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CS
Sullivan 8/15/30

(Decision No. 2985)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS)
OF MILDRED R. YOUNG.)

CASE NO. 568

August 7, 1930

S T A T E M E N T

By the Commission:

WHEREAS, on or about August 28, 1928, in Application No. 1061, the Commission did issue to the above respondent a certificate of public convenience and necessity to operate as a motor vehicle carrier as follows:

"IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle operations of the applicant, Mildred R. Young, for the transportation:

"(1) Of oil well equipment and supplies between the Rangely field and Rifle and other points situated within a radius of two hundred miles of said field.

"(2) Of farm products including grain, wool and livestock from the farms and ranches in the Meeker territory to Rifle and of ranch supplies from Rifle to the farms and ranches in said territory.

"(3) Of freight for five (5) individuals, firms or corporations situated in the town of Meeker between Meeker and Rifle, provided and on the condition that said transportation can be and is conducted by the applicant herself with regularity throughout the whole year.

"(4) Of freight and express of all kinds between Rifle and Rangely and points intermediate to Rangely and Meeker, provided such transportation can be and is conducted by the applicant herself with regularity throughout the whole year. And this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

"IT IS FURTHER ORDERED, That unless the applicant herself can and does make trips regularly throughout the year she shall not be authorized to haul freight for any individuals, firms or corporations in Meeker and that the freight and express which she carries to and from Rangely and points intermediate thereto and Meeker shall originate in Meeker and not in Rifle.

"IT IS FURTHER ORDERED, That the applicant file with this Commission within ten days from the date of this order and from time to time thereafter, a statement giving the names of such five individuals, firms or corporations situated in the town of Meeker and that the applicant will not transport freight for any other individuals, firms or corporations in Meeker than those appearing on the statement on file with this Commission.

"IT IS FURTHER ORDERED, That the applicant shall within twenty days from this date, in the event she desires to accept the certificate granted her herein or any part thereof, file a written acceptance with the Commission accordingly, and that in the event she desires to accept that part of the certificate authorizing the transportation of any freight originating in Rifle and terminating at Meeker or originating in Meeker and terminating at Rifle she shall agree to conduct a regular operation to Rangely and points intermediate thereto and Meeker."

On October 1, 1928, respondent filed with the Commission her acceptance of the certificate in its entirety and agreed to be bound by and conform to all terms and provisions of said certificate, as well as those schedules and exhibits which are thereto attached.

Information has also come to the attention of the Commission that one of the respondent's trucks is operating between Rifle and the 101 Ranch on the upper White River.

Sufficient information has come to the attention of the Commission to justify it in instituting an investigation to determine whether or not the respondent has been and is operating in compliance with the terms and conditions of her certificate.

The Commission is of the opinion that the public interest requires that an investigation and hearing be held for the purpose of determining whether or not she has been and is operating in compliance with the terms and conditions of the certificate heretofore granted to her.

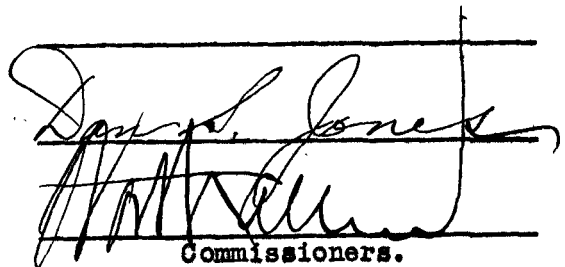
O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating in compliance with the terms and conditions of the certificate heretofore granted to her.

IT IS FURTHER ORDERED, That said respondent show cause, if any she have, by written answer filed with this Commission, within ten days from the date hereof, why the Commission should not enter an order cancelling and revoking her certificate, or any order which may seem proper in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission at the Court House at Meeker, Colorado, on the 20th day of August, 1930, at 1:00 P.M. thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1930.

will
8/15/30
Willson
(Decision No. 2986)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF
RICHARD JAMES.

CASE NO. 569

August 27, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question of whether or not the respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

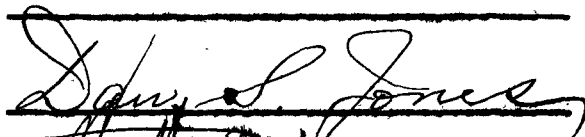

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion; that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written answer filed with this Commission, within ten days from the date hereof; why the Commission should not enter an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby, set down for hearing before the Commission in the Court House at Meeker, Colorado, on the 20th day of August, 1930, at 1:00 P. M. thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated At Denver, Colorado,
this 27th day of August, 1930.

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sillon 8/15/30

* * *

CASE NO. 570

August 9, 1930

By the Commission:

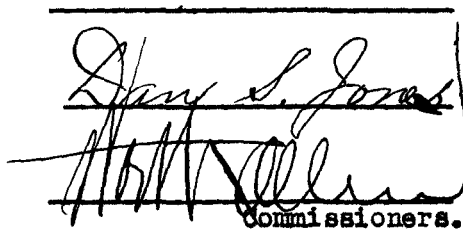
WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That such matter be, and the same is

hereby, set down for hearing before the Commission in the Court House at Meeker, Colorado, on the 20th day of August, 1930, at 1:00 P.M. thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1930.

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EdS
Wilson 8/15/30

(Decision No. 2988)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
H. J. LAFFERTY, DOING BUSINESS) CASE NO. 571
AS D & L TRANSFER COMPANY.)
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August 7, 1930.
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S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question of whether or not the respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

Chairman Bock absent.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written answer filed with this Commission, within ten days from the date hereof, why the Commission should not enter an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby,

set down for hearing before the Commission in the Court House at Greeley,
Colorado, at a date hereafter to be fixed, at which time and place such
evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1930.

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Ed
Sillman 8/15/30

(Decision No. 2989)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
JAMES G. HARVEY.)

CASE NO. 572

August 7, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question of whether or not the respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

Chairman Bock absent.

O R D E R



IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written answer filed with this Commission, within ten days from the date hereof, why the Commission should not enter an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby, set down for hearing before the Commission in the Court House at Canon City,

Colorado, on a date hereafter to be fixed, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1930.

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BGS
Dillon 8/15/30
(Decision No. 2990)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
ED HAINES.)

CASE NO. 574

August 7, 1930.

S T A T E M E N T.

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question of whether or not the respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

Chairman Bock absent.

O R D E R

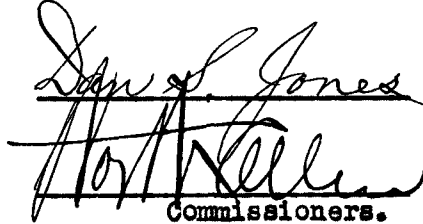
IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written answer filed with this Commission, within ten days from the date hereof, why the Commission should not enter an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby,

set down for hearing before the Commission in the Court House at Alamosa, Colorado, on a date hereafter to be fixed, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1930.

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Willm 8/15/30

(Decision No. 2991)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
L. A. STEVENS.)

CASE NO. 575.

August 7, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question of whether or not the respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

Chairman Bock absent.

O R D E R

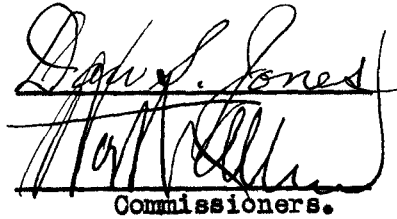
IT IS THEREFORE ORDERED, By the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written answer filed with this Commission, within ten days from the date hereof, why the Commission should not enter an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby,

set down for hearing before the Commission in the Court House at Montrose, Colorado, on a date hereafter to be fixed, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1930.

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*Will
E. G.
Drlem 8/15/30*

(Decision No. 2992)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
WILLIAM A. RAHN, DOING BUSINESS)
AS RAHN TRANSFER COMPANY.)

CASE NO. 573

August 7, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question of whether or not the respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

Chairman Bock absent.

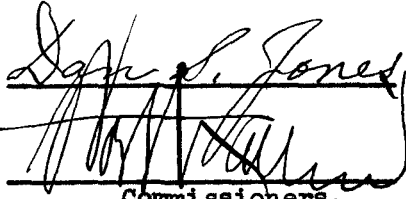
O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written answer filed with this Commission within ten days from the date hereof, why the Commission should not enter an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby,
set down for hearing before the Commission in the Court House at Alamosa,
Colorado, on a date hereafter to be fixed, at which time and place such
evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1930.

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Gib
Dillon 8/15/30

(Decision No. 2993)

490

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF ARTHUR F. WOODS FOR A CERTIFICATE) APPLICATION NO. 1652.
OF PUBLIC CONVENIENCE AND NECESSITY.)
* * * * *

August 7, 1930.

Appearances: David F. How, Esq., Denver, Colorado,
for applicant;
Thomas R. Woodrow, Esq., Denver, Colorado,
for Rio Grande Motor Way, Inc., and the
Denver and Rio Grande Western Railroad
Company;
Arthur Aldrich, Esq., Denver, Colorado,
for Eggleston Bros.

S T A T E M E N T

By the Commission:

This is an application by Arthur F. Woods for a certificate of public convenience and necessity authorizing the operation of a motor vehicle line for the transportation of farm produce and other freight and express between points within a radius of thirty miles of the town of Salida, Colorado, and between points within said radius and all other points within the State of Colorado. The applicant has been engaged in rendering such service as he seeks authority to continue in the future. His business has consisted very largely of transporting farm produce from the country to points on the line of The Denver and Rio Grande Western Railroad Company. Occasionally he is called upon to haul furniture from one point to another.

A protest was made by one Eggleston, to whom a similar certificate was issued about a month ago. However, the evidence showed that Eggleston is not able with his present equipment to handle all of the business available in the Salida territory.

The Commission heretofore has issued a number of certificates authorizing just such an operation as the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the


ranch, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the certificate heretofore issued to Lester Augustus, so far as the same authorizes the service of the territory south of a point three miles south of Parker or south of the Springdale ranch, be, and the same is hereby, cancelled and revoked for failure to operate over a substantial period of time in that territory.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 12th day of August, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATIONS)
OF THE ARKANSAS VALLEY NATURAL GAS)
COMPANY FOR A CERTIFICATE OF PUBLIC) APPLICATIONS NOS. 1505 and 1506
CONVENIENCE AND NECESSITY.)

August 22, 1930.

Chairman Beck dissenting:

Owing to my absence at the time of the filing of the majority opinion herein, the filing of this dissent has necessarily been delayed.

The reasons given for my dissent in the application of Public Service Company of Colorado, Application No.1514, and in the matter of the application of Public Service Company of Colorado, Application No. 1541, are applicable and pertinent to my dissent in the instant applications. There perhaps is no necessity of restating these reasons. They were most carefully gone into at that time and my attention has not been called to any authority that would warrant me to change the reasons there given.

In the original opinion in the instant applications, we cited the cases of State ex rel. Barrett v. Kansas Nat. Gas Co. (1924, 265 U.S. 298, 68 L. ed. 1027, P.U.R. 1924E 78, 44 Sup. Ct. Rep. 544, and Public Utilities Commission v. Attleboro Steam & Electric Co. (1927) 273 U. S. 83, 71 L. ed. 549, P.U.R. 1927B 346, 47 Sup. Ct. Rep. 294, as authority for no jurisdiction over the contract entered into by the Colorado Interstate Gas Company with the applicant herein. In State ex rel. Barrett v. Kansas Natural Gas Company, supra the single question before the Court for decision was whether the business of the Kansas Natural Gas Company, consisting of the transportation of natural gas from one state to another and its sale and delivery to distributing companies, is interstate commerce free from state interference. In that case, speaking through Mr. Justice Sutherland, the Court said:

"The sale and delivery here is an inseparable part of a transaction in interstate commerce * * * and enforcement of a selling price in such a transaction places a direct burden upon such commerce inconsistent with that freedom of interstate trade which it was the purpose of the commerce clause to secure and preserve."

In the case of Public Utilities Commission v. Attleboro Steam and Electric Company, supra, the Court had before it the question whether the State Commission could change the terms of a contract for the distribution of electric energy for a period of twenty years in interstate commerce. The State Commission attempted to do that very thing. I quote from the language of Mr. Justice Sanford in that case:

"It is clear that the present case is controlled by the Kansas Gas Co. case, supra. The order of the Rhode Island Commission is not, as in the Pennsylvania Gas Co. case, supra, a regulation of the rates charged to local consumers, having merely an incidental effect upon interstate commerce, but is a regulation of the rates charged by the Narragansett Company for the interstate service to the Attleboro Company, which places a direct burden upon interstate commerce. Being the imposition of a direct burden upon interstate commerce, from which the state is restrained by the force of the Commerce Clause, it must necessarily fall, regardless of its purpose."

I call attention to these cases to again reiterate that this Commission has no jurisdiction over the contract between the Colorado Interstate Gas Company and the applicant. The majority, in their opinion, said:

"That this Commission may at any time in any rate case omit from the rate base such expense as is shown to have been incurred improvidently or in bad faith is, we believe, quite clear. There is no reason whatever why this proposition does not apply with equal force to contracts in respect of interstate commerce. No authority that it does not apply can be found."

I find myself unable to agree with my colleagues that if the contract in question was made improvidently or in bad faith that that would give us jurisdiction. I find no such limitation or exception in the above cited cases. If such contract is within the protection of the commerce clause, we are without jurisdiction to change its terms. Assuming, however, that we would have jurisdiction under such circumstances, this would be of little comfort to the public who are required to pay these rates. To require the public first to show, before this Commission would interfere, that such a contract was made improvidently or in bad faith is practically an impossibility. The condition that the majority has seen fit to cancel is a condition

requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is of more importance may be protected against injurious competition.

The applicant has expressed a willingness to keep on file a tariff containing rates not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business between points within a radius of thirty miles of the town of Salida and for the transportation of freight and express generally between points within said radius and other points throughout the State of Colorado, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

Chairman Bock absent.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business between points within a radius of thirty miles of the town of Salida and for the transportation of freight and express generally between points within said radius and other points throughout the State of Colorado, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least 20 per cent in excess of those charged by the scheduled carriers;

(b) The applicant shall not operate on schedule between any points;

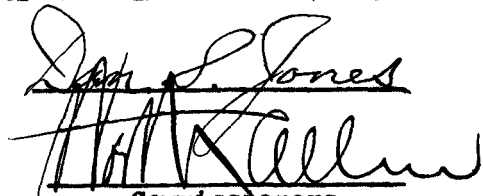
(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed in any other town or city than Salida, for the purpose of developing business.

(d) Jurisdiction of the application herein shall be, and the same is hereby retained, to the end that if an as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

IT IS FURTHER ORDERED, That the applicant shall file and keep on file with this Commission tariffs of rates which shall be not lower than those carried on file with the Commission by The Colorado Transfer & Warehousemen's Association, the first tariff to be filed within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates, rules and regulations filed with this Commission, except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the rules and regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1930.

At a session of The Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, on the 6th day of August, 1930

INVESTIGATION AND SUSPENSION DOCKET NO. 140

Re: Reduced fare from Denver to Pikes Peak and return.

IT APPEARING, That there has been filed with The Public Utilities Commission of the State of Colorado, by the Denver-Colorado Springs-Pueblo Motor Way, Inc., by I. B. James, General Manager, a tariff containing a new individual fare and charge, to become effective on the 7th day of August, 1930, designated as follows:

Denver-Colorado Springs-Pueblo Motor Way, Inc.,
Tariff No. 77, Colo. P.U.C. No. 80,

IT IS ORDERED, That the Commission upon complaint, without formal pleading, enter upon a hearing concerning the lawfulness of the fare and charge stated in the said tariff,


IT IS FURTHER ORDERED, That the operation of the said fare contained in said tariff be suspended, and that the use of the fare therein stated be deferred 120 days or until the 4th day of December, 1930, unless otherwise ordered by the Commission, and no change shall be made in same during the said period of suspension.

IT IS FURTHER ORDERED, That the fare and charge thereby sought to be altered shall not be changed by any subsequent tariff or schedule until this investigation and suspension proceeding has been disposed of or until the period of suspension or any extension thereof has expired.

IT IS FURTHER ORDERED, That a copy of this order be filed with said tariff in the office of the Commission and that copies hereof be forthwith served upon the Denver-Colorado Springs-Pueblo Motor Way, Inc., and the Colorado Sight-Seeing operators, by Jean Breitenstein, its attorney.

IT IS FURTHER ORDERED, That this proceeding be assigned for hearing at a future date to be determined by the Commission, due notice of such date and place of hearing being given all interested parties.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 6th day of August, 1930.

hch
602
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(Decision No. 2995)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF THE UNION PACIFIC RAILROAD COM-)
PANY FOR AUTHORITY TO ABANDON ITS)
AGENCY AT EVANS STATION, WELD COUNTY,)
IN THE STATE OF COLORADO.)

I. & S. DOCKET NO. 131

August 8, 1930.

Appearances: E. C. Knowles, Esq., Denver, Colorado,
attorney for Union Pacific Railroad Co.;
Mr. J.M.Kinsinger, Evans, Colorado,
for the town of Evans.

S T A T E M E N T

By the Commission:

The question involved herein is whether the Union Pacific Railroad Company should be permitted to close its station agency in the town of Evans, Colorado. The said town has a population of 559. It is situated two and one-half miles north of the town of La Salle and three and one-half miles south of the city of Greeley, at both of which points station agencies are maintained.

At the present time only two passenger trains make regular stops in Evans, one being the local train running from Denver to Cheyenne, which arrives in Evans at 9:12 A.M., and the other the local train running from Cheyenne to Denver, arriving in Evans at 8:24 A.M. Passengers destined to the Pacific coast may flag westbound trains which do not ordinarily stop in Evans.

Ticket sales by the Evans agency for the years 1929 and 1928 were as follows:

	<u>1929</u>	<u>1928</u>		
Local	\$95.34	\$214.25	Decrease	\$118.91
Interline	186.25	365.22	"	178.97
Total	281.59	579.47	"	297.88

If the agency is discontinued, passengers desiring to board the two said local trains may flag them and pay their fare on board the train. Arrangements may also be made by telephoning to either the Greeley or La Salle station to have the westbound trains stop for Pacific coast passengers.

The waiting room at the station will be kept open and a telephone will be installed therein so that the public desiring to do business with the railroad may communicate without cost with the station agent in Greeley.

All freight destined to Evans after the closing of the agency would have to be shipped prepaid. The consignees would have the privilege of breaking the seals and unloading carload shipments immediately upon placing of the cars. An incoming l.c.l. shipment would be placed in the depot if the consignee were not at the train to receive it. In the case of express shipments the consignor, if he did not want to go to either Greeley or La Salle, would be permitted to flag either of the two local trains and to deliver the express to the express agent on the trains.

The l.c.l. and express shipments are comparatively light. In 1928 there was forwarded from Evans 5-4/5 tons of l.c.l. freight and in the year 1929, 4-2/5 tons. During the same years there was received 26 and 16-1/5 tons, respectively.

The public in Evans would be inconvenienced less in respect of carload freight than l.c.l. freight. The total number of carload shipments forwarded in the years 1928 and 1929 was 151 and 116, respectively. The total received during these years was 51 and 62, respectively, gasoline shipments increasing by nine cars and wheat shipments by five cars. Of the freight forwarded in the year 1929, 97 cars contained beets, 12 wheat, one cabbage and six potatoes. The beet business is looked after by the Great Western Sugar Company. The wheat shipments are all made by the Model Flour Mills, which are situated in Greeley. These shipments therefore may more conveniently be made through the Greeley agency than that in Evans. The cabbage and potato shipments are made by produce dealers who also are located in Greeley.

The carload freight received during the year 1929 consisted of two cars of hay, 12 of wheat, 21 of coal, 27 of gasoline. The wheat was shipped in by the same concern that ships it out.

Both scheduled freight and passenger motor vehicle lines operate daily through Evans, the bus line making a number of trips each way between Denver and Greeley. The bus line carries express packages as well as passengers.

The telegraph business done in Evans is inconsequential. For the month of January, 1930, it amounted to less than \$2.00.

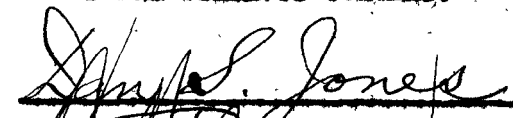
After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to the Union Pacific Railroad Company to close its said agency in Evans, Colorado, on September 10, 1930.

Chairman Book absent.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to the Union Pacific Railroad Company to close its station agency in Evans, Colorado, on September 10, 1930.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioner.

Dated at Denver, Colorado, the
6th day of August, 1930.

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(Decision No. 2996)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION OF)
THE UNION PACIFIC RAILROAD COMPANY)
FOR AUTHORITY TO CLOSE ITS STATION)
AGENCY AT CORNISH, COLORADO.)

- - - - -

I. & S. NO. 152

- - - - -
August 8, 1930.
- - - - -

Appearances: E. G. Knowles, Esq., Denver, Colorado;
for Union Pacific Railroad Company;
Thomas A. Nixon, Greeley, Colorado;
for Mrs. H. L. Miller and others
residing in vicinity of Cornish.

S T A T E M E N T

By the Commission:

The question involved herein is whether the Union Pacific Railroad Company should be permitted to close its station agency at Cornish, Colorado.

Cornish is situated 8.2 miles from Gill on the west and 9.5 miles from Brigsdale on the north, on a branch line running from Greeley to Brigsdale. Cornish originally was without a station agency. One was established there when the agency at Peerton, to the north, was closed.

The expense of maintaining the agency during the year 1929 amounted to \$1,398.85, most of which consisted of the salary paid to what is known as a student agent. The total revenue on freight received and forwarded, ticket sales, baggage, etc., during the year 1929 was \$5,959.95.

By far the greater part of the business done is in carload lots. The l.c.l. freight forwarded amounted to three tons, that received sixty-nine tons. The total from ticket sales amounted to \$90.84, of which \$1.44 was for local travel and \$45.98 interystem. The l.c.l. business has largely gone to trucks. The movement of cars in and out of Cornish varies from year to year. A five-year record is as follows:

	<u>Cars forwarded</u>	<u>Cars received</u>
1925	15	11
1926	18	11
1927	19	10
1928	9	11
1929	24	14
1930 - 1st 6 Mo.	8	3

The figures for the first six months of 1930 are doubtless accounted for by the fact that the heavier movement of freight, both in and out, might be expected to take place in the second half of the year.

The railroad offers to leave a waiting room open for passengers and to put l.c.l. freight in a room in the station to be kept locked, with a key left in the hands of some responsible local person so that consignees may secure the key and obtain their freight. It offers to arrange for billing of outgoing shipments either through the station agent at Gill or Briggdale or the conductor in charge of the train. It was stated that outgoing freight could be left in the depot where it would be picked up by the train crew upon the arrival of the train. There would be available also a telephone in the station which would be for the use of shippers in communicating with the agencies at Briggdale and Gill.

The shippers and patrons introduced evidence showing that there is a comparatively large territory tributary to Cornish; that this country originally was devoted almost exclusively to stock raising; that in recent years farming has developed very rapidly. During last year more land was plowed than ever before. A new elevator was constructed at Cornish in 1929 at an expense of some \$8,800. It was shown that the time of arrival of the combination train varies sometimes several hours.

It is true that the railroad company would not be responsible for freight left in the depot for outgoing shipment or on arrival there from other points. It was testified that fresh meat is apt to spoil because of its lying in the station for some time before it is picked up by the consignees. However, we are unable to see if access is had to the station why meat would have to lie there any longer without an agent. As was stated, much of the l.c.l. freight is hauled by truck, there being a certified truck line operating between Briggdale and Greeley. Small shipments of freight, particularly those coming from a distance, could move by parcel post.

Under the Transportation Act of 1920 the railroads are required by Congress to effect all reasonable economies. This law is obligatory upon the carriers and should be observed by this Commission.

After careful consideration of the evidence, particularly the total volume of business in and out of Cornish, the fact that the expense of operating the station constitutes such a substantial percentage of the total revenue on incoming and outgoing business, the fact that a large part of the l.c.l. freight into Cornish is now moving by truck and that it can move also by parcel post, the Commission is of the opinion, and so finds, that the public convenience and necessity requires that authority be granted to the Union Pacific Railroad Company to discontinue its station agency at Cornish on September 10, 1930.

With proper cooperation by railroad employees and the patrons at Cornish, we believe that while some inconvenience will be experienced it will not be as great and the consequences thereof will not be as serious as the witnesses for the protestants seem to expect. However, the jurisdiction of the Commission over the matter is a continuing one, and if after proper cooperation on both sides the patrons still believe that they are entitled to a station agent they may, of course, ask to have one installed.

Chairman Beck absent.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to the Union Pacific Railroad Company to close its station agency at Cornish on September 10, 1930.

IT IS FURTHER ORDERED, That this proceeding be, and the same is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

John L. Jones
W. M. Allen
Commissioners.

Dated at Denver, Colorado; this
8th day of August, 1930.

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Jellon 8/15/30
(Decision No. 2997)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF BERT HALL, DOING BUSINESS AS)
HALL TRUCK COMPANY, FOR A CERTIF-)
IFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY.)

APPLICATION NO. 1384 ✓

IN THE MATTER OF THE APPLICATION)
OF CHARLES L. WALKER AND BERT HALL,)
DOING BUSINESS AS HALL TRUCK COM-)
PANY, FOR AUTHORITY TO THE FORMER)
TO TRANSFER TO THE LATTER A PORTION)
OF THE LATTER'S CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 307-AA

August 12, 1930.

Appearances: Fred W. Varney, Esq., Denver, Colorado,
for applicant;
J. Q. Dier, Esq., Denver, Colorado,
for The Colorado and Southern Railway
Company;
A. P. Anderson, Esq., Denver, Colorado,
for Hilltop & Denver Truck Line, et al.

S T A T E M E N T

By the Commission:

Bert Hall, doing business as Hall Truck Company, filed an appli-
cation with the Commission for a certificate of public convenience and necessity
authorizing him to operate a motor vehicle line for the transportation of
freight and express between Parker, Colorado, and a territory within a radius
of ten miles thereof and Denver, Colorado. An answer and protest was filed
by the Hill Top and Denver Truck Line, the Franktown Truck Line, and Charles
L. Walker, operating as the Parker-Denver Truck Line. A hearing was had on
this application. Thereafter, before decision was made, the applicant Hall
filed an amended application and asked that the matter be reopened. At the
same time there was filed Application No. 307-AA by both Hall and Charles D.
Walker, in which it is alleged that they had entered into an agreement whereby

Hall had agreed to buy, and the said Walker had agreed to sell, "that part or portion of the territory covered by Certificate P.U.C. No. 37, as follows, to-wit:

"The territory south of Parker on and adjacent to Parker-Franktown road, and all that part of territory lying east of Parker on and adjacent to main road running east, and the right to operate jointly in the town of Parker; and, except for the milk and cream hauling, the trade territory covered by P.U.C. No. 37, will be considered open competitive territory for both of your applicants."

The amended application in Application No. 1384 changes the prayer to read as follows:

"for a part or parts of said territory included in Exhibit A, to-wit:

'for the territory south of Parker on and adjacent to Parker-Franktown road, and all that part of territory lying east of Parker on and adjacent to main road running east, and the right to operate jointly (with said Walker) in the town of Parker; and that, except for the milk and cream hauling, the trade territory covered by P.U.C. No. 37 will be open to both parties (the said Charles L. Walker and applicant) for trucking operations.'"

The certificate held by Walker was originally issued to one Lester Augustus. It is unfortunately very indefinite. The order granting the same states that this truck line parallels the Denver-Parker branch of the Colorado and Southern Railroad; "that the principal business this truck line transacts is that of picking up milk and laying down the empty cans at points contiguous to the farms along its route, beginning at a point six miles southeast of Franktown and crossing the railway at Parker and from thence into Denver via the state highway. The closest pickup of milk on this route is three-quarters of a mile from the rails of the protestant and the farthest about six miles southeast of Parker and about twenty-nine miles south of Denver." The order proper simply provides that the application for certificate of public convenience and necessity be allowed. The application appears to be more limited in its scope than the order. It alleges that the applicant, Augustus, "is desirous of establishing, engaging in and maintaining a freight transportation motor truck business and line, between the City and County of Denver, Colorado, and the town of Parker, Douglas County, Colorado, and the intermediate territory adjacent to the main highway between said points." The prayer of the application is similar to the language just quoted.

The certificate of public convenience and necessity issued to the Hill Top and Denver Truck Line describes the territory authorized to be served as follows:

"Commencing at Hilltop, in Douglas County, thence northwest approximately two and one-half miles on the main public highway; thence returning southeast on said route approximately one mile to the public highway leading south; thence south on said highway approximately four miles to a public road running northwest where they connect with the additional route herein-after described. Also commencing at Hilltop, thence southeast on the public highway to the county line between Douglas and Elbert counties approximately one mile; thence east on said public highway one mile; thence south two miles; thence east two miles; thence south three miles to a point on the highway in Elbert County just west of Elizabeth; thence west on the public highway four miles, crossing the county line and returning into Douglas County approximately one mile; thence north two and one-half miles, thence northwest two and one-half miles, and Denver, Colorado, but not between any intermediate points."

The certificate issued to Franktown Truck Line describes the territory authorized to be served as follows:

"between Franktown and Denver, and in the territory not exceeding a distance of six miles from, and in and around Franktown; applicant, however, not to transport any freight or merchandise to or from Parker or any intermediate point to Denver and Parker."

One of the questions raised herein is the meaning and scope of the certificate granted Augustus, now held by Walker. Another is whether, if the scope of the certificate is wider than the prayer of the application, the order is really effective in granting more than the application prayed for. A third is whether Walker has lost right to serve any of the territory, originally authorized to be served, by reason of non-service thereof.

It may be that some authority to widen the scope of the application filed by Augustus was granted. However, the record does not show. The evidence does show that immediately after Augustus received his certificate his operations extended to points some six miles southeast of Franktown and that for a long time he has served territory south of Parker. The evidence shows further that for some two years Augustus and his successor, Walker, have not operated a greater distance south of Parker than about three miles, the southermost customer being located on the Springdale ranch. The Commission

is, therefore, of the opinion that the original certificate granted to Augustus authorized service as far south as six miles southeast of Franktown; that, however, by reason of cessation of operations south of a point three miles south of Parker or south of Springdale ranch, the said Augustus and Walker have abandoned the certificate in question so far as the same authorized service in the territory south of said point.

Another question raised by the Franktown Truck Line is as to the scope of a certificate issued to it. It will be noted that in the first part of the certificate that line is authorized to transport freight between Franktown and Denver, "and in the territory not exceeding a distance of six miles from, and in and around Franktown." It is our opinion that this language does not authorize the service of any points intermediate to Denver and Franktown except such as lie within a distance of six miles of the latter. The further language in the order, however, is relied upon as authorizing that line to serve all points between Parker and Franktown. That language is "applicant, however, not to transport any freight or merchandise to or from Parker or any intermediate point to Denver and Parker." In other words, by expressly prohibiting the service of Parker and points intermediate thereto and Denver, it is argued that by implication the certificate was intended to allow service of all points south of Parker, although they do not lie within the radius of six miles of Franktown. With this argument we cannot agree. It will be noted that the first part of the certificate does not authorize service of intermediate points. If it had been intended to authorize service of those points the order should, and we believe would, have so stated. The fact that an express prohibition was made against serving Parker and points north thereof cannot give authority which had not already been granted to serve points south of Parker.

The evidence shows that Bert Hall is a reliable operator and is in a reasonably good financial condition.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires that authority be granted to Charles L. Walker, doing business as Parker-Denver

Truck Line, to transfer to Bert Hall, doing business as Hall Truck Company, the certificate of public convenience and necessity heretofore issued to Lester Augustus and now held by said Walker, so far as the same relates to and authorizes service of the territory beginning at the southern boundary of Parker and extending three miles south thereof or to and including the Springdale ranch, if it be more than three miles south of Parker, and the territory lying east of Parker on and adjacent to the main road running east therefrom.

The Commission is further of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant Hall for the transportation of freight and express generally, other than milk and cream, in less than rail carload lots, between Denver and the territory originally authorized to be served by said Augustus, provided, however, that south of Parker the territory shall not extend further than three miles south of Parker or the Springdale ranch.

Chairman Bock absent.

