Power Co., 62 Utah 453, 220 Pac. 720, justifies the contention that municipally-owned utilities are under the control of and subject to the jurisdiction of the Public Utilities Commission of this state. As pointed out by

Mr. Justice Straup, that question was not involved in and was not necessary for a decision of the question before the court in that case. As I recall, the particular question here to be determined was neither discussed nor considered either in the briefs or in the oral arguments of counsel upon submission of that case.

I concur in the view that the Public Utilities Commission is without authority to determine the rates to be fixed by a municipally-owned utility. I doubt, however, whether this court should, in its order, approve the orders of the Commission made in this proceeding as the same affect the rates to be charged by the Utah Power & Light Company to its customers or consumers in the City of Logan. No application was made to this court for a review of those orders of the Commission. Whether we approve them or do not approve them the Commission's orders will stand, unless set aside or modified by some subsequent order of the Commission. Further, no satisfactory reason is made to appear why Logan City solely by reason of owning and operating its municipally-owned plant has any right to petition the Commission for an order compelling the Utah Power & Light Company, a privately owned utility, to install meters or in any way be heard to complain of the rates to be charged for services of such privately-owned utility.

IN THE SUPREME COURT OF THE STATE OF UTAH

LOGAN CITY, a municipal corporation, *Plaintiff*,
vs.
PUBLIC UTILITIES COMMISSION of Utah and Utah Power & Light Company, *Defendants*.
(Filed Nov. 24, 1928.)

STRAUP, J.

This cause involves a review of proceedings before the Public Utilities Commission wherein, among other things, it fixed the rate to be charged by Logan City in furnishing through an electrical plant owned and operated by it electrical energy to inhabitants of the city for lighting, domestic and commercial purposes. On a prior submission of the cause

and on a review of the proceedings by this court consisting of four members an opinion concurred in by three of them, one dissenting, was filed annulling the order of the commission. On application for a rehearing on the ground that the judgment so rendered by us was erroneous and that the parties interested were entitled to a review by a full bench consisting of five members, a re-hearing at large was granted. A district judge was thus called in to sit in lieu of the disqualified member of this court. The case was thereupon reargued and resubmitted. On a re-examination and further consideration of the record and upon further arguments and briefs of counsel four members of the court, one member dissenting, are of the opinion that the order of the commission should be annulled and vacated on grounds and for reasons stated in opinions now filed which supersede the opinions heretofore filed in the cause.

Logan City owns and operates its own electric plant and distributing system by means of which electrical energy is furnished and supplied to light its streets and public buildings and for use of the inhabitants of the city for lighting, heating, cooking and for other domestic and commercial purposes. The Utah Power & Light Company is a public utility owning and operating a number of extensive hydro-electric and interconnected generating plants, transmission and distributing systems in and throughout the state, among which is a plant owned and operated by it at or near Logan City by means of which it also furnishes and supplies inhabitants of the city for the same use and purposes for which the city furnishes and supplies electrical energy. The real controversy is one between the city and the company.

The first electrical plant built and operated at or near Logan, by means of which the inhabitants of Logan City were furnished and supplied electrical energy, was built by Lundberg and Garff some time prior to 1890. At that time the city acquired the plant from them and operated it in furnishing and supplying electrical energy to the inhabitants of the city. In about 1896 or 1897 the predecessors of the Utah Power & Light Company built and operated an electric plant at or near Logan City, by means of which they also furnished energy among others, to the inhabitants of Logan City, for all general purposes. Later they or the company acquired the plant owned and operated by the city. Soon after the plant was acquired from the city, the company or its predecessors raised the rates or charges for electrical energy furnished inhabitants

of the city to 75 cents per month for each 40-watt lamp on a flat rate service. That continued until 1903, when the city, claiming that the charge was excessive and that the energy could be furnished for 33 1/3 cents per 40-watt lamp, voted and issued bonds to build and operate the city's present plant and distributing system. As soon as the city's plant and system was built and the city began to furnish and supply inhabitants of the city with electrical energy at the reduced rate, the company reduced its rate to a flat rate of 10 cents per kilowatt hour per month for lighting purposes. The city thereupon reduced its rate to 15 cents. The rates of both for other purposes was less, but all service was on a flat or unmeasured rate. Such operations on a flat rate basis continued until the early spring of 1927 when the city and the company, recognizing that the service of both on a flat or unmeasured rate caused a great waste and an extravagant use of electrical current and energy, agreed to abandon the service on a flat rate, to install meters and to change from the one to the other systems by September 1, 1927. In pursuance of the agreement the city solicited and procured about fourteen hundred customers, inhabitants of the city, and entered into a written contract with them to serve them and were ready to serve all other inhabitants of the city who desired to purchase electrical energy from it on a meter basis, the city to furnish the meters at its own expense, and to supply electrical energy for a period of three years at a rate of five cents per kilowatt hour for the first fifty kilowatt hours consumed per month for lighting purposes, four cents for the next 150 kilowatt hours, three cents for all electricity used over and above 200 kilowatt hours per month with ten per cent discount on prompt payment, two cents per kilowatt hour for all monthly consumption for general heating and cooking purposes with five per cent discount for prompt payment, five to two cents per kilwatt hour up to a monthly consumption of 1200 kilowatt hours and one cent in excess thereof with five per cent discount for prompt payment for general power purposes. In pursuance of the agreement the city also, at great expense, procured and installed meters for its customers and made necessary changes and improvements in its distributing system to put it on a meter basis. Among its customers so procured and who entered into contracts with the city to take electricity on a meter basis, and for whom meters were installed, were a number who, prior thereto, had been customers of the company. Such prior cus-

tomers by written notice to the company notified it that they had entered into contracts with the city to take electrical energy from it on a meter basis and requested the company to remove its wires and equipments on their premises. The company, in some instances, declined to do so unless such customers appeared in person at the company's office. Agents and servants of the company, at Logan in some instances gave out to customers of the company that it had no intention of going on a meter basis and that it would continue to furnish and supply its customers, and all others who desired to take electricity from it, on a flat or unmeasured rate or charge and at which it had theretofore furnished and supplied its product in Logan City, and that the company had not indicated to them any intention to go on a meter basis service. Some of the customers who had signed contracts with the city to purchase electrical energy from it on a meter basis and preferring a service on a flat instead of a meter rate declined to go on with their contracts with the city, claiming that they had entered into the contracts with the understanding that both the company and the city were to go on a meter basis.

Thereupon the city filed a petition with the Public Utilities Commission of the State alleging the foregoing and other facts; that a flat rate service caused a waste and an extravagant use of electricity, a detriment and a needless expense to both the city and the company, and asked that a hearing be had and that the company be required to abandon its flat or unmeasured rate service and install a meter system. The city by its petition did not, nor did it otherwise, ask that the commission fix a rate or charge either for itself or for the company. All it did was to petition the commission for the reasons stated in the petition to require the company to abandon its service on a flat or unmeasured rate and install a meter system in Logan City.

The company answered the petition admitting that a flat or unmeasured rate service led to a waste of electrical energy and to an extravagant use of it; that the flat rate system was improper and should be abandoned and that the service ought to be on a meter system basis; and that the company was willing to abandon its flat rate service and go on a meter basis provided reasonable rates or charges were established by the commission for both the city and the company in lieu of the flat rate theretofore charged. The company further alleged that the meter rates fixed and adopted by the city were

unjust, unreasonably low and below cost of service; that the rate so fixed by the city, if applied to the systems of both the company and the city, would produce a less gross revenue than the rates theretofore charged on a flat rate service and would not produce a sufficient revenue to pay expenses of operation, maintenance of the plant, interest charges, and provide for a sinking fund, and that if the city be permitted to establish and carry out its proposed rate the company, in order to continue in business furnishing electrical energy to inhabitants of the city, would be required to meet such rate which would result in a great loss to it, and to a destruction of its business.

Forty-six taxpayers of the city, customers of the company, filed a petition in intervention in which they alleged, on information and belief, that the proposed rate or schedule of meter rates of the city were inadequate to pay operating and maintenance expenses of the City's plant, interest on bonds floated for the construction of the plant and a sinking fund for the payment of the bonds; that for many years such petitioners, being taxpayers of the city, were taxed to maintain the city's plant and to make up a deficit resulting from the operation of its plant on a flat rate basis and if the proposed rate of the city should be permitted large deficits would continue to exist from the operation of the city's plant which would have to be met by taxation, and that they desired to have a rate or charge fixed for the city sufficiently high to meet all costs and expenses, interest payments on and a sinking fund for payment of the bonds, so that a sufficient revenue would be obtained from charges of operation without requiring a levy of taxes.