O R D E R

IT IS THEREFORE ORDERED, That authority be granted to Charles L. Walker, doing business as Parker-Denver Truck Line, to transfer to Bert Hall, doing business as Hall Truck Company, the certificate of public convenience and necessity heretofore issued to Lester Augustus and now held by said Walker, so far as the same relates to and authorizes service of the territory (beginning at the southern boundary of Parker and extending three miles south thereof, or to and including the Springdale ranch, if it be more than three miles south of Parker, and the territory lying east of Parker on and adjacent to the main road running east therefrom.)

IT IS FURTHER ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant Hall for the transportation of freight and express generally, other than milk and cream, in less than rail carload lots, between Denver and the territory originally authorized to be served by said Augustus, provided, however, that south of Parker the territory shall not extend further than three miles south of Parker or the Springdale

precedent before the utility is authorized to do business and before any rates whatever become effective and, in my opinion, is the only protection that we can afford the public. If Congress would (and perhaps the ruling of the majority herein is a sound reason why they should) assume jurisdiction and regulatory power over interstate transportation of gas, that may afford to the public a measure of protection against unreasonable rates which they do not now enjoy. Until that time, however, it is the duty of a State Commission, wherever lawfully possible, to protect the public interest. In my opinion, all state authority should be utilized in the protecting of the public interest before any federal legislation is enacted.

In Re Industrial Gas Company, P.U.R. 1929A 517, the Missouri Public Service Commission had before it an application for a certificate of public convenience and necessity to construct and operate utility properties. This application was opposed by the Kansas City Gas Company, who were then serving the same territory proposed to be served by the applicant. The natural gas which the Kansas City Gas Company was distributing was transported in interstate commerce on a similar basis as in the instant applications. In other words, the authorization of the proposed certificate would bring about a competitive situation in Kansas City in the distribution of natural gas. The Missouri Public Service Commission authorized a certificate in that application, among other reasons, on the ground that since it had no control over the rates to be charged by the Kansas Natural Gas Company (quoting State ex rel. Barrett v. Kansas Natural Gas Company, supra) because the gas distributed by it was in interstate commerce, that the public convenience and necessity required this additional service. I merely cite this case to show the vigilance of a state commission in protecting the public against a rate structure over which it had no direct jurisdiction by permitting a competitive situation where otherwise they would have denied such an application.


Commissioner.

Dated at Denver, Colorado,
this 22nd day of August, 1930.

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(Decision No. 2998)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTERS OF THE APPLICATIONS)
OF THE ARKANSAS VALLEY NATURAL GAS)
COMPANY FOR A CERTIFICATE OF PUBLIC) APPLICATIONS NOS. 1505 & 1506
CONVENIENCE AND NECESSITY.)

August 8, 1930

Appearances: Elmer L. Brock, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

The Commission issued a certificate of public convenience and necessity in the above entitled applications, which said certificate contained the following requirement and condition:

"If and when the applicant can obtain a sufficient quantity of natural gas of the same quality from any other source than now available, at materially lower rates than provided for in a contract between the Colorado Interstate Gas Company and the Arkansas Valley Natural Gas Company, dated November 27, 1929, that it then will be required to do so and to give the consumers the benefit of such a materially lower rate."

We now have before us an application by the applicant herein asking the Commission to reopen said applications and to modify the certificate granted, eliminating the requirement and condition quoted.

As the condition was placed in the certificate on our own suggestion and there was no other appearance than that of the applicant made at the hearing, we consider it proper to dispose of the matter without further delay.

After granting the certificate herein the Commission had occasion to consider the same question in Applications Nos. 1514 and 1561. The Commission in considering those two applications arrived at the conclusion that it is not warranted in imposing the condition in question. Its reasons

therefor were stated at some length in the order granting the certificate in those applications. In addition to what we said there, we add the following:

The question, as we understand it, is whether the fact of our lack of jurisdiction over rates, terms and conditions at and under which the company selling at wholesale gas transported interstate warrants us in imposing the condition in question. This question assumes that we would not impose the condition if the gas were transported intrastate from some field in Colorado. Let us ask why such a condition would not be imposed in the case of intrastate gas. Obviously the reasons, it seems to us, are that in order to bring gas from some source more or less remote, considerable expense must necessarily be involved; that if the people want the gas now available instead of waiting indefinitely for some to be brought at a lower price from some presently unknown source, they must expect to pay the reasonable cost thereof to the pipe line and distributing companies; that this Commission might later find that in view of the expense of bringing the gas from the field and all surrounding facts and circumstances, such a contract as the distributing company made, both as to length of term and rates, was then reasonable and that those companies cannot equitably be required within a few months or perhaps years to write off their investment and financial burden incurred in a contract made in good faith and the exercise of good business judgment, as admitted by our hypothesis, merely because other gas later discovered could be bought by the distributing company at lower rates.

What reason is there then for imposing the condition as to interstate gas if it is not equitable to impose it as to intrastate gas? It may be argued that because of the failure of Congress to regulate gas utilities or carriers doing an interstate business, and our lack of jurisdiction over such business, it may be that the prices at which the gas in question is sold to the distributing company are too high. But the condition in question applies irrespective of what "may" be. The condition operates even though the

rates required to be paid by the distributing company and the length of term of the contract later should be found to have been reasonable and fair under all the facts and circumstances now existing.

But let us assume that the rates charged by the company transporting the gas interstate and sold to the distributing company are unreasonable and unconscionable, and that the term of the contract is too long, and that the distributing company cannot secure a more favorable contract, still the people of many Colorado towns and cities seem to want it. All they can reasonably ask is that the distributing company in contracting for gas to be furnished by it to them use good faith in its dealing with the interstate company and that the contract finally made for the purchase of the gas be provident and governed by the exercise of good business judgment. If in the exercise of such faith and judgment it is necessary to agree to take gas from the interstate carrier for a period of twenty years and at rates offered, it is not fair within a year or so, if cheaper gas should become available, to penalize the distributing company by relieving the public entirely of the burden reasonably and necessarily entered into by the company for their benefit.

So far as "freezing" a rate structure is concerned, any substantial expense or commitment of a utility tends to do that. As pointed out in the Loveland-Johnstown decision, if a utility builds a plant with all necessary authority and reasonable economy, it cannot be required to write off the investment merely because natural gas becomes available at such a price as to make it desirable to abandon the plant. Therefore, the building of the plant tends to and does "freeze" the rate structure for a substantial period.

That this Commission may at any time in any rate case omit from the rate base such expense as is shown to have been incurred improvidently or in bad faith is, we believe, quite clear. There is no reason whatever why this proposition does not apply with equal force to contracts in respect of interstate commerce. No authority that it does not apply can be found.

The imposition at this time of the condition in question doubtless would not affect the legal standing of the contract which the distributing company already has made. The effect, if any, of the condition would be simply to exclude from the applicant's rate base the amount by which the gas purchased by it would exceed the price at which other gas might be available. We conclude, therefore, that any condition imposed now or later, in the absence of a finding of bad faith or improvident action by the distributing company, by which an expense incurred by the utility is excluded from its rate base, would be unreasonable and arbitrary, and that if such a finding later should be made sound reason and lack of authority to the contrary make possible appropriate action then.

We repeat that at this time we express no opinion whether the contract requiring the distributing company to purchase gas for a period of twenty years at rates fixed in the contract is a provident one made in the exercise of good business judgment. Our conclusion is simply that it is not now necessary in going as far as is proper for the protection of the public interest to make such a condition, and that the imposition thereof at this time might prove to be unfair and injurious to the applicant.

There are authorities to the effect that if another company is able later to furnish gas at substantially lower rates and a franchise should be granted to that other company, it is the duty of the Commission to authorize the exercise of those rights irrespective of the record of fair dealing on the part of the utility first in the city and of the effect of the second franchise upon it. It may, therefore, as a practical matter, be necessary for the applicant herein to purchase any gas that might become available at lower prices if it desires to prevent the same being distributed to its patrons by a competitor. However, this is a question which has not yet been raised and upon which it is not at this time necessary to and we do not make any conclusion.

After careful consideration of the applications we are of the opinion that the order granting the certificates herein should be reopened and the condition in said orders eliminated.

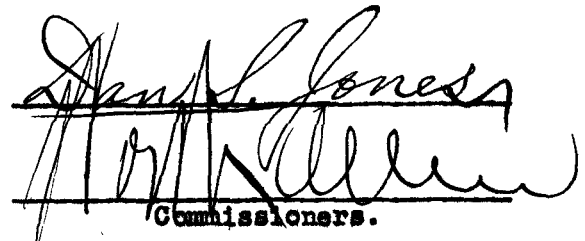
Chairman Beck absent.

O R D E R

IT IS THEREFORE ORDERED, That the above entitled applications Nos. 1505 and 1506 be, and the same are hereby, reopened.

IT IS FURTHER ORDERED, That the requirement and condition above quoted, contained in the order granting the certificate herein be, and the same is hereby, eliminated and withdrawn from said certificate.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 8th day of August, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE COUNTY OF WELD FOR AN ORDER)
AUTHORIZING AND REQUIRING THE CON-)
STRUCTION OF A HIGHWAY UNDERPASS)
CROSSING UNDER THE UNION PACIFIC)
RAILROAD TRACKS ABOUT TWO AND ONE-)
QUARTER (2 $\frac{1}{4}$) MILES EAST OF THE TOWN)
OF KERSEY, WELD COUNTY, COLORADO.)

APPLICATION NO. 520

August 12, 1930.

Appearances: For applicant: E. G. Knowles, Assistant
General Attorney for the Union Pacific
Railroad Company.
For protestant: None.

S T A T E M E N T

By the Commission:

On February 15, 1926, the Board of County Commissioners of Weld County, Colorado, filed an application with the Commission for the authorization and requirement of the construction of an underpass public highway crossing under the tracks of the Union Pacific Railroad Company at a point about two and one-quarter (2 $\frac{1}{4}$) miles east of the town of Kersey, Colorado.

The application alleged that the crossing was necessary because of a change in the location of State Highway No. 2 near Kersey, Colorado, to a route whereby the through traffic could be diverted from the dangerous grade crossing at Kersey, and the county road grade crossing on the section line between Sections 22 and 23, Township 5 N., Range 64 West of the 6th P. M. could be eliminated.

The matter came on for hearing before the Commission at the Court House at Greeley, Colorado, on August 23, 1926, at which time testimony was introduced to show the convenience and necessity for the underpass. The matter of apportionment of costs of the proposed underpass came up and after some informal discussion it was decided to postpone further consideration of

this matter to allow the State Highway Department and the Railroad Company to attempt to come to an agreement on the apportionment of the costs. Also, subsequent to the hearing the Commission was requested by a resolution of the Board of County Commissioners of Weld County to abolish the public highway grade crossing on the section line between Sections 21 and 22, so far as a public crossing was concerned (but not as a private crossing).

THEREFORE, the Commission on July 30, 1927, in Decision No. 1389, after being duly advised of the conclusion of a satisfactory agreement between the State Highway Department and the railroad company as to the construction of the underpass entered an order permitting the construction of a public highway crossing below grade under the tracks of the Union Pacific Railroad at the point requested in the aforesaid application and upon the terms as agreed to between the parties concerned therein. The order also authorized the closing and abolishment of the public highway crossing on the section line between Sections 22 and 23, Township 5 North, Range 64 West of the 6th P.M., and the closing to "public travel" of the public highway crossing on the section line between Sections 21 and 22, Township 5 North, Range 64 West of the 6th P.M. The first named crossing to be abolished, and the second to be changed from a public to a private crossing when the new underpass was put into use.

Under date of August 22, 1929, the county attorney of Weld County advised the Union Pacific Railroad Company and the Commission that the school bus operator, mail carrier, and Mr. Paul Hoshiko objected to the closing to public travel of the aforesaid public highway crossing on the section line between Sections 21 and 22, Township 5 No., Range 64, West of the 6th P.M., and requested that satisfactory arrangements be made in regard to same.

Thereupon, the Commission, upon the petition of the Union Pacific Railroad Company, after an unsuccessful conference in the matter, set the matter down for a rehearing so far as the crossing above referred to was concerned at the Hearing Room of the Commission at Denver, Colorado, on March 27, 1930. At this time and place only the attorney, E. G. Knowles, and the engineer for the railroad company appeared for the petitioner, and after some informal discussion the railway engineer for the Commission was directed to interview the protestants

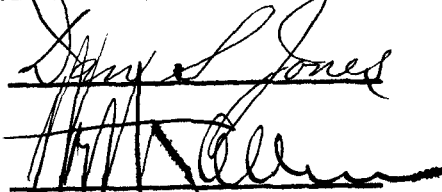
and endeavor to secure some satisfactory adjustment of the matter. The engineer conferred with Mr. Hoshiko and other protestants and found them still opposed to making the crossing a private crossing but that they would be willing to have the route of the school bus changed so as not to use this crossing and under date of April 21, 1930, the Secretary of School District No. 98, Mr. Walter C. Adams, advised the Commission that when the present contract with the school bus operator expired on May 16, 1930, they would reroute the bus so as not to use the crossing herein referred to. The use of this crossing by the school bus had been found to be the principal objection to its use as a public crossing and the railroad company being advised of the arrangement by which this objection could be eliminated as stated above on July 18, 1930, gave its approval of the change in the order so far as this crossing is concerned to allow its continuance as a public highway crossing.

Chairman Bock absent.

O R D E R

IT IS THEREFORE ORDERED, That the provision in the order of the Commission in Decision No. 1389 reading "and the present public highway crossing on the section line between Sections 21 and 22, Township 5 North, Range 64 West of the 6th P.M., shall be closed to public travel" is hereby withdrawn and annulled, and that said crossing shall be continued as a public highway crossing, at grade, provided, however, that the same shall not be used by the school bus of District No. 98 or by any other school bus or conveyance used as a general transport for school children.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 12th day of August, 1930.

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(Decision No. 5000)

At a General Session of the Public
Utilities Commission of the State
of Colorado, held at Denver, Colorado,
this 12th day of August, 1930.

IN THE MATTER OF THE PROPOSED)
ABANDONMENT BY THE COLORADO)
AND SOUTHERN RAILWAY COMPANY)
OF THE BEET DUMP SPUR TRACK)
AT LOUISVILLE, COLORADO.)
- - - - -

I. & S. NO. 154

IT APPEARING, That on April 24, 1930, The Colorado and Southern
Railway Company in accordance with General Order No. 15, filed a notice of
the Company's intention to abandon and dismantle a certain spur track at
Louisville, Colorado, known as the Beet Dump Spur on or about July 1, 1930, and

IT FURTHER APPEARING, That on May 15, 1930, the Commission issued
an order suspending the proposed date of abandonment and dismantlement of said
spur track for the investigation and determination of the matter of injury,
thereby, affecting the rights and interests of J. J. Steinbaugh and other patrons
of the carrier who had protested the abandonment of aforesaid trackage, and

WHEREAS, NOW IT APPEARS, That the said protestant, Mr. J. J. Steinbaugh,
in a petition to the Commission dated July 12, 1930, withdraws the objection he
had filed with the Commission as to the abandonment of aforesaid trackage, and
as there are no other objections to said abandonment,

IT IS THEREFORE ORDERED, That the order of the Commission dated May
15, 1930, suspending the proposed date of abandonment and dismantlement^{of} a certain
spur track at Louisville, Colorado, known as the Beet Dump Track for one hundred
twenty days from June 1, 1930, be, and the same is hereby, vacated.

Chairman Beck absent.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dean S. Jones
[Signature]
Commissioners.

Dated at Denver, Colorado, this
12th day of August, 1930.

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(Decision No. 3001)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE SERVICE FACILITIES FURNISHED)
BY UNION PACIFIC RAILROAD COM-) I. & S. DOCKET NO. 133
PANY TO W. A. BRIGHT.)

August 12, 1930

Appearances: Roy M. Briggs, Esq., Greeley, Colorado,
attorney for W. A. Bright;
E. G. Knowles, Esq., Denver, Colorado,
attorney for Union Pacific Railroad
Company.

S T A T E M E N T

By the Commission:

An investigation and suspension order was entered herein forbidding Union Pacific Railroad Company to abandon and dismantle and prevent the use of certain appliances and facilities by which W. A. Bright had been conveying direct from a certain point on the railroad company's right-of-way, gasoline from tank cars to a storage tank situated on property owned by Bright. When the matter came up for hearing the evidence showed that the rules and regulations of the Bureau of Explosives and the tariff under which the railroad company is operating forbid the opening and unloading of gasoline tank cars within a certain distance of the main line of the company. The point at which cars have been set for unloading by Bright is within the distance forbidden by those rules and regulations.

No attempt was made to show that the rules and regulations are unreasonable. There remains, therefore, nothing for the Commission to do but to discontinue this proceeding, the suspension order having expired by its own terms.

There were other questions raised in oral argument which are not

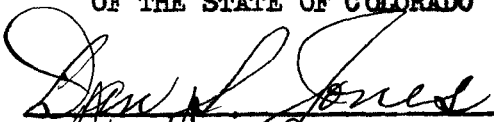
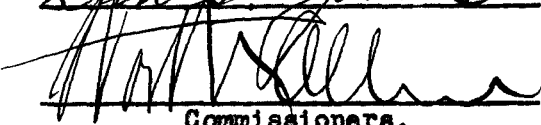
necessary to be decided herein.

Chairman Bock absent.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 12th day of August, 1930.

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(Decision No. 3002)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE RAIL SERVICE BY THE DENVER)
& RIO GRANDE WESTERN RAILROAD)
COMPANY BETWEEN OURAY AND)
MONTROSE, COLORADO.)

I. & S. DOCKET NO. 135

August 13, 1930

Appearances: Thomas R. Woodrow, Esq., Denver, Colorado,
attorney for applicant;
R. J. Norpel, Esq., Ouray, Colorado,
for Ouray Recreation Association
and Chamber of Commerce;
E. E. Wheeler, Esq., Ouray, Colorado,
for City of Ouray;
Carl J. Sigfrid, Esq., Ouray, Colorado,
for Board of County Commissioners of
Ouray County and City Council of Ridgway;
Victor A. Miller, Esq., Denver, Colorado,
Receiver for The Rio Grande Southern
Railroad Company, pro se.

S T A T E M E N T

By the Commission:

The Denver & Rio Grande Western Railroad Company, by its Superintendent of Transportation, gave notice to the public that on July 1, 1930, it would substitute a mixed train service in lieu of the passenger and freight service then and now being rendered between Montrose and Ouray, Colorado. The Commission made its investigation and suspension order and conducted a hearing thereafter. Ouray is a town situated at the end of a narrow-gauge branch line running from Montrose. The population of the town is 704.

Heretofore the Rio Grande has run a passenger train out of Ouray in the morning and another into said town late in the afternoon. It has been running also a freight train which averages a round trip about once a week.

The passenger business of the railroad company has been decreasing about ten per cent annually, beginning about 1920. Most of this decrease has

been on the branch lines, although the figures do not show the percentage of decrease on this particular one. During the month of June, being the last full month prior to the hearing, there were carried by rail from point to point on the branch in question a total of 210 passengers.

The Rio Grande Western introduced an exhibit showing the direct train costs of both the freight and passenger operations. The average freight expenses amount to \$878.98 per month, the passenger to \$1,662.31. The total revenue from the passengers served, including mail and express is \$972.07, of which \$498.28 is from passengers. According to the exhibit the cost of the mixed train service which the railroad company proposes to render six days per week is \$1,894.03, leaving a net saving in cost of train operation of \$647.26.

The operating time schedule of the mixed train will be substantially the same as that of the present passenger train. The proposed plan will afford freight service six days a week instead of about once a week as at present.

Rio Grande Motor Way, Inc., a subsidiary of The Denver & Rio Grande Western, operates a passenger and express motor vehicle line from Grand Junction to Durango during that part of the year when the highway is open between Ouray and Durango. Ordinarily the mountain pass is closed between about November 1 to 15 and May 20 to June 1. However, during the past season the pass was open until January 6, 1930. When this line is operating it will carry passengers daily between Montrose and Ouray, serving all the intermediate points on the railroad. The motor line carries also express and mail.

The main objection made by the citizens of Ouray and points intermediate to it and Montrose is that during the winter months when the bus is not operated they will not receive their mail on Sundays. At the present time mail and papers leaving Denver at 7:45 P.M. on Saturday are delivered in Ouray and other points on the branch in question the following afternoon. If the proposed change is made mail and papers leaving Denver at 2 P.M. but not later on Saturday will be delivered in Ouray the next day.

The receiver of The Rio Grande Southern Railroad objects to the change in service for the reason that he has a very desirable contract with

the United States Government for the transportation of mail transferred to The Rio Grande Southern at Ridgway. A letter from the superintendent of this mail division addressed to the Receiver states that the special contract in question "is contingent upon connecting service with" the Rio Grande and that curtailment of Sunday service by the Rio Grande "would jeopardize the special contract". The Receiver himself testified that he had offered to have the mail brought on Sundays by motor from Montrose to Ridgway and that he had been informed that this proposed arrangement would be unsatisfactory to the Post Office Department.

We appreciate fully that the people living in Ouray and other points on the branch would much prefer to receive Sunday papers on Sunday and not Monday afternoon and that it would be a matter of some convenience to them to have their mail delivered throughout the winter months on Sunday. However, it strikes us that these are matters of mere convenience. We cannot understand how any financial loss is suffered. While a banker testified that he should receive his mail on Sunday and a retail grocer and meat market operator testified that he desires to get his orders out by mail on Sunday for the early week trade, we are unable to conclude that any of these causes are sufficient to warrant the railroad in continuing to carry an expense of some \$650.00 per month or almost \$8,000 a year that could be saved by the proposed change in service.

Without intimating any suggestions that there are any grounds here for abandoning the branch line in question, we do feel it proper to recall the fact that many miles of railroad have been abandoned in this State and that attempts have recently been made to abandon many more. It may be proper to say also that in a recent decision made by the Interstate Commerce Commission attention was called to the alleged fact that this Commission had not cooperated with the railroad seeking abandonment in eliminating unnecessary expense of operation. The Commission feels it is its duty to do all in its power to insure the continued operation of the various railroad lines in the State. To this end it must allow such curtailment of service as can reasonably be

made without substantial injury and great inconvenience to the patrons of the railroads.

Some question arises in the minds of the Commissioners as to how far we may properly go in imposing a burden upon one railroad in order to aid another. The Rio Grande Southern has, as is shown by the evidence, a very desirable contract with the Post Office Department. The letter of the superintendent of mail service says that the proposed change will "jeopardize" that contract. Inasmuch as it appears that the mail may be carried from Montrose to Ridgway on Sunday by motor vehicle, we do not feel like refusing to allow the Rio Grande to effect an economy of almost \$8,000 a year in order to insure the continued transportation of mail by it from Montrose to Ridgway on Sundays during the winter months.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity do not forbid the making of the proposed change in railroad service between Montrose and Ouray, Colorado. However, it is of the opinion, and so finds, that the public convenience and necessity requires that in order that the Post Office Department and others may make proper arrangements for service in the future the proposed change should not take place prior to September 15, 1930.

Chairman Bock absent.

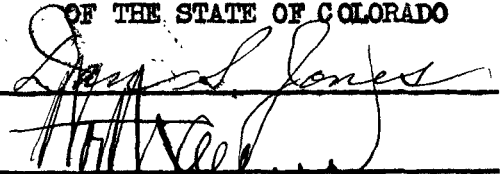
O R D E R

IT IS THEREFORE ORDERED, That The Denver and Rio Grande Western Railroad Company be, and the same is hereby, authorized on September 15, 1930, to effect the proposed change in rail service by which a combination passenger and freight service shall be afforded six days per week, and the transportation of mail and papers shall be made by busses on Sundays during that portion of the year when the state highway between Ouray and Durango is open for travel.

IT IS FURTHER ORDERED, That the proceeding herein be, and the same is hereby, discontinued.

Dated at Denver, Colorado,
this 13th day of August, 1930.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE WATER SERVICE OF COMMONWEALTH)
LAND COMPANY OPERATING A WATER)
PLANT IN SUBDIVISION ADJOINING)
EAST CORPORATE LIMITS OF LITTLETON,)
COLORADO.)

CASE NO. 459

August 13, 1930.

S T A T E M E N T.

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question whether or not respondent, The Commonwealth Land Company, is providing a sufficient and adequate supply of water for the customers of its water plant serving the subdivision of Woodlawn Additions and Windermere Additions adjoining the east corporate limits of the town of Littleton, Colorado, and a few property owners in the town of Littleton as required by the Public Utilities Act; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating without such equipment and facilities to supply its patrons with a reasonably satisfactory and adequate supply of water as required by law.

Chairman Bock absent.

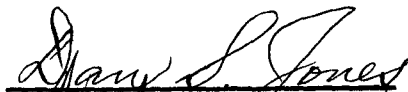
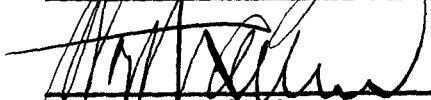
O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion and complaint, that an investigation and hearing be held for the purpose of determining whether or not said respondent is supplying its customers with a sufficient and adequate quantity of water for their needs, comfort and health as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any it have, by written answer filed with this Commission within ten days from the date hereof, why the Commission should not enter an order commanding it to provide adequate facilities for supplying its customers with a sufficient and adequate quantity of water to supply their needs, comfort and health.

IT IS FURTHER ORDERED, That said matter shall hereafter be set down for hearing before the Commission, on proper notice, at such time and place as the Commission may designate, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 13th day of August, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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* * * *

IN THE MATTER OF THE APPLICATION OF)
F. W. HAMILTON FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY TO)
OPERATE MOTOR VEHICLE SERVICE FOR THE) APPLICATION NO. 1522.
TRANSPORTATION OF FREIGHT BETWEEN)
DENVER, COLORADO, AND LUSK, WYOMING.)

August 15, 1930.

Appearances: F. W. Hamilton, Lusk, Wyoming,
 pro se;
 E. G. Knowles, Esq., Denver, Colorado,
 attorney for Union Pacific Railroad
 Company.

S T A T E M E N T

By the Commission:

This is an application by F. W. Hamilton, of Lusk, Wyoming, for a certificate of public convenience and necessity authorizing the operation by him of a motor vehicle system for the transportation of freight in interstate commerce only between Denver, Colorado, and the Colorado-Wyoming State line at a point where U. S. Highway No. 85 crosses the same. The applicant does not desire any authority to engage in intrastate commerce. He proposes to devote to the business two International Trucks of the market value of \$5000. His financial and operating responsibility are satisfactory. He expressed a willingness to comply with the laws of Colorado that apply to an interstate motor vehicle carrier operation.

After careful consideration of the evidence the Commission is of the opinion and so finds, that it is required by the Constitution of the United States and the laws of Colorado to issue a certificate to the applicant authorizing the transportation of freight in interstate commerce only between Denver, Colorado, and the Colorado-Wyoming State line at a point where U. S.

Highway No. 85 crosses the same.

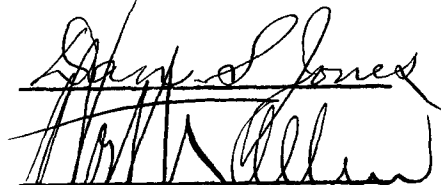
O R D E R

IT IS THEREFORE ORDERED, That the Federal and State laws require the issuance of a certificate of public convenience and necessity for the motor vehicle system of the applicant for the transportation of freight in interstate commerce only between Denver, Colorado, and the Colorado-Wyoming State line at a point where U. S. Highway No. 85 crosses the same, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates and rules and regulations, and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 15th day of August, 1930.

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(Decision No. 3005)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF S. L. LEACH FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 986

August 18, 1930.

Appearances: E. H. Houtchens, Esq., Greeley, Colorado,
for applicant.
Grant LeVeque, Esq., Brighton, Colorado,
for Fuller Truck Line.

S T A T E M E N T

By the Commission:

A certificate was granted to the applicant herein in January, 1928. The applicant's business consists of miscellaneous motor vehicle operations not on schedule and not over any established route or routes. The limitations contained in the original certificate were considerably more restricted than were those in numerous certificates thereafter issued to operators doing a similar kind of business. The applicant, therefore, filed an application asking that his certificate be broadened so as to conform to the more recent certificates. The matter was thereupon reopened and a hearing had.

The Commission has in each and every case of this kind conditioned the authority granted upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is of more importance may be protected against injurious competition.

The applicant has expressed a willingness to keep on file a tariff containing rates not lower than those carried on file with the Commission by

The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business within the City of Greeley and from point to point within the State of Colorado, subject to the terms and conditions hereinafter named which the Commission finds the public convenience and necessity requires.

Chairman Rock absent.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant, S. L. Leach, for the conduct of a transfer, moving and general cartage business in the City of Greeley, and from point to point within the State of Colorado, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least twenty per cent in excess of those charged by the scheduled carriers;

(b) The applicant shall not operate on schedule between any points;

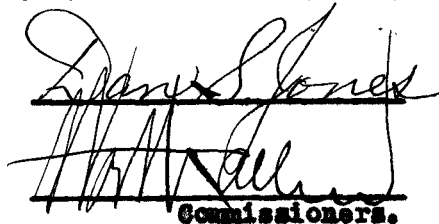
(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed in any other town or city than Greeley for the purpose of developing business;

(d) Jurisdiction of the application herein shall be, and the same is hereby retained, to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

IT IS FURTHER ORDERED, That the applicant shall file and keep on file with this Commission tariffs of rates which shall be not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, the first tariff to be filed within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates, rules and regulations filed with this Commission, except when prevented from so doing by the Act of God, the public enemy and unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the rules and regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 18th day of August, 1930.

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(Decision No. 3006)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF THE SOUTHERN KANSAS STAGE LINES)
COMPANY, INC., FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1389

August 18, 1930.

Appearances: R. R. Cloud, Esq., Pueblo, Colorado,
attorney for applicant;
J. G. Scott, Esq., Denver, Colorado,
attorney for protestants.

S T A T E M E N T .

By the Commission:

An order was made herein granting the applicant a certificate of public convenience and necessity authorizing operation in interstate commerce only. Thereafter an application for rehearing was filed by Pioneer Southwestern Stages, Inc., the Pioneer Stages, Inc., and the Pickwick Stages, Inc. On account of absence of the attorney for the said protestants, it was impossible for them to present any proof at the hearing. At the hearing it was announced by the Commission that the said protestants would be given an opportunity to enter a protest and introduce evidence in support thereof. Thereafter and on the day the said protest was filed the Commission granted the certificate. This action of the Commission was alleged to have been and doubtless was inadvertent.

However, the protest filed by the said protestants states the grounds thereof. It is alleged that the public convenience and necessity does not and will not require said operations or any part or portion thereof and that the communities proposed to be served by the applicant are adequately, sufficiently and efficiently served by present authorized carriers. These are no valid grounds of protest against the issuance of a certificate author-

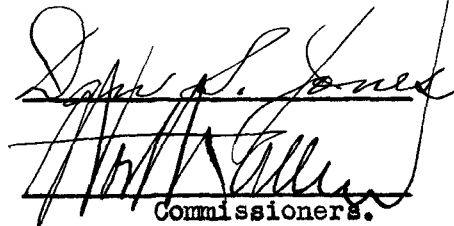
izing operation in interstate commerce. Assuming without deciding that the public convenience and necessity does not require the operations of the applicant herein because, inter alia, the communities are sufficiently served without the applicant's operations, that does not mean that we have any right to deny the application. It is elementary that in an application for authority to conduct interstate commerce we may not deny the application even though the public convenience and necessity does not require it. Buck v. Kuykendall, 267 U. S. 307, P.U.R. 1925C, 483.

Chairman Bock absent.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 18th day of August, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
HERBERT N. WITT FOR AN ORDER PRELIM-)
INARY TO ISSUANCE OF CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1669.

August 18, 1930.

S T A T E M E N T

By the Commission:

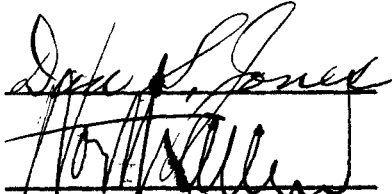
The Commission is in receipt of a letter dated August 14 from the attorneys for the applicant herein. Pursuant to the request made in said letter and the telephone conversation had by Commissioner Allen with Richard S. Fillius, Esq., one of the applicant's attorneys, the application herein will be dismissed without prejudice.

Chairman Bock absent.

O R D E R

IT IS THEREFORE ORDERED, That the application herein of Herbert N. Witt be, and the same is hereby, dismissed upon motion of the applicant without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 18th day of August, 1930.

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(Decision No. 3008)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE OLIVER POWER COMPANY, A) APPLICATION NO. 1664
CORPORATION, FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

IN THE MATTER OF THE APPLICATION)
OF THE OLIVER POWER COMPANY, A) APPLICATION NO. 1665
CORPORATION, FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

August 18, 1930

Appearances: Moynihan, Hughes and Knous, Esqs., Montrose, Colorado,
attorneys for applicant;
Grant, Ellis, Shafroth & Toll, Esqs., Denver, Colorado,
attorneys for Gunnison Valley Power Company,
a corporation.

S T A T E M E N T

By the Commission:

The Oliver Power Company, a corporation, filed two applications, one for authority to exercise the rights and privileges granted to it in and by the terms of an ordinance passed by the Board of Trustees of the Town of Paonia, Colorado; the other for authority to construct, maintain and operate a power plant for the generation of electric energy by steam, a transmission line extending from said plant in a westerly direction to a point approximately one and one-half miles north and four miles east of the town of Hotchkiss, and a distribution system for the sale and distribution of electric energy.

The Gunnison Valley Power Company, which is operating in the town of Hotchkiss, near which the proposed transmission line is to terminate, filed a protest in which it prayed "that any certificate issued to the Oliver Power Company be limited so that the territory adjoining Hotchkiss up to the dividing line half way between Hotchkiss and Paonia be omitted from any certificate granted the Oliver Power Company, and that such territory be allotted to the

Gunnison Valley Power Company."

The Oliver Coal Company is mining semi-anthracite coal at a point on the north fork of the Gunnison river, a short distance above the village of Somerset. In its operations it has available a large amount of slack coal. It has entered into an agreement by which it will sell such coal to the applicant at a price which is considered quite low. The proposed plant will be constructed at the mine.

The applicant has purchased the municipal plant and distribution system heretofore owned and operated by the town of Paonia. It has procured from said town a franchise under and by which it is authorized to occupy the streets and alleys of the town with its poles and lines and to distribute electric energy therein for a term of twenty years. The said ordinance has been accepted by the applicant. The applicant proposes to serve the territory surrounding and contiguous to the town of Paonia and along the route of its transmission line from the plant to a point about equidistant from Paonia and Hotchkiss. The western boundary of the territory sought at this time to be served by the applicant is shown by a line drawn on Exhibit No. 9 between two X's. The western terminus of the transmission line leading from the power plant will be about one mile and a half north and four miles east of the town of Hotchkiss. The plant will cost, it is estimated, \$185,000. The transmission and distribution lines to be constructed and operated outside of the town of Paonia will cost some \$42,000.

Western Colorado Power Company has agreed to render the necessary financial aid to the applicant in constructing said plant, transmission and distribution lines.

The capacity of the generating plant will be 1000 KVA. The Western Company plans to purchase about thirty per cent of this output for use in its system. It intends, according to the evidence, to construct a transmission line from Austin to the western terminus of the applicant's line.

The evidence showed simply that at the present time Hotchkiss and the vicinity thereof are being served by Gunnison Valley Power Company. There

is no evidence of record that the service is inadequate or unsatisfactory. The applicant agreed that it is willing to have the order entered herein limited to the territory east of the line hereinbefore described.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires construction by the applicant of a power plant for the generation of electric energy by steam at a point near the village of Somerset, construction and operation of a transmission line running westerly from said power plant to a point about one mile and a half north and approximately four miles east of the town of Hotchkiss, and construction of a distribution system for the distribution and sale of electrical energy in the territory in the vicinity of the town of Paonia and along the said transmission line to a line hereinbefore described.

The Commission further finds that the public convenience and necessity requires the exercise by the applicant of the franchise rights and privileges granted in and by the virtue of the terms of Ordinance No. 148 passed by the Board of the Trustees of the town of Paonia.

Chairman Bock absent.

O R D E R

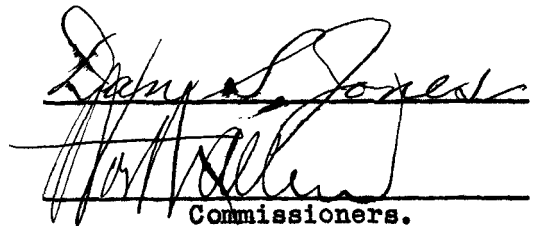
IT IS THEREFORE ORDERED, That the public convenience and necessity requires the construction by the applicant of a power plant for the generation of electrical energy by steam at a point near the village of Somerset; construction of a transmission line running west from said power plant to a point about one and one-half miles north and four miles east of the town of Hotchkiss; and construction and operation of a distribution system for the distribution and sale of electrical energy to the people living in the territory in the vicinity of Paonia and along the route of said transmission line to a line about equidistant from Paonia and Hotchkiss, hereinbefore more particularly described; the exercise by the applicant of the franchise rights and privileges granted to it in and by virtue of the terms and conditions of Ordinance No. 148 passed by the Board of Trustees of the town of Paonia, and this

order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

Unless further ordered by the Commission the applicant, Oliver Power Company, shall not distribute electric energy in the town of Hotchkiss or in the vicinity thereof or beyond the line hereinbefore described, except to Western Colorado Power Company for distribution by it in the territory already authorized to be served by it.

IT IS FURTHER ORDERED, That the applicant shall file its tariffs, rate schedule and rules and regulations as required by this Commission within twenty days from the date hereof.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 18th day of August, 1930.

✓

lock
BRO
8/18/30
Weldon

(Decision No. 3009)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF A. M. AXTEL, JAMES CLIFFORD)
REED AND JAMES J. TEESLINK FOR) APPLICATION NO. 1202
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY.)

August 18, 1930

Appearances: Fairlamb & Fairlamb, Esqs., Delta, Colorado,
attorneys for applicants.

S T A T E M E N T

By the Commission:

The above-named applicants, purporting to be co-partners, sought a certificate of public convenience and necessity authorizing the operation of a motor truck line between Hotchkiss and Maher, Colorado. When the case was heard and the so-called articles of co-partnership were filed it appeared clearly that each of the three applicants is engaged independently in the trucking business. It is true that they work together in harmony, one helping the other out at times. But after all they are not partners.

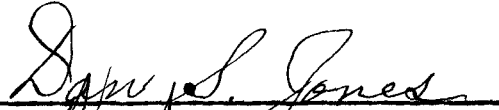
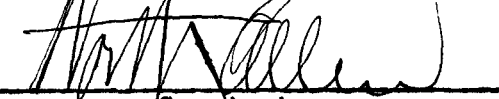
After the case was heard the Commission had some correspondence with the attorneys for the applicants about the situation. The last letter the Commission had from the attorneys was dated February 22. It indicated that there might be some possibility of getting the matter into such shape as would warrant the issuance of a certificate. Nothing having been done for six months the Commission feels that nothing remains but to deny the application.

Chairman Book absent.

O R D E R

IT IS THEREFORE ORDERED, That the application herein be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 18th day of August, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF ARTHUR BAWDEN, DOING BUSINESS)
AS THE ARTHUR TAXI AND SIGHTSEEING)
SERVICE, FOR CERTIFICATE OF PUB-)
LIC CONVENIENCE AND NECESSITY.)

87
APPLICATION NO. 1592

August 25, 1930.

Appearances: Gustave J. Ornauer, Esq., Denver, Colorado,
attorney for applicant;
D. Edgar Wilson, Esq., Denver, Colorado,
for Rocky Mountain Parks Transportation
Company, et al.

S T A T E M E N T

By the Commission:

This is an application by Arthur Bawden, doing business as the Arthur Taxi and Sightseeing Service, for certificate of public convenience and necessity authorizing "the transportation of tourists and sightseers from Denver to Estes Park via the North St. Vrain canyon, commencing at the office of the applicant in the City and County of Denver, at 1714 Broadway, to the State Highway north through Boulder or Longmont, Lyons, North St. Vrain canyon to Estes Park, returning through the Big Thompson canyon, through Loveland or Longmont to Denver." He seeks authority also to transport passengers from Denver to Estes Park via the South St. Vrain canyon via either Boulder or Longmont, returning through the Big Thompson canyon.

The applicant secured a certificate of public convenience and necessity in March 1927, authorizing the transportation of sightseeing passengers to various scenic points other than Estes Park. In the same month, Jack D. Gerst secured a similar certificate. Thereafter Gerst's certificate was transferred to the applicant herein by authority of this Commission. The number of cars authorized to be operated by the applicant was one and by

Gerst three.

At the time of issuing the various sightseeing certificates, including those of the applicant and Gerst, the Commission took the position that those operators having fewer than four cars in the service could not properly and adequately operate to all of the scenic points visited from Denver by tourists and others. Accordingly it refused authority to such operators to go to Estes Park.

The question is whether the applicant, now having authority to use four automobiles in his business, should be permitted to carry passengers to the Park. No doubt if he had bought out Gerst prior to the time he filed his application and was then engaged in the operation of four automobiles the privilege which he now seeks would have been granted him.

Whether this application is granted must depend on the answer to the question, what does the public convenience and necessity require. The evidence shows that the operators now serving Estes Park have been, and doubtless will continue to be, able to transport all passengers offering themselves. On the other hand, passengers who take other trips with the respondent and who become accustomed to and pleased with his service are displeased and, in some cases, provoked, when they are told that he is not able to transport them to Estes Park and that they will be required, in the event they wish to visit that point, to ride in cars owned and operated by other certificate holders. We appreciate fully that it is unfortunate that those sightseeing operators who transport passengers to scenic points other than the Park are unable to continue serving their passengers by continuing on to that point with them. However, the evidence shows that there are already some twelve or thirteen Denver operators authorized to carry sightseeing passengers to the Park; that a large part of the equipment now available for such service is idle most of the time.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the applicant has not sustained the burden of proving that the public convenience and necessity requires that he, in addition to many other authorized carriers, be permitted to service Estes

Park.

O R D E R

IT IS THEREFORE ORDERED, That the application herein be, and
the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 25th day of August, 1930.

✓ *Ellen 8/28/30*

(Decision No. 3011)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS
OF THOMAS MILLS.)

CASE NO. 564

August 25, 1930.

Appearances: Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was made requiring Thomas Mills to show cause why an order should not be entered requiring him to cease and desist from operating as a motor vehicle carrier. A hearing was thereafter had.

The evidence shewed, and the Commission finds, that the respondent is not and has not been operating as a motor vehicle carrier.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Ray A. Jones
William H. Allen
Commissioners.

Dated at Denver, Colorado,
this 25th day of August, 1930.

✓ *8/28/30*
Belton 8/28/30

(Decision No. 3012)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS OF)
PAUL DUNN.) CASE NO. 561.

August 25, 1930.

Appearances: Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was entered providing for a hearing and an investigation for the purpose of determining whether or not the respondent, Paul Dunn, is operating as a motor vehicle carrier. A hearing was duly had.

The evidence showed, and the Commission finds, that the respondent has not been and is not now operating as a motor vehicle carrier.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Spencer L. Jones
[Signature]
Commissioners.

Dated at Denver, Colorado,
this 25th day of August, 1930.

✓ *See 8/28/30*
(Decision No. 3013)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
DONALD MORRIS.)

CASE NO. 565

August 25, 1930.

Appearances: Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was entered by the Commission providing for a hearing and an investigation for the purpose of determining whether or not the respondent, Donald Morris, is operating as a motor vehicle carrier. A hearing was duly had.

The evidence showed that the respondent is operating a garage; that he has for use in towing automobiles and for other purposes one International and one Hupmobile truck; that at rare intervals he has rendered some motor vehicle truck transportation service for his customers; that the conduct of such service is rendered more for the accommodation of his customers than in order to earn any money.

The operations of the respondent are intermittent and infrequent. The volume of respondent's operations has been quite limited in scope. The case is a border-line one. We are not able to find from such evidence as was given that he is a common or motor vehicle carrier.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

James L. Jones
Harry W. Allen
Commissioners.

Dated at Denver, Colorado,
this 25th day of August, 1930.

✓ *CCS*
Willon 8/28/30

(Decision No. 3014)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
RALPH RICE.)

CASE NO. 567

August 25, 1930.

Appearances: Moynihan, Hughes and Kneus, Esqs., Montrose,
Colorado, attorneys for respondent;
Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was made by the Commission requiring the respondent,
Ralph Rice, to show cause why he should not be ordered to cease and desist
from operating as a motor vehicle carrier. A hearing was thereafter had.

The evidence showed, and the Commission finds, that the respondent
is not and has not been operating as a motor vehicle carrier.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same
is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

John L. Jones
W. H. Willon
Commissioners.

Dated at Denver, Colorado,
this 25th day of August, 1930.

✓ *Edg*
Nelson 8/28/30

(Decision No. 3015)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
GEORGE THOMAS.)

CASE NO. 562

August 25, 1930.

Appearances: Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was made requiring George Thomas to show cause why an order should not be entered requiring him to cease and desist from operating as a motor vehicle carrier. A hearing was thereafter had.

The evidence showed, and the Commission finds, that the respondent is not and has not been operating as a motor vehicle carrier.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Samuel Jones
W. H. Nelson

Commissioners.

Dated at Denver, Colorado,
this 25th day of August, 1930.

✓ *Ed S*
Allen 8/26/30

(Decision No. 5016)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS)
OF LUCIUS SHEPARD.)

CASE NO. 560.

August 25, 1930.

Appearances: Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was made requiring Lucius Shepard to show cause why an order should not be entered requiring him to cease and desist from operating as a motor vehicle carrier. A hearing was thereafter had.

The evidence showed, and the Commission finds, that the respondent is not and has not been operating as a motor vehicle carrier.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

John J. Jones
W. A. Allen
Commissioners.

Dated at Denver, Colorado,
this 25th day of August, 1930.

(Decision No. 3017)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF A. W. EARL FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1672

August 26, 1930.

Appearances: D. A. Maloney, Esq., Denver, Colorado,
for applicant.

S T A T E M E N T.

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of agricultural products, livestock and such farm implements and supplies as are incident to the uses and benefits of the general farming community and other persons dealing with said farmers and the crop growers within a radius of fifteen miles from Manzanola, and occasional hauling throughout the State of Colorado, and each of the counties thereof.

No protest was filed against this application.

The testimony shows that the applicant is the owner of two trucks, valued at approximately \$2300; that since October 1, 1929, he has been conducting a trucking business at Manzanola, transporting beets, beet pulp and grains within the radius above mentioned. In addition to this transportation he has hauled for himself into Kansas and Oklahoma certain products that he has purchased.

The Commission some time ago granted a certificate of public convenience and necessity to Joe D. Harris, at Manzanola, for an irregular certificate for the transportation of all kinds of freight within a certain territory, and occasional trips to any point within the State.

The population of Manzanola is approximately 600. The evidence

seems to indicate that there is a public convenience and necessity for the transportation of all agricultural products by the applicant within the fifteen mile radius of Manzanola, in addition to the motor vehicle system now conducted by Joe D. Harris. The evidence does not justify a certificate for any other purpose.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of all agricultural products from point to point within a radius of fifteen miles of Manzanola, Colorado. In all other respects the application will be denied.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of all agricultural products from point to point within a radius of fifteen miles of Manzanola, Colorado, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the application in all other respects be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers

and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Brock

Samuel Jones

H. H. Hall

Commissioners.

Dated at Denver, Colorado,
this 26th day of August, 1930.

✓
E.S.
Dillon 9/17/30

(Decision No. 3018)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF W. L. EKSTROM FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1576 ✓

IN THE MATTER OF THE APPLICATION)
OF JESS KENNER, OPERATING UNDER THE)
NAME AND STYLE OF THE WHITE TRUCK)
LINE COMPANY, FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1589

August 25, 1930.

Appearances: L. E. Langdon, Esq., Pueblo, Colorado,
for W. L. Ekstrom;
William B. Stewart, Esq., Pueblo, Colorado,
and J. G. Scott, Esq., Denver, Colorado,
for The White Truck Line.
T. R. Woodrow, Esq., Denver, Colorado, for
The Denver and Rio Grande Western
Railroad Company.
J. G. Dier, Esq., Denver, Colorado, for
The Colorado and Southern Railway Company.
J. Edgar Chenoweth, Esq., Trinidad, Colorado,
for the Anderson Transport Company.

S T A T E M E N T

By the Commission:

The application of W. L. Ekstrom is for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight on regular schedule between Pueblo and Trinidad, Colorado, and intermediate points, on U. S. Highway No. 85.

The application of Jess Kenner is for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of freight on regular schedule between Pueblo and Walsenburg, Colorado, on U. S. Highway No. 85.

Protests were filed against the application of W. L. Ekstrom by The Denver and Rio Grande Western Railroad Company, the Anderson Transport Company, the Motor Truck Common Carriers' Association and The Colorado and

Southern Railway Company.

Protests were filed against the application of Jess Kenner by The Denver and Rio Grande Western Railroad Company, the Colorado and Southern Railway Company and the Colorado Transfer and Warehousemen's Association.

The testimony shows that heretofore the Commission issued a certificate of public convenience and necessity to The Anderson Transport Company to operate a motor vehicle system for the transportation of freight between Trinidad and Walsenburg, Colorado, and intermediate points. This is a part of the territory involved in the Ekstrom application. On April 3, 1928, the Commission issued an order in the matter of the Ekstrom and Kelly Truck Line, No. 1108, denying a certificate of public convenience and necessity to W. L. Ekstrom, who prior to the hearing thereon had purchased Kelly's interest in this transportation business. The Commission also at that time required Ekstrom to cease and desist operating as a motor vehicle carrier. The testimony of Ekstrom shows that notwithstanding this order he continued to operate as a motor vehicle carrier in that territory. Thereafter the Commission issued a complaint on its own motion, Case No. 535, requiring Ekstrom to show cause why he should not be required by order of the Commission to cease and desist from operating as a motor vehicle carrier. On May 1, 1930, after hearing, the Commission entered its order therein, in which it found that Ekstrom had been operating as a motor vehicle carrier since April 3, 1928, without a certificate, and ordered him to cease and desist from operating. Since the issuance of this order Ekstrom has not operated as a motor vehicle carrier.

On August 2, 1927, the Commission issued a certificate of public convenience and necessity to Jess Kenner, authorizing a motor vehicle system for the transportation of freight between Pueblo and a number of points north and south of Walsenburg, but denied his application from Pueblo to Walsenburg and return. Owing to some correspondence had with his attorney, Kenner became of the opinion that his certificate authorized him to operate between Walsenburg and Pueblo, since Walsenburg was an intermediate point. The evidence of Kenner on this point is not very persuasive. In order to show

Kenner's good faith, the first freight line tariff filed by Kenner was made a part of the record in this case, which indicates that Walsenburg is a point covered therein. Moreover, since the filing of that tariff, the Commission, without objection, has recognized Kenner as a regular scheduled operator between Walsenburg and Pueblo. At any rate, he has been regularly operating as a motor vehicle carrier, transporting a large volume of freight between Walsenburg and Pueblo and intermediate points, and has filed a tariff and paid his tax for the use of the highway ever since he has conducted such operation.

In view of all of the surrounding circumstances, as between Ekstrom and Kenner, it is our opinion that the equities of the situation require that if a public convenience and necessity certificate should issue, the same should go to Kenner.

A number of shippers testified relative to the service of Kenner and The Anderson Transport Company. Their operations are conducted on a joint tariff, and a transfer of the freight destined south of Walsenburg and north of Walsenburg occurs at Walsenburg. The shippers complain that this service, involving this transfer at Walsenburg, is not satisfactory, and is the cause of delay in final delivery.

" That there is a public convenience and necessity for the transportation of freight by motor vehicle between Pueblo and Trinidad, via Walsenburg, we have no doubt. In view of the complaints, however, relative to the service as now conducted, there is a serious question in our mind whether this transfer now required at Walsenburg is such service as the shippers are entitled to. It is undoubtedly true that a better service than now afforded can be given to the public if the operation between Pueblo and Trinidad is conducted as a one-line haul."

Before making a final decision of these applications, we believe that under all the facts and circumstances an opportunity should be given to Jess Kenner and The Anderson Transport Company to effect a consolidation of their interests. This we believe to be necessary toward a more efficient^{motor}/vehicle service between Pueblo and Trinidad. We, therefore, at this time, conclude not

to enter an order in this matter until after sixty days from the date of this opinion. In the meantime the Commission will retain jurisdiction over all the issues involved in both applications herein.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Brock

Don S. Jones
Commissioners.

Dated at Denver, Colorado,
this 25th day of August, 1930.

403

(Decision No. 3019)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

* * *

IN THE MATTER OF THE APPLICATION)
FOR AUTHORITY TO TRANSFER TO LON)
H. KELLOGG CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY HELD)
BY WILL W. CLARK, DOING BUSINESS)
AS THE CLARK TRANSPORTATION COM-)
PANY.)

APPLICATION NO. 1214-A

August 27, 1930

Appearances: C. J. Perry, Esq., Denver, Colorado,
attorney for applicants;
D. Edgar Wilson, Esq., Denver, Colorado,
for Chicago, Rock Island & Pacific
Railway Company.

S T A T E M E N T

By the Commission:

This is an application for the transfer of certificate of public convenience and necessity issued on September 12, 1929, to W. W. Clark, doing business as The Clark Transportation Company. The certificate authorizes the transportation of freight between Arriba, Colorado, and the territory lying 35 miles north, 6 miles east and 7 miles west thereof, and Denver, Colorado. The transferee is one Lon H. Kellogg, who holds a certificate of public convenience and necessity from this Commission for an irregular service in the transportation of freight in a certain territory surrounding Agate, Colorado, and Denver.

The testimony shows that Clark desires to sell his certificate to Kellogg for a consideration of \$650.00, \$250.00 of which has already been paid, and \$400.00 to be paid about January 1, 1931. The only security that Kellogg says he has to give to Clark to assure payment of the \$400.00 is the certificate sought to be transferred herein. No authority is asked from this Commission

to encumber this certificate.

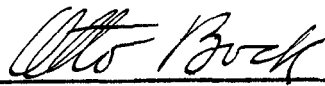
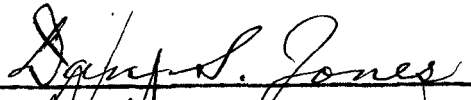

The testimony shows also that Clark in the past has been operating in territory not authorized in his certificate. It is his intention to retain the equipment he now has and to transport freight for the Red and White Stores. The past performances of Clark under his certificate have not been satisfactory. The financial responsibility of Kellogg is not satisfactory. Moreover, immediately after the filing of this application Clark turned over his transportation operations under his certificate to Kellogg without waiting for the action of this Commission.

After a careful consideration of the evidence, and all the circumstances surrounding the Clark operation, the Commission is of the opinion, and so finds, that the application herein for authority to transfer should be denied. If within thirty days Clark does not satisfy the Commission that he is conducting this motor vehicle operation, and that he is staying strictly within the authorization of his certificate, the Commission will issue an order to show cause why this certificate should not be cancelled.

O R D E R

IT IS THEREFORE ORDERED, That the application herein be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 27th day of August, 1930.

✓ 14828 ✓

(Decision No. 3020)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
E. B. FAUS, DOING BUSINESS AS) CASE NO. 456
FAUS TRANSFER COMPANY.)

August 27, 1930

S T A T E M E N T

By the Commission:

An order was made herein requiring the respondent to show cause why he should not be required to cease and desist from operating as a motor vehicle carrier. Since the order was made the respondent has filed an application for certificate of public convenience and necessity and the Commission has heard the application and issued a certificate.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alfred Bock
Samuel Jones
Arthur Allen
Commissioners.

Dated at Denver, Colorado,
this 27th day of August, 1930.

(Decision No. 3021)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE CITY OF LOVELAND FOR CERTI-)
FICATE OF PUBLIC CONVENIENCE AND) APPLICATION NO. 1673
NECESSITY.)

August 27, 1930

Appearances: Hatfield Chilson, Esq., Loveland, Colorado,
and Pershing, Nye, Tallmadge, Bosworth & Dick,
Esqs., Denver, Colorado, attorneys for applicant.

S T A T E M E N T

By the Commission:

This is an application by the City of Loveland for a certificate of public convenience and necessity authorizing it to sell and distribute electric energy for lighting, power and other purposes in the following described territories:

(a) Commencing at a point approximately 950 feet west of the intersection of King's Road (being the road running east and west on the south boundary line of Sec. 24, T. 5-N., R. 69 W.) and the main north and south State Highway into the City of Loveland, and extending easterly on the south side of said road a distance of approximately 3750 feet to the southwest corner of the intersection of King's Road and St. Louis Avenue, thence south 500 feet, thence east 1500 feet to the east boundary line of Sec. 25, T. 5 N., R. 69 W., thence north 3200 feet on the east boundary of Secs. 25 and 24 to the intersection of the Farmer's Ditch, thence along the Farmer's Ditch line to a point approximately 200 feet south of the center line of First Street; thence easterly 1500 feet, thence north 400 feet, thence westerly approximately 6500 feet to the west side of Factory Avenue, thence north to the center line of section thirteen, thence west to the City Limits, thence following the present north and east boundary lines of the City of Loveland to the intersection of the north city boundary line and the east city boundary line (being the intersection of Monroe Avenue extended, and 16th Street, and located on the north and south center line of Sec. 12, T. 5 N., R. 69 W.), thence north approximately 5250 feet along said north and south center line of Sec. 12 to intersection of said line with the south boundary line of Sec. 1, T. 5 N., R. 69 W., thence along said boundary line a distance of 1500 feet in an easterly direction, thence north approximately 4600 feet to the shore line of Seven Lakes Reservoir, thence in a meandering direction a distance of about 5500 feet along the westerly shore

line of Seven Lakes Reservoir to a point located on the east and west center line of Sec. 36, T. 6 N., R. 69 W., thence in a westerly direction on the east and west center line of Secs. 36 and 35, T. 6 N., R. 69 W. a distance of about 4000 feet to a point approximately 750 feet west of the main Fort Collins-Loveland State Highway, thence south approximately 6500 feet to a point approximately 1000 feet north of the south boundary line of Sec. 2, T. 5 N., R. 69 W. thence west approximately 4750 feet to the west boundary line of Sec. 2, T. 5 N., R. 69 W., thence south approximately 7000 feet along the west boundary lines of Secs. 2 and 11, T. 5 N., R. 69 W., to the south side of the road running in a westerly direction along the north boundary line of Sec. 15, T. 5 N., R. 69 W., thence west approximately 1350 feet along the south side of said road, thence south along the west side of a road running in a southerly direction along the north and south center line of the NE $\frac{1}{4}$ of Sec. 15, T. 5 N., R. 69 W. a distance of approximately 3500 feet to the center of the channel of the Big Thompson River, thence along the center of the channel of the Big Thompson River to its intersection with the east boundary line of Sec. 23, T. 5 N., R. 69 W., thence south approximately 3600 feet to the point of beginning.

(b) Territory along the line of applicant's transmission line, being territory along the west county road, west of a corner known as Wilds Corner, near the southwest corner of section 8, township 5 north, range 69 west, and extending westward to the applicant's power house as hereinbefore described, said territory including generally sections 6, 7 and 18, township 5 north, range 69 west, and sections 1, 12, 13, 2, 11, 14, 3, 10, 15, 9, 8 and 7, township 5 north, range 70 west of the 6th P.M., in Larimer County, Colorado.

The public in the territories heretofore have been served by either the applicant or the Public Service Company of Colorado. Questions have arisen as to the rights of the City and Public Service Company to serve in different parts of fringe territories in the Loveland district. With a view to promoting the best interests of the public and with a due regard for their own economic interests, the said City and Public Service Company made an agreement by which the territories hereinbefore described were allotted to the applicant herein.

The territory first described includes the City of Loveland. The attorneys for the City made it clear that the description used was employed as a matter of convenience and not because of any concession on the part of the City that the operation of its own municipal plant is under the jurisdiction of this Commission.


The evidence shows that the applicant is amply able with its hydro-electric plant and its Diesel auxiliary unit to service adequately the public residing in these two areas. No new construction of lines will be necessary.


After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires that the City of Loveland sell and distribute electric energy to the public residing in the two areas hereinbefore described.


O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires that the City of Loveland be, and the same is hereby, authorized to sell and distribute electric energy to the public residing in the two areas hereinbefore described, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 27th day of August, 1930.

(Decision No. 3022)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE WESTERN COLORADO POWER)
COMPANY FOR CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1684.

August 28, 1930.

Appearances: Maynihan, Hughes and Knous, Esqs., Montrose,
Colorado, attorneys for applicant.

S T A T E M E N T

By the Commission:

The Western Colorado Power Company, a corporation, filed its application for a certificate of public convenience and necessity authorizing the construction and operation of a 44 K.V. transmission line extending from its present interconnected system in Austin, Delta County, Colorado, in an easterly and northerly direction to a point at or near the northeast corner of Section 16, Township 14 South, Range 92 West, 6th P.M.

The allegation alleges that the purpose of the proposed construction is to afford a connection for the transmission of power between the interconnected system of the applicant and the generating plant and transmission line of The Oliver Power Company, whereby power purchased from The Oliver Power Company may be transmitted to the applicant's system, and in case of necessity power may be transmitted from the applicant's system to The Oliver Power Company. The application states that no permission is asked for authority to furnish electrical energy "to the territory now served by The Gunnison Valley Power Company or contiguous to the Town of Hotchkiss, Colorado."

The cost of the construction of the proposed line is \$44,000.

After careful consideration of the evidence the Commission is

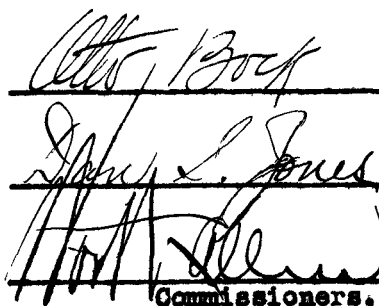
of the opinion, and so finds, that the public convenience and necessity requires the construction by the applicant of a transmission line extending from its present interconnected system in Austin, Colorado, in an easterly and northerly direction to a point at or near the northeast corner of Section 16, Township 14 South, Range 92 West, 6th P.M.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the construction and operation by the applicant of a transmission line extending from its present interconnected system in Austin, Colorado, in an easterly and northerly direction to a point at or near the northeast corner of Section 16, Township 14 South, Range 92 West, 6th P.M., and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That unless further ordered by the Commission the applicant shall not distribute electrical energy in the Town of Hotchkiss or in the vicinity thereof, and that the order herein, except as to the authority it expressly grants, shall not be considered to and does not confer any greater authority upon the applicant herein to extend its system, lines and service than it would have had without the order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 28th day of August, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

CONTINENTAL OIL COMPANY,

Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY, et al,

Defendant.

CASE NO. 295

IN RE INVESTIGATION RATES ON
PETROLEUM AND ITS PRODUCTS.

I. & S. DOCKET NO. 85

August 28, 1930

Appearances: Henry McAllister and J. A. Gallaher, Equitable Building, Denver, Colorado, for respondent, The Denver and Rio Grande Western Railroad Company.
J. R. Bell, G. H. Muckley, 205 Transportation Building, Washington, D. C., for Southern Pacific Railroad.
James E. Lyons and A. Burton Mason, 65 Market St., San Francisco, California, for Southern Pacific Railroad Company.
J. M. Souby and George H. Smith, Omaha, Nebraska, and Dana T. Smith, No. 10 South Main St., Salt Lake City, Utah, for Oregon Short Line Railroad Company, Los Angeles & Salt Lake Railroad Company and the Union Pacific Railroad Company,
Elmer Westlake, Railway Exchange Building, Chicago, Illinois, and B. M. Gillespie, Topeka, Kansas, for Santa Fe Lines.
M. A. Rawlings, 720 Railway Exchange Building, Kansas City Missouri, for Rock Island Lines.
W. L. Macatee, 17 Battery Place, New York City, New York, for The Texas Company.
H. L. McReynolds, L. R. Cowles and A. T. Sindel, 1400 Federal Reserve Bank Building, Kansas City, Missouri, for White Eagle Oil & Refining Company.
W. O. Banks, 225 Bush Street, San Francisco, California, and Charles E. Blaine, 417 Home Builders Building, Phoenix, Arizona, for Standard Oil Company, Union Oil Company and Shell Oil Company.
F. W. Turcotte and B. H. Carmichael, 110 West Eleventh Street, Los Angeles, California, for Gilmore Oil Company, Marine Oil Company, Tarr & McComb Corporation, Hancock Refining Company, MacMillan Petroleum Products Company and St. Helena Petroleum Corporation.