Seven hundred and sixty taxpayers of the city filed a counter petition in intervention in which, among other things, they alleged that the flat rate system was wasteful and led to an extravagant use of electrical currents and to a loss to both the city and the company; that the city, in pursuance of contracts entered into with it, had installed meters in more than fourteen hundred homes and business places of citizens and taxpayers of the city; that it was to the best interest of the citizens of the city to go on a meter basis and on the rates as fixed by ordinance and resolution of the Board of the City Commissioners and that the Board's action in such respect met the approval of over ninety per cent of the voters and taxpayers of the city; that the petition filed by the intervening

customers of the company was filed to hinder and obstruct the city in conducting its plant and to aid the company; that it was the desire of a great majority of the citizens and taxpayers of the city that the city be permitted to carry out its agreements and that the rates and charges proposed by it be neither increased nor decreased.

The city demurred to the answer of the company, among other things, challenging the power and jurisdiction of the commission to fix rates or charges to be charged by the city in furnishing electrical energy for the use of the city and its inhabitants by means of the plant owned and operated by it exclusively for such purposes. It also filed a reply denying all affirmative matters stated in the answer, and alleged that on the meter rates fixed by it sufficient revenues would be derived to meet all operating and maintenance expenses, pay interest on its bonds and provide a sinking fund to pay the principal of the bonds, and denied that the rate or charge fixed by it was unjust or unreasonable or below cost of service as in the company's answer alleged. It further averred that prior to the city building and constructing its plant and its distributing system in 1903, the predecessor of the company charged an unreasonably high rate of seventy-five cents per month for a sixteen kilowatt lamp, but immediately after the city had built its plant and distributing system and furnished citizens of the city electrical current at the rate of three lamps for one dollar per month, the predecessor of the company reduced its flat rate to twenty cents per month for each sixteen kilowatt lamp, and when the city met that rate the company further reduced its rate to ten cents per sixteen kilowatt lamp per month, which rate was also met by the city until 1909, when it raised its rate to fifteen cents per lamp per month which rate was maintained by the city until in March 1925, when it again reduced its rate to ten cents per month per 40-watt lamp; but that the company continued to maintain its flat rate of ten cents per 40-watt lamp per month, and for larger lamps in proportion, and that to permit the company to continue its flat or unmeasured rate of service would result in an irreparable loss to the city and of its municipal plant.

Upon these issues a hearing was had before the Public Utilities Commission, the city objecting to the commission proceeding to hear or determine or fix any rate or charge for it and challenging the power and jurisdiction of the commission to so interfere with its municipal and corporate affairs.

All of the objections were either overruled or disregarded by the commission, it, in effect, holding that Logan City, in operating and conducting its plant, was a public utility within the meaning of the Public Utilities Act and subject to the same supervision, regulation, and control by the commission as was any private or public utility company or corporation. Evidence was adduced by the city to show the necessity of the city to build and operate its municipal plant to protect itself against what it claimed to be excessive charges and as in its petition and reply alleged; that the flat rate service practiced by both the city and the company resulted in waste and in an extravagant use of electrical currents furnished consumers and a loss of revenue to both the city and the company; the agreement entered into between the city and the company to abandon the flat rate service and go on a meter system basis; the ordinance and resolution adopted by the Board of Commissioners of the city to go upon a meter system basis, installing meters and fixing a meter rate or charge as in the petition of the city alleged; the expenses incurred by the city in installing meters and in improving and changing its distributing system to adapt it for such purpose; procuring and entering into numerous contracts with citizens and taxpayers of the city to furnish and supply them with electrical current for a period of three years at the rate or charge alleged in the petition of the city, a number of whom were prior customers of the company; the refusal of the company to go on a meter basis and its continuing to furnish electrical current on its theretofore flat rate service; agents and servants of the company at Logan City giving out that the company did not intend to go on a meter service basis; the refusal of the company, in some instances where its prior customers had contracted with the city to purchase from it electrical current on a meter basis, to remove wires and equipment of the company; and the refusal of some customers of the city who had entered into contracts with it to go on with their contracts because the company had not gone on a meter basis, as to all of which, there is no substantial conflict in the evidence.

That no counter evidence as to such matters was offered may, however, be assumed was largely because of views urged by the company that all such matters were immaterial and that the rate fixed by the city and the contracts entered into between it and its customers were, in so far as the Public Utilities Commission was authorized to fix and determine a

reasonable rate or charge, of no binding effect and could be, as they were, wholly disregarded, though neither party to any of the contracts was complaining or seeking any relief with respect to any of the terms of the contract. Evidence, however, was also adduced by the city to show that the meter rate fixed by it would, as estimated by it and as shown by the short time that electrical currents were furnished by it on a meter basis, raise sufficient revenue to pay the operating and maintenance expenses of the plant, interest on the bonds, and provide a sinking fund with which to pay the principal of the bonds when they mature. On the contrary, considerable evidence was given on behalf of the company and of its intervening customers to show that the rate fixed and proposed by the city would not raise sufficient revenue to maintain and provide all of such expenses and conditions, and that the adoption of such rates and charges by the city as proposed by it necessarily would result in deficits which would have to be met by taxation as theretofore had to be done on a flat rate service.

The commission found all of such contentions against the city and that the annual revenues based on the number of its customers of September 1, 1927, and on its proposed meter rates, would be only about $41,819.18 and that its operating expenses would be approximately $37,642.16, leaving not anything for depreciation, or interest on its bonded indebtedness, nor for a sinking fund, nor to meet other contingencies that might arise. The company, and especially its intervening customers among whom were bankers and others engaged in commercial enterprises in the city and among them some of the largest taxpayers of the city, urged that the commission fix a rate to be charged by the city which would produce for it a sufficient revenue with which to pay all operating and maintenance expenses, interest on its bonds, provide for a sinking fund to pay the principal of the bonds when they mature and a reasonable allowance for depreciation of the city's plant, so that there would be no necessity for the city in the future to levy or collect any taxes for any such purposes. The commission in the main found that the city was required to do so and that the rate proposed by it would not meet such requirements. It found that the equities of the case were with the contention of the intervening customers of the company, and that so long as taxpayers were required to continue to pay taxes to maintain and operate the city's plant in order that its customers may be served with electrical

energy below cost to the city, the rates established by the city were unjust, unreasonable and in violation of law. It further found that the flat rate service was extravagant and wasteful and not an economical or a proper method of service, and as was conceded by both the city and the company. The commission thus ordered that both the city and the company abandon the flat or unmeasured rate service and adopt a meter system service. It further found that until the flat rate service was abandoned by both the city and the company and the meter system adopted by both, it was uncertain just what the consumption of electrical energy in the city would be. It however found that the rate proposed by the city was unreasonably low and unjust and would not raise sufficient revenue to meet all of the expenses and conditions hereinbefore indicated.

Evidence also was heard by the commission and findings made by it as to the amount of capital invested by the city in its plants and system, its present bonded indebtedness, the amount of interest payments, and the amount necessary to provide for the payment of its bonds when they mature, the cost and expenses of operation and maintenance of the city's plant, and a reasonable allowance for depreciation. No evidence was given and no findings were made with respect to such matters as to the company. While the commission also fixed a rate to be charged by the company, it received no evidence as to the amount of capital invested in its plant at Logan City nor as to its costs or expenses of operation or maintenance, nor for depreciation, nor as to it did it take any evidence as to any of the usual elements considered in fixing a rate to be charged by a public utility company. In fixing the same rate or charge for both the city and the company, the commission but took the standard rate and charge which the company charged throughout the state under similar conditions. It however made no finding that under all the conditions and circumstances such a rate was a fair and reasonable rate to be charged by the company. The commission but stated that the reasonableness of the standard rate of the company was not challenged. That the rate so fixed by the commission was the standard rate of the company was not disputed. But that such a rate or charge was a reasonable or proper rate or charge for the city, or that such a rate or charge was necessary to meet the requirements of the city even as found by the commission was disputed.