J. G. Stanley, R. F. Armstrong, P. R. Naylor,
P. H. Kuhns and D. C. Gillman, Continental Oil
Building, Denver, Colorado, for Continental
Oil Company.
H. W. Robertson, 45 Nassau Street, New York City,
N. Y. and Henry C. Keene, 812 Transportation
Building, Washington, D. C., for Sinclair Refining
Company.
D. F. McCarthy, Patterson Building, Denver, Colorado,
for Producers & Refiners Corporation.
A. T. Young and D. Edgar Wilson, 450 Equitable
Building, Denver, Colorado, for The San Luis
Central Railroad Company.
T. S. Wood, Denver, Colorado, for The Public Utilities
Commission of the State of Colorado.
R. L. Ellis, Pueblo Commerce Club, Pueblo, Colorado,
for A. A. Vickers Petroleum Company in Docket 18818,
and The Jewel Company, Incorporated, in Dockets
14121 and 19032.
R. B. Ramsey, San Acacio, Colorado, for The San Luis
Valley Southern Railway Company.
F. J. Toner, Denver National Bank Building, Denver,
Colorado, for The Denver and Salt Lake Railway
Company.
F. B. Clark, 1806 Missouri Pacific Building, St. Louis,
Missouri, for Missouri Pacific Railroad Company.

S T A T E M E N T

By the Commission:

In its decision No. 2983, dated July 19, 1930, the Commission entered its order in the above entitled proceedings requiring respondents to publish and apply certain rates to the transportation of petroleum products from Florence and Minnequa, Colorado, to certain destinations on the lines of The Denver and Rio Grande Western Railroad, hereinafter referred to as the Rio Grande, and from Florence to Canon City, via the line of the Santa Fe.

In its Investigation and Suspension Docket No. 85, the Commission suspended the operation of certain rates to points of destination on the lines of the Rio Grande Southern Railroad Company, in addition to those suspended to points of destination on the lines of the Rio Grande, all of which by its decision No. 2983 have been ordered cancelled on or before October 1, 1930, upon notice to this Commission and to the general public by not less than thirty days' filing and posting in the manner prescribed in Section 16 of the Public Utilities Act.

By its order dated July 7, 1930, the Interstate Commerce Commission has prescribed the same level of rates to points of destination on the Rio Grande Southern as to points of destination on the narrow-gauge lines of the Rio Grande.

Unless this Commission enters a similar order affecting intrastate traffic there will be a disparity or difference between state and interstate rates to destinations on the Rio Grande Southern, which on the record as made does not warrant any different treatment.

An appropriate supplemental order will be entered.

SUPPLEMENTAL ORDER

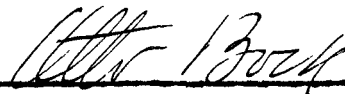


IT IS THEREFORE ORDERED, That the order heretofore entered in these proceedings be, and the same is hereby reopened.

IT IS FURTHER ORDERED, that intrastate rates on petroleum products in carloads from Florence, Colorado, to destinations on the Rio Grande Southern Railroad Company shall not exceed rates determined by adding to the local rates prescribed in the original order to the junction points with the narrow-gauge lines of The Denver and Rio Grande Western Railroad Company joint rates beyond determined by applying the narrow-gauge scale set forth in Appendix "D" of the report of the Interstate Commerce Commission in Docket No. 20145, to the distance from said junction point to destination, provided however that such rates shall not exceed the contemporaneous fifth-class rates.

IT IS FURTHER ORDERED, That the respondents in I. & S. Docket 85 may cancel the schedules involved therein on or before October 1, 1930, upon notice to this Commission and to the general public by not less than one day's filing and posting in the manner prescribed in Section 16 of the Public Utilities Act.

IT IS FURTHER ORDERED, That the order previously entered in these proceedings in all other respects shall remain in full force and effect until the further order of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 28th day of August, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

A. ROMNEY,

Complainant,

vs.

JOHN R. CLARK AND R. C. GRAHAM,
CO-PARTNERS, DOING BUSINESS AS
MEEKER LIGHT AND WATER COMPANY,

Defendants.

CASE NO. 526

August 29, 1930.

Appearances: A. Romey, Meeker, Colorado,

pro se;

John R. Clark, Esq., Meeker, Colorado,
for respondents.

S T A T E M E N T

By the Commission:

A. Romey filed his complaint against John R. Clark and R. C. Graham, co-partners, doing business as Meeker Light and Water Company. An answer was filed by the respondents, who filed also a motion to dismiss. This motion, and an oral motion made when the case came on for hearing were urged upon the Commission at the beginning of a hearing recently held. The Commission is of the opinion that there is no good ground for dismissing the complaint.

The evidence shows that for some two or three months prior to the 1st of December, 1929, there had been carried on the monthly statements rendered to the complainant, Romey, a balance of \$1.20; that in the month of November respondent Graham explained the said item to Romey, who offered at that time to make payment thereof; that said Graham informed Romey that he could make payment of the item when paying the statement to be rendered on or about December 1. The rules and regulations of the respondents allow customers thirty days in which to make payment of their monthly bills. On or about

December 9, Roney issued his check in the amount of \$19.80 in payment of the bill rendered and which was payable within thirty days from December 1 or the date in December on which the bill was rendered. This check included the said item of \$1.20. It included also an item of \$4.20 which appeared on the statement under the word "Heat." However, a line had been drawn through the word "Heat" by the clerk of the respondents who made out the statement, and the word "Power" was written by said clerk in the place thereof. This particular item was for energy consumed in the complainant's home, partly or in whole in the operation of an electric refrigerator. Other energy used in the home was for lighting purposes and was measured on a different meter.

The respondents had then and now have on file with the Commission a schedule of rates, one set of rates being for "Commercial Power", another for "Heating and Cooking." The three steps in the power rate are 8, 5 and 3 cents, respectively, per kilowatt hour, while the steps in the heating rate are 4, 3 and 2 cents, respectively. Immediately or shortly after Roney had given the check in question, he discovered that the amount charged him in said bill for energy used in operating the refrigerator was the amount that would be arrived at by application of the commercial power rate. Thinking that the latter rate had no application to an electric refrigerator, he stopped payment on the check. The respondents thereupon disconnected his service. Before the respondents would reinstate service, complainant was required to give another check for the full amount of the bill and was told that he would have to make a deposit of \$25.00 within forty-eight hours to insure payment of subsequent bills. The check for the full amount of the \$19.80 bill was delivered, the service was reinstated and the deposit was made, but not willingly. Thereafter the respondents credited the complainant on two different monthly statements with amounts which total the difference between the item of \$4.20 and \$2.85, the amount which the item should have been if the heating and cooking rate, as distinguished from the commercial power rate, were applicable.

The complainant and his wife testified that Graham advised them or one of them at the time the controversy was in progress that they were

required to pay the commercial power rate for energy for electric refrigeration and that for that reason they had been charged \$4.20. Graham admitted at the hearing that the commercial power rate in his schedule is not applicable to electric refrigeration and testified that he had never so stated to the complainant or his wife. He further testified that he had never seen before the statement prepared by his clerk in which the complainant was charged for "Power" the exact amount required if the commercial power rate were applicable. He was unable to explain how the clerk had made the error.

It is obvious to the Commission that the bill was prepared by the clerk on the theory that the commercial power rate was applicable. It is very difficult to understand why, when the overcharge was called to the attention of Graham, who claims that he never stated or claimed that the power rate was applicable, he did not then in taking another check accept one for \$1.35 less and based upon the proper charge for the energy used for the refrigerator. No explanation was given for not then correcting the bill. The refund was never made to the complainant until after the Commission's engineer had been in telephonic communication with Graham.

A rule of the Commission requires that before service of a customer is disconnected he must be given forty-eight hours' written notice. In disconnecting complainant's service the respondents violated this rule. Moreover, under the respondents' own rule and practice the thirty-day period allowed by them lacked some three weeks of having expired if we assume that the bill in question was rendered on the first day of December instead of some subsequent day of that month.

There was some evidence given showing that the complainant, beginning with the month of March, 1930, has been taking the full period of thirty days and sometimes a day or two more in which to make payment of his monthly bills. So far as taking thirty days is concerned he has that right. In taking a day or two more it appeared that in one or two cases it had been due to the 30th day falling on Sundays, and in others the time was taken by the mail service ~~in~~ delaying the letter in which the check was sent. It appeared also that other old customers had been letting their bills

run a day or two over the thirty-day period and that no deposits were required on that account. Graham testified that the right to require a deposit in this case was not based on the complainant's delay in paying bills in 1930.

No third meter was ever installed in complainant's home and the respondents now admit that they have no right to require such installation, although complainant testified Graham said it would be necessary.

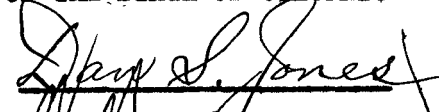

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the respondents have arbitrarily and unjustifiably disconnected the complainant's service contrary to the rule of this Commission and long before expiration of the time allowed by respondents for making payment, and arbitrarily and unjustifiably demanded and received the deposit of \$25.00 and that in demanding, receiving and holding said deposit they were and are guilty of unlawful and unreasonable discrimination against the complainant.

The Commission finds that it may not, under the law and the facts in the case, properly require the respondents to pay a penalty.

O R D E R

IT IS THEREFORE ORDERED, That the respondents within ten days from this date return the complainant's deposit of \$25.00, together with interest thereon at the rate of eight per cent per annum from the date on which they received payment thereof.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 29th day of August, 1930.

W.C. [Signature]
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(Decision No. 3025)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

FRANK GUAGLIARDO,

Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,

Defendant.

CASE NO. 559

September 2, 1930.

Appearances: None.

S T A T E M E N T

By the Commission:

Complainant, an individual engaged in the business of feeding and raising cattle in and about Pinon, Colorado, received at Pinon, Colorado, January 16, 1930, one earload shipment of beet pulp which originated at Swink, Colorado. By complaint filed July 17, 1930, complainant alleges that at the time such car arrived at Pinon, the weather was extremely cold and the pulp was frozen practically solid. That the complainant notified the Railway Company, through its agent, that it was impossible to unload the pulp until the weather warmed up sufficiently to thaw out this pulp, and the railway agent advised that this handling would be satisfactory.

Several efforts were made to dig out the pulp but it was impossible to entirely unload the car until February 6, which was the earliest time that lading could be gotten out of the car.

That thereafter, the defendant, The Atchison, Topeka and Santa Fe Railway Company, assessed demurrage charges and has been demanding the payment of said charges in the amount of \$48.00 on account of the car being

held twelve days over and above six days free time provided in the demurrage tariff. The complainant contends that the demurrage rules do not cover a situation of this kind because they allow only two days' extra free time for thawing out a frozen car but it was impossible to make any arrangements for thawing out this particular shipment and unloading was impossible before the time the car was actually unloaded. When the shipment was received, defendant's demurrage tariff provided as follows:

"No demurrage charges shall be collected under these rules for detention of cars through causes named below * * *. Demurrage charges assessed or collected under such conditions shall be promptly cancelled or refunded by this railroad.

CAUSES

Section 1 - Weather interference.

Note: A consignor or consignee shall not be absolved from demurrage under Section A of this Rule if, considering the character of the freight, other similarly situated and under the same conditions reasonably could and did load or unload cars during the same period of time.

1. * * * * *

2. When, at time of actual placement, lading is frozen so as to require heating, thawing or loosening to unload, the free time allowed shall be extended forty-eight (48) hours, making a total of ninety-six (96) hours' free time, provided the consignee shall, within forty-eight (48) hours after actual placement, serve upon the railroad's agent a written statement that the lading was in such frozen condition at time of actual placement."

In answer to the complaint the defendant states that the facts set forth in the complaint are correct to the best of its knowledge, and that it is entirely willing that the Commission enter the order prayed, because it feels that it is an injustice to assess charges for the detention of this car, but under the demurrage tariff it feels there is no other course to follow.

The primary purpose of imposing demurrage is to promote the prompt movement of cars in the public interest. Failure to release cars within a reasonable time is wrong against other shippers desiring to use them and against the general public, which can to a large extent be avoided by the enforcement of appropriate demurrage rules and penalties. Shippers, however, are entitled to a reasonable free time for loading or unloading cars.

The essential facts which justly entitled complainant to additional free time for unloading are uncontroverted. While we are not to be understood as condemning the tariff as a rule of general application, we find upon the particular facts of record herein that the demurrage charges assessed on the shipment in question were unreasonable.

O R D E R

IT IS THEREFORE ORDERED, That defendant, The Atchison, Topeka and Santa Fe Railway Company, be, and it is hereby, ordered to waive collection of the undercharge in the amount of \$48.00 on the aforesaid shipment.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. B. Gray
James L. Jones
Wm. H. Miller
Commissioners.

Dated at Denver, Colorado,
this 2nd day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION
OF THE BUS TRANSPORTATION COMPANY
TO AMEND CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY.

Application No. 610.

September 2, 1930.

Appearances: W. A. Alexander, Esq., Tramway Bldg., Denver, Colorado,
for applicant.

STATEMENT

By the Commission:

This is an application to amend the certificate of public convenience and necessity issued to The Bus Transportation Company on February 16, 1927. No protest was filed against this application.

The testimony shows that the applicant has been requested by School District No. 13, located in Arapahoe County, to operate school bus service accommodating some twenty school children living south of Yale Avenue and adjacent to Federal Boulevard, carrying such children to the Sheridan School located in what is commonly known as Logantown; that there are no present transportation facilities to afford such service. The school district put to a vote of the people whether to purchase a truck of their own or to utilize the services of The Bus Transportation Company; the vote was practically unanimous to obtain the services of the applicant. The School District has entered into a contract with the applicant to render this transportation service on school days only on the payment of \$80.00 per month.

After a careful consideration of the testimony the Commission is of the opinion, and so finds, that the public convenience and necessity requires the extension of the applicant's route from the paved highway running between Fort Logan and Sheridan Boulevard north


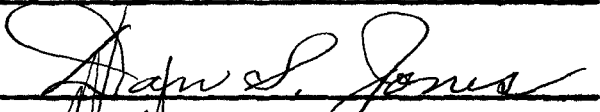
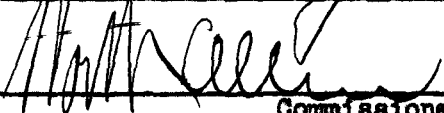
on Federal Boulevard to Yale Avenue, for the transportation of school children on school days only.

O R D E R

IT IS THEREFORE ORDERED, that the public convenience and necessity requires that the applicant's certificate of public convenience and necessity heretofore issued shall be, and the same is hereby, amended, extending its line from the paved highway running between Fort Logan and Sheridan Boulevard north on Federal Boulevard to Yale Avenue, for the transportation of school children, on school days only, and this order shall be held and deemed to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, that the applicant shall file with this Commission within ten days from the date of this order tariffs and schedules covering such service.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 2nd day of September, 1930.

W.C. Allen
9/1/30

(Decision No. 3027)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

476

IN THE MATTER OF THE PETITION TO
REVOKE CERTIFICATE OF PUBLIC CON-
VENIENCE AND NECESSITY OF P. DICK
SCHWAB.

APPLICATION NO. 1588.

September 3, 1930.

Appearances: Jack Garrett Scott, Esq., Denver, Colorado,
for Motor Truck Common Carriers' Assn.

STATEMENT

By the Commission:

This is a petition by The Motor Truck Common Carriers' Association to cancel and revoke a certificate of public convenience and necessity issued by this Commission to P. Dick Schwab on June 18, 1930 (Decision No. 2944). No answer was filed to this petition. The matter was set down for hearing at the Hearing Room of the Commission, but no appearance was made by the respondent Schwab.

The testimony shows that since the date of the order granting certificate the respondent Schwab continued to operate in the transportation of milk, cream and dairy products from territory other than described in his certificate, and has been serving milk producers and shippers who live outside of and beyond the territory which he was authorized in his certificate to serve. Moreover, the certificate when issued contained an order that Schwab file with this Commission a written acceptance of said certificate within twenty days from June 18, 1930. This acceptance has never been filed.

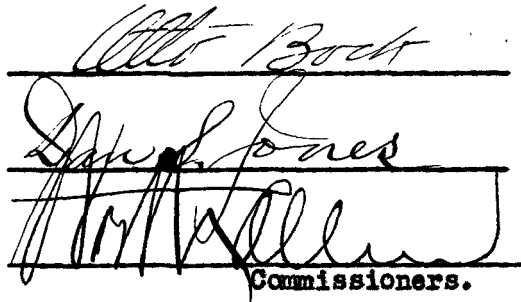
The testimony also shows that the applicant ceased entirely to operate as a motor vehicle carrier approximately thirty days ago.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that said certificate referred to above be cancelled and held for naught.

O R D E R

IT IS THEREFORE ORDERED, that the certificate of public convenience and necessity issued on June 18, 1930 (Decision No. 2944) to P. Dick Schwab, be, and the same is hereby, cancelled and held for naught.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 3rd day of September, 1930.

(Decision No. 3028)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - -

RE DISCONTINUANCE OF TRAIN
SERVICE BETWEEN EASTONVILLE
AND FALCON, COLORADO.

I. & S. NO. 125

September 10, 1930.

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S T A T E M E N T

By the Commission:

The Commission is in receipt of a letter dated May 9, 1930 from J. L. Rice, Esq., attorney for the Colorado and Southern Railway Company, in which he requests on behalf of his client that the above entitled matter be dismissed without prejudice.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Beck

Sam S. Jones

Commissioners.

Dated at Denver, Colorado,
this 10th day of September,
1930.

338

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * * *

IN THE MATTER OF THE JOINT)
APPLICATION OF TURNER-DENVER)
MOVING & STORAGE COMPANY, A COR-)
PORATION, AND DANIEL BEKINS, DOING)
BUSINESS AS THE BEKINS MOVING AND)
STORAGE COMPANY, FOR TRANSFER OF)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY.)

APPLICATION NO. 1294-A.

September 10, 1930.

Appearances: Jack Garrett Scott, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T.

By the Commission:

This is a joint application for the transfer of a certificate of public convenience and necessity issued to the Turner-Denver Moving & Storage Company on May 3, 1929. It is desired to transfer this certificate to Daniel Bekins, doing business as the Bekins Moving & Storage Company. No protest was filed against this application.

The testimony shows that the transferee has purchased the entire business of the transferor and that the transferee is sufficiently dependable financially.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that authority should be granted to transfer the certificate of public convenience and necessity in question.

O R D E R


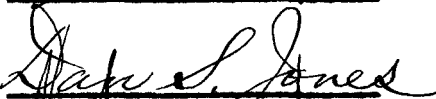
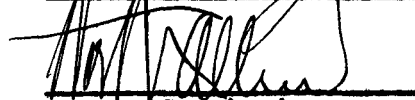
IT IS THEREFORE ORDERED, That the Turner-Denver Moving & Storage Company be, and it is hereby, authorized to assign and transfer to Daniel Bekins, doing business as the Bekins Moving & Storage Company, the certificate of public convenience and necessity issued by this Commission on May 3,

1929, Decision No. 2162.

IT IS FURTHER ORDERED, That the transferee adopt all rates, rules and regulations now on file with this Commission governing the operations under said certificate.

IT IS FURTHER ORDERED, That the said certificate is transferred to said Daniel Bekins subject to all the conditions and limitations contained therein.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 10th day of September, 1930.

407

(Decision No. 3030)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF H. B. MINOR FOR A CERTIFICATE) APPLICATION NO. 1631.
OF PUBLIC CONVENIENCE AND NECESSITY.)

September 10, 1930.

Appearances: George Frederick Guy, Esq., Cheyenne, Wyoming,
attorney for applicant;
Mr. Arie Maris, Grover Truck Line, Grover,
Colorado, pro se;
H. J. Struck and A. G. Smart, Esqs., Denver,
Colorado, for Chicago, Burlington & Quincy
Railroad Company.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight in interstate commerce only between Denver via Weldona, Colorado, and the Nebraska-Colorado state line. Protests were filed against this application by Percy Klinginsmith, the Chicago, Burlington & Quincy Railroad Company and Grover Truck Line.

The testimony shows that the applicant sometime previously was granted a certificate of public convenience and necessity by this Commission authorizing a motor vehicle system for the transportation of freight between Weldona, Goodrich and Denver, Colorado, but to no other intermediate point in intrastate commerce. The applicant now desires to operate in interstate commerce as above described. His equipment will consist of a 1½ ton truck and trailer in which he has invested approximately \$4,600. He expressed a willingness and desire to comply with all the state laws applicable to an interstate motor vehicle operation.

After a careful consideration of the evidence, the Commission is

of the opinion, and so finds, that the laws of the State of Colorado as well as the laws of the United States require the issuance to the applicant of a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight in interstate commerce only between Denver via Weldona, New Raymer and Kaufman, Colorado, to the Colorado-Nebraska state line.


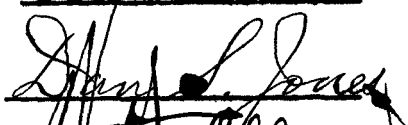

O R D E R

IT IS THEREFORE ORDERED, That the laws of the State of Colorado as well as the laws of the United States require the issuance of a certificate of public convenience and necessity for a motor vehicle system for the transportation of freight between Denver via Weldona, New Raymer and Kaufman, Colorado, and the Colorado-Nebraska state line, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 10th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - -

IN THE MATTER OF THE DENVER & RIO
GRANDE WESTERN RAILROAD COMPANY,
FOR AUTHORITY TO DISCONTINUE ITS
STATION AGENCY AT GREENLAND, COLORADO.

I. & S. NO. 138

September 10, 1930.

- - -

Appearances: Thos. R. Woodrow, Esq., Equitable Bldg., Denver, Colo.
for D. & R. G. W. RR. Co.
W. W. Grant, Jr. Atty. Denver, Colo., for the
protestants.

S T A T E M E N T

By the Commission:

On June 2, 1930, the Denver & Rio Grande Western Railroad Company filed with this Commission, a notice under general order No. 34, of their intention to discontinue the station agency at Greenland, Colorado, effective June 15, 1930. Thereafter, a number of citizens living in and about Greenland, Colorado, filed a statement with this Commission protesting this discontinuance on the ground that such action would work a hardship upon the community involved. Thereafter, the Commission issued an order suspending the effective date for 120 days from June 15, 1930. A hearing was held on this matter on September 8, 1930 at Denver, Colorado.

The testimony shows that Greenland was opened as a telegraph block office a number of years ago. Since then the conditions in connection with operation of the trains of the rail carrier have changed so that there is no demand at present for the maintenance of a block office at Greenland.

From July 1, 1929, to June 30, 1930, inclusive, eight carloads of commodities were received at Greenland via the applicant's railroad. During this same period there was forwarded in carloads, fifty-four cars of cattle and twelve cars of ties. The total earnings reported for the year 1929 amount to approximately \$2900, while the expense amounts to approximately \$2000.

The testimony of the protestants was to the effect that it would be an inconvenience to them and to other live stock shippers in the community involved, if this station were closed. It undoubtedly is somewhat of a convenience to have a station agent near at hand to take care of the billing of the shipments. Where, however, the business is small, the question for the Commission to determine is whether the inconvenience should be permitted, in view of the small earnings which in a measure, indicate the use of the station agency by the general public.

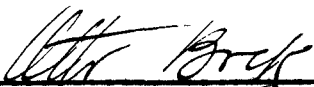
It is regrettable, of course, that any inconvenience should be suffered by any shipper and where this does not materially affect the earnings of the rail carrier, it should not be permitted. In the instant case, however, the evidence seems to be clear that the public convenience and necessity does not require continuation of the station agent at Greenland.


After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public interest requires the discontinuance of the station agency at Greenland.


O R D E R

IT IS THEREFORE ORDERED, That the Denver & Rio Grande Western Railroad Company, be and it is hereby authorized to discontinue its station agency at Greenland, Colorado, effective October 15, 1930.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 10th day of September,
1930.

✓
11/11
(Decision No. 3032)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF PROPOSED CURTAIL-)
MENT OF TRAIN SERVICE BETWEEN EL-)
BERT, COLORADO, AND FOUNTAIN, COLO-)
RADO, OF THE COLORADO & SOUTHERN)
RAILWAY COMPANY.)

I. & S. NO. 136

September 10, 1930

S T A T E M E N T

By the Commission:

The Colorado & Southern Railway Company filed with the Commission written notice that it proposed to and would discontinue its present train service, consisting of one scheduled mixed train per day in each direction, between Elbert, Colorado, and Falcon, Colorado, and would substitute in lieu thereof an irregular train service consisting of non-scheduled trains to be run between said places, or over such part of the railroad between said places as might be necessary, when there should be in the aggregate at least five cars to be moved, both directions included. Thereupon a number of citizens and patrons of said railway company filed their written intervention and protest. The Commission then made its investigation and suspension order.

On the 8th day of September there was filed with the Commission a stipulation signed by the attorneys for the railway company and the attorneys for all said interveners and protestants.

Without making a separate recital of the details of said stipulation, the Commission is of the opinion, and so finds, that due regard for the needs and convenience of the shipping public dependent upon the services of said railway company and for the volume of business done between said

points requires that authority be granted to the railway company to curtail and limit its train service in the manner specified and agreed upon in said stipulation.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to the Colorado & Southern Railway Company to curtail and limit its service in such a manner that it shall in the future, beginning October 1, 1930, and until further ordered by the Commission, render service as follows:

Effective October 1, 1930, said Railway Company shall have the right to reduce its regular train service between Elbert, in Elbert County, Colorado, and Falcon, in El Paso County, Colorado, in said State, to one round trip freight train per week.

Said weekly round trip shall be made on Saturday of each week and shall be a prolongation of the train trip made between Denver and Elbert on that day.

In addition to said regular weekly trip to be made on Saturday as aforesaid, the Railway Company shall also run its Denver-Elbert train through to Eastonville or to Falcon, and return (as may be necessary to accomplish the transportation desired) on any other day or days upon which there are five carloads of livestock to be moved on such train, in either direction south of Elbert; providing, the party or parties interested shall give said Railway Company's station agent at Elbert, or its Chief Dispatcher in Denver, 24 hours' notice of the making of such five car shipment of livestock, and request such special trip therefor.

Trains operated as provided for herein shall leave Denver in the forenoon and leave Falcon in the afternoon on the return trip.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alfred Brock
James S. Jones
W. H. Allen
Commissioners.

Dated at Denver, Colorado, this
10th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF PIKES PEAK AIR COMMERCE, INC.,)
FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1654 ✓

IN THE MATTER OF THE APPLICATION)
OF THE UNITED STATES AIRWAYS, INC.,)
FOR A CERTIFICATE OF PUBLIC CON-)
VENIENCE AND NECESSITY.)

APPLICATION NO. 1661

September 13, 1930.

Appearances: D. P. Strickler, Esq., Colorado Springs, Colo.,
attorney for Pikes Peak Air Commerce, Inc.;
F. J. Knauss, Esq., Denver, Colorado,
attorney for United States Airways, Inc.

S T A T E M E N T.

By the Commission:

On July 14 Pikes Peak Air Commerce, Inc., filed its application for a certificate of public convenience and necessity authorizing the transportation of passengers, freight and express for hire by motor airplane on regular routes, as follows:

"From Durango to Denver via Alamosa, Pueblo and Colorado Springs, with stops made at said intermediate points;

Also from Grand Junction to Alamosa connecting with the above mentioned line and via Delta, Montrose and Gunnison with regular stops at said intermediate points."

On July 22 United States Airways, Inc., filed its application for a certificate of public convenience and necessity authorizing the transportation by motor airplane of passengers and express between Denver, Salida, Gunnison, Montrose, Delta and Grand Junction and intermediate points. The United States company sent to the Commission on June 30 a telegram asking the Commission to consider the telegram as an application for authority to establish its proposed service.

The Pikes Peak company holds two certificates of public convenience and necessity granted by the Commission in Applications Nos. 1331 and 1509, which said certificates were issued on April 27, 1929, and February 7, 1930, respectively. Under these certificates the said company is authorized to operate a motor airplane system for the transportation of passengers within what is commonly known as the Pikes Peak region, and for chartered trips within and without the State of Colorado, and for the transportation of passengers on regular routes within a territory adjacent to the City of Pueblo.

The United States company is operating under a certificate of public convenience and necessity granted in Application No. 1192, issued on October 2, 1928. Its operations have consisted of the transportation of passengers on schedule between Denver and Kansas City and St. Louis.

The Pikes Peak company alone desires to serve Alamosa, Saguache and Durango.

The evidence shows that the people in all the cities proposed to be served by applicants desire airplane service, between Denver and those cities. The evidence shows further that the operations of both applicants have been dependable and satisfactory. Both companies propose to make a charge of ten cents a mile for transporting passengers.

The Pikes Peak company proposes to fly one ship between Denver and Alamosa, at which point one ship will fly over Cochetopa pass via Gunnison, Montrose and Delta to Grand Junction, and another to Durango. The two ships from Grand Junction and Durango will also meet in Alamosa, from which point one plane, unless another is needed, will fly on to Denver. The Pikes Peak company's operating time between Durango and Denver is three hours and forty-five minutes, between Grand Junction and Denver four hours. However, a stop-over of some forty minutes in Alamosa is proposed. The proposed schedule of the United States company is two and one-half hours between Grand Junction and Denver. According to the evidence, the route of the United States company to Grand Junction will be somewhat shorter.

There was some evidence given on the part of the Pikes Peak company which shows that its planes will not have to cross the mountains

at as high an altitude as that at which the United States company's planes will cross; that also there is considerably more danger in flying the route via Salida because of the higher mountains which have to be crossed in that vicinity. On the other hand, the testimony for the United States company was to the effect that with the planes which it proposes to use there will be no danger whatsoever, as the planes can reach high altitudes where flying is less dangerous than at low ones. The two passes which the Pikes Peak company would pass over are Cochetopa, with an altitude of 9100 feet, and Cumbres, with an altitude of 9400 feet. We would hesitate to allow the matter of altitude of passes to control our decision but we are inclined to believe that it is desirable that the mountain passes over which airplanes fly should be as low as possible, and that the safety of the passengers is better served by flying over Cochetopa pass than Monarch or some other pass near Salida.

So far as the equipment proposed to be used is concerned, the Commission is of the opinion, and so finds, that that of both would be reasonably safe and dependable. The type of ship proposed to be used by the Pikes Peak company is a six-passenger cabin monoplane, costing some \$16,000 a ship. It is proposed to use three in the service with one in reserve. The type proposed to be used by the United States company is a Bellanca, which is said to be able to carry a load at an altitude of 20,000 feet.

The United States company proposes to make connection in Denver with its plane leaving there at 8 A.M. for Kansas City. This would require a departure from Grand Junction at 5:30 A.M. The manager of the company admitted that in the winter it would be impossible to leave the field in Grand Junction at 5:30 A.M. because regulations which control do not permit the departure from an unlighted field. It was admitted that the hour of departure from Grand Junction during that part of the year when the nights are long would be about one hour and forty-five minutes later. However, it was testified that the plane in Denver would wait for the plane from Grand Junction if any passengers on the Grand Junction-Denver line should desire to

continue on beyond Denver. The Commission believes that the manager was mistaken in his testimony and that connections in Kansas City and St. Louis would not be permitted to be disturbed by planes being held in Kansas City for the one from Denver. It is simply, in our humble opinion, out of the question. If it were not so obvious, we would not take the liberty of saying further that our position is confirmed by a statement made to us by the president of the United States company since the hearing was had herein.

The schedule proposed by the Pikes Peak company would permit close connections with airplane lines serving Dallas, Fort Worth, Amarillo, Tulsa, Oklahoma City and Los Angeles. One leaving Durango or Grand Junction in the morning could reach Los Angeles by 8:30 P.M.