That was one of the material issues of the controversy before the commission, the city contending and the company disputing that the rate or charge proposed by the city was sufficient to meet all such requirements. Nor did the commission find that a lower rate or charge than the standard rate of the company would not meet all such requirements of the city. It did not find nor consider whether a municipality owning and operating a utility for its own use and for the use or benefit of its inhabitants and not for gain and profit but only at cost and free from taxation, franchise and license fees might or might not be able to furnish and supply the product of its utility at a rate or charge less than a public utility company operating its plant for gain or profit and required to pay taxes on its property, costs of franchises, easements, license privileges, etc. In other words the commission, regardless of whether a municipality owning and operating its own plant not for gain or profit, might or might not be able to furnish and supply its inhabitants with the product of its utility at a rate or charge less than a public utility company might do, in fixing a rate or charge for the city, took into consideration substantially the same factors and elements usually considered in fixing a rate or charge for a public utility company operating for gain and profit, chiefly, the amount of capital invested, operating and maintenance expenses, depreciation of the plant, other necessary contingencies, and a reasonable rate of interest on the amount of capital invested or a reasonable net profit of the business.

Evidence also was given to show that some of the cities of the state and a number of the cities elsewhere owning and operating their own plants furnishing and supplying their inhabitants with electrical energy on a meter basis, furnished and supplied it at about the same rate proposed to be charged by Logan City. Evidence also was given to show what the standard rate or charge was that was charged by the company in furnishing and supplying electrical energy on a meter basis under similar conditions to cities and towns and to the inhabitants thereof elsewhere in the state, which was ten cents per kilowatt hour for the first 250 kilowatt hours per month consumption, nine cents for the next 250 kilowatt hours, eight cents for the next 250, seven cents for the next 250, six cents for the next 250, and five cents per kilowatt hour for all additional kilowatt hours of monthly consumption in excess of 1250 kilowatt hours. It was estimated that

the average monthly consumption of customers in the city would be less than 250 kilowatt hours.

The commission thus ordered that the city be required to charge the same rate as the standard rate charged by the company and fixed and determined such a rate for both the city and the company, and annulled and vacated all contracts with respect to rates, charges and service entered into by the city or the company with its customers.

On application of the city we issued a writ of certiorari to review the proceedings before the commission. It is the contention of the city (1) that a municipality owning and operating its own plant and furnishing electrical energy for its own use and for the use of inhabitants of the city is not a public utility within the meaning of the Public Utilities Act and that thus the commission had no authority to fix or determine a rate or charge to be charged by the city; (2) that if it be held such a municipality is within the Act and thus power conferred upon the commission to fix rates and charges and supervise, regulate and control the business and affairs of a municipality in such particular and to the same extent that it may fix rates and charges and supervise, regulate and control the business and affairs of public utilities as prescribed by the Act, then the Act in such respect is in conflict with Sec. 29, Art. VI, of the Constitution of the State, and constitutes an unlawful interference with private municipal corporate affairs and functions of the city: (3) that though it be held there is no such conflict, yet, the commission in fixing the rate to be charged by the city exceeded its jurisdiction and irregularly pursued its authority by fixing and determining a charge or rate on a wrong and on an unauthorized basis; (4) that the commission, in ruling that a charge or rate sufficiently large was required to meet all expenses of operation of the plant, interest on its bonds and a sinking fund and all other contingencies as by the findings indicated without levying any tax for any such purpose, likewise exceeding its authority and disregarded statutes of the state in such case made and provided; and (5) that the commission was unauthorized to annul or vacate the contracts entered into by the city with its customers and with whom it had contracted to furnish electrical energy.

The Public Utilities Act, (Comp. Laws Utah, 1917) was passed in 1917. By Section 4782 of that Act it is provided that the term "corporation" as used in that Act, includes,

among other corporations, municipal corporations; that the term "municipal corporations" includes cities, towns and municipalities; that the term "electrical corporation" includes "every corporation or person, their lessees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating or managing any electrical plant, or in any wise furnishing electric power for public use within this state, except where electricity is generated on or distributed by the producer through private property alone, solely for his own use or the use of his tenants and not for sale;" that the term "public utility" includes "every common carrier, gas corporation * * electric corporation, * * * water corporation, heat corporation * * * where the service is performed or the commodity delivered to the public or any portion thereof," and that the term "public or any portion thereof * * * means the public generally, or any limited portion of the public, including a person, private corporation, municipality, or other political subdivision of the state, to which the service is performed or to which the commodity is delivered," etc.

At that time there was in force a statute (Chap. 3, Title 16, Comp. Laws Utah, 1917) which, among other things, authorized cities to control the finances and property of municipal corporations; to construct and maintain waterworks, gas works, electrical works, etc., or to purchase or lease any or all of such works; to contract with and authorize any person, company or association to construct gas works, electrical or other lighting works in the city; to regulate the sale and use of gas and electric or other lights and electric power charged therefor within the municipality; and to borrow money and issue bonds on the credit of the municipality, for corporate purposes, and Chapter 25 of the same title relating to "Bonding for Water, Light, or Sewers," authorizing a city or town to incur indebtedness (not exceeding a stated aggregate) to issue bonds to supply the city or town with water, artificial light, or sewers when the works for supplying such water, light and sewers are *owned and controlled* by the municipality, prescribing the manner of voting for and issuing such bonds and by Section 794 of that Chapter, providing that:

> "the city council or the board of trustees, as the case may be, shall provide by ordinance for the issuance and disposal of such bonds, *provided,* that no such bonds shall be sold for less than their face value. The

> city council or board of trustees, as the case may be, *shall annually levy a sufficient tax to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof* within twenty years from the time of contracting the same." (Italics added.)

In 1921, three years after the Public Utilities Act was adopted, Section 794, Comp. Laws Utah 1917, relating to bonding for water, light or sewers, was amended (Laws Utah 1921, Ch. 19) so as to read:

> "The board of commissioners, city council or board of trustees, as the case may be, shall provide by ordinance for the issuance and disposal of such bonds, provided that no such bonds shall be sold for less than their face value. The board of commissioners, city council, or board of trustees, as the case may be, *shall annually levy a sufficient tax to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund* for the payment of the principal thereof within the time for which such bonds are issued. Water or sewer bonds may be issued for a term not exceeding forty years. All other bonds may be issued for a period not exceeding twenty years. Such bonds may be either serial or term bonds." (Italics added.)

That section was again amended in 1925 (Laws Utah 1925, Ch. 58). The amendment took effect March 12, 1925, seven years after the adoption of the Public Utilities Act. The section as amended is in the exact language of the section as amended in 1921, with the only change, that after the words, "water or sewer bonds," the words "or *any bonds issued to refund such bonds*" are inserted. At the same session of the Legislature, in 1925, Section 794 was further amended by Chapter 63, Laws Utah 1925. This amendment took effect March 13, 1925, the next day after the section as amended by Chapter 58 took effect. It is as follows:

> "The board of commissioners, city council or board of trustees, as the case may be, shall provide by ordinance for the issuance and disposal of such bonds, provided that no such bonds shall be sold for less than their face value. The board of commissioners,

city council, or board of trustees, as the case may be, shall annually levy a sufficient tax to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund for the payment of the principal thereof within the time for which such bonds are issued; *provided that whenever bonds shall have been issued for the purpose of supplying any city or town with artificial light, water or other public utility, the rate or charges from the operation of the system or plant constructed from the proceeds of such bonds may be made sufficient to meet such payments, in addition to operating and maintenance expenses, and taxes shall be levied to meet any deficiencies.* Water or sewer bonds may be issued for a term not exceeding forty years. All other bonds may be issued for a period not exceeding twenty years. Such bonds may be either serial or term bonds." (Italics added.)

The change made in Chapter 58 by Chapter 63 are the words italicized in Chapter 63 just quoted. By Chapter 58, as well as by the Act of 1921, cities or towns by their boards or councils *were required to levy taxes to meet interest payments on and the principal of bonds.* By Chapter 63 they are given *an option or discretion* to meet such payments by taxation, or by charges from the operation of the plant.