The testimony for the United States company was to the effect that within some ^{two} days of the hearing there had been a consolidation or affiliation of the United States company with two other companies, referred to as Pittsburg Airways and Ohio Transport. Just what the nature of this association or consolidation or whatever the arrangement is, was not described. There was some talk about the United States company, through this association, affiliation or consolidation, being able to get some one or more air mail contracts. However, the evidence was wholly indefinite and vague on this point. There was nothing to indicate that the Post Office Department is considering institution of air mail service across the State of Colorado through Denver and Grand Junction. There was introduced in evidence a letter from the Second Assistant Postmaster General dated August 1, in which he stated that, "The Post Office Department has never said that it was in favor of the establishment of this route (which it had referred to in a preceding paragraph as 'from Kansas City to Denver') but, if it should so decide to establish a mail route in this territory, it would have to be advertised for at least sixty days and then awarded to the lowest responsible bidder, and there is no assurance that the United States Airways would be that bidder. At the present stage of the game there might be a half dozen people who would bid on this route with a fair chance that any one of them might bid lower than the United States Airways." The letter goes ahead and states that if the United States Airways should

be a successful bidder on the contract for the Kansas-Denver route, the Comptroller General might then either decide for or against its operating to Grand Junction. It will be observed, therefore, that there is nothing at all definite before us about any plans of the Post Office Department to institute any new mail service into or through the State of Colorado. If the recent affiliation or association of the three companies was for any definite immediate purpose, it is doubtless one which is in no manner connected with Colorado. It may be that the United States company and the other two are hoping to obtain some contract for the carrying of transcontinental mail through St. Louis and, possibly, Kansas City, to Los Angeles. When, if ever, any air mail service is expected to be put into effect in Colorado is a matter wholly in the realm of speculation. For these reasons we cannot give any considerable weight to the talk of the United States company about putting Denver and Colorado on a transcontinental airplane route. If and when there is a possibility of obtaining such service, it is possible that the advantages therefrom may out-weigh considerations affecting local airplane companies operating within the State over the route. However, this is a matter on which we now make no decision. Future questions will be decided with a view to the requirements of the public convenience and necessity and with due consideration for the rights of those in the field.

Neither of the two applicants would afford any connections in Denver which are directly east or west. The United States company proposes to take its passengers down through Kansas City and St. Louis. The other company has connections with cities in Oklahoma, Texas, California, etc. If we assume that more of the passengers from Colorado would be bound to or through Kansas City than to the other cities which could be served by the Pikes Peak company, we believe the fact that more cities in Colorado would be served by the Pikes Peak company more than offsets that consideration. Not only would the people of the San Luis Valley and Durango have the benefit of an airplane service between Denver and those cities, facilitating not only passenger travel and the relations and transactions between banks, but also the great convenience of travel between points on the Gunnison River and those in the San Luis Valley and San Juan districts.

It is regrettable that at this early stage of development of airplane service in our State a certificate may not be issued to each of the applicants herein. But they both agreed at the hearing that there is not enough business for duplication of service and that only one certificate should be granted. We feel quite convinced that there is not enough airplane business between Grand Junction and Denver to warrant the operation of two lines between those cities.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor airplane service of Pikes Peak Air Commerce between Denver, Colorado, and Durango, via Colorado Springs, Pueblo and Alamosa, and from Alamosa to Grand Junction via Gunnison, Montrose and Delta.

The Commission is further of the opinion, and so finds, that the public convenience and necessity does not require the proposed motor airplane service of the United States Airways, Inc.

Chairman Bock did not participate in the disposition of these cases.

O R D E R

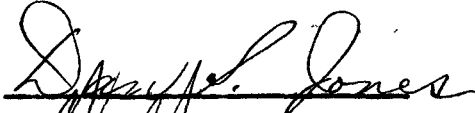

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor airplane service of the Pikes Peak Air Commerce, Inc., between Denver and Durango, via Colorado Springs, Pueblo and Alamosa, Colorado, and between Alamosa and Grand Junction, via Gunnison, Montrose and Delta, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant, the Pikes Peak Air Commerce, Inc., shall file tariffs of rates, rules and regulations and time and distance schedules affecting its operations within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the application of the United

States Airways, Inc., be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 13th day of September, 1930.

✓

WCH
CCD
9/13/30
(Decision No. 3034)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - -

WESTERN RAILWAYS ICE COMPANY,

Complainant,

vs.

CASE NO. 557

THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY,

Defendant.

- - - - -

- - - - -
September 13, 1930
- - - - -

Appearances: Charles W. Eggert and L. H. Blackly
for complainant, and
J. A. Gallaher and D. C. Stone
for defendant.

S T A T E M E N T

By the Commission:

Complainant is a corporation engaged principally in the business of furnishing ice to the American Refrigerator Transit Company (a railroad subsidiary) to be used in icing cars requiring refrigeration, its main office being located at 2635 Blake Street, Denver, Colorado.

By complaint filed May 27, 1930, it is alleged that the rate on ice, in carloads, from Pueblo and Buena Vista, Colorado, to Alamosa, Colorado, were and are unreasonable. Reparation and reasonable rates for the future are sought. Rates will be stated in amounts per ton of 2000 pounds.

At the hearing complainant withdrew its request for rates for the future, confining its allegations solely to the unreasonableness of the rates on which the shipments moved, stating as its reason for so doing that it is very likely that it would have no occasion, or at least but rarely, to use such rates in the future.

Owing to an unprecedented crop of vegetables raised and shipped from the San Luis Valley district, (in and around Alamosa) in the year 1929, and due to increased refrigeration necessary to preserve foodstuffs in transit, the ice situation at Alamosa became acute the latter part of August and the first part of September, 1929. In anticipation of the requirements of the American Refrigerator Transit Company to protect the lettuce crop, complainant shipped ice into Alamosa from Buena Vista and Pueblo on August 30 and 31 and September 3, 4 and 5, 1929, at rates of \$3.10 and \$2.30 respectively.

Prior to the time these shipments moved request was made of the defendant to reduce the rates in order that the said commodity could move more freely from the points of origin involved. Effective September 7, 1929, the defendant published emergency rates of \$1.65 and \$2.45 from Pueblo and Buena Vista, respectively, to Alamosa, with an expiration date of November 30, 1929.

Under date of November 25, 1929, we received an application from the defendant for authority to reparate to complainant \$450.09 on 29 earload shipments of ice from Pueblo to Alamosa. Owing to the fact that the Commission has established certain requirements in connection with its informal reparation docket, one of which is "Authority for refund on account of reduced rates or changed tariff regulations shall include a clause providing that the new rate or regulation upon the basis of which reparation is granted shall not be exceeded for a period of at least one year, which shall run from the date of authorization and not from the date when the reduced rate or new regulation became effective," it could not entertain the application unless defendant was prepared to comply with the above quoted requirements. This the defendant did not care to do owing to the nature of movements of ice.

The defendant is agreeable that reparation should be granted on the shipments involved herein but objects to the maintenance of such rates as permanent ones, which as previously stated, is agreeable to complainant.

We find upon the particular facts of record herein that the rates assailed were unreasonable and excessive to the extent that they exceeded \$1.65 and \$2.45 from Pueblo and Buena Vista, respectively; that complainant made shipments as described and paid and bore the charges thereon; that it has

been damaged and is entitled to reparation in the amount of the difference between the charges paid and those which would have accrued at the rates herein found reasonable. Complainant should prepare a statement showing details of the shipments on which reparation is claimed, such statement to be certified by the defendant as to its accuracy. Upon receipt of said certified statement an order will enter for reparation. No order for the future will be necessary.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Bock
David S. Jones
W. H. Hall
Commissioners.

Dated at Denver, Colorado,
this 15th day of September, 1930.

✓

*Back
Case
Sullivan 9/13/30*

(Decision No. 3035)

MAKE NO
COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN RE MOTOR VEHICLE OPERATIONS)
OF L. A. STEVENS.)

CASE NO. 575

September 13, 1930

S T A T E M E N T

By the Commission:

This is a complaint on the Commission's own motion instituting an investigation of the question of whether or not the respondent, L. A. Stevens, is operating as a motor vehicle carrier without a certificate of public convenience and necessity as required by law. This matter was set down for hearing at Grand Junction, Colorado, on September 11, 1930.

The undisputed testimony shows that the applicant has for some time been transporting for practically all of the merchants at Olathe, Colorado, merchandise of various kinds from Grand Junction, Colorado. Moreover, the respondent, who was present at the hearing, admitted that he indiscriminately transported by motor vehicle freight between Grand Junction and Olathe, Colorado. He stated, however, that for the past month he has entirely ceased operating as such motor vehicle carrier.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that L. A. Stevens, respondent herein, has been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927. An order will be entered requiring him to cease and desist.

O R D E R

IT IS THEREFORE ORDERED, That the respondent herein be, and he is hereby, required to forthwith cease and desist as a motor vehicle carrier

as defined in Chapter 134, Session Laws of Colorado, 1927.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Wm. Bock
Harry L. Jones
Wm. H. Miller
Commissioners.

Dated at Denver, Colorado,
this 13th day of September, 1930.

W.C. [Signature]
9/13/30
Dillon

(Decision No. 3036)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF GEORGE H. KARSTENS AND FRED P.)
HEINTZ, CO-PARTNERS, FOR A CERTI-)
FICATE OF PUBLIC CONVENIENCE AND)
NECESSITY.)
-----)

APPLICATION NO. 1177

September 13, 1930.

S T A T E M E N T

By the Commission:

On October 2, 1928 this Commission issued a certificate of public convenience and necessity to the applicants for the irregular transportation of freight from a certain territory between Great Divide and Craig, Colorado. The Commission is now advised by the applicants that a great many farmers are purchasing trucks and are doing freighting for others that have no truck so that there is very little business. Moreover, the report of the applicants on the freighting done shows that very little freight has been transported. The applicants ask for an abandonment of the operation. Under these circumstances an order will be entered cancelling the certificate herein.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity issued in Application No. 1177 (Decision No. 1941) be, and the same is hereby, cancelled and held for naught.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

[Signature] Brock
[Signature] S. Jones
[Signature] [Name]
Commissioners.

Dated at Denver, Colorado,
this 13th day of September, 1930.

(Decision No. 3037)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION
OF THE TRI-STATE MOTOR WAY FOR
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY.

APPLICATION NO. 1605.

September 13, 1930.

STATEMENT

By the Commission:

This application was set down for hearing at Grand Junction, Colorado, on September 11, 1930. On September 2, 1930 this Commission received a letter from counsel for applicant in which we are advised that the application may be considered as abandoned and that further consideration of the same may be dispensed with.

ORDER

IT IS THEREFORE ORDERED, That the application be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(SEAL)

OTTO ROCK

DAN S. JONES

WORTH ALLAN

Commissioners.

Dated at Denver, Colorado,
this 13th day of September, 1930.

ATTENT:

A true copy.

Secretary.

remain in effect until change is provided by the rules and regulations of
this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Boy
Samuel S. Jones
W. H. Allen
Commissioners.

Dated at Denver, Colorado,
this 13th day of September, 1930.

✓

*W. J. [unclear]
J. [unclear] 9/13/30*

(Decision No. 3038)

261

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE JOINT)
APPLICATION OF ROBERT J. COLMAN,)
TRANSFEROR, AND ERNEST E. MARTIN,)
TRANSFeree, for TRANSFER AND)
ASSIGNMENT OF CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1052-AA

September 13, 1930.

Appearances: Tupper, Smith and Holmes, Esqs., Grand Junction,
Colorado, attorneys for applicants.

S T A T E M E N T.

By the Commission:

This is an application to transfer a certificate of public convenience and necessity issued by this Commission to Edward Martin on May 10, 1928 (Decision No. 1734). On October 21, 1929 (Decision No. 2591), the Commission transferred this certificate to Robert J. Colman. The instant application is to authorize Robert J. Colman to transfer said certificate to Ernest E. Martin.

After careful consideration of the testimony the Commission is of the opinion that this transfer should be authorized.

O R D E R

IT IS THEREFORE ORDERED, That Robert J. Colman be, and he is hereby, authorized to assign and transfer to Ernest E. Martin the certificate of public convenience and necessity issued on May 10, 1928, (Decision No. 1734).

IT IS FURTHER ORDERED, That all tariff schedules, rules and regulations on file with this Commission governing this operation shall

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9/13/30
(Decision No. 3039)

(At a general session of the Public Utilities Commission of the State of Colorado held at its office in Denver, Colorado, September 13, 1930.)

CASE NO. 578

Re: Protest by Chamber of Commerce of Greeley, Colorado against proposed rate schedule of the Greeley Gas & Fuel Co., for natural gas service in Greeley.

IT APPEARING, That there has been filed with the Public Utilities Commission of the State of Colorado by the Greeley Gas & Fuel Company by its manager, Mr. D. A. Hegarty, a tariff, Colo. P.U.C. No. 3, containing proposed rates for natural gas which affect consumers in the city of Greeley to become effective September 15, 1930;

IT FURTHER APPEARING, That the Greeley Chamber of Commerce by its president, secretary and attorney and by order of its Board of Directors, filed its protest on September 13, 1930 against said Colo. P.U.C. No. 3 of the Greeley Gas & Fuel Company alleging them to be excessive and unreasonable and protesting in particular, against the proposed minimum rate and the rates for industrial service;

IT FURTHER APPEARING, That the rules of procedure of the Commission provide that such formal protest before the date proposed rates become effective would require said proposed rates to be suspended, investigated, and set down for formal hearing, but in this instance, the proposed rates are for a new service not heretofore in existence, that is, the distribution of natural gas instead of manufactured gas, and it is reasonable to continue supplying natural gas which has commenced instead of resuming the supplying of manufactured gas as provided for in the schedule to be cancelled; in view of which fact, the Greeley Gas & Fuel Company by its present manager, Mr. C.H.Horne, has submitted a letter under date of September 13, 1930, to the Commission in which the said company assumes the full burden of proof for justification of the said proposed Colo. P.U.C. No. 3, when this matter is heard by the Commission.

O R D E R


IT IS THEREFORE ORDERED, That said tariff containing said proposed rates for natural gas in the city of Greeley shall temporarily continue in effect pending the Commission's final order in Case No. 578;

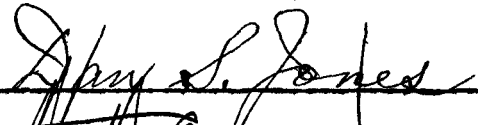
IT IS FURTHER ORDERED, That the Greeley Gas & Fuel Company shall in said proceedings upon the protest of the Greeley Chamber of Commerce assume in full the burden of proof as agreed,


IT IS FURTHER ORDERED, That a copy of this order be filed with said proposed rates and protest in the office of the Commission and copies served upon the Greeley Gas & Fuel Company, the mayor of Greeley, and the Greeley Chamber of Commerce,

IT IS FURTHER ORDERED, That this proceeding be assigned for hearing, the date and place to be designated later.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 13th day of September, 1930.

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(Decision No. 3049)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
THE GURNOW LIVERY AND TRANSFER COMPANY)
FOR A CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY.)

49

APPLICATION NO. 1237.

September 18, 1930.

Appearances: E. L. Regannitter, Esq., Idaho Springs, Colo.,
attorney for applicant;
G. H. Logan and J. Q. Dier, Esqs., Denver, Colo.,
for the Colorado and Southern Railway Co.;
Elmer F. Brock and F. J. Toner, Esq., Denver,
Colo., for the Denver and Salt Lake
Railway Company.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight in irregular service in the counties of Clear Creek, Gilpin and Grand in the State of Colorado.

Protests were filed against this application by the Board of County Commissioners of Gilpin County, the Denver and Salt Lake Railway Company, the Colorado and Southern Railway Company, and the Town of Silver Plume.

The first hearing was held on this matter on February 25, 1929. Thereafter, the Commission authorized the filing of an amended application for an irregular transportation system by motor vehicle in the Counties of Clear Creek, Grand, Summit, Gilpin and Jefferson, and for occasional service to any point within the State. In other words, the applicant seeks a certificate similar to those heretofore issued to members of the Colorado Transfer and Warehousemen's Association with the same terms and conditions.

The applicant holds a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight in regular service between Denver and Silver Plume. Its transportation experience has been extensive. The present equipment of the applicant is sufficient to take care of this additional operation.

The Commission has heretofore issued a number of certificates authorizing just such an operation as the applicant herein desires to conduct. It has, however, in each and every case conditioned the authority upon a requirement that in the transportation of any freight except household goods between points now served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates. The applicant has expressed a willingness to file a tariff containing rates substantially the same as those fixed by the tariff filed with the Commission by the Colorado Transfer and Warehousemen's Association, designated as Joint Freight Tariff No. Two, and also to be bound by the conditions which the Commission imposed upon similar operators.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operation of the applicant for the conduct of a transfer, moving and general cartage business in the counties of Clear Creek, Gilpin, Grand, Summit and Jefferson, in the State of Colorado, and for occasional service throughout the State and each of the counties whereof, subject to the terms and conditions hereinafter mentioned, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant, The Curnow Livery and Transfer Company, for the conduct of a transfer, moving and general cartage business in Idaho Springs, Colorado, and in the counties of Clear Creek, Gilpin, Grand, Summit and Jefferson, and for occasional service throughout

the State of Colorado and each of the counties thereof, subject to the terms and conditions hereinafter stated,) and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled motor vehicle and rail carriers, the applicant shall charge rates which shall be at least twenty per cent higher than those charged by said scheduled carriers.

(b) The applicant shall not operate on schedule between any points, except as heretofore authorized by the Commission.

(c) The applicant shall not be permitted without further authority from the Commission to establish a branch office or to have an agent employed in any other town or city than Idaho Springs for the purpose of developing this business.)

Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates which shall be not less than, and rules and regulations which shall be substantially the same as, those filed by the Colorado Transfer and Warehousemen's Association, designated as Joint Freight Tariff No. 240, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates, rules and regulations filed with this Commission, except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions;

and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

W. B. Bock
Donald S. Jones
Commissioners.

Dated at Denver, Colorado,
this 18th day of September, 1930.

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(Decision No. 3041).

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION)
THE CURNOW LIVERY AND TRANSFER)
COMPANY FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY.)
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49
APPLICATION NO. 1599

September 18, 1930.

Appearances: E. L. Regennitter, Esq., Idaho Springs, Colo.,
attorney for applicant;
G. H. Logan and J. Q. Dier, Esq., Denver, Colo.,
for Colorado and Southern Railway Company;
Elmer F. Brock and F. J. Toner, Esqs., Denver,
Colorado, for the Denver and Salt Lake
Railway Company.

S T A T E M E N T

By the Commission:

This is an application by the Curnow Livery and Transfer Company for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of passengers in a taxi service originating in Idaho Springs, Colorado. No protest was filed against this application.

The testimony shows that the applicant, who also conducts a motor vehicle system for the transportation of freight and a sightseeing operation, has been receiving a demand for a taxicab service to various points in and about Idaho Springs. There is now no authorized motor vehicle carrier at Idaho Springs giving such a service. The applicant desires first to give taxi service to points within the city limits of Idaho Springs and second a taxi service originating at Idaho Springs to any point within the State. In this taxi service the applicant proposes to charge 30 cents per mile, one to four passengers; over four passengers 40 cents per mile. The rate is based on mileage figured one way. Where the taxi service requires waiting more than fifteen minutes, a specific charge will be made for such service and fixed upon an hourly basis.

The equipment to be used in this service consists of three automobiles valued at approximately \$5400.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the Public convenience and necessity requires the motor vehicle system of the applicant in the operation of a taxi service between points within the city limits of Idaho Springs and from Idaho Springs only to any points within the State of Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of passengers in taxi service between any points within the city of Idaho Springs, and from Idaho Springs only to any point within the State of Colorado,) and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall not be permitted to operate said taxi service on any time schedule, nor shall the rates charged be competitive with the rates of a regular scheduled motor vehicle or rail carrier.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adapted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Bock
Sam S. Jones
Commissioners.

Dated at Denver, Colorado,
this 18th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
THE PUBLIC SERVICE COMPANY OF COLO-)
RADO FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT,)
MAINTAIN AND OPERATE AN ELECTRICAL)
DISTRIBUTION SYSTEM IN THE TOWN OF)
PONCHA SPRINGS, AND TO EXERCISE)
ELECTRIC FRANCHISE RIGHTS IN SAID TOWN.)

APPLICATION NO. 1682.

September 18, 1930.

Appearances: Lee, Shaw and McCreery, Esqs., Denver, Colorado,
attorneys for applicant.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing the Public Service Company of Colorado to construct, maintain and operate an electrical distribution system in the town of Poncha Springs, Colorado, and to exercise certain franchise rights granted to it by said town.

No protest was filed against this application.

The Mayor of the town of Poncha Springs filed a statement with this Commission to the effect that they favored this operation.

Poncha Springs is located approximately five miles from Salida, and a transmission line has been running through the town of Poncha Springs for a number of years. The community is very anxious to obtain this electric service, and there will be approximately twenty consumers.

The investment by the Company will be the installation of a distribution system for electric energy, amounting to approximately \$800, and a transformer, in the sum of \$600.

Heretofore no such service has been rendered in this town.

After a careful consideration of the evidence, the Commission is of

the opinion, and so finds, that the public convenience and necessity requires that the applicant construct, maintain and operate an electrical distribution system in the town of Poncha Springs, Colorado, and to exercise certain franchise rights granted to it by the town of Poncha Springs, in Ordinance No. 8.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires that the applicant construct, maintain and operate an electrical distribution system in the town of Poncha Springs, Colorado, and to exercise certain franchise rights for the distribution of electric energy granted to the applicant by the town of Poncha Springs in Ordinance No. 8, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall be required to file its schedule of rates, rules and regulations covering this territory within twenty days from the date of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alto Brock

Law S. Jones
Commissioners.

Dated at Denver, Colorado,
this 18th day of September, 1930.

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(Decision No. 3043).

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION OF)
THE PUBLIC SERVICE COMPANY OF COLO-)
RADO FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO EXERCISE)
FRANCHISE RIGHTS.)

APPLICATION NO. 1681.

September 18, 1930.

Appearances: Lee, Shaw & McCreery, Denver, Colorado,
for applicant.

S T A T E M E N T

By the Commission:

This is an application to exercise franchise rights by the applicant in the distribution of electric energy to consumers in the town of Raymer, Colorado.

No protest was filed against this application.

A statement by the Mayor of the town is to the effect that the Council favors the granting of the same, and that there is no known opposition.

The applicant expects to serve this town from a proposed transmission line from Merino, Colorado. At present the town is served by the Raymer Light and Power Company, which was in the nature of a cooperative service, and heretofore has never functioned as a public utility within the meaning of our act. The applicant has purchased the plant and distribution system of the Raymer Light and Power Company at a price of \$3500. The additional investment at Raymer will be \$500, to rehabilitate the distribution system, and approximately \$800 for a transformer.

After a careful consideration of all the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the applicant to exercise the franchise rights granted to it by the town of Raymer, Colorado, in Ordinance No. 17.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the exercise of the franchise rights by the applicant granted to it by the town of Raymer, Colorado, in Ordinance No. 17, for the sale and distribution of electric energy, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall be required to file its schedule of rates, rules and regulations covering this territory within twenty days from the date of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alto Boyd
Lawrence Jones
Commissioners.

Dated at Denver, Colorado,
this 18th day of September, 1930.

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(Decision No. 3044)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE PUBLIC SERVICE COMPANY OF)
COLORADO FOR A CERTIFICATE OF PUB-)
LIC CONVENIENCE AND NECESSITY TO)
CONSTRUCT, MAINTAIN AND OPERATE A)
GAS DISTRIBUTION SYSTEM IN THE)
CITY OF GOLDEN, COLORADO, AND TO)
EXERCISE FRANCHISE RIGHTS IN SAID)
CITY.)

APPLICATION NO. 1683

September 18, 1930

Appearances: Lee, Shaw & McCreery, Esqs., Denver, Colorado,
attorneys for applicant.

S T A T E M E N T

By the Commission:

This is an application by The Public Service Company of Colorado for a certificate of public convenience and necessity, to construct, maintain and operate a gas distribution system in the City of Golden, Colorado, and to exercise certain franchise rights granted by said City.

No protest was filed against this application.

The City of Golden, through its Mayor, filed a statement with this Commission, to the effect that they desired to have the application granted.

The investment by the Company in constructing a distribution system for natural gas will amount to approximately \$16,000. The natural gas to be distributed by the applicant is purchased from the Colorado-Wyoming Gas Company, a subsidiary of the Cities Service Company. The applicant is also a subsidiary of the Cities Service Company. This gas is transported in interstate commerce from the Amarillo, Texas, gas field. So far no utility has served this community with either artificial or natural gas, and

there is no other utility at this time proposing to serve.


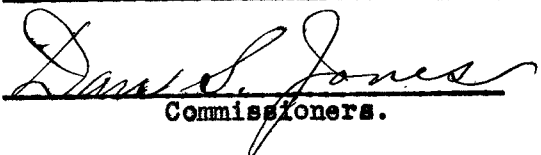
After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires that the applicant construct, maintain and operate a gas distribution system in Golden, Colorado, and to exercise certain franchise rights for the transmission and distribution of gas granted by the City Council of Golden, in Ordinance No. 131.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the applicant to construct, maintain and operate a gas distribution system in Golden, Colorado, and to exercise certain franchise rights granted by the City of Golden for the distribution of gas in Ordinance No. 131, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall be required to file its schedule of rates, rules and regulations covering this territory within twenty days from the date of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
This 18th day of September, 1930.

Book, Chairman, concurring:

I concur in the decision in this case because it is consistent with the decision of the Commission in Re Public Service Company, Application No. 1561, to which I dissented.

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(DECISION NO. 3045).

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
J. C. ROBERTS FOR AN ORDER PRELIMINARY)
TO THE ISSUE OF A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1459

IN THE MATTER OF THE APPLICATION OF)
J. C. ROBERTS FOR AN ORDER PRELIMINARY)
TO THE ISSUE OF A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1460

September 20, 1930.

S T A T E M E N T

By the Commission:

The above applications were set down by the Commission for final hearing on September 18, 1930. No appearance was made by the applicant. From information received from other sources, we are advised that the applicant is not in a position to prosecute the same at this time. Under these circumstances, an order will be entered dismissing the applications.

O R D E R

IT IS THEREFORE ORDERED, That the above applications Nos. 1459 and 1460, be, and the same are hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Bock
Samuel S. Jones
Harold A. ...
Commissioners.

Dated at Denver, Colorado,
this 20th day of September, 1930.

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(Decision No. 3046).

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION)
OF RALPH W. HARTWICK FOR CERTIFICATE) APPLICATION NO. 1466.
OF PUBLIC CONVENIENCE AND NECESSITY.)

September 20, 1930

S T A T E M E N T

By the Commission:

The above application has been set down for hearing at Denver, Colorado, on September 18, 1930. Since this matter was set, the Commission is in receipt of a letter from the applicant in which he states that since the Town of Bennett has made other arrangements for electrical energy this application should be dismissed.

O R D E R

IT IS THEREFORE ORDERED, That the above application be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

W. B. Bock
W. S. Jones
W. A. Quinn
Commissioners.

Dated at Denver, Colorado,
this 20th day of September, 1930.

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(Decision No. 3047)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF LEWIS FRANK WELLS FOR A CERTIF-)
IFICATE OF PUBLIC CONVENIENCE AND) APPLICATION NO. 1347
NECESSITY.)

August 8, 1930.

Appearances: J. J. White, Esq., Georgetown, Colorado,
for applicant;
David W. Oyler, Esq., Denver, Colorado,
for Denver and Salt Lake Railway
Company.

S T A T E M E N T

By the Commission:

This is an application by Lewis Frank Wells for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight between Denver and Grand Lake and intermediate points west of the Continental Divide, including West Portal, Fraser, Tabernash and Granby. The applicant proposes to make three round trips a week. There are one to three stores in each of the points, West Portal, Fraser, Tabernash and Granby, all of which points are located on the line of the Denver and Salt Lake Railway Company. Grand Lake is a summer resort situated off the railroad. The applicant has been serving some of the business men in the four points situated on the railroad. He appears not to have been doing much, if any, business in Grand Lake. The highway from Denver to the points in question leads over Berthoud Pass, which is blocked by snow during the winter months.

It is difficult to determine with certainty from the testimony what rates the applicant proposes to charge. However, as we understand the evidence, he intends to charge fifty cents a hundred for less than truck loads of non-perishables for West Portal and Fraser and fifty-five cents to Granby,

the point farthest west on the railroad. His rates on truck loads to the latter point will be five cents per hundred pounds less. For fruits and vegetables he proposes to charge thirty or thirty-five more cents than on non-perishable freight.

When the applicant filed his application in 1929 he proposed to charge eighty-five cents a hundred for ordinary freight to the said points situated on the railroad. Thereafter the railroad company made a material reduction in its rates which made it necessary, if the applicant proposed to secure any business, to make a reduction to the rates which we have named. The distance from Denver to Granby is ninety-two miles. The distance to the other points is not shown by the record but they are all west of the Continental Divide and within a reasonably short distance of Granby.

The evidence shows that the railroad service has been very expeditious and satisfactory to the merchants who testified in support of the applicant. They contend, however, that the applicant renders certain personal services which makes his operation desirable.

The railroad operates out of Denver daily except Sunday a freight train which stops at each and all of the rail points named. It arrives at the points in question earlier than the arrival of the applicant's truck. The time of arrival in Granby during the month of May varied from 3:45 A.M. to 6:40 A.M. after leaving Denver in the evening before.

Most of the commodities hauled by the applicant are rated fifth class. The Denver and Salt Lake's fifth class rates are, West Portal thirty-five cents, Fraser Thirty-five cents, Tabernash thirty-six cents and Granby forty-one cents. It will be observed that these rates are substantially lower than those proposed by the applicant.

It is the duty of the Commission to authorize all such service as is reasonably needed by the shipping public. However, it has always been the position of the Commission that the public convenience and necessity does not require but forbids the Commission authorizing the operation of a motor vehicle system which is not to be conducted upon sound business principles. While the evidence shows that some convenience is afforded by

applicant's operation to the merchants in the towns in question, it shows further that most of the commodities which will be hauled by the applicant can be transported by rail expeditiously at lower rates than he proposes to charge. Moreover, with our general knowledge of rates charged by motor vehicle operators and the costs of their operation, the Commission does not believe any operator can continue long to haul freight a distance of some ninety miles over the Continental Divide at a rate of some fifty cents per hundred pounds.

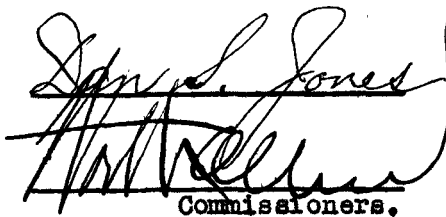
After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity does not require the motor vehicle operations of the applicant.

Chairman Bock absent.

O R D E R

IT IS THEREFORE ORDERED, That the application of Lewis Frank Wells be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 8th day of August, 1930.

(Decision No. 3048)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE: MOTOR VEHICLE OPERATIONS OF)
C. P. ARNOLD, DOING BUSINESS)
AS ARNOLD TRANSFER COMPANY.)

CASE NO. 579

September 23, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent has been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law; and,

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent has been operating as a motor vehicle carrier in violation of said law.


O R D E R


IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent has been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law.

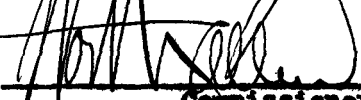
IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with this Commission within ten days from the date hereof, why the Commission should not enter an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity for such operations.

IT IS FURTHER ORDERED, That said matter shall hereafter be set down for hearing before the Commission, on proper notice, at such time and place as the Commission may designate, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 23rd day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
GUY BRADFORD, DOING BUSINESS AS)
THE YELLOW CAB TRANSFER.)

CASE NO. 580.

September 23, 1930.

S T A T E M E N T.

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it instituting an investigation into the question of whether or not the above named respondent has been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent has been operating as a motor vehicle carrier in violation of said law.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent has been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with this Commission within ten days from the date hereof, why the Commission should not enter an order commanding him to cease and desist

from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity for such operations.

IT IS FURTHER ORDERED, That said matter shall hereafter be set down for hearing before the Commission, on proper notice, at such time and place as the Commission may designate, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Bock

Sam L. Jones

W. A. Keen
Commissioners.

Dated at Denver, Colorado,
this 23rd day of September, 1930.

494

(Decision No. 3060)

494

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION
OF CHESTER I. MEAD FOR A CERTIFI-
CATE OF PUBLIC CONVENIENCE AND
NECESSITY.

APPLICATION NO. 1685

IN THE MATTER OF P. C. DUNN, et al,)
PLAINTIFF, VS. ELMER BURDICK, RE-)
SPONDENT.)

CASE NO. 577.

September 23, 1930.

Appearances: Moyaihan, Hughes and Knous, Esqs., Montrose, Colo.,
attorneys for applicant Mead and Plaintiff
P. C. Dunn, et al;
Elmer Burdick, Meeker, Colorado,
pro se.

S T A T E M E N T

By the Commission:

The Commission heard on a joint record the application of Chester I. Mead for a certificate of public convenience and necessity and the protest of P. C. Dunn, et al, against the service being rendered by Elmer Burdick, a certificate holder operating between Meeker, Colorado, and Trappers' Lake, Colorado. The applicant Mead seeks authority to operate over the same route.

The evidence showed that Burdick formerly had a contract for the transportation of the United States mail between Meeker and Trappers' Lake; that the said contract expired on June 30, 1930, and that on July 1, the said Mead began carrying mail over said route under a contract for a period expiring June 30, 1934. There was substantial evidence that the service rendered by Burdick had not been regular and dependable. It is true that Burdick has been ill for a good part of the past two months. However, complaints of patrons over his line date back to a much earlier period.

The said Mead enjoys a good reputation, and a very large number of the ranchers and others residing on the route in question desire to be served

by him. Most of the freight moves up the White river, along which the route extends, during a comparatively short period of the year. During the fall, winter and spring months the freight is light and can frequently be carried in the same truck in which the mail is moving. Burdick states that he has no objection to the issuance of a certificate to Mead authorizing the transportation of only such freight as weighs less than 1000 pounds. He stated that if an unlimited certificate is issued to Mead, he desires the Commission to revoke his certificate except as to freight weighing 1000 pounds or more, and to relieve him of the duty of operating on schedule, as he could not in that event afford to operate on schedule.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operation of the applicant, Chester I. Mead, for the transportation of freight and express on schedule irrespective of weight, between Meeker and Trappers' Lake and intermediate points. We further find that the public convenience and necessity requires that Burdick's certificate should be so amended as to authorize him to continue to operate over the route in question on call and demand but not on schedule, when 1000 pounds or more is offered for transportation on said route.

O R D E R


IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operations of the applicant, Chester I. Mead, for the transportation on schedule of freight and express, irrespective of weight, between Meeker, Colorado, and Trappers' Lake, Colorado, and intermediate points, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

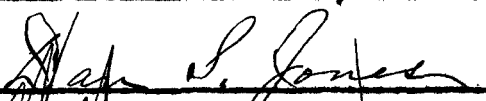
IT IS FURTHER ORDERED, That the certificate of Elmer Burdick be, and the same is hereby, amended by forbidding scheduled operations over said route in the future and by authorizing, as the Commission hereby does, the operation by him on said route on call and demand whenever 1000 pounds or more of freight is offered for transportation thereon.

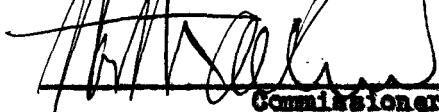
IT IS FURTHER ORDERED, That the applicant, Chester I. Mead, shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant, Chester I. Mead, shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 23rd day of September, 1930.

(Decision No. 3051)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
RAYMOND H. BODLEY.)

CASE NO. 581.

Sept. 23, 1930.

S T A T E M E N T.

By the Commission:

WHEREAS, the Commission did on or about November 13, 1929, in Application No. 1320, issue to the above named respondent a certificate of public convenience and necessity, P.U.C. No. 441, said respondent being limited and restricted to the transportation of goods not on schedule between La Jara and Carmel, Colorado, and the vicinities thereof and other points within a radius of thirty miles thereof; and

WHEREAS, said certificate required that he should charge for the transportation of household goods as much as is charged by the W. A. Jones Transfer Company unless such rates shall be held by the Commission to be unreasonable and excessive; and

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent has been engaged in transporting goods to and from places not permitted by said certificate; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent has violated the terms and conditions of his certificate and the rules and regulations of the Commission, and whether or not his said certificate should be revoked and cancelled.

O R D E R

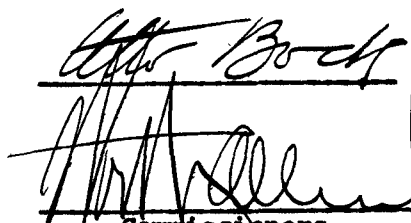
IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or

not said respondent has violated the terms and conditions of his said certificate and the rules and regulations of this Commission, and whether or not his said certificate should be revoked and cancelled.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why the Commission should not enter an order cancelling and revoking said certificate.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby, set down for hearing before the Commission at such time and place as may hereafter be fixed, at which time and place such evidence may be taken and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 23rd day of September, 1930.

(Decision No. 3052)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
S. A. DE CHANT AND CLEM DE CHANT,) CASE NO. 582
DOING BUSINESS AS DE CHANT BROTHERS.)

September 23, 1930

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondents have been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondents have been operating as a motor vehicle carrier in violation of said law.

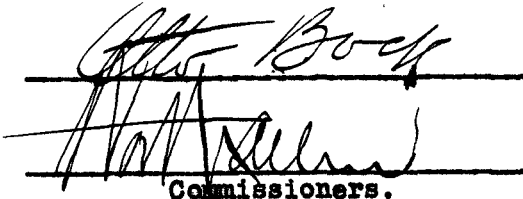
O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondents have been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondents show cause, if any they have, by written statement filed with this Commission within ten days from the date hereof, why the Commission should not enter an order commanding them to cease and desist from operating as a motor vehicle carrier unless and until they shall have obtained a certificate of public convenience and necessity for such operations.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby, set down for hearing before the Commission at such time and place as the Commission will hereafter determine, at which time and place such evidence may be taken and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 23d day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF THE COLORADO AND SOUTHERN RAIL-)
WAY COMPANY TO DISCONTINUE PASSENGER)
TRAIN SERVICE ON ITS DENVER-LEADVILLE)
LINE.)
-----)

APPLICATION NO. 1646

MOTION FOR CONTINUANCE
OF HEARING.

September 23, 1930

S T A T E M E N T

By the Commission:

The Board of County Commissioners of Summit County and the Mayor and Board of Trustees of the Town of Breckenridge have filed a motion and affidavit asking for continuance for a period of thirty days in the hearing in the above entitled cause. The application is now set for hearing on September 29. The rail carrier is opposed to the continuance.

After careful consideration of the motion and affidavit the Commission is of the opinion that the motion should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the hearing in the above entitled application is hereby continued to October 29, 1930, at 10:00 A. M. in the Hearing Room of the Commission, Denver, Colorado.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Walter Bock
Samuel S. Jones
W. A. Hall
Commissioners.

Dated at Denver, Colorado,
this 23rd day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF A. W. EARL FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

493
APPLICATION NO. 1672

MOTION FOR REHEARING

September 23, 1930.

S T A T E M E N T

By the Commission:

On August 26, 1930, this Commission entered an order in the above entitled application authorizing a certificate of public convenience and necessity for the transportation of all agricultural products from point to point within a radius of fifteen miles of Manzanola, Colorado, and denied it in all other respects. The applicant has filed a motion for rehearing, and for grounds of said motion it is alleged that the applicant did not have sufficient notice at the time set for the hearing, but when the notice of hearing was served on the attorney for applicant he was out of the city and did not return until a day before the hearing and could not, owing to the shortness of time, procure the proper witnesses.

After careful consideration of this motion, the Commission is of the opinion, and so finds, that a rehearing should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the motion for rehearing in Application No. 1672 be, and the same is hereby, granted.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Elmer Brock
Spencer S. Jones
W. H. Hall
Commissioners.

Dated at Denver, Colorado,
this 23rd day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

RE MOTOR VEHICLE OPERATIONS OF)
FRANK L. SANDBURN.)
-----)

CASE NO. 566

- - - - -
September 24, 1930
- - - - -

Appearances: Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was made herein requiring the respondent to show cause why he should not be ordered to cease and desist from operating as a motor vehicle carrier. A hearing was thereafter had.

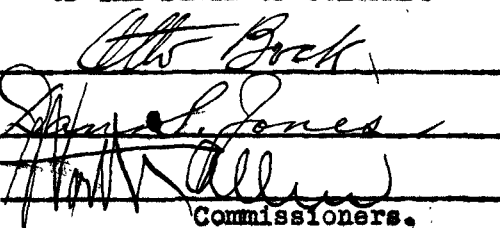
The evidence shows that the respondent has been engaged in transporting freight indiscriminately for the public.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the respondent is and has been operating as a motor vehicle carrier contrary to the laws of the State of Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the said respondent forthwith cease and desist operating as a common or motor vehicle carrier until and unless he shall have procured a certificate of public convenience and necessity therefor.

Dated at Denver, Colorado, this
24th day of September, 1930.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

RE MOTOR VEHICLE OPERATIONS OF)
JOSEPH REUBEN JAMES.)
-----)

CASE NO. 569

September 24, 1930

Appearances: Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was made herein requiring the respondent to show cause why he should not be ordered to cease and desist from operating as a motor vehicle carrier. A hearing was duly had.

The evidence shows that the respondent has been engaged in transporting freight indiscriminately for the public.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the respondent is and has been operating as a motor vehicle carrier contrary to the laws of the State of Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the said respondent forthwith cease and desist operating as a common or motor vehicle carrier until and unless he shall have procured a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. E. Bock
Sam L. Jones
Arthur E. [unclear]
Commissioners.

Dated at Denver, Colorado, this
24th day of September, 1930.

(Decision No. 3057)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS)
OF JAMES A. BURT.)

CASE NO. 570

September 24, 1930

Appearances: Moynihan, Hughes and Knous, Esqs., Montrose,
Colorado, attorneys for respondent;
Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was heretofore entered providing for a hearing and an investigation for the purpose of determining whether or not the respondent, James A. Burt, is operating as a motor vehicle carrier. A hearing was duly had.

The evidence showed that the respondent resides in Meeker, Colorado, and is engaged in transporting freight by motor vehicle, using one two ton truck and two one and one-half ton trucks; that he has served in the past and is serving now with more or less regularity three merchants in Meeker, hauling freight for them principally from Grand Junction; that in addition he has three regular merchandise customers east of Meeker, one at Buford, another at Marvins, and another at a resort at Trappers' Lake; that since the first of the year he has hauled freight for a lumber company and a hardware concern in Meeker; that within the past year he has hauled freight for the Independent Flour Mills of Meeker and a drug store in said town; that he transports sheep and wool from various ranches in the territory around Meeker, and makes what he terms particular contracts for such hauling,

serving all with whom he can make satisfactory terms.

Some stress was laid upon the alleged fact that the respondent makes separate contracts with his various customers and that, therefore, he is not a common carrier but a contract carrier. As we have repeatedly held, the question is not whether one is a contract or common carrier. It is whether he is a private or common carrier.

We quote as follows from our decision in the matter of Exhibitors Film Delivery and Service Company, Application No. 1009, P.U.R. 1928-E, 623:

"In a few isolated cases there is found language indicating that one who operates under private contracts is not a common carrier. An examination of all the authorities, however, leads one irresistibly to the conclusion that in determining whether or not a given operator is a common carrier, the test is not whether he has separate written or other kind of formal contracts with each and every one of his customers. On the contrary, the test is whether he is serving a sufficiently large portion of the public in the carrying of those kinds of goods which he accepts. As is stated in the Campbell case, (supra) "For if the defendant, by reason of the circumstances, is a common carrier as to the goods in question, it cannot by any special contract change its status as such or exempt itself from the responsibilities growing out of that relationship." It is true that once it is determined that a carrier is a common carrier the law steps in and imposes upon him the duty of making uniform rates and rendering equal service to all persons, but the fact that the law imposes upon a common carrier such a duty has nothing whatever to do with the test as to whether he is a common carrier."

A common carrier may be such without sustaining any particular contractual relationship with his customers. As is stated in Turner Okla. Co. vs. Yellow Cab and Baggage Co., 269 Pacific (Okla.) 1082, 1083, "the authorities . . . would indicate that, in order for the status of the defendant to be that of a common carrier, it was not necessary that a contractual relationship should exist between plaintiff and the carrier with respect to the transportation of the merchandise."

Respondent has been denied a certificate of public convenience and necessity by this Commission on the record made by him in his application. Thereafter it entered an order requiring respondent to cease and desist from operating as a motor vehicle carrier. After that order was made the respondent evidently broadened the scope of his operations, as he purchased and has


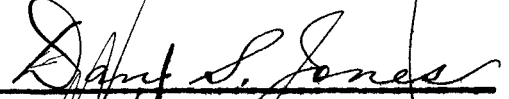

operated since one more truck than he was then using.

After careful consideration of the evidence the Commission again finds that the respondent is and has been for a long time past operating as a common or motor vehicle carrier contrary to the laws of the State of Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the respondent, James A. Burt, forthwith cease and desist from operating as a common or motor vehicle carrier.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 24th day of September, 1930.

(Decision No. 3058).

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE: MOTOR VEHICLE OPERATIONS OF)
C. E. GOODRICH.)

CASE NO. 584

September 24, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, the Commission did on or about November 8, 1928, issue to C. E. Goodrich a certificate of public convenience and necessity to operate a motor vehicle system for the transportation of passengers, said certificate being effective for one year, and on or about June 14, 1930, in Application No. 1155, the Commission issued its order making such certificate a final one; and

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent has complied with the terms and conditions of said certificate and the rules and regulations of this Commission; and

WHEREAS, the Commission is of the opinion that the public interest requires that an investigation and hearing be held for the purpose of determining whether or not said respondent has been complying with the terms and conditions of said certificate and the rules and regulations of this Commission, and whether or not said certificate should be revoked and cancelled.

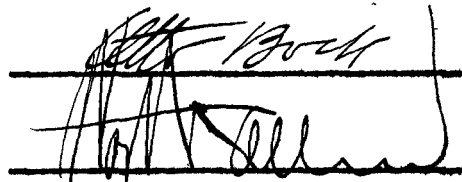
O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent has violated the terms and conditions of his said certificate and the rules and regulations of this Commission, and whether or not it should enter an order cancelling and revoking his said certificate.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why the Commission should not enter an order cancelling and revoking the certificate heretofore issued to him.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on Monday, October 13, 1930, at 10:00 A. M. thereof, at which time and place such evidence may be taken and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

The block contains two handwritten signatures written over two horizontal lines. The top signature is more stylized and appears to be 'J. B. ...'. The bottom signature is more cursive and appears to be 'H. ...'.

Dated at Denver, Colorado,
this 24th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN RE MOTOR VEHICLE OPERATIONS OF)
WILLIAM A. RAHN, DOING BUSINESS AS)
THE RAHN TRANSFER COMPANY.)
- - - - -)

CASE NO. 573

- - - - -
September 24, 1930
- - - - -

Appearances: M. M. Marshall, Alamosa, Colorado,
for respondent Rahn,
D. A. Maloney, Esq., Denver, Colorado, Attorney
for The Pueblo-San Luis Valley Transportation Company,
T. A. White, Esq., Denver, Colorado, Attorney
for The Denver and Rio Grande Western Railroad Company,
Emerson E. Jones, Alamosa, Colorado, for The Colorado
Transfer & Warehousemen's Association.

S T A T E M E N T

By the Commission:

An order was made on the Commission's own motion requiring the respondent, William A. Rahn, to show cause why an order should not be entered for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity therefor, and that he show cause why the Commission shall not enter an order requiring him to cease and desist from operating as a motor vehicle carrier. The hearing was had at which time respondent testified that about two months ago he quit trucking and that since then he has been engaged as a distributor in the San Luis Valley of soft drinks sold under the trade name of "Nehi". He testified that prior to his ceasing the trucking business, he had some six customers and no others. However, on cross-examination it developed that he had been serving other customers whom he had not originally named. His evidence as to the dropping of customers and taking on of new ones was indefinite and unsatisfactory. Moreover, it developed that he had been doing some trucking business for hire since the date that he first testified he had wholly ceased.

The respondent admitted that the Commission had at several times warned him against operating as a common carrier and had explained fully his rights and privileges under the law. However, after having such explanations and warnings given, he continued miscellaneous trucking operations.

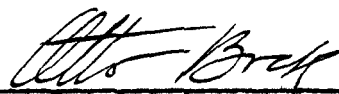
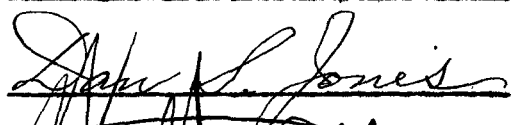

While the Commission cannot say that at the day of the hearing the respondent was operating as a motor vehicle or common carrier, we do believe we are warranted in finding, and we do find, that the respondent up to and until some two months ago had been, and was, operating as a motor vehicle or common carrier without having obtained a certificate of public convenience and necessity therefor.

The respondent promised at the hearing that hereafter he would haul no freight for any person or company unless he had filed a written communication advising the Commission that he has a contract to haul for such person or company. If this promise is carried out in good faith, it may be that the Commission and the respondent can be saved considerable time and trouble.

O R D E R

IT IS THEREFORE ORDERED, That the respondent forthwith cease and desist from operating as a motor vehicle or common carrier until and unless he shall have procured a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 24th day of September, 1930.

380

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
THE PUEBLO, SAN LUIS VALLEY TRANSPOR-)
TATION COMPANY, FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1639

September 24, 1930.

Appearances: D. A. Maloney, Esq., Denver, Colo., Attorney for
applicant
T. A. White, Esq., Denver, Colo., Attorney for
Denver & Rio Grande Western Railroad Company.

S T A T E M E N T

By the Commission:

This is an application by The Pueblo, San Luis Valley Transportation Company for a certificate of public convenience and necessity authorizing the transportation of freight and express between Pueblo and Capulin, Walsenburg and Capulin and Alamosa and Capulin, all of which points are within the State of Colorado. Capulin is situated nine miles west of La Jara, Colorado, which is now being served by the applicant, which desires to extend its operations by making a round trip to Capulin on two days a week. Capulin is not now served regularly by any common carrier, rail or motor vehicles. It has some four stores and a filling station. No protest was filed.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires that operations of the motor vehicle system of the applicant be extended so that it may haul freight and express on schedule between Pueblo and Capulin, Walsenburg and Capulin and Alamosa and Capulin, Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires that the operations of the applicant be extended by its rendering scheduled motor vehicle service for the (transportation of freight and express between Pueblo and Capulin, Walsenburg and Capulin and Alamosa and Capulin, Colorado,) and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Att. Brod
Day L. Jones
W. H. Hall
Commissioners.

Dated at Denver, Colorado
this 24th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE SAN LUIS VALLEY SOUTHERN)
RAILWAY COMPANY, A CORPORATION)
FOR A CERTIFICATE OF PUBLIC CON-)
VENIENCE AND NECESSITY.)

APPLICATION NO. 1675.

Sept. 24, 1930.

Appearances: T. A. White and George T. Kearns, Esqs.,
Denver, Colorado, attorneys for applicant.

S T A T E M E N T

By the Commission:

This is an application by The San Luis Valley Southern Railway Company, a corporation, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of passengers and freight between Jaroso, Colorado, and the Colorado-New Mexico state boundary line at a point where the state highway crosses the same south of Garcia, Colorado. Most of the operation proposed by the applicant will be interstate. The service between Jaroso and Garcia will be intrastate. No protest was filed against the application.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of passengers and freight between Jaroso, Colorado, and Garcia, Colorado, and that the constitution of the United States and the laws of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the operation in interstate commerce of a motor vehicle system for the transportation of passengers and freight between Jaroso, Colorado, and the Colorado-New Mexico state boundary line at a point where the state highway crosses the said line near Garcia, Colorado.


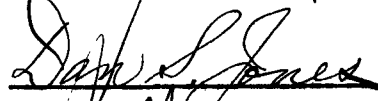

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of passengers and freight between Jaroso, Colorado, and Garcia, Colorado, and that the constitution of the United States and the laws of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the operation in interstate commerce of a motor vehicle system for the transportation of passengers and freight between Jaroso, Colorado, and the Colorado-New Mexico state boundary line at a point where the state highway crosses the said line near Garcia, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 24th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN RE INVESTIGATION OF PICK UP)
AND DELIVERY SERVICE BY MOTOR)
VEHICLE CARRIERS IN DENVER,)
COLORADO.)

CASE NO. 583.

Sept. 24, 1930.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a letter from the Denver Commercial Traffic Club in which it is advised that a number of the shippers in Denver have been seriously handicapped because of the fact that most motor vehicle carriers refuse to pick up and deliver freight in Denver. It is suggested that the Commission, on its own motion, enter into an investigation of the pick-up and delivery service of all motor vehicle carriers.

The Commission is of the opinion that it should adopt this suggestion and enter into an investigation of the pick-up and delivery service of motor vehicle carriers in Denver, and to definitely establish by rules and regulations such requirements as will be reasonable to the shippers as well as the motor vehicle carriers.

O R D E R

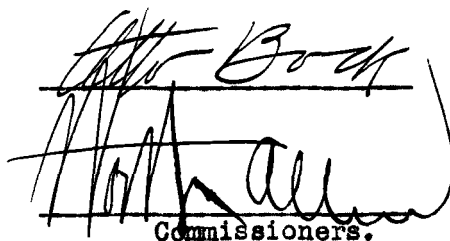
IT IS THEREFORE ORDERED, That this Commission, on its own motion, enter into an investigation of the pick-up and delivery service by motor vehicle carriers of freight operating in and out of Denver, Colorado, for the purpose of establishing rules and regulations governing such service.

IT IS FURTHER ORDERED, That all motor vehicle carriers of freight under the jurisdiction of this Commission operating out of Denver are hereby made respondents to this proceeding.

IT IS FURTHER ORDERED, That a hearing will be held in this

matter at such time and place as the Commission will hereafter determine.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 24th day of September, 1930.

W.C. [signature]
(Decision No. 3063).

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
STERLING GAS COMPANY, A CORPORATION,)
AND CENTRAL STATES ELECTRIC COMPANY)
OF COLORADO, A CORPORATION, FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO CENTRAL STATES)
ELECTRIC COMPANY OF COLORADO TO)
EXERCISE FRANCHISE RIGHTS.)

APPLICATION NO. 1666.

September 25, 1930.

Appearances: Roy T. Johnson, Esq., Sterling, Colorado,
for applicants.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity to exercise certain franchise rights granted by the City of Sterling in Ordinance No. 5, Series of 1928, to the Sterling Gas Company. This Company recently sold out to The Central States Electric Company of Colorado for approximately \$137,700.00, which company now distributes artificial gas in the City of Sterling. The franchise originally granted to The Sterling Gas Company has now been assigned, with the consent of the City Council of Sterling, to The Central States Electric Company of Colorado.

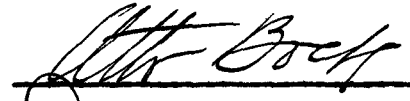
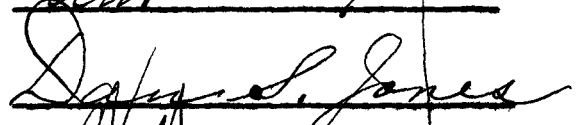

A statement was filed by the Mayor of the City of Sterling to the effect that the certificate of public convenience and necessity should be issued to The Central States Electric Company of Colorado, as prayed for, in order to fully carry out the wish of the Council with respect to the sale.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires that The Central States Electric Company of Colorado exercise certain franchise rights granted by the City Council of Sterling, Colorado, in Ordinance No. 5, Series of 1928, for the distribution of gas.

ORDER

IT IS THEREFORE ORDERED, That the public convenience and necessity requires that the applicant, The Central States Electric Company of Colorado, exercise certain franchise rights granted by the City of Sterling in Ordinance No. 5, Series of 1928, for the distribution of gas, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 25th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF R. L. CURTIS, L. M. CURTIS AND)
A. P. CURTIS, DOING BUSINESS AS A)
CO-PARTNERSHIP UNDER THE NAME OF)
THE CURTIS ELECTRIC COMPANY FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY.)

APPLICATION NO. 1154.

September 25, 1930.

Appearances: A. P. Curtis, Esq., Granby, Colorado,
for applicants.

S T A T E M E N T

By the Commission:

This is an application for the cancellation of certificate of public convenience and necessity issued to the applicants by this Commission on July 14, 1928 (Decision No. 1840). This certificate authorized the construction and operation of a plant or system to manufacture and distribute electric energy in the town of Granby and contiguous territory.

No protest was filed against this application.

The testimony shows that the applicants serve approximately fifteen consumers; that the expense of operation, not including any salaries of any kind, amounts to approximately \$125 per month; that the gross income of the applicants is approximately \$50 per month. The fuel expense alone is approximately \$100 per month.

While it is regrettable that the citizens of Granby and contiguous territory should be deprived of this service, yet we know of no legal ground, in view of the testimony, that would authorize us to require these applicants to continue to serve this territory at a loss.


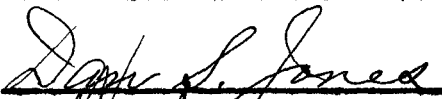
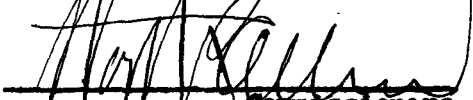
After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity does not further require the applicants to serve Granby and contiguous

territory with electric energy.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity issued to the applicants on July 14, 1928 (Decision No. 1840) be, and the same is hereby, cancelled and held for naught.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 25th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
THE UNION TRUCK LINE, INCORPORATED,)
FOR A CERTIFICATE OF PUBLIC CON-)
VENIENCE AND NECESSITY.)

496
APPLICATION NO. 1641.

September 25, 1930.

Appearances: D. F. How, Esq., Denver, Colorado for
applicant.
Jack Garrett Scott, Esq., Denver, Colorado,
for Motor Truck Common Carriers' Assn.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of freight and express in interstate commerce only, over U. S. Highway No. 85, between Denver and the Colorado-Wyoming state line.

Protests were filed against this application by the Union Pacific Railroad Company and the L. J. Russell Transportation Company.

The original application was made in the name of L. W. Harvey and S. W. Tregdon, doing business under the name and style of The Union Truck Line. At the time of the hearing this application was amended by substituting The Union Truck Line, Incorporated as the applicant.

The equipment of the applicant consists of three trucks, valued at approximately \$12,000.

The applicant, through its President and General Manager, expressed a willingness to abide by the laws of this State applicable to motor vehicle carriers operating in interstate commerce.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the laws of the United States, as well as the laws of the State of Colorado, require the issuance of a certificate of public convenience and necessity to the applicant herein to operate as a motor vehicle carrier in the transportation of freight

and express in interstate commerce only, over U. S. Highway No. 85, between Denver and the Colorado-Wyoming state line.

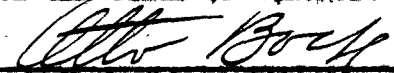
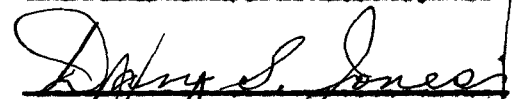

O R D E R

IT IS THEREFORE ORDERED, That the laws of the United States, as well as the laws of the State of Colorado, require the issuance of a certificate of public convenience and necessity to the applicant herein for a motor vehicle system for the transportation of freight and express in interstate commerce only, over U. S. Highway No. 85, between Denver and the Colorado-Wyoming state line, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 25th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

33

IN THE MATTER OF THE APPLICATION OF)
W. W. BLACK AND HARRY G. BROOKS,)
COPARTNERS, DOING BUSINESS AS BLACK)
AND BROOKS GARAGE, FOR ASSIGNMENT)
AND TRANSFER OF CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 375-A

September 25, 1930.

Appearances: D. F. How, Esq., Denver, Colorado, for
applicants.

S T A T E M E N T

By the Commission:

This is an application to transfer certificate of public convenience and necessity from W. W. Black and Harry Brooks, doing business as the Black and Brooks Garage, to H. G. Brooks and O. L. McKay, doing business as the Brooks Transportation Company.

No protest was filed against this application.


After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that authority should be granted to W. W. Black and Harry Brooks, doing business as Black and Brooks Garage, to transfer to H. G. Brooks and O. L. McKay, doing business as the Brooks Transportation Company, a certificate of public convenience and necessity issued on February 5, 1925 (Decision No. 812). This certificate authorized the transportation of passengers between Sterling and Helyoke, Colorado, and intermediate points.

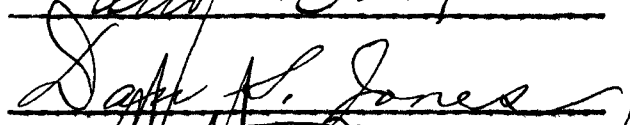
O R D E R

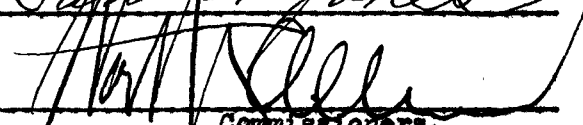
IT IS THEREFORE ORDERED, That W. W. Black and Harry Brooks, doing business as the Black and Brooks Garage, be, and they are hereby, authorized to transfer to H. G. Brooks and O. L. McKay, copartners, doing business as the Brooks Transportation Company, certificate of public convenience and necessity issued on February 5, 1925 (Decision No. 812).

IT IS FURTHER ORDERED, That the rates and regulations now on file with this Commission governing this operation shall continue in effect until changed as provided by the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated At Denver, Colorado,
this 25th day of September,
1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS)
OF PAUL SCHWANK.)

C A S E N O. 585

Sept. 25, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, the Commission did on or about July 27, 1927, in Application No. 937, issue to the respondent a certificate of public convenience and necessity, P.U.C. No. 221, to operate a motor vehicle sightseeing business, said certificate being limited and restricted in certain particulars; and

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent has complied with the terms and conditions of said certificate, more particularly whether or not said respondent has engaged in the transportation of passengers to and from Estes Park, Colorado, such transportation not being permitted by the terms and conditions of said certificate; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent has violated the terms and conditions of said certificate, and whether or not the Commission should enter an order revoking and cancelling said certificate.



O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent has engaged in the transportation business in violation of the terms and conditions of his said certificate, and whether or not the Commission should enter an order cancelling and revoking said certificate.

IT IS FURTHER ORDERED, that said respondent show cause, if any he have, by written statement filed with this Commission within ten days from the date hereof, why his certificate should not be revoked and cancelled.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby, set down for hearing at the Hearing Room of the Commission, 305 State Office Building, Denver, Colorado, on the 13th day of October, 1930, at 10:00 A.M, thereof, at which time and place such evidence may be taken and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 25th day of September, 1930.

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(Decision No. 3068)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF J. S. COLEMAN, DOING BUSINESS)
UNDER THE NAME OF JOHN COLEMAN,)
FOR THE CANCELLATION OF A CERTI-)
FICATE OF PUBLIC CONVENIENCE AND)
NECESSITY.)

APPLICATION NO. 1345

September 25, 1930

S T A T E M E N T

By the Commission:

On May 24, 1929 this Commission issued a certificate of public convenience and necessity to the applicant, J. S. Coleman. Up to now the applicant has failed to file his insurance policies with the Commission and has failed to take out insurance as required by the rules and regulations governing motor vehicle carriers. On September 8, 1930 the applicant advised the Commission that he cannot afford to take out this insurance and that it is satisfactory with him to have the Commission cancel his certificate without any protest from him.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity issued to J. S. Coleman on May 24, 1929 (Decision No. 2232) be, and the same is hereby, cancelled and held for naught.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Elmer Brock
Darryl S. Jones
Wm. H. Allen
Commissioners.

Dated at Denver, Colorado,
this 25th day of September, 1930.

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(Decision No. 3069)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF D. G. PARSONS FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)
* * * * *

APPLICATION NO. 1246.

Sept. 25, 1930.

Appearances: T. E. Munson, Esq., Sterling, Colorado,
for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
for The Motor Truck Common Carriers' Ass'n;
G. E. Hendricks, Esq., Julesburg, Colorado,
for C. E. Courtright.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle service for the transportation of freight between Sterling and Ovid, Colorado, and north to the Colorado-Nebraska state line, and intermediate points. The original application was between Sterling and Julesburg, but at the hearing the applicant was allowed to amend as described above.

Protests were filed against this application by the Union Pacific Railroad Company, The Motor Truck Common Carriers' Association and C. E. Courtright.

The equipment of the applicant consists of a Reo truck, valued at approximately \$2200.

The testimony shows that some time ago this Commission issued a certificate of public convenience and necessity to protestant C. E. Courtright to transport freight and express by motor vehicle between Julesburg and Sterling, and all intermediate points. The applicant's proposed operation therefore is competitive with all points between Ovid and Sterling. The testimony shows that Courtright has adequately served the territory between

Sterling and Ovid. No complaints were made against his services except as to a minor collection of a freight bill which was immediately adjusted.

There is no testimony upon which this Commission could make a finding that the additional motor vehicle operation proposed by the applicant is required by the public convenience and necessity.