It is the contention of the company that by reason of the provisions of the Public Utilities Act defining the terms "municipal corporation," "electric corporation," and "public utility," all municipal corporations owning and operating a system of water works, gas, or electric light plants, etc., though only for the use and benefit of the municipality and of its inhabitants, are "public utilities" and thus subject to supervision, regulation, and control by the commission in the conduct of such business, including the fixing of rates and charges, to the same extent that the commission is authorized to supervise, regulate and control and fix rates and charges of any public utility doing business in the state. On the other hand, it is the contention of the city that by the Public Utilities Act it was not the intention of the Legislature to include municipalities owning and operating their own plants or utilities when operated only for the use of the municipality and of its inhabitants and that it was not the intention to confer power or jurisdiction on the commission to interfere with, or regulate or

control, municipalities with respect to such corporate affairs; that while the Public Utilities Act has taken from municipalities the power to fix rates and charges of public utilities doing business within the limits of a city or town and conferred such power on the commission, yet, it has not conferred any such power with respect to waterworks or electric light or other utility plants owned and operated by the city or town for its own use and for the benefit of its inhabitants, *and that the Legislature did not do so is manifested by the Acts referred to and passed subsequent to the Public Utilities Act.*

Looking alone to the definitions referred to of the Utilities Act, there is much force to the contention that municipalities owning and operating their own plants are included within the Act. Still, such a conclusion seems inconsistent with the subsequent Acts of the Legislature referred to. Laws of Utah 1921 and Chapter 58, Laws of Utah 1925, require the city commission or board of trustees of the city or town to levy a sufficient tax to pay interest on the bonds as it falls due and also to provide a sinking fund for the payment of the principal of the bonds issued and sold to construct and operate a waterworks system or electric light plant, etc. Thereunder such payments may be met *only by taxation.* Such statutes requiring the levy of a tax for such purpose seem to be mandatory. To give the Utilities Commission authority to fix rates and charges for such purpose, as well as for operating and maintenance expenses, is, in effect or indirectly, to give it power to levy taxes or not to levy them. In other words, if the commission has power to fix rates and charges for a city owning and operating its own plant it may fix rates and charges sufficiently high to meet all interest on and principal of the bonds of the city as well as its operating and maintenance expenses, and thus the commission may determine, as in fact it here did, that the rate should be sufficiently high as not to require the levy of any taxes. Yet such statutes referred to are mandatory that the interest on and the principal of the bonds shall be raised by taxation. When we look at Chapter 63, Laws of Utah 1925, an option or discretion is given the city commission or board of trustees to pay the interest on and principal of the bonds either by taxation or from revenues derived from operation of the plant, as well as to meet all operating and maintenance expenses, *and if there be any deficiency to meet the deficit by taxation.* So, whether the interest on and principal of the bonds shall be raised and met by

taxation or from charges from operation of the plant is a discretion given the city and not the Utilities Commission. But here the Utilities Commission itself exercised the option and determned that all of such payments, as well as operating and maintenance expenses, must be met from revenues produced from charges of operation and that a rate or charge which does not produce a revenue sufficient for such purpose is unreasonable, unjust, and in violation of law.

It is believed that it was not the intention of the Legislature to delegate or that it had delegated such a power to the commission. It is argued that though the commission does, as it here did, require the municipality to make a rate or charge sufficiently large to meet all expenses of operation, maintenance, interest on bonds, a sinking fund and other contingencies, yet, that does not deprive or forbid the city from levying a tax for all such purposes as under the statute it admittedly may do, for, as is argued, the revenues so derived from rates and charges may partly or wholly be turned in and applied to the general fund of the city and then taxes may be levied and collected by it to meet operating and all other expenses of the plant and interest on bonds and for a sinking fund. We need not now consider whether a municipality is authorized to so apply revenues derived from charges of operation of the plant and then levy taxes for plant purposes. That such was not intended is clearly shown by Chap. 63, Laws Utah 1925, providing that when the city (not the commission) elects to meet expenses of operation of the plant as well as interest on bonds and for a sinking fund from charges of operation it shall levy a tax only for a deficiency.

Thus the acts subsequent to the Utilities Act are, as we think, indicative of an intention that the power of a municipality owning and operating its own utility to fix and determine its own rates and charges and what interest payments on and principal of bonds shall or may be met by taxation and what not was not intended to be and was not disturbed by the Utilities Act, and that the municipal power in such respect remained after as before the Utilities Act was adopted. The view that municipalities owning and operating their own plants were not intended to be included within the Public Utilities Act is also supported by several provisions of the Utilities Act itself, among them, that each public utility is required to have an office in the county of the state in which its property or some portion thereof is located, shall keep in such office all such

books, accounts, papers and records as shall be required by the commission to be kept within the state and not to remove any from the state except upon conditions as may be prescribed by the commission; giving the commission, its agents and employes, the right at any time and at all times to inspect all accounts, books, papers and documents of a public utility; providing that every public utility when ordered by the commission *before entering into any contract for construction work or for the purchase of any facilities, or with respect to other expenditures, to submit such proposed contract, purchase or other expenditure to the commission for its approval,* and if disapproved by it, it may order other contracts, purchases or expenditures in lieu thereof for any legitimate purpose and economical welfare of the utility; requiring every public utility when required by the commission to deliver to the commission copies of any and all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers and records in its possession or in any way relating to its property or affecting its business, matters wholly inapplicable to and inconsistent with the regular and due administration of municipal affairs. It thus is somewhat difficult to perceive that by the Utilities Act it was intended that a municipality and its taxpayers, though authorized to issue bonds for the construction of and to own, operate and manage waterworks, electrical and other utility plants, to enter into contracts, purchase facilities, incur expenses with respect thereto, to determine whether interest on and principal of bonds shall be met by taxation or by charges from operation, yet, before doing so, are required to get the approval of the Utilities Commission and turn over to it the direction and control of such municipal corporate affairs and functions.

For such reasons it may well be held that a municipality owning and operating its own utility plant for its own use and for the use of its inhabitants was not intended to be a public utility within the meaning of the Utilities Act giving the commission supervision, direction and control over such municipal corporate affairs and functions. The Act does not *eo nomine* declare, as do some Acts, that a municipality owning and operating its own utility is a "public utility" within the meaning of Utility Acts. It is only by considering definitions and making deductions from them that such a conclusion is reached, and, too, one which as has been seen is inapplicable to other provisions of the Utilities Act, inconsistent with subsequent

Acts of the Legislature, and, as presently will be noted, repugnant to Sec. 29, Art VI, of our Constitution. And on familiar rules of construction, if two meanings or constructions may fairly be given an Act, one rendering it in harmony and the other in conflict with the Constitution, the former should be adopted.

Though it be assumed that a municipally owned plant is a public utility within the meaning of the Utilities Act and hence is, as other public utilities are, subject to supervision, regulation and control of the commission including the fixing of rates and charges, yet, it is quite clear that the commission, in fixing the rate to be charged by the city did not regularly pursue its authority and disregarded statutes in such particular. As is seen the commission, in fixing a rate for the city, determined it upon the same basis or consideration usually considered in fixing a rate for a privately owned utility, and fixed the standard rate charged by the company as the required rate to be charged by the city, and, too, without finding or determining that the standard rate so charged was a fair or resonable rate to be charged by either the company or the city. The commission, finding that the rate proposed to be charged by the city was not sufficient to meet all expenses of operation, maintenance, interest on bonds and for a sinking fund and other necessary contingencies, held the rate sought to be charged by the city unreasonable and "in violation of law," without finding that a rate less than the standard rate of the company would or would not meet all of such requirements of the city.

The crux of the situation, and, as is apparent on the record, the difficult question presented to the commission grew out of a competitive condition between the company and the city each furnishing to and supplying inhabitants of the city with electrical energy for the same general purposes. The commission found each was capable of serving all present needs of all consumers of the city with electrical energy "efficiently and well". There being patronage only for one, each in competition with the other strove to hold what it had and to obtain as much more as it legitimately could. Under such circumstance fixing a reasonable and just rate for both was no easy task. The primary purpose in fixing rates or charges of public utilities is to protect and safeguard rights and privileges of the public and to secure to it an efficient and an adequate service at reasonable rates, but not to fix rates or charges, or

regulate or control the service, so as to deny the utility company reasonable compensation for its service and certainly not so as to impair its business or deprive it of property or of a legitimate use or enjoyment of it. Apparently, and as shown by the record, what the commission primarily attempted was an adjustment of disputed claims and asserted rights of and between the company and the city with the public as a mere bystander or an onlooker. In fixing the rate the commission undertook to put the contestants as near as may be on an equality, and what as a basis or measure of the rate was considered proper for the one was also considered proper for the other, and thus regarded the relation between the two contestants as the important factor rather than the relation of each to the public and to public good and public welfare. Instead of fixing a maximum rate beyond which neither competitor could charge with the privilege of each to render service at a lower rate and thereby give the public the benefit of competition, it fixed a minimum and maximum at the same rate beyond or below which neither contestant was permitted to go. Let it be assumed that the commission may fix a minimum as well as a maximum rate, still, the rate must be fixed primarily with relation of the utility to the public and not primarily with a competitor, nor with a view that if the one cannot give efficient and adequate service at a particular rate, neither should the other be permitted to do so, regardless of whether it was or was not for public good to permit it. If taxpayers and citizens of a town or city desire through their municipality to own and operate their own plant for their own use and for the use of the municipality at cost, they ought not to be denied the right or privilege, because a competitive and privately owned utility operating a plant for gain and profit at the same place may not be able profitably to furnish the product at a rate or charge lower than its standard rate, or at a rate proposed by the municipality. To say a municipality, its taxpayers and citizens have the right to own and operate a utility, but may not be permitted to operate it at a rate less than a privately owned utility may supply the product at a reasonable profit, is, in effect, to deny to a municipality whatever advantage or ability it may have, if any, to furnish and supply the product at a rate or charge lower than that of a privately owned utility for gain and profit. From the very nature of their organization and the purposes for which they are organized, municipalities owning and operating utility plants to supply products

thereof for their own use and for the use of their inhabitants at cost, in a sense, constitute a separate and distinct class from that of privately owned utilities organized and operated for gain and profit, and thus when the relation of the utility to the public is considered as of primary importance it does not follow that the rate to be fixed for the one class necessarily requires the same rate for the other, or that a determination of the rate necessitates or requires the same basis or a consideration of the same elements or factors for the one as for the other. Here the city contended that the rate proposed by it would raise sufficient revenue to meet all expenses of operation and maintenance, interest on its bonds and provide a sinking fund; and further contended that whatever deficits, if any, there might be, were expressly authorized by statute to be met by taxation. The company, with whom joined its intervening customers, disputed that the city's proposed rate would raise sufficient revenue to meet such requirements of the city, and that deficits would result which would have to be met by taxation which they implored the commission to prevent. The commission, finding with the contention of the company and its intervening customers, and that the proposed rate would not meet the necessary requirements of the city, ruled that to operate the city's plant at its proposed rate and meet deficits by taxation was "in violation of law," notwithstanding the statute expressly and admittedly authorized and permitted that to be done. As heretofore shown the statute, when the Public Utilities Act was adopted, by its mandatory provisions, required the city annually to levy a sufficient tax to pay the interest on its bonds and to provide a sinking fund for the payment of the bonds when they mature, and three years after the adoption of the Utilities Act, the statute with such mandatory provisions was re-enacted, and seven years after the adoption of the Utilities Act was again re-enacted but giving the city a discretion or an election to meet such requirements by charges from operation or by taxation. Now, the effect of the ruling of the commission is that to permit the city to continue to operate its plant it is required to make a charge sufficiently large to meet all such requirements including expenses of operation and maintenance without resorting to taxation, and that a rate which did not accomplish such purpose was "in violation of law". In that we think the commission not only erred but failed to give proper effect to the statute. In fixing a rate for the city, the commission was just as much bound

by such statutory provisions as we are and had no more license to disregard them than we have. Whatever views may be entertained as to the wisdom of the municipalities owning and operating their own utility plants, or as to legislative enactments requiring interest and the principal of a bonded indebtedness created to establish and maintain the plant to be met by taxation or partly by taxation and partly by charges from operation, or whether to permit a city in the operation of its plant to so meet such financial requirements is or is not unjust or unfair to a competitive and privately owned utility operating at the same place, cannot justify a disregard of such statutory requirements, nor a refusal to give them effect, especially since they were re-enacted three years and again seven years after the adoption of the Utilities Act and as a mandatory declaration of the Legislature notwithstanding that Act.

We thus think that instead of the proposed rate of the city being "in violation of law," as declared by the commission, its order as made is itself "in violation of law," and on that if on no other ground should be annulled.

We now pass to another phase of the case. Though it be assumed that a municipally owned plant, as here, is a public utility within the meaning of the Utilities Act and thus subject to the jurisdiction and control of the commission to the same extent as a privately owned utility, and that the order made by the commission is not contrary to the statutory provisions heretofore considered, yet, the Act so construed and considered is in violation of and forbidden by Sec. 29, Article VI, of our Constitution. By that section it is provided:

> "The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal functions."

It of course is urged on behalf of the company that the Legislature under its police power had the right to delegate, and by the Utilities Act, had delegated power to the Commission not only to regulate and control and fix rates and charges of privately owned utilities, but also of municipally owned utilities as well; that if there be any statute in conflict therewith it must give way to the Utilities Act as must all

contracts made by or with a public utility as to rates, charges or service, whether made prior or subsequent to the adoption of the Utilities Act, and that even constitutional provisions in such particulars do not operate as a limitation upon nor interfere with the exercise of such a police power. While the police power is an attribute of sovereignty and is inherent in the state, yet it is not without its limitations, for the Legislature under the guise of police power may not invade mere private rights or violate rights and privileges guaranteed or safeguarded by the Constitution. In other words, however broad the police power may be, it nevertheless is subject to the fundamental principle that the Legislature may not exercise a power forbidden it by either the federal or the state Constitution. (12 C. J. 928; 6 R. C. L. 196). For the same reason may the Legislature not delegate a power which by constitutional provisions is otherwise vested, conferred or forbidden. That in the absence of constitutional restriction the Legislature may in the exercise of its police power fix or determine rates and charges of public utilities doing business within the state, or delegate the power to do so, and within limitations and restrictions regulate and control their service, is well settled. That is on the theory primarily of protection to the public against unreasonable, unjust or excessive rates and charges and for public safety and convenience and public good, and not primarily protection to or for the benefit of public utilities themselves whose rates and charges are fixed and service regulated and controlled.

In a number of cases this court has held that because of the police power of the state and of a delegation of it to the Utilities Commission to fix rates and charges of public utilities, no contract made by or with a public utility with respect to rates and charges, whether entered into before or after the adoption of the Utilities Act, is, in such respect, of any binding effect, if in the judgment of the commission the rate or charge so fixed by contract, though fair and reasonable when made, has, by reason of changed conditions or otherwise, become unreasonably low or discriminatory; and that hence the commission may and should disregard such contracts and fix a higher rate or charge which in the judgment of the commission is reasonable and just and not discriminatory, and that neither the federal nor the state constitution forbidding the impairment of contracts operates against the exercise of such a power. Salt Lake City v. Utah L. & Tr. Co., 52 Utah 210, 173 Pac.

556; Murray City v. Utah L. & Tr. Co., 56 Utah 437, 191 Pac. 421; United States S. R. & M. Co. v. Utah Power & L. Co., 58 Utah 168, 197 Pac. 902; Utah Copper Co. v. Public Utilities Comm., 59 Utah 191, 203 Pac. 627; Utah Hotel Co. v. Public Utilities Comm., 59 Utah 389, 204 Pac. 511; City of St. George v. Public Utilities Comm., 62 Utah 453, 220 Pac. 720. In all such cited cases a public utility sought the Utilities Commission for and was granted relief from contracts entered into by and with the public utility company with respect to rates and charges, on the ground that the rates and charges contracted for by it were or had become unreasonably low, and was granted a higher rate or charge as fixed by the commission. While no case has yet come to this court where the Utilities Commission set aside a contract on the ground that the rate or charge as fixed by contract was unreasonably high and where a lower rate or charge was fixed by the commission, still, its power in such respect to also fix a lower rate or charge is undoubted. This, however, is the first case coming to this court where the commission undertook to fix or determine the reasonableness of a rate or charge to be made by a municipality of the state owning and operating its own utility, such as a system of waterworks, electrical or other utility plant. The case of the City of St. George v. Public Utilities Comm., supra, is cited as a case of such character. But it is not. The case is one where the Dixie Power Company, a public utility, applied to the Utilities Commission, for public good, public safety and general welfare, to abrogate its contract entered into by it with the city to furnish it electrical energy for lighting and other purposes at a stipulated rate and to have the commission fix a higher rate or charge, which it did. True, in that case this court said that municipal corporations, by express terms, are included within the Utilities Act and subject to the same supervision and control by the commission as are other corporations affected and controlled by it. But that was wholly unnecessary to the decision. The power and jurisdiction of the commission to fix rates and charges for the Dixie Power Company was in no particular dependent upon the proposition or fact of whether it had contracted to serve a municipal or private corporation or company, or an individual or group of individuals. In such respect it was wholly immaterial whether the contract made or service rendered by the Dixie Power Company was made with or rendered to a municipality, or private or other corporation, or a mere indi-

vidual. The question in such particular was the same in that case as in all of the other cited cases.