The applicant also desires to operate in interstate from Sterling to the state line north of Ovid, as indicated by the map filed by him. In that respect the law requires no showing of public convenience and necessity, and our Commission is required on the record to issue such a certificate.

After a careful consideration of all the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity does not require the proposed motor vehicle system of the applicant for the transportation of freight intrastate between Sterling and Ovid, Colorado.

The Commission further finds that the laws of the United States, as well as the laws of the State of Colorado, require the issuance of a certificate of public convenience and necessity to the applicant for a motor vehicle system for the transportation of freight in interstate commerce only between Sterling, Colorado, and the Colorado-Nebraska state line north of Ovid.

O R D E R

IT IS THEREFORE ORDERED, That the application of D. G. Parsons for a certificate of public convenience and necessity to operate a motor vehicle system in intrastate traffic between Sterling and Ovid, Colorado, be and the same is hereby denied.


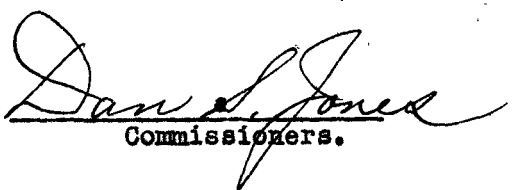
IT IS FURTHER ORDERED, That the laws of the United States, as well as the laws of the State of Colorado, require the issuance of a certificate of public convenience and necessity to the applicant for a motor vehicle system for the transportation of freight in interstate commerce only between Sterling and the Colorado-Nebraska state line north of Ovid, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by

the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 25th day of September, 1930.

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(Decision No. 3070)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
ROBERT BENSBERG TO ASSIGN AND TRANSFER)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO COLORADO BUS LINES, INC.)

APPLICATION NO. 756-A

Sept. 27, 1930.

Appearances: T. C. Turner, Esq., Colorado Springs, Colorado,
for Robert Bensberg and Colorado Bus Lines, Inc.
Sherwin and Hungerford, Esqs., Colorado Springs,
Colorado, for the Cragmor Sanatorium Company.

S T A T E M E N T

By the Commission:

This is an application to transfer certificate of public convenience and necessity from Robert Bensberg to the Colorado Bus Lines, Inc., a Colorado corporation.

This Commission on March 29, 1927, issued a certificate of public convenience and necessity to the transferor authorizing a motor vehicle system for the transportation of passengers between Colorado Springs, Woodman Sanitarium and Cragmor Sanitorium, and intermediate points. The Colorado Bus Lines, Inc., is a Colorado corporation organized by the transferor Robert Bensberg and members of his family. The financial statement of the Colorado Bus Lines, Inc., shows a total worth of approximately \$5,000.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that Robert Bensberg should be authorized to assign and transfer the certificate of public convenience and necessity issued to him on March 29, 1927 (Decision No. 1204), to Colorado Bus Lines, Inc.

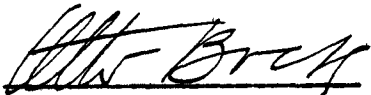
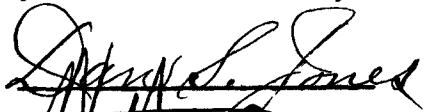

O R D E R

IT IS THEREFORE ORDERED, That Robert Bensberg be, and he is hereby, authorized to transfer and assign to Colorado Bus Lines, Inc., the certificate

of public convenience and necessity issued on March 29, 1927 (Decision No. 1204).

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations now on file with this Commission covering this operation remain in effect until changed as provided by the Rules and Regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 27th day of September, 1930.

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(Decision No. 3071)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

148

* * *

IN THE MATTER OF THE APPLICATION OF)
THE CRAGMOR SANATORIUM COMPANY AND)
THE COLORADO BUS LINES, INC., FOR)
AUTHORITY TO TRANSFER CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 689-A.

Sept. 27, 1930.

Appearances: T. C. Turner, Esq., Colorado Springs, Colorado,
for Colorado Bus Lines, Inc.;
Sherwin and Hungerford, Esqs., Colorado Springs,
Colorado, for Cragmor Sanatorium Company.

S T A T E M E N T

By the Commission:

This is an application by the Cragmor Sanatorium Company to transfer certificate of public convenience and necessity to the Colorado Bus Lines, Inc., a Colorado corporation.

The Commission on April 21, 1928, issued a certificate of public convenience and necessity to the transferor authorizing a motor vehicle sight-seeing operation from Cragmor Sanatorium to various scenic attractions in the Pikes Peak region.

The purchase price paid by the transferee is \$1900. The financial statement of the transferee indicates a net worth of \$5000.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the Cragmor Sanatorium Company should be authorized to transfer and assign the certificate of public convenience and necessity issued to it on April 21, 1928 (Decision No. 1707), to Colorado Bus Lines, Inc., subject to all the conditions contained in said certificate.

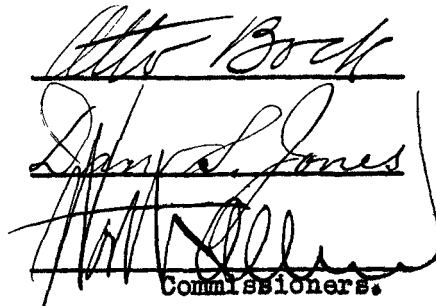
O R D E R

IT IS THEREFORE ORDERED, That the Cragmor Sanatorium Company be, and it is hereby, authorized to assign and transfer to Colorado Bus Lines, Inc.,

the certificate of public convenience and necessity issued by this Commission on April 21, 1928 (Decision No. 1707), subject to all the terms and conditions contained therein.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations now on file with this Commission covering this operation remain in effect until changed as provided by the Rules and Regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 27th day of September, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
L. B. WILLSON, DOING BUSINESS AS THE)
PLATTE VALLEY TRANSPORTATION COMPANY,)
FOR PARTIAL DISCONTINUANCE OF SERVICE) APPLICATION NO. 1629.
AND FOR AMENDMENT TO CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

Sept. 27, 1930.

Appearances: Jack Garrett Scott, Esq., Denver, Colorado,
attorney for applicant;
J. Q. Dier, Esq., Denver, Colorado, for
Chicago, Burlington & Quincy Railroad
Company.

S T A T E M E N T

By the Commission:

This is an application by L. B. Willson, doing business as The Platte Valley Transportation Company, for an order amending his certificate so as to permit him to discontinue operations through the towns of Orchard, Goodrich and Weldona over State Highway No. 144, and permitting him to operate in lieu thereof over U. S. Highway No. 38 and State Highway No. 2.

Protests were filed against this application by The Chicago, Burlington and Quincy Railroad Company and the Railway Express Agency.

The testimony shows that the Commission on April 29, 1925, issued a certificate of public convenience and necessity to the applicant, authorizing him to operate a motor vehicle system for the transportation of passengers, baggage and express between Greeley and Sterling, Colorado, and intermediate points, including the towns of Orchard, Goodrich and Weldona, which three latter towns are situated on State Highway No. 144, and are some distance from U. S. Highway No. 38 and State Highway No. 2. That at certain periods of the year State Highway No. 144 has been impassable, and during that time the applicant has been compelled to operate over U. S. Highway No. 38; State

Highway No. 144 is very poorly maintained, is rough in dry weather and impassable because of mud in wet weather.

Since the issuance of the certificate U. S. Highway No. 38 and State Highway No. 2, between Fort Morgan and Masters have been paved in part and surfaced in part, so it has become an all-weather road and is passable at all times of the year. The amount of travel from outside points into Orchard, Goodrich and Weldona is negligible. The route between Greeley and Sterling over State Highway No. 144 is 10 miles longer than by way of the proposed operation over U. S. Highway No. 38 and State Highway No. 2.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the discontinuance of operations by the applicant over State Highway No. 144, through the towns of Orchard, Goodrich and Weldona, and that the public convenience and necessity requires the institution of motor vehicle operations for the transportation of passengers between Fort Morgan and Greeley by way of U. S. Highway No. 38 and State Highway No. 2.

O R D E R

IT IS THEREFORE ORDERED, That the applicant be, and he is hereby, (authorized to discontinue his motor vehicle operations through the towns of Orchard, Goodrich and Weldona) over State Highway No. 144.

IT IS FURTHER ORDERED, That the certificate of public convenience and necessity heretofore issued to the applicant herein be, and the same is hereby, (amended so as to authorize motor vehicle carrier service over U. S. Highway No. 38 and State Highway No. 2, in lieu of the operation heretofore conducted) through the towns of Orchard, Goodrich and Weldona over State Highway No. 144.

IT IS FURTHER ORDERED, That the applicant shall file rates, rules and regulations covering this territory within twenty days from the date hereof.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Brock
Samuel Jones
Commissioners.

Dated at Denver, Colorado,
this 27th day of September, 1930.

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(Decision No. 3073)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

32

* * *

IN THE MATTER OF THE APPLICATION)
OF H. G. BROOKS AND O. L. McKAY,)
DOING BUSINESS UNDER THE NAME AND)
STYLE OF THE BROOKS TRANSPORTA-)
TION COMPANY, FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1597 ✓

IN THE MATTER OF THE APPLICATION)
OF THE FORT MORGAN-BRUSH TRANSPOR-)
TATION COMPANY FOR AN EXTENSION OF)
ITS CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY.)

APPLICATION NO. 1628

IN THE MATTER OF THE APPLICATION)
OF EARL RODARMEL AND VIRGIL SUHL,)
DOING BUSINESS AS CO-PARTNERS UNDER)
THE NAME AND STYLE OF THE R. & S.)
TRANSFER COMPANY FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECES-)
SITY.)

APPLICATION NO. 1638

September 29, 1930

Appearances: D. F. How, Esq., Denver, Colorado,
attorney for applicant in No. 1597;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for applicant in No. 1628;
B. L. Garman, Esq., Holyoke, Colorado, and
Avery T. Searle, Esq., Haxtun, Colorado,
attorneys for applicants in No. 1638;
J. Q. Dier, Esq., Denver, Colorado,
attorney for Chicago, Burlington and
Quincy Railroad Company.

S T A T E M E N T

By the Commission:

Application No. 1597, by H. G. Brooks and O. L. McKay, doing
business under the name and style of The Brooks Transportation Company, is
a request for certificate of public convenience and necessity authorizing
a motor vehicle system for the transportation of freight, express and live-
stock between Sterling and the Colorado-Nebraska state line, via Fleming,
Daily, Haxtun, Paoli, Holyoke and Amherst, and for the transportation of

freight from points east of Sterling to Denver, and from Denver to points east of Sterling to Amherst and intermediate points.

Protests were filed against this application by The Chicago, Burlington and Quincy Railroad Company and The Motor Truck Common Carriers' Association.

Application No. 1628, by The Fort Morgan-Brush Transportation Company is request for authority to establish a motor vehicle service for the transportation of freight between Sterling and Holyoke, Colorado, and intermediate points, in conjunction with and as an extension of its present right to operate between Denver and Sterling, Colorado, and intermediate points.

Protests were filed against this application by The Chicago, Burlington and Quincy Railroad Company and The Brooks Transportation Company.

Application No. 1638, of Earl Rodarmel and Virgil Suhl, doing business under the name and style of The R. & S. Transfer Company, seeks a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight and express between Denver and Sterling, Colorado, and between Sterling and Holyoke, Colorado, and intermediate points.

Protests were filed against this application by The Chicago, Burlington and Quincy Railroad Company, The Motor Truck Common Carriers' Association and Union Pacific Railroad Company.

A public hearing was held on a joint record in the above entitled applications on September 19, 1930, at Sterling, Colorado.

There is now no authorized motor vehicle carrier for the transportation of freight and express between Sterling and Amherst, and intermediate points. The Commission heretofore issued a certificate of public convenience and necessity for the transportation of passengers over this same territory to the applicants in Application No. 1597. Since the issuance of that certificate certain demand for express packages developed, and they did transport express packages in connection with the passenger service. Thereafter, and mainly because of the lack of earnings from their passenger business, Brooks and McKay entered into the transporta-

tion business of freight by motor vehicle between Amherst and Sterling and to Denver.

The equipment of The Brooks Transportation Company consists of five trucks, valued at approximately \$4,000.

The applicants produced a number of witnesses showing a public convenience and necessity for this freight transportation, mainly between Sterling and Amherst. The rail carrier only operates a tri-weekly service in this territory.

The Fort Morgan-Brush Transportation Company are also seeking to serve this territory with a freight transportation service; they are the authorized motor vehicle carrier of freight between Denver and Sterling; they also have a joint tariff on file with this Commission with C. E. Court-right, who operates a motor vehicle system for the transportation of freight between Sterling and Julesburg.

Earl Rodarmel and Virgil Suhl, applicants in No. 1638, have been conducting an unauthorized transportation service of freight between Holyoke and Sterling, Colorado, and also between Denver and Sterling.

The applicants in Nos. 1597 and 1638 do not seek to transport freight to and from Denver originating and terminating at Sterling, but desire to confine their transportation services from points east of Sterling into Denver, and from Denver to points east of Sterling.

The testimony in the case indicates that only one motor vehicle operation is required by the public convenience and necessity between Sterling and Amherst. The Brooks Transportation Company is the first in time as to filing for that territory; moreover, it has operated as a passenger carrier there for some time, and the evidence indicates that this passenger service may be lost to the public unless it is also authorized to transport freight.

The service by The Fort Morgan-Brush Transportation Company between Denver and Sterling has been meeting all requirements.

The record, in our opinion, does not warrant us to grant any authorization for a motor vehicle system to transport freight from points east of Sterling into Denver. Any freight to be transported from that territory

to Denver should be taken care of by the Fort Morgan-Brush Transportation Company on a joint tariff. This company expressed a willingness to file such a tariff. This is the practice now by the motor vehicle carrier operating between Sterling and Julesburg, and has proven very satisfactory and efficient.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system for the transportation of freight and express by H. G. Brooks and O. L. McKay, doing business as The Brooks Transportation Company, between Sterling and Amherst, and intermediate points. In all other respects this application should be denied.

The Commission further finds that the public convenience and necessity does not require the proposed motor vehicle service of The Fort Morgan-Brush Transportation Company and Earl Rodarmel and Virgil Suhl, doing business under the name and style of The R. & S. Transfer Company. An order will be entered denying these applications.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system for the transportation of freight of the applicants H. G. Brooks and O. L. McKay, doing business under the name and style of The Brooks Transportation Company, for the transportation of freight and express between Sterling and Amherst, Colorado, and intermediate points, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor, subject to the following conditions:

(a) That the applicants shall be required to file a joint tariff with the Fort Morgan-Brush Transportation Company, within twenty days from the date of this order, covering any transportation of freight originating east of Sterling and destined to Denver, and from Denver destined to points east of Sterling;

(b) That this certificate shall not take effect until the applicants have paid all taxes due the State of Colorado for the use of the highway since the commencement of their operation.

IT IS FURTHER ORDERED, That the applicants shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.


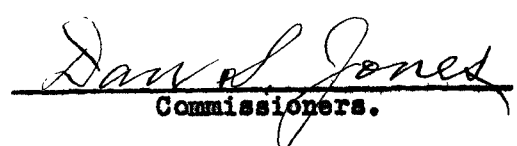
IT IS FURTHER ORDERED, That the applicants shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicants with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

IT IS FURTHER ORDERED, That the application of H. G. Brooks and O. L. McKay in all other respects be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the application of The Fort Morgan-Brush Transportation Company, No. 1628, be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the application of Earl Rodarmel and Virgil Suhl, doing business under the name and style of The R. & S. Transfer Company, No. 1638, be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 29th day of September, 1930.

(Decision No. 3074)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF HERBERT N. SAYLOR FOR CERTIFICATE) APPLICATION NO. 1625.
OF PUBLIC CONVENIENCE AND NECESSITY.)

Sept. 27, 1930.

STATEMENT

By the Commission:

This application was set down for hearing at Sterling, Colorado, on September 19, 1930. At that time a motion was made by the applicant to dismiss this application.

ORDER

IT IS THEREFORE ORDERED, That the above application be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

OTTO BOCK

DAN S. JONES

WORTH ALLEN

Commissioners.

(S E A L)

Dated at Denver, Colorado,
this 27th day of September, 1930.

ATTEST: A TRUE COPY.

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
W. M. NEWTON, DOING BUSINESS AS) CASE NO. 586
ROY TAXICAB COMPANY.)

September 29, 1930.

S T A T E M E N T.

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the respondent is operating as a motor vehicle carrier as defined by Section 1 (d), Chapter 134, Session Laws of Colorado, 1927, and particularly in operating a taxicab and sightseeing service between Canon City and the top of the Royal Gorge and other points; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without having obtained a certificate of public convenience and necessity therefor.

O R D E R

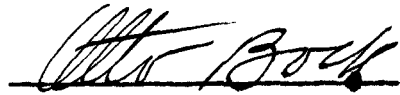
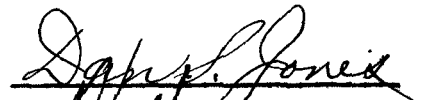
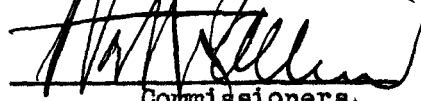
IT IS THEREFORE ORDERED, by the Commission on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without having obtained a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with this Commission within ten days from the date hereof, why the Commission should not enter an order requiring him to cease and desist from so operating unless and until he shall obtain

a certificate of public convenience and necessity.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 15th day of October, 1930, at 10:00 A.M. thereof, at which time and place such evidence may be taken and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 29th day of September, 1930.

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498

Wick
Case
10/4/30
Sullivan
(Decision No. 3076)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

498

IN THE MATTER OF THE APPLICATION)
OF HARRY MATTISON FOR A CERTIFI-)
CATE OF PUBLIC CONVENIENCE AND)
NECESSITY.)

APPLICATION NO. 1659

September 29, 1930.

Appearances: John H. Simpson, Esq., Loveland, Colorado,
for applicant.

S T A T E M E N T

By the Commission:

This is an application by Harry Mattison, doing business as Harry Mattison Truck Service, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight between points within and in the vicinity of the City of Loveland, Colorado, and points elsewhere within the State of Colorado.

The applicant has been engaged for some four years in transporting by truck freight of various kinds, including live stock, grain and household goods, and desires authority to continue such operations.

The Commission heretofore has issued a number of certificates authorizing just such an operation as the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is of more importance may be protected against injurious competition.

The applicant has expressed a willingness to keep on file a tariff containing rates not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business within and in the vicinity of the City of Loveland, Colorado, and for occasional service throughout the State of Colorado and each of the counties thereof, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant, Harry Mattison, doing business as Harry Mattison Truck Service, for the (conduct of a transfer, moving and general cartage business in the City of Loveland and in the County of Larimer and for occasional service throughout the State of Colorado, and each of the counties thereof, subject to the following conditions,) and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least 20 per cent in excess of those charged by the scheduled carriers;

(b) The applicant shall not operate on schedule between any points;

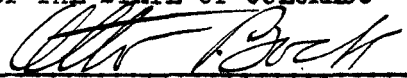
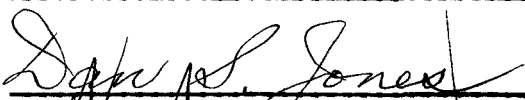
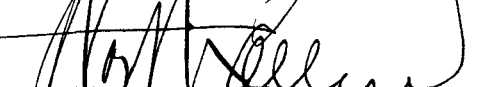
(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed in any other town or city than Loveland, for the purpose of developing business;

(d) Jurisdiction of the application herein shall be, and the same is hereby retained, to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

IT IS FURTHER ORDERED, That the applicant shall file and keep on file with this Commission tariffs of rates which shall be not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, the first tariff to be filed within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates, rules and regulations filed with this Commission, except when prevented from so doing by the Act of God, the public enemy and unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the rules and regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado, this
29th day of September, 1930.

✓

*Wick
19/4/30
Sullivan*

(Decision No. 3077)

428

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF WILLIAM IRVINE, DOING BUSINESS)
AS THE IRVINE SIGHT SEEING COMPANY,)
TO TRANSFER AND ASSIGN TO HARRY L. WOOD,)
AND SON A PORTION OF HIS CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)
-----)

APPLICATION NO. 637-A

Sept. 30, 1930.

S T A T E M E N T

By the Commission:

The above matter was set down for hearing at Colorado Springs on September 26, 1930. On September 24, this Commission was advised by counsel for the applicants that it is the desire of the applicants to withdraw the same.

O R D E R

IT IS THEREFORE ORDERED, That the above application be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Olto Brock
James L. Jones
W. A. Keller
Commissioners.

Dated at Denver, Colorado,
this 30th day of September, 1930.

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Case
(Decision No. 3078)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN RE REDUCED FARE FROM DENVER TO)
PIKES PEAK AND RETURN BY THE DENVER) I. & S. DOCKET NO. 140
COLORADO SPRINGS PUEBLO MOTOR WAY, INC.)

Sept. 30, 1930.

S T A T E M E N T

By the Commission:

On July 8, 1930, the Denver-Colorado Springs-Pueblo Motor Way, Inc., filed with this Commission Tariff No. 77, reducing the fare from Denver to Pikes Peak and return in its sightseeing operations. The Commission on August 6, 1930, issued an I. & S. order suspending the effective date for one hundred and twenty days. The Commission is now in receipt of a letter from the respondent, the Denver-Colorado Springs-Pueblo Motor Way, Inc., in which we are advised that the tariff referred to expires at the close of business on September 30, 1930, and that it does not intend to re-issue this tariff in 1931. Under the circumstances, an order will be entered cancelling this tariff and discontinuing this proceeding.

O R D E R

IT IS THEREFORE ORDERED, That Tariff No. 77 of the Denver-Colorado Springs-Pueblo Motor Way, Inc., be, and the same is hereby, cancelled and that the proceedings herein be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 30th day of September, 1930.

Atto Brock
Samuel S. Jones
H. A. Collins
Commissioners.

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10/7/30
Billon

(Decision No. 3079)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
C. E. LEWIS AND JOE F. ENRIGHT,)
CO-PARTNERS, DOING BUSINESS UNDER) CASE NO. 587.
THE FIRM NAME AND STYLE OF L-L)
AUTO TOURS.)

Sept. 30, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, the Commission did on or about May 10, 1928, in Application No. 930, issue to the above named respondents a certificate of public convenience and necessity, P.U.C. No. 262, authorizing them to engage in the transportation of passengers from Boulder to the various scenic attractions in the Boulder region. In its findings and order, the Commission made this statement:

"Until and unless the Commission otherwise orders, the service by the applicants to other scenic points than in the Boulder region in the State of Colorado will not be disturbed, but such operations should be reflected in the monthly reports on the passenger mile tax."

Certain conditions were imposed by said certificate which limited the operations to round trip operations originating and terminating at the point of origin without stop-over privileges; and preventing one-way transportation of passengers between the city of Boulder and other points where there exists regular, established transportation by either railroad or motor vehicle carriers, or in part by the one and in part by the other; and limiting their equipment to seven automobiles; and

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondents have been engaged in operations other than

those authorized by said certificate of public convenience and necessity, particularly the transportation of passengers from Boulder to the Colorado-Wyoming state line and through Yellowstone and Teton national parks, returning through the Rocky Mountain National Park to Boulder; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondents have engaged in operations other than those authorized by their certificate of public convenience and necessity.

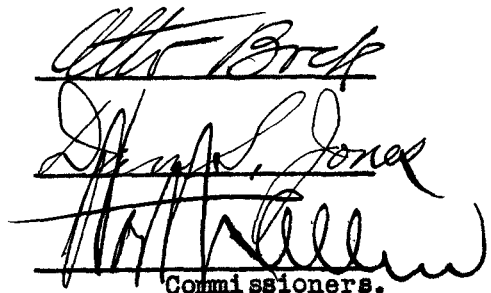
O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondents have engaged in operations other than those authorized by the certificate of public convenience and necessity heretofore issued to them.

IT IS FURTHER ORDERED, That said respondents show cause, if any they have, by written statement filed with this Commission within ten days from the date hereof, why the Commission should not enter an order revoking and cancelling their said certificate of public convenience and necessity, or such other order as may be proper in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 16th day of October, 1930, at 2:00 P. M. thereof, at which time and place such witnesses may be examined and such testimony taken as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 30th day of September, 1930.

At a General Session of The Public Utilities Commission of the State of Colorado, held in its office in Denver, Colorado, on the 3rd day of October, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO. 141

Re: Cancellation of pick-up and delivery service,
less than truckload freight.

IT APPEARING, That there has been filed with The Public Utilities Commission of The State of Colorado, by the Weicker Transportation Company, by Robert vH. Work, its Vice-President and General Manager, a tariff containing schedules stating new individual rates and charges and new individual regulations and practices affecting such rates and charges to become effective on October 4, 1930, designated as follows:

Weicker Transportation Local Freight
Tariff No. 1, Colo. P.U.C. No. 1.

IT IS ORDERED, That the Commission, upon complaint, without formal pleading, enter upon a hearing concerning the lawfulness of the rates, charges, regulations and practices stated in the said schedules contained in said tariff.

IT FURTHER APPEARING, That the said schedules make certain increases in the rates, charges, regulations and practices for the intrastate transportation of commodities whereby the rights and interests of the public may be injuriously affected, and it being the opinion of the Commission that the effective date of the said tariff should be postponed pending said hearing and decision thereon,

IT IS FURTHER ORDERED, That the operation of the said tariff be suspended and that the use of the rates, charges, regulations and practices therein stated be deferred 120 days or until the 2nd day of February, 1931, unless otherwise ordered by the Commission, and no change shall be made in such rates, charges, regulations and practices during the said period of suspension.

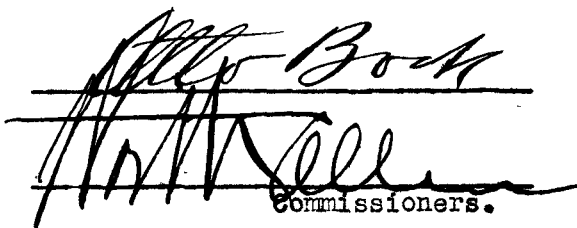
IT IS FURTHER ORDERED, That the rates, charges, regulations and practices thereby sought to be altered shall not be changed by any subsequent tariff or schedule until this investigation and suspension proceeding has been disposed of or until the period of suspension or any extension thereof has expired.

IT IS FURTHER ORDERED, That a copy of this order be filed with the said tariff in the office of the Commission and that copies hereof be forthwith served upon the Weicker Transportation Company and Swift & Company, Union Stockyards, Denver, Colorado.

IT IS FURTHER ORDERED, That this proceeding be assigned for hearing at a future date to be determined by the Commission, due notice of such place and date of hearing being given all interested parties.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado, this
3rd day of October, 1930.


Commissioners.

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Sum
(Decision No. 3081)
499

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF ROY SHANNON AND LESTER CLARK, CO-)
PARTNERS, DOING BUSINESS AS DENVER-) APPLICATION NO. 1616.
CHEYENNE TRUCK LINE, FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

October 4, 1930.

Appearances: David F. How, Esq., Denver, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
Attorney for Motor Truck Common
Carriers Association.

S T A T E M E N T.

By the Commission:

This is an application of Roy Shannon and Lester Clark, co-partners, doing business under the firm name and style of Denver-Cheyenne Truck Line, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight in interstate commerce only over U. S. Highways Nos. 85 and 285 between Denver and the points at which those highways cross the Colorado-Wyoming state boundary.

After careful consideration of the evidence, the Commission is of the opinion and so finds that the Constitution of the United States and the laws of the State of Colorado require the issuance of the certificate as prayed for.

O R D E R

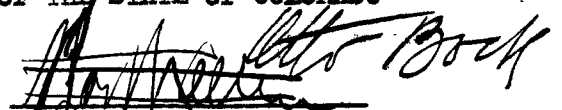
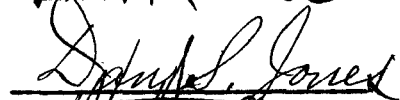

IT IS THEREFORE ORDERED, That the Constitution of the United States and the laws of the State of Colorado require the issuance to the applicants of a certificate of public convenience and necessity authorizing the transportation of freight in interstate commerce only over U. S. Highways Nos. 85 and 285 between Denver and the points at which those highways cross the

Colorado-Wyoming state boundary, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 4th day of October, 1930.

✓

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Delmon 10/10/30

(Decision No. 3082) 300

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * * *

IN THE MATTER OF THE JOINT APPLI-)
CATION OF DALE RESLER AND C. H.)
WOODIN FOR AUTHORITY TO TRANSFER)
AND ASSIGN CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY.)

APPLICATION NO. 844-A

October 4, 1930.

Appearances: Dale Resler, Akron, Colorado, and
C. H. Woodin, Akron, Colorado,
pro se.

S T A T E M E N T

By the Commission:

This is an application to authorize Dale Resler to transfer to C. H. Woodin the certificate of public convenience and necessity issued on August 23, 1929 (Decision No. 2446). This certificate authorized a motor vehicle system for the transportation of freight from Akron to Denver and Denver to Akron, but not between any intermediate points, and the transportation of furniture and agricultural products, including live stock, from and to a certain territory described from Akron as follows: South 30 miles, east 10 miles, north 15 miles, west 10 miles, and from said territory directly into Denver and return.

No protests were filed against this application. The transferee, C. H. Woodin, heretofore received a certificate of public convenience and necessity to operate a motor vehicle system for the transportation of freight between Sterling and Wray, via Akron. His financial responsibility seems to be satisfactory.

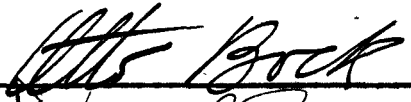
After careful consideration of the evidence, the Commission is of the opinion and so finds that an order should be entered authorizing the assignment and transfer herein.

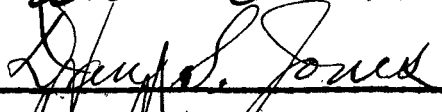
ORDER

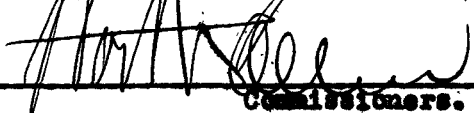
IT IS THEREFORE ORDERED, That Dale Resler be, and he is hereby, authorized to assign and transfer to C. H. Woodin the certificate of public convenience and necessity issued on August 23, 1929, (Decision No. 2446).

IT IS FURTHER ORDERED, That all the tariffs, rates, rules and regulations now on file covering this operation shall continue in force and effect until changed as provided by the Rules and Regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 4th day of October, 1930.

(Decision No. 3065)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * * *

IN THE MATTER OF THE JOINT APPLICATION)
OF HERBERT A. PREUSS, DOING BUSINESS AS)
AIRLINE TRUCK SERVICE, AND C. C. SNYDER,)
J. H. MCKEE AND J. C. STRATTON FOR TRANS-)
FER OF CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY.)

APPLICATION NO. 1258-AA

October 4, 1930.

Appearances: J. G. Scott, Esq., Denver, Colorado, for
applicants.

S T A T E M E N T

By the Commission:

This is an application seeking authority to transfer certificate of public convenience and necessity. On September 26, 1929 (Decision No. 2544) this Commission issued a certificate of public convenience and necessity to Lloyd Harmon, authorizing a motor vehicle system for the transportation of freight between Kirk, Joes and Cope, Colorado, and Denver, but not between Byers and Denver. This certificate was subsequently transferred (Decision No. 2708) to Herman A. Preuss. Preuss desires authority to assign and transfer this certificate to C. C. Snyder, J. H. McKee and J. C. Stratton. This is a partnership, and the Commission will require a partnership agreement to be filed before the transfer becomes effective.

After a careful consideration of this application the Commission is of the opinion, and so finds, that authority should be granted to Herbert A. Preuss to transfer said certificate to C. C. Snyder, J. H. McKee and J. C. Stratton.

O R D E R

IT IS THEREFORE ORDERED, That Herbert A. Preuss be, and he is hereby,

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(Decision No. 3084)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

* * *

IN THE MATTER OF THE APPLICATION OF)
A. F. SHUPP FOR A CERTIFICATE OF) APPLICATION NO. 1505
PUBLIC CONVENIENCE AND NECESSITY.)

October 14, 1930.

Appearances: A. F. Shupp, Walden, Colorado,
pro se.

S T A T E M E N T

By the Commission:

This is an application by A. F. Shupp of Walden, Colorado, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight generally within a radius of two hundred miles of Walden. No protests were filed and nobody appeared in opposition.