We thus have a different situation and question. Let it be conceded that since the adoption of the Utilities Act, municipalities no longer have power to fix or establish rates or charges to be made by a privately owned public utility company furnishing and supplying the city or its inhabitants with water or electrical energy, etc., or otherwise operating and doing business within the limits of the municipality. That is well settled by our prior decisions. But that does not answer the question now before us of whether the Legislature by the Utilities Act has taken from municipalities the power to fix their own rates and charges in operating their own plants or system of waterworks or electrical or other utilities for their own use and for the use of their inhabitants and conferred the power on the Utilities Commission; and if so, whether it was competent for the Legislature so to do.

Because patrons, customers or consumers of a product of a privately owned public utility as a rule have no voice in the handling and management of the business, nor in fixing and establishing rates and charges, and no adequate remedy or redress against unreasonable or excessive or unjust rates or charges fixed by a public utility company, there are good legal reasons for the state, under its police power for public good and protection, to fix a reasonable and just rate or charge for such a utility, or to delegate the power so to do to a commission or board of its creation. But no such ground exists to so safeguard and protect taxpayers and citizens of a town or city owning and operating its own utility for its own use and for the use and benefit of its inhabitants, for the consumers of the product and the citizens and taxpayers of the town or city have a voice in the management and handling of the plant and as to the rate or charge to be fixed. The plant is their own plant. It is their property. It is for them through their chosen officers and boards to determine not only the character of the plant to be owned and operated, but also the rates and charges to be made and whether the interest on and principal of bonds shall be met by taxation or by charges from operation or partly from the one and partly from the other. If officers, boards or agents chosen and selected by them do not comply with their demands or requests, or fix an unfair or an unreasonably low or high or a discriminatory rate or charge, others can be chosen or selected to establish a proper and fair

rate or charge or consumers may appeal to the courts to correct any such abuses. To take such power from taxpayers and citizens of a town or city and confer it elsewhere is, as we think, an unauthorized interference with the performance of mere corporate and municipal affairs forbidden by the Constitution. If a municipally owned plant is included within the Utilities Act as a public utility, then, by the provisions of the Act, whenever ordered by the commission, a municipality, before entering into contract for construction work, or for the purchase of any facilities, or with respect to other expenditures, is required to submit its proposed contract, purchase, or other expenditures, to the commission for its approval, and if disapproved by it, it may order other contracts, purchases or expenditures in lieu thereof for all legitimate purposes and economical welfare of the utility, which, as it seems to us, constitutes a direct supervision over and interference with municipal improvements and property and the performance of municipal functions and affairs forbidden by the constitution. So, too, if power is delegated to the commission to fix rates and charges to be charged by the municipality and if it may do what it here did, disapprove a rate which would not raise sufficient revenue for all purposes in connection with the plant without resorting to taxation, the commission in effect may determine when a municipality may and when it may not meet any part of such expenses by taxation and thereby indirectly supervise, direct and interfere with the levying of taxes for such purpose by the municipality and by fixing rates and charges make the operation of the plant dependent upon it. We think the exercise of such a power is by the constitutional provision forbidden.

We think it clear that the undoubted purpose of the constitutional provision is to hold inviolate the right of local self-government of cities and towns with respect to municipal improvements, money, property effects, the levying of taxes and the performance of municipal functions. Stress, however, is laid on the words in the section of the constitution, "special commission," that the power shall not be delegated to a special commission, and that the Public Utilities Commission is a general and not a special commission, and hence whatever power may have been delegated to the commission in such respect is not in violation of such constitutional provision, to support which the case of Public Utilities Commission v. City of Helena, 52 Mont. 527, 159 Pac. 240, is especially cited.

That case so holds. But we think such a construction of the section is too narrow and one which in effect impairs the very essence and purpose of it, deprives cities and towns of local self-government and interferes with their power to levy taxes and in the performance of their municipal corporate affairs with respect to their improvements, property and municipal functions. Town of Holyoke v. Smith, 75 Colo. 286, 226 Pac. 159. Besides the Montana case we have not been referred to any decision where, under a constitutional provision similar to ours, it was held that it was competent for the Legislature to delegate power to a Utilities Commission to supervise, regulate and control a municipally owned plant or to fix rates and charges for its operation. The cited Colorado case, under an identical constitutional provision as Montana and our state, is in direct conflict with and repudiates the Montana decision. It holds that the prohibition in the constitution is not limited by the fact that the term "special commission" is used, for if there is reason to prohibit a special commission, a private corporation or association from exercising the powers named, it extends as well to a general commission; and if municipalities are entitled to protection from an agency of the state exercising delegated powers of the kind enumerated, the right thus proposed to be protected would be violated as much by a general commission doing the mentioned acts as by a special commission doing the same things, and that the essence and purpose of the constitutional provision is to forbid a delegation of the enumerated powers. We believe the Colorado case is supported by the better reason and is better founded on fundamental principles. We thus approve it.

The case of Borough of Lansdowne, et al., v. Public Service Commission, 74 Pa. Sup. Ct. 203, also is cited as an authority to the same effect as that of Montana. We do not so regard that decision. The constitutional provision of Pennsylvania is identical with ours and with that of Montana and Colorado. However, under the Pennsylvania Utilities Act a municipality or borough owning and operating its own utility is not a public utility and is expressly excluded therefrom. Hence the decision in no particular involved the right or power of the commission to regulate or control or fix rates or charges of a municipally owned plant. There the borough had entered into a contract with the Springfield Consolidated Water Company, a privately owned public utility, to supply and furnish water to the borough for fire protection as had other

water consumers entered into similar contracts with the company, with privileges of renewal. Upon the expiration of the time stipulated in the contracts the company refused longer to furnish water at such stipulated rate and declined renewals of the contracts at such rates and increased its rate of service. Thereupon the borough and other consumers applied to the commission to require the company to furnish water at the contract rate and, among other things, contended that the company could not nor could the commission permit the company to abrogate its contracts. The commission held against the applicants and on evidence heard and findings made held the increased rates were justified and reasonable and thus dismissed the petition. On appeal to the superior court by the borough and the consumers the decision was affirmed. The borough urged that, among other constitutional provisions, the provision in question forbade the abrogation of the contract and that to permit the company to do so constituted an interference with the right of the borough to contract with the water company to supply and furnish water for its municipal needs. The court in such respect held, as did this court in the case of St. George v. Public Utilities Commission, Salt Lake City v. Utah L. & Tr. Co., and Murray City v. Utah L. & Tr. Co., that in fixing rates for a public utility company the constitutional provision in question did not forbid the commission to disregard contracts entered into by and between the public utility and consumers and fix a higher rate, if on the evidence and in the judgment of the commission it found that the contract rate was unreasonable or discriminatory; and that in such respect it mattered not whether the consumer was a private person, or a private or public corporation, or the contract entered into was with the one or the other or with a municipality. In that connection the court said that the power exercised by the commission was the fixing of a just and reasonable rate for a privately owned public utility, which it had the undoubted authority to do, and that exercising such a power did not constitute an interference with any of the prohibited powers enumerated in the constitution; that the commission was not a special commission and had no power or authority to usurp, and that it had not usurped, any municipal power or function forbidden by the constitutional provision in question.

Such holding is now pointed to as an authority that the commission here is not a special commission and that the power to supervise, regulate and control the business of a munici-

pally owned and operated plant and fix rates and charges with respect thereto is no more an interference with the forbidden and enumerated powers in the constitution than fixing and determining rates and charges of a mere privately owned public utility. We think the decision does not support such a holding and that the view contended for in such respect is unsound and not a proper construction of the constitution. To say that the power of the commission, notwithstanding the constitution, to supervise, regulate and control the business and fix rates and charges of a municipally owned and operated plant is the same as that of a privately owned public utility, is to disregard or not give effect to the constitution, for a municipality is specifically and exclusively mentioned therein and the constitution in such particular expressly and exclusively adopted for the benefit and protection of only municipalities.

Analogous to this is the right and power of the commission to supervise, direct and control the business of water works, water rights and water sources of a municipality owned and controlled by it, and to fix rates and charges of such utilities. It is conceded, and it was argued, that if the commission has power to supervise, regulate and control the business of a municipally owned and operated electrical plant and fix rates and charges for its operation, it may also exercise the same power with respect to water works and water rights owned and operated by a municipality supplying water to its inhabitants and for its own use. In some instances such a power has been exercised by the commission, notwithstanding the further constitutional provision, (Sec. 6, Art. XI), that no municipal corporation shall directly or indirectly lease, sell, alienate or dispose of any water works, water rights or sources of water supply owned or thereafter to be owned or controlled by it, and that all such water works, water rights and sources of water supply owned or thereafter to be acquired by any municipal corporation are required to be preserved, maintained and operated by it for supplying its inhabitants with water at reasonable charges. Thus, apart from the prohibition forbidding the sale and alienation or other disposal of water works, water rights or sources of water supply of a municipality, such constitutional provision is indicative of the same policy and inhibitions expressed in Sec. 29, Art VI. It is hard to believe that by the Utilities Act it was intended that a municipality owning and operating its own water works or

system, before entering into a contract with respect to its construction or the enlargement of it, or in the purchase of facilities, or incurring expenditures, was required to submit to the commission its proposed contract, purchase, or expenditure, and if disapproved by it to order and direct a contract or expenditure in lieu thereof. And still more difficult is it to understand that if such a power by the Utilities Act is so delegated to the commission, why the Act in such particular is not in direct conflict with the constitution. The same reason and observation, as we think, equally apply to an electrical plant owned and operated by a municipality for its own use and for the use of its inhabitants.

There is still a further constitutional provision (Sec. 4, Art. XIV) of some relevancy to the matter in hand, which places a limit of indebtedness of cities and counties not exceeding four per centum of the value of the taxable property therein, with a proviso, however, that any city or town may incur a larger indebtedness not exceeding four per centum additional "for supplying such city or town with water, artificial lights or sewers, when the works for supplying such water, light and sewers *shall be owned and controlled by the municipality.*" (Italics added.) Such, as we think, contemplates that such utilities as there enumerated shall not only be owned but also controlled by the municipality and is indicative of a policy in harmony with the other constitutional provisions referred to to hold inviolate the right and power of a municipality so to do; and that to delegate a power to a commission or other agency to supervise, regulate and control the business of such a municipally owned utility, disapprove contracts, purchases and expenditures of the municipality with respect thereto and substitute others in lieu thereof, fix rates and charges under which the utility may be operated, and to permit the commission to do what it here in effect did, determine the means or source by or from which the operating expenses and bonded indebtedness of the plant or works must be met, constitute unauthorized interference with the control of the utility by the municipality.

We thus are of the opinion that the order made by the commission, in so far as it affects Logan City, is beyond the power and jurisdiction of the commission and therefore is anulled and vacated. Inasmuch as the complaint made of the order and the relief sought with respect to it involve only the rate or charge fixed by the commission in so far as it affects

the city and the annullment of contracts entered into between it and its customers, the review and judgment of this court necessarily is restricted to such matters. As to these, the order is annulled. In other particulars it is not disturbed. Costs are awarded to the city against the Utah Power & Light Company and its intervening customers.

I concur:

(Signed) ELIAS HANSEN, J.

I dissent:

(Signed) J. W. CHERRY, J.

GIDEON, J. (Concurring in part.)

As I interpret the language of the Public Utilities Act it is clear that the legislature intended to, and did, declare that the Public Utilities Commission be given jurisdiction over all public utilities, including those owned and operated by municipalities. Any other construction makes certain provisions of the law meaningless and without place or relationship to the subject-matter of the legislation.

In Chapter 2 of the Act it is provided that "the term 'corporation,' when used in this title, includes a corporation, an association, a municipal corporation * * *." It is therein further provided that "the term 'municipal corporation,' when used in this title, shall include all cities, counties, or towns, or other governmental units created or organized under any general or special law of this state." If it were not the intent of the legislature to make municipalities owning and operating municipally owned utilities subject to the provisions of the Act, then defining what shall be included in the term "municipal corporations" would seem to be foreign to any purpose of the enactment. In my judgment that intent of the legislature as expressed by the language of the Act is not overcome or defeated by other provisions of the Act requiring the utility to deliver copies of its contracts, franchises, books, etc., necessary to enable the commission to determine a reasonable rate to be charged for services rendered by such utility. Nor do I think that either the statute in force at the time of the Public Utilities Act or subsequent legislation authorizing municipalities to levy taxes for the payment of interest on bonds or for the redemption of bonds is inconsistent with or contradictory of the expressed intent of the legis-

lature giving to the commission jurisdiction over municipally owned utilities.

Incorporated cities in the Territory of Utah were, by Comp. Laws Utah 1888, Sec. 14, Art 4, p. 622, authorized "to construct and maintain water works, gas works, electric light works, street railways," etc. It will thus be seen that at the time of the adoption of our State Constitution owning and operating an electric light plant was a recognized right enjoyed by the municipalities of the Territory of Utah. That is to say, municipalities in the then territory were authorized to construct and maintain electric light works as a part of the powers and duties granted by the Legislature of the Territory. It is also a matter of history that municipalities of the Territory did own and operate waterworks and other municipally owned utilities at the time of and prior to the adoption of the State Constitution; and likewise that the question of municipal ownership had been considered and discussed by the people of the Territory prior to the adoption of the Constitution.

Section 29 of Article VI of our State Constitution reads:

> "The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to select a capitol site, or to perform any municipal function."

What was intended by the adoption of this section? To determine the intent of the constitution-makers the language used by them must be and should be read in the light of the conditions in the Territory of Utah at the time of the adoption of the Constitution as well as in the light of the history of the people and their institutions at and prior to that time. Local self-government, or what is generally designated as "home rule," is not an innovation in this country. It is nothing new for municipalities in Utah or elsewhere in the United States to enjoy home rule or local self-government. The fact and the rght of local self-government existed and was exercised from the earliest settlement of the various territories. The right was enjoyed long prior to the adoption of state constitutions and the admission of the territories into the Union as independent states.

Section 29 of Article VI of the Utah Constitution did not

grant to municipalities the power to exercise the right of local self-government, or to own and control property, or to own and operate a public utility for the benefit of the inhabitants of such municipalities. These benefits the municipalities already enjoyed. On the contrary the section is a limitation of the power of the legislature to delegate to any body save only the regularly elected officers of the municipalities the right to supervise or interfere with the property of the municipalities, or to perform any municipal functions. The purpose of the constitutional provision quoted was to guarantee to the municipalities local self-government and to deny to the legislature any power to delegate to any body other than the local government the right of supervision over or interference with the property of the various municipalities within the state.

Let it be conceded that, in the absence of constitutional inhibition, the legislature could take the government of the cities from the people residing therein and create new forms of government under the immediate control of the legislature. That is one thing. The delegation of the right to a commission not the choice of the inhabitants is quite another thing. The denial of the latter is what the above quoted provision of the constitution, as I interpret it in the light of history, means. And in my judgment it means all of that.

It is very clearly pointed out by the Colorado court in Town of Holyoke v. Smith, 226 Pac. 158, that the purpose of the constitutional provision ought not be, and cannot be, defeated by designating the commission to which the power is attempted to be granted a general rather than a special commission.

I concur in the judgment holding that the Public Utilities Commission is without jurisdiction to fix and determine the rate or price to be charged by Logan City for electrical energy furnished by it.

WOOLLEY, District Judge.

I concur in the result announced in the opinion written by Mr. Justice Straup; but since I am not in agreement with him upon all the points discussed, I think it advisable to set out briefly my position with respect to them.

In the first part of the opinion, after the statement of the facts and the contentions of the various parties, is a discussion of the question of whether or not the legislature, by the Public Utilities Act, intended to include utilities owned by municipal corporations among those over which the commission is given the power of control and jurisdiction for rate making purposes; and the conclusion is reached that such was not the intention of the legislature. With this conclusion, and with several of the minor statements and propositions made in support of it, I do not agree. It seems clear to me, from a reading of the Public Utilities Act, in connection with the statutes existing at the time of its enactment, relating to the powers of municipal corporations over public utilities, that the legislature of 1917 intended to and did, constitutional objections aside, place municipal corporations owning electric light and power plants and other utilities within the jurisdiction of the commission to the same extent that private corporations and individuals are placed within that jurisdiction. As this court says in the St. George case, "they are there treated precisely the same as other corporations or persons that are affected or controlled by the act." While it is true, as Mr. Justice Straup says, that this is a conclusion deducible from a consideration of the definitions contained in the Act, yet I think it is the only sound conclusion that can be reached, if any meaning whatever is to be given to those terms of the Act relating to municipal corporations. The case, therefore, in my estimation, is not one in which can be applied the rule of construction that if two meanings or constructions can fairly be given to an Act, one rendering it in harmony and the other in conflict with the constitution, the former should be adopted; for in my judgment the Act is not fairly open to construction in harmony with the constitution. I think that if the Act is constitutional, then the commission has the power to fix the rates and control the business of public utilities owned by municipal corporations to the same extent that it has that power over other utilities, except as its jurisdiction with respect to rate making may be found to be modified by the amendments made in 1925 to Section 794.

Furthermore, the jurisdiction vested in the commission by the Public Utilities Act is not alienated, although it may be, and I think it is, by necessary implication, limited as regards rate making by Section 794 as it stands after the amendments made in 1925. If due regard be given to Section 794, as amended, then in making rates for municipal plants the com-

mission is not bound by the same rules that it must apply in making rates for privately owned utilities; since in the former case, under the statute, the rates may or may not be made sufficient to cover bond interest and sinking fund requirements, as well as operating and maintenance expenses, and still be legal, that is, reasonable. But except to this extent I see no irreconcilable conflict between the Public Utilities Act and the amended Section 794. The conflict is more apparent than real. The amending Act contains no express repeal of the Utilities Act. Nor does it expressly delegate to municipalities jurisdiction to fix rates. The power given to the city council is to levy taxes for deficiency, not to fix rates. The Utilities Act and Section 794 relate to different matters. So in my judgment there is certainly no intention manifested by the legislature when it amended Section 794 to repeal the Utilities Act in any particular, most assuredly not to the extent of taking municipal corporations entirely out of the jurisdiction of the commission; nor is there any irreconcilable conflict between the two, except to the extent above indicated.

With Mr. Justice Straup's reasoning and conclusions upon the point that the commission did not regularly pursue its authority, assuming that it had jurisdiction, in fixing the rates for Logan City Plant, because it ignored the law contained in Section 794, as amended, I am in full accord. But I am in doubt as to the necessity of discussing this point, although it is one of the main points of contention in the case, because of the conclusions which I have reached regarding the validity of the Public Utilities Act in so far as it relates to municipal corporations.

That the people of Utah, when they adopted Section 29 of Article VI of the State Constitution, intended to limit the power of the legislative branch of government, so as to prevent the delegation of the power to perform municipal functions, or the power to supervise or interfere with municipal property, to any commission outside the municipal fold; and that they thereby manifest an intention, which must be respected by the courts, that municipal property shall remain under the supervision and control of, and municipal functions shall be performed by, municipal officials, who are amenable to the will of the inhabitants of the municipalities, so long as municipal corporations continue to exist and that section remains a part of the fundamental law, are propositions about the soundness of which I have no doubt. To the extent that the legislature,

in the Public Utilities Act, has delegated to the commission the power to supervise and control municipal corporations with respect to utilities owned by them, or to fix the rates to be charged by them, thus giving to the commission the power to interfere with and control municipal property and to perform municipal functions, has it transgressed the limits of its powers as defined by the constitution. The Public Utilities Act in this respect being in conflict with the constitutional provision above mentioned, in my opinion is void; and hence the commission had no power or jurisdiction to make the order setting aside the contracts between Logan City and its customers and fixing the rates to be charged by the Logan City plant. The reasons and arguments supporting the foregoing conclusions upon this branch of the case being set out by Mr. Justice Straup and also by Mr. Justice Gideon in his concurring opinion, it would be mere repetition for me to write them down again.

I content myself therefore, by stating that I concur with what they have said upon this subject.

IN THE SUPREME COURT OF THE STATE OF UTAH

DENVER & RIO GRANDE WESTERN RAILROAD COMPANY, et al., *Plaintiffs*, vs. PUBLIC UTILITIES COMMISSION OF UTAH *Defendant.* (Filed July 13, 1928.)

CHERRY, J.

The Public Utilities commission, after a hearing, ordered the plaintiffs to pay to the State of Utah $3,099.14 as reparation for alleged discriminatory freight charges exacted by plaintiffs on the shipment of 338 carloads of sand and gravel from Mount, in Salt Lake County, Utah, to various points of destination in Carbon County, Utah. The case is here by writ of review at the suit of the plaintiffs who contend that the Commission was without power or jurisdiction to make the order.

The relevant facts of which there is no dispute are: Mount is a station in Salt Lake County, on the Los Angeles & S. L. Railroad. The points of destination to which the shipments

in question were made are situated in Carbon County on the line of the D. & R. G. W. Railroad. The situation was such that the shipments were required to move from Mount over the Los Angeles & S. L. Railroad to Provo, Utah, and from thence to the points of destination over the D. &. R. G. W. Railroad. At the time of the shipments there was a duly published and approved rate on file with the Commission of $1.56½ per ton for sand and gravel, between the points in question, over the two lines of railroad referred to. During the latter part of the year 1922, the State Road Commission shipped over the route above indicated 338 carloads of sand and gravel from Mount to the several points in Carbon County, where it was constructing a public highway, for all of which a rate of 1.56½ per ton was charged and paid.

Sandspur is a station on the D. & R. G. W. Railroad in Salt Lake County, which is further distant from points in Carbon County by rail than is Mount. At the time in question there was a rate in force on sand and gravel over the D. & R. G. W. Railroad from Sandspur to points in Carbon County, of $1.41 per ton. There was also in force at the time, from Mount to certain points in Carbon County, over the Los Angeles & Salt Lake Railroad and the Utah Railway, a rate of $1.41 per ton. Over this route, however, but one of the three points of destination to which the shipments in question were made, could be reached.

From this situation the Commission found that the rate of $1.56½ charged for the shipments in question was excessive and in violation of law to the extent of 15½ cents per ton, because contemporaneously other shippers from other points under similar conditions were being accorded a rate of $1.41 per ton for the same commodity, and upon a finding of damages, ordered reparation to be paid by the carriers to the shipper accordingly.

The power of the Commission to order reparation is statutory and cannot be extended beyond the legislative grant. The power asserted is defined and limited by Compiled Laws Utah, 1917, Sec. 4838, as follows:

> "1. When complaint has been made to the Commission concerning any rate, fare, toll, rental, or charge for any produce or commodity furnished or service performed by any public utility, and the Commission has found, after investigation, that the public utility

> has charged an excessive or discriminatory amount for such product, commodity, or service in excess of the schedules, rates, and tariffs on file with the Commission, or has discriminated under said schedules against the complainant, the Commission may order that the public utility make due reparation to the complainant therefor, with interest from the date of collection, provided, no discrimination will result from such reparation."

We think it plain from the language of the statute that the power of the Commission to order reparations is limited to cases where charges have been made in excess of the schedules, rates and tariffs on file with the Commission, or discriminations made under such schedules. That was the view taken by the Commission itself, and approved by this court, in Utah-Idaho Cent. Ry. Co. v. Public Utilities Commission, 64 Utah 542, 227 Pac. 1025. See also Texas & P. Ry. Co. v. Railroad Commission, 137 La. 1059, 67 So. 537.

In the present case it appears positively that the rate charged was the regular established and approved rate on file with the Commission. It was not contended that any other rate was open to other shippers over the lines on which and between the points from and to which the shipments in question were made. It was only made to appear that the same commodity could be transported between other points and other lines, under similar conditions, for a less rate. This we think affords no proper grounds, under the statute, for ordering reparations. The rate charged and paid was the only rate which, under the schedules on file with the Commission, could properly be applied to the shipments in question.

The policy of the statute, as its language plainly imports, is to require a rigid observance of established schedules and rates, and to authorize reparations only when there has been a discrimination thereunder or a departure therefrom.

It follows that the order complained of was in excess of the authority of the Commission, and the same must be, and is annulled.

We concur:

(Signed) S. R. THURMAN, C. J.
D. N. STRAUP, J.
ELIAS HANSEN, J.
VALENTINE GIDEON, J.

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