The evidence introduced showed, and the Commission so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of freight generally within a radius of two hundred miles of Walden, Colorado, subject to the conditions hereinafter stated, which the Commission finds the public convenience and necessity requires.

All freight must either originate or terminate in Jackson County, Colorado.

No scheduled operations shall be conducted by the applicant.


The north boundary of Jackson County, of which Walden is the county seat, forms a portion of the Colorado-Wyoming state boundary line. Of course, our certificate is not intended to and cannot exempt the applicant from complying with such police and other possible powers as may properly be exercised by the State of Wyoming.


authorized to transfer to C. C. Snyder, J. H. McKee and J. C. Stratton certificate of public convenience and necessity dated September 26, 1929 (Decision No. 2544).

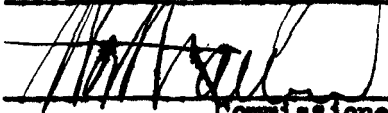
IT IS FURTHER ORDERED, That the transferees shall operate under the rates, tariffs and time schedules filed by the transferor with this Commission until changed or amended as provided by law.

IT IS FURTHER ORDERED, That this order shall not become effective until the transferees have filed with this Commission a copy of their partnership agreement.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 4th day of October, 1930.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant, A. F. Shupp, for the transportation of freight generally within a radius of two hundred miles of Walden, subject to the conditions hereinafter stated, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

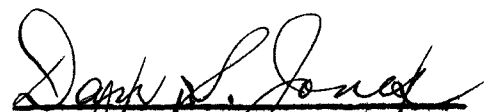

All freight must either originate or terminate in Jackson County, Colorado.

No scheduled operations shall be conducted by the applicant.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 14th day of October, 1930.

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(Decision No. 3085)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF HARRY L. CROSBY FOR A CERTIFICATE) APPLICATION NO. 1463
OF PUBLIC CONVENIENCE AND NECESSITY.)

October 14, 1930.

Appearances: Harry L. Crosby, Walden, Colorado,
pro se.

S T A T E M E N T

By the Commission:

This is an application by Harry L. Crosby for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight between Walden, Colorado, and points within a radius of 75 miles thereof, and between Walden and Denver, Colorado, and intermediate points. No protests were filed against this application and nobody appeared in opposition. The evidence introduced showed, and the Commission so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of freight between Walden, Colorado, and points within a radius of 75 miles thereof, and between Walden, Colorado, and Denver, and intermediate points, subject to the conditions hereinafter stated, which the Commission finds the public convenience and necessity requires.

All freight must either originate or terminate in Jackson County, Colorado.

No scheduled operations shall be conducted by the applicant.

The north boundary of Jackson County, of which Walden is the county seat, forms a portion of the Colorado-Wyoming state boundary line. Of course, our certificate is not intended to and cannot exempt the

applicant from complying with such police and other possible powers as may properly be exercised by the State of Wyoming.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant, Harry L. Crosby, for the transportation of freight between Walden, Colorado, and points within a radius of 75 miles thereof, and between Walden, Colorado, and Denver, Colorado, and intermediate points, except as hereinafter provided, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor, subject to the following conditions:

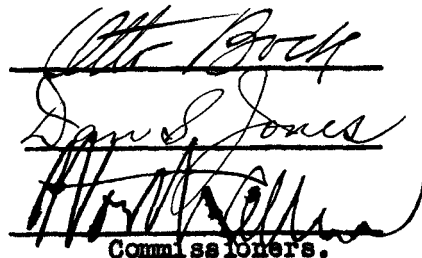
(a) All freight must either originate or terminate in Jackson County, Colorado.

(b) No scheduled operations shall be conducted by the applicant.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 14th day of October, 1930.

(Decision No. 3086)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF T. R. SEARS FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1480

October 14, 1930.

Appearances: T. R. Sears, Laramie, Wyoming,
pro se.

S T A T E M E N T

By the Commission:

This is an application by T. R. Sears for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of passengers between the city of Laramie, Wyoming, and Coalmont, Colorado, and intermediate points, during that portion of the year when transportation of mail by auto over said route is found practicable. The applicant has a contract for carrying the mail on said route, making three round trips per week, the railroad line carrying the mail on the other week days. His contract runs for a period of four years from last July. Most of the business is interstate in character, as the Colorado-Wyoming state boundary line is a comparatively short distance from Walden, which is the county seat of Jackson County. However, according to the evidence, there is a demand for some slight amount of intrastate service.

The evidence shows that Collamer Brothers are operating under a certificate from the Commission over the same route, their operation extending beyond Laramie to Fort Collins. However, they did not appear or file a protest. The evidence shows that they do not operate on schedule, but merely on call and demand between Walden and Coalmont.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the constitution of the United States and the laws of the State of Colorado require the issuance of a certificate of public convenience and necessity to the applicant for the transportation in interstate

commerce of passengers from Coalmont and all points between Coalmont and the Colorado-Wyoming state boundary line to said line; and that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of passengers in intrastate commerce to and from Colorado points lying on the route extending from Coalmont, Colorado, to the Colorado-Wyoming state boundary line.

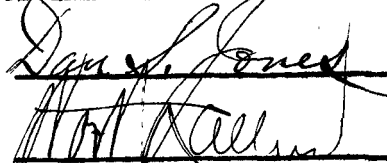
O R D E R

IT IS THEREFORE ORDERED, That the Constitution of the United States and the laws of the State of Colorado require the issuance of a certificate of public convenience and necessity to the applicant for the transportation by motor vehicle in interstate commerce of passengers from Coalmont and all points between Coalmont and the Colorado-Wyoming state boundary line to said line; and that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of passengers in intrastate commerce to and from Colorado points lying on the route extending from Coalmont, Colorado, to the Colorado-Wyoming state boundary line.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 14th day of October, 1930.

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(Decision No. 3087)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF WILLIAM M. EDGAR, ET AL, FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY.)

APPLICATION NO. 1470

October 14, 1930.

Appearances: William M. Edgar and John N. Edgar,
Walden, Colorado, pro se.

S T A T E M E N T

By the Commission:

The application herein was originally filed by three brothers, William M. Edgar, John N. Edgar and Everett J. Edgar. Everett J. Edgar withdrew and the partnership then consisted of the two first named, doing business as Edgar Brothers.

Their application is for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight generally within a radius of 110 miles of Walden, Colorado.

No pretests were filed and nobody appeared in opposition.

The evidence introduced showed, and the Commission so finds, that the public convenience and necessity requires the motor vehicle system of the applicants, William M. Edgar and John N. Edgar, co-partners, doing business as Edgar Brothers, for the transportation of freight generally within a radius of 110 miles of Walden, Colorado, subject to the conditions hereinafter stated, which the Commission finds the public convenience and necessity requires.

All freight must either originate or terminate in Jackson County, Colorado.

No scheduled operations shall be conducted by the applicants.

The north boundary of Jackson County, of which Walden is the county seat, forms a portion of the Colorado-Wyoming state boundary line. Of course, our certificate is not intended to and cannot exempt the applicants from complying with such police and other possible powers as may properly be exercised by the State of Wyoming.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicants, William M. Edgar and John N. Edgar, co-partners, doing business as Edgar Brothers, for the transportation of freight generally within a radius of 110 miles of Walden, Colorado, subject to the conditions hereinafter stated, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

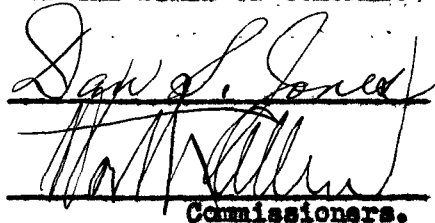
All freight must either originate or terminate in Jackson County, Colorado.

No scheduled operations shall be conducted by the applicants.

IT IS FURTHER ORDERED, That the applicants shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicants shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 14th day of October, 1930.

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(Decision No. 3088)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF FRED DONELSON FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1565

October 14, 1930.

S T A T E M E N T

By the Commission:

This application was regularly set for hearing in the Court House in
Walden, Colorado, on October 2, 1930, at 9:30 o'clock A. M. The applicant had
due notice but did not appear.

O R D E R

IT IS THEREFORE ORDERED, That the above entitled application be, and
the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alta Boyd
Lake S. Jones
Harry Wilson
Commissioners.

Dated at Denver, Colorado,
this 14th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN RE CANCELLATION OF PICK-UP AND)
DELIVERY SERVICE, LESS THAN TRUCK-)
LOAD FREIGHT.)
-----)

INVESTIGATION AND SUSPENSION DOCKET
NO. 141

October 14, 1930

S T A T E M E N T

By the Commission:

By schedule filed to become effective on the 4th day of October, 1930, The Weicker Transportation Company proposed certain changes which apparently had the effect of curtailing certain services heretofore enjoyed by shippers in the transportation of freight.

Upon petition for suspension by Swift and Company, this Commission suspended operation of the proposed schedule until the 2nd day of February, 1931, unless otherwise ordered by the Commission.

The Commission is now in receipt of a letter from petitioner, Swift and Company, stating that they wish to withdraw the said petition and that they are agreeable to the said schedule becoming effective.

O R D E R

IT IS THEREFORE ORDERED, That the order heretofore entered in this proceeding, suspending the operation of the said schedule be, and it is hereby vacated and set aside as of October 14, 1930, and that this proceeding be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado, this
14th day of October, 1930.

W. B. Bock
Samuel Jones
W. M. Adams
Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF D. G. PARSONS FOR A CERTIFICATE) APPLICATION NO. 1246
OF PUBLIC CONVENIENCE AND NECESSITY.)

October 15, 1930.

Appearances: T. E. Munson, Esq., Sterling, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for Motor Truck Common Carriers Ass'n;
G. E. Hendricks, Esq., Julesburg, Colorado,
for C. E. Courtright.

S T A T E M E N T

By the Commission:

On September 25, 1930, the Commission issued an order in this case, granting a certificate of public convenience and necessity to the applicant to operate a motor vehicle system for the transportation of freight in interstate commerce only between Sterling and the Colorado-Nebraska state line north of Ovid.

The Commission is now in receipt of a letter from counsel for applicant, in which he states than an interstate certificate would not be remunerative and that applicant will cease all of his motor vehicle operations, both intrastate and interstate, and that since he is not going to operate, the \$5.00 certificate fee will not be required. We assume from this statement that the applicant does not accept the certificate issued to him. Under these circumstances, an order will be entered cancelling and revoking this certificate.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity issued to D. G. Parsons on September 25, 1930 (Decision No. 3069), be, and the same is hereby, cancelled and held for naught.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 15th day of October, 1930.

Edith Brock
Samuel Jones
W. H. McCall
Commissioners.

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(Decision No. 3091)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
ARTHUR OESTRICH.)

CASE NO. 588

October 15, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent has been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent has been operating as a motor vehicle carrier in violation of said law.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent has been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with this Commission within ten days from the date hereof, why the Commission should not enter an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and

necessity for such operations.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission at 10 o'clock A. M. on the 31st day of October, 1930, at the Court House in Greeley, Colorado, at which time and place such evidence may be taken and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Wm. B. Boyd
Samuel L. Jones
Wm. M. Allen
Commissioners.

Dated at Denver, Colorado,
this 15th day of October, 1930.

(Decision No. 3092)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION
OF THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY TO TEMPORARILY
SUBSTITUTE TRI-WEEKLY MIXED SERVICE
BETWEEN GUNNISON AND CRESTED BUTTE,
COLORADO.

APPLICATION NO. 1050.

October 15, 1930.

Appearances: E. H. Clark, Esq., Denver, Colorado,
for applicant;
Mayor of Crested Butte, Colorado,
for protestants.

STATEMENT

By the Commission:

This application was set down for hearing at Gunnison, Colorado, on October 10, 1930. Prior to that time the Commission received a letter from counsel for the applicant, in which request was made to dismiss this application.

ORDER

IT IS THEREFORE ORDERED, that the above application be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

OTTO BOCK

DAN S. JONES

WORTH ALLEN

Commissioners.

(S E A L)

Dated at Denver, Colorado,
this 15th day of October, 1930.

ATTEST: A TRUE COPY.

Secretary.

(Decision No. 3093)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF THE JARVIS GARAGE, INC., FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY.)

APPLICATION NO. 1531

October 15, 1930.

Appearances: John B. O'Rourke, Esq., Durango, Colorado,
for applicant;
B. B. Russell, Esq., Durango, Colorado,
for protestants Stone and Kaufman and
Yellow Cab.
T. R. Woodrow, Esq., Denver, Colorado,
for The Denver and Rio Grande Western
Railroad Company.

STATEMENT

By the Commission:

This application was set down for hearing at Durango, Colorado, on
October 7, 1930. At that time counsel for the applicant moved that the appli-
cation be dismissed without prejudice.

ORDER

IT IS THEREFORE ORDERED, That the above application be, and the same
is hereby, dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

OTTO BOCK

DAN S. JONES

WORTH ALLEN

Commissioners.

(S E A L)

Dated at Denver, Colorado,
this 15th day of October, 1930.

ATTEST: A TRUE COPY.

Secretary.

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(Decision No. 3094)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF HERBERT HOBSON FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1508

October 15, 1930.

Appearances: John B. O'Rourke, Esq., Durango, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This application was set down for hearing at Durango, Colorado,
on October 7, 1930. At that time counsel for applicant moved to dismiss
this application.

O R D E R

IT IS THEREFORE ORDERED, That the above application be, and the
same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Herbert B. O'Rourke
James S. Jones
W. H. Allen
Commissioners.

Dated at Denver, Colorado,
this 15th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
THE EASTERN SAN JUAN TELEPHONE COM-)
PANY FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1574

October 15, 1930.

Appearances: B. B. Russell, Esq., Durango, Colorado,
for applicant.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing the construction and maintenance of a telephone line and service between the Town of Dove Creek, Colorado, and the Colorado-Utah state line, at a point one and one-half miles east of Lockerby Postoffice, in San Juan County, Utah. No protest was filed against this application.

It is the intention of the applicant to extend its present line, which now reaches a point one mile east of the Lockerby Postoffice in the State of Utah to the Town of Dove Creek, Dolores County, Colorado, a distance of approximately twelve miles. At present the means of telephone communication are very unsatisfactory, due to the great distance over which messages must pass, and quicker and better service will be afforded to the communities in southwestern Colorado if the application is granted. There is no telephone company now serving in the particular territory in question. The construction of this telephone line will cost approximately \$1,000.


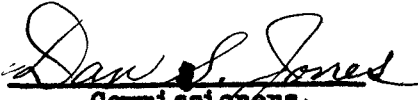
After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the construction and maintenance of a telephone line and service between the Town of Dove Creek, Colorado, and the Colorado-Utah state line at a point one and one-half miles east of the Lockerby Postoffice, in San Juan County, Utah.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the construction and maintenance of a telephone line and service by the applicant between the Town of Dove Creek, Colorado, and the Colorado-Utah state line, at a point one and one-half miles east of the Lockerby Postoffice, in San Juan County, Utah, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That within twenty days after completion of this construction, applicant shall file with this Commission its tariffs, rules and regulations covering the service involved herein.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 15th day of October, 1930.

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MAKE TWO COPY
(Decision No. 3096)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

THE CITIZENS OF RICO AND OPHIR,
COLORADO,
Complainants,

vs.

THE RIO GRANDE SOUTHERN RAILROAD
COMPANY,

Defendant.

CASE NO. 497

October 15, 1930.

S T A T E M E N T

By the Commission:

This was a complaint by the citizens of Rico and Ophir, Colorado, complaining of the defendant in its failure to give rail service between Vance Junction and Rice, Colorado, growing out of the Ames slide conditions. The Commission set this matter down for hearing at Durango, Colorado, on October 7, 1930. In the meantime, the Commission was advised that the rail track around the Ames slide has been reconstructed and that the rail carrier is now again operating between Vance Junction and Rico.

Under these circumstances the complaint will be dismissed.

O R D E R

IT IS THEREFORE ORDERED, That the above complaint be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Boeck
David L. Jones
Walter Kellum
Commissioners.

Dated at Denver, Colorado,
this 15th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
GUSTAV JABS FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1645

October 15, 1930.

Appearances: A. B. Bouton, Esq., Denver, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for Motor Truck Common
Carriers Association.

S T A T E M E N T

By the Commission:

This is an application by Gustav Jabs for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight, including milk, butter and other small parcels of farm products, from a district northeast of Denver to Denver and for the transportation of farm supplies from Denver to the district in question. He seeks authority to serve the farmers living on and within a mile and a half of the route described as follows by the applicant:

"Commencing at Edgewater, Colorado, the route goes east on Colfax Avenue to Aurora, Colorado, thence north two miles on the section line on the east side of sections 34 and 27, T. 3 S., R. 67 W., to the Union Pacific R. R. thence in a southeasterly direction along the south side of the Union Pacific RR. approximately six and one half miles, thru sections 25 and 26 T. 3 S., R. 67 W. and sections 28, 29, 30, 33 and 34, T. 3 S., R. 66 W., thence north on the west line of sections 35, 26, 23, 14, 11, T. 3 S., R. 66 W., thence west one mile on the north line of section 10, T. 3 S., R. 66 W., thence north one mile on the west line of section 3 T. 3 S., R. 66 W., thence west five miles on the township line between townships 2 and 3 south, thence south two miles on the west line of sections 2 and 11 T. 3 S., R. 67 W., thence west three and one half miles on the south line of sections 7, 8, 9, 10, T. 3 S., R. 67 W. Thence south one mile thru the center line of Section 18 T. 3 S. R. 67 W., Thence west one-half mile to Colorado Boulevard and into the City of Denver on the improved and generally traveled streets to the destinations for the milk and cream designated by the several patrons."

The principal commodities to be hauled by the applicant will be

milk and cream, which he will bring daily from the farms to Denver. Most of the customers to be served by him are not now served by any other motor vehicle carrier. Moreover, on most of the proposed route no other motor vehicle carrier is operating. One Bollers operates over a portion of the said route and one Meyers also operates over a portion thereof. Bollers had notice of the filing of the application but filed no protest. Meyers filed a written statement in which he consents to the granting of the application herein. A number of farmers now being served by the applicant testified in his behalf. The applicant's financial condition appears satisfactory.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant, Gustav Jabs, for the transportation of farm produce, including milk, cream and butter, from the territory hereinabove described, and for the transportation of farm supplies from Denver to said territory.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant, Gustav Jabs, for the transportation of farm produce, including milk, cream and butter, from the territory hereinabove described, and for the transportation of farm supplies from Denver to said territory, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now

in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Brock
Samuel Jones
Wm. H. Allen
Commissioners.

Dated at Denver, Colorado,
this 15th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
W. O. TIMMS FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1671.

October 15, 1930.

Appearances: Gail L. Ireland, Esq., Denver, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for Virgil F. Vance and Motor
Truck Common Carriers' Association.
John Q. Dier, Esq., Denver, Colorado,
attorney for Chicago, Burlington & Quincy
Railroad Company;
J. S. Habenicht, Esq., Denver, Colorado,
attorney for Railway Express Agency.

S T A T E M E N T

By the Commission:

This is an application by W. O. Timms for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of livestock and farm products from the territory around Keenesburg, Prospect and Roggen, Colorado, to Denver and intermediate points, and the transportation of livestock and farm supplies from Denver to points in said territory but not to points in towns in said territory.

The said territory is described by the applicant as follows:

"All territory embraced in Townships 1, 2 and 3, North of Range 64 West; Townships 1, 2 and 3, North of Range 63 West; Townships 1, 2 and 3, North of Range 62 West; Townships 1, 2 and 3, North of Range 61 West; Townships 1, 2 and 3, North of Range 60 West; Townships 1, 2 and 3, North of Range 59 West; and Township 2, North of Range 58 West, all in Weld County, Colorado; as well as all territory embraced in Township 1, South of Ranges 64, 63, 62, 61, 60 and 59 West, all in Adams County, Colorado."

During the hearing the applicant asked for leave to amend the application so as to ask for authority also to transport grain to railroad points in said territory and freight generally from point to point therein.

A large number of farmers and stock growers appeared and testified

in support of the application. The only motor vehicle carrier who appeared at the hearing to protest the issuance of the certificate was Virgil F. Vance. However, before the hearing was concluded Vance withdrew his protest in consideration of the applicant agreeing, as he did during the hearing, that his certificate should contain the following conditions:

1. The applicant shall not operate on schedule. The service shall be on call and demand.
2. Freight hauled from the territory in question to Denver shall consist only of livestock.
3. Freight hauled to the territory in question shall consist of livestock, farm implements and machinery, oil and petroleum products, lumber and building material.
4. No freight shall be delivered to points within towns in the said territory. All freight to the territory shall be delivered on the farms to farmers. No freight brought from Denver shall be delivered at points on the main highway intermediate to Denver and Keenesburg.
5. For every transportation service rendered a minimum charge of Four Dollars must be charged and collected.

The only person residing in the territory in question rendering such service as is proposed by the applicant is H. L. Sloan. He is operating on schedule, carrying merchandise and other freight between Denver and Keenesburg and Prospect. His certificate authorizes also the transportation of livestock in somewhat the same territory proposed to be served by the applicant. However, Sloan neither filed a protest nor appeared at the hearing. The evidence indicated that the service afforded by Sloan to farmers is not dependable; that Sloan is always behind and late with his work.

The evidence indicated also a need for motor vehicle service for the transportation of grain to railroad points in said territory and of freight generally from point to point therein.

While the railroad company protested, the evidence shows that its service in transporting livestock in particular and farm supplies in general

in less than carload lots is not adequate to meet the needs of the farmers.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant, W. O. Timms, for the transportation of livestock and farm supplies between the territory in question and the City of Denver, and of grain to railroad points in said territory and freight generally from point to point therein.

O R D E R

IT IS THEREFORE ORDERED, That authority be granted to the applicant and it shall be and is hereby required to file within five days an amendment to its application to conform with the proof and order herein.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the (transportation of livestock and farm supplies between the territory in question and the City of Denver, and of grain to railroad points in said territory and freight generally from point to point therein,) subject to the conditions hereinbefore stated, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject

to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas Brock

David S. Jones
W. H. Sullivan
Commissioners.

Dated at Denver, Colorado,
this 15th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF)
FRANK BARGROFF AND EDITH BARGROFF,)
DOING BUSINESS AS THE BROWN AND)
WHITE CAB COMPANY.)

CASE NO. 589

October 16, 1930

S T A T E M E N T

By the Commission:

WHEREAS, the Commission did on or about March 7, 1927, issue to the above named respondents a certificate of public convenience and necessity, P.U.C. No. 77, to operate a motor vehicle sightseeing business; and

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondents have during the season of 1930 sold and arranged sightseeing trips to Estes Park by Paul Schwank, doing business as the Argonaut Sightseeing Company, in violation of the terms and conditions of the certificate of public convenience and necessity, P.U.C. No. 221, issued to said Paul Schwank, and that said respondents did thereby violate Section 20 of Chapter 154, Session Laws of Colorado, 1927, and the rules and regulations of this Commission by aiding and abetting in the violation of the terms of the certificate of the said Paul Schwank; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondents have violated the law and the rules and regulations of this Commission by aiding and abetting said Paul Schwank to operate in violation of the terms and conditions of his said certificate, and whether or not the Commission should enter an order revoking and cancelling the certificate of said respondents.


O R D E R


IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondents have violated the law and the rules and regulations of this Commission by aiding and abetting Paul Schwank in engaging in motor vehicle carrier operations in violation of his certificate, P.U.C. No. 221.


IT IS FURTHER ORDERED, That said respondents show cause, if any they have, by written statement filed with this Commission within ten days from the date hereof, why their certificate should not be revoked and cancelled.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby, set down for hearing before the Commission at such time and place as the Commission will hereafter determine, at which time and place such evidence may be taken and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 16th day of October, 1930.

384
WCH
Miller
(Decision No. 3100)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF R. C. BURTON FOR A CERTIFICATE OF) APPLICATION NO. 1619 ✓
PUBLIC CONVENIENCE AND NECESSITY.)

IN THE MATTER OF THE APPLICATION OF)
C. F. WOOD AND J. W. MORGAN, CO-)
PARTNERS, DOING BUSINESS AS WOOD) APPLICATION NO. 1642
AND MORGAN, FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

October 16, 1930.

Appearances: J. J. Downey and H. W. Murray, Cortez, Colorado,
for applicant in Application No. 1619;
Mollette and Clements, Durango, Colorado,
for applicant in Application No. 1642.

S T A T E M E N T

By the Commission:

The application of R. C. Burton, No. 1619, is for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of freight from Cortez to Mancos and Durango, Colorado, and from Durango and all intermediate points to Cortez, Colorado, on regular schedule.

The application of C. F. Wood and J. W. Morgan, No. 1642, seeks substantially the same authorization.

Protest was filed against these applications by Victor A. Miller, Receiver of the Rio Grande Southern Railroad Company.

At the hearing both applicants stated that it was not their intention to transport freight between Durango and Mancos, Colorado, but that their desire was to seek authority to transport freight on regular schedule from Durango to Cortez, Colorado, and from Mancos and intermediate points to Cortez, Colorado.

R. C. Burton now has a certificate from this Commission to

transport milk and cream between Durango and Cortez.

Wood and Morgan have a certificate from this Commission to transport freight under a rover's certificate over a large portion of southwestern Colorado.

A large number of citizens appeared from Cortez, practically all of them business men, who testified that the public convenience and necessity required a regular scheduled motor vehicle carrier operation between those points. Burton has been transporting all of the freight from Cortez to Durango under special contracts with practically every merchant at Cortez. While Burton may have felt that he in good faith was operating as a private carrier, the evidence is clear that his operation was that of a common carrier.

Cortez is considered as Durango trade territory. A number of wholesale houses warehouse their goods at Durango, and ship from there to various points in the San Juan Basin. Considerable trucking, however, is done between Cortez and Gallup, New Mexico, a distance of 150 miles. The testimony shows that since the Commission heretofore denied an application for regular transportation from Durango to Cortez, most of the merchants have been purchasing a large quantity of their merchandise at Gallup, New Mexico, resulting in a loss of traffic to the Denver and Rio Grande Western Railroad as well as to the Rio Grande Southern. If there were any way that the Commission could reasonably retain this traffic between Durango and Cortez to the rail carrier its inclination would be to do so, but the record is clear that if the Commission should deny an authorized freight service between Durango and Cortez, it would mean nothing in the way of traffic to the rail carrier. The freight rates are such as will not attract the traffic, and the truck service is more expeditious and convenient.

The Burton application was filed on May 29, 1930, and the Wood and Morgan application was filed on June 30, 1930. Moreover, it was the unanimous desire of the business men of Cortez that if the Commission grants a certificate that it should go to Burton, mainly because his terminus being at Cortez he could more conveniently serve them. Under these circumstances the Commission believes that if a certificate is granted the same should be given to Burton.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system for the transportation of freight by the applicant R. C. Burton, on regular schedule from Durango to Cortez and return, and between Cortez and Mancos and intermediate points. It is understood that no authority is granted to transport freight between Durango and Mancos.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant R. C. Burton for the transportation of freight on regular schedule from Durango to Cortez and return, and between Cortez and Mancos and intermediate points, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

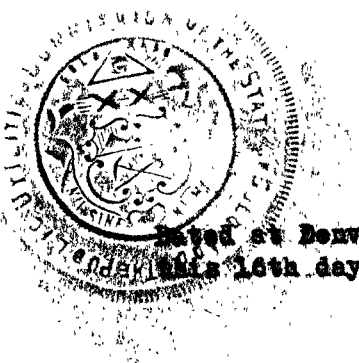
IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

IT IS FURTHER ORDERED, That the application of C. F. Wood and J. W. Morgan, co-partners, doing business together as Wood and Morgan, Application No. 1642, be and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Elmer Borch
David S. Jones
Commissioners.



Dated at Denver, Colorado,
this 16th day of October, 1930.

(Decision No. 3101)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
THE BOARD OF COUNTY COMMISSIONERS OF)
WELD COUNTY, COLORADO, FOR THE CLOSING)
OF TWO PUBLIC HIGHWAY GRADE CROSSINGS)
AND THE OPENING OF A NEW GRADE CROSSING)
AT CARR, COLORADO.)

APPLICATION NO. 1660

October 16, 1930.

S T A T E M E N T

By the Commission:

This proceeding arises out of the application of the Board of County Commissioners of Weld County, Colorado, filed with the Commission on July 11, 1930, in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917, for the closing of a public highway crossing at grade approximately 700 feet north of the depot at Carr, Colorado, and another grade crossing approximately 800 feet south of the depot, and the opening of a new crossing on Stevenson Avenue just south of said depot, all of said crossings being over and across the tracks of the Union Pacific Railroad Company.

The application alleged that two grade crossings are not necessary in the town of Carr and that a new crossing opened on Stevenson Avenue, the route of the main highway, will provide the necessary crossing facilities.

A copy of the application was duly served on the respondent, the Union Pacific Railroad Company; and on August 4, 1930, a conference was held at Carr between the Board of County Commissioners, the Division Engineer of the Union Pacific Railroad Company, the Commission's Railway Engineer and others interested, to consider the matter, and after carefully considering the hazards at the present crossings heretofore referred to and the safer conditions at the proposed new crossing on Stevenson Avenue, as well as the matter of

convenience to all concerned, the proposed changes were tentatively agreed to, subject to the approval of the management of the rail carrier and this Commission. The tentative agreement also provided for the straightening of the highway at the crossings of the wye at south side of the town and the abandonment of the highways leading to the crossings to be abandoned in the interests of safety and as being no longer needed or necessary.

On September 29, 1930, the attorneys for the respondent filed an answer to the application with the Commission, advising that the railroad company had "no objection to the proposed substitution of one crossing along Stevenson Avenue extended in the town of Carr, Colorado, and the abandonment of the two present road crossings in the manner shown on the blue print, Exhibit A, hereto attached and made part of this answer, provided that the cost of the change is divided on the usual basis between Weld County and the Railroad Company, the County to assume all costs on account of grading and the Railroad Company to assume expense incident to the moving of its property."

A copy of this answer was referred to the Board of County Commissioners of Weld County and on October 11, 1930, the Board advised the Commission that the answer was in accordance with the tentative agreements of the aforesaid conference, and was therefore satisfactory to it.

Since, therefore, all matters concerning the application are mutually satisfactory to the parties concerned therein, and since it is apparent that the proposed changes in the crossings and the roads leading thereto will be for the better convenience and safety of the public, the Commission will now make its order authorizing the changes.

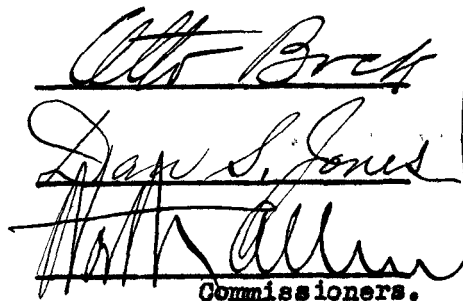
ORDER

IT IS THEREFORE ORDERED, in accordance with Section 29 of the Public Utilities Act, as amended April 16, 1917, that the present public highway grade crossing over the Union Pacific Railroad about 700 feet north of the depot at Carr, Colorado, and the grade crossing about 800 feet south of said depot be abandoned, and that a public highway crossing, at grade, be, and the same is hereby, permitted to be opened and established over and across the right-of-way and tracks of said railroad company on Stevenson Avenue as

extended in the town of Carr, and that the two crossings on the wye at south side of said town shall be moved to locations on the highway as straightened at that point, conditioned, however, that prior to the opening of said new crossing, and the changed crossings, they shall be constructed in accordance with the plans and specifications as prescribed in the Commission's Order "In re Improvements of Grade Crossings in Colorado", 2 Colo. P.U.C. 128.

IT IS FURTHER ORDERED, That the expense of the construction and maintenance of grading up to the tracks at the new crossing on Stevenson Avenue as extended, and the two new crossings on said wye, including drainage therefor, shall be borne by the County of Weld, Colorado, and the expense of the removal of the abandoned crossings, the removal of the crossings on the wye and the installation and maintenance of said new crossings, including necessary crossing planking, signs and other expense, shall be borne by the respondent, the Union Pacific Railroad Company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 16th day of October, 1930.

(Decision No. 3102)

WCH
10/21/30

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

WESTERN FREIGHT AUDIT COMPANY,

Complainant,

vs.

THE COLORADO AND SOUTHERN RAILWAY
COMPANY,

Defendant.

CASE NO. 369

October 16, 1930.

S T A T E M E N T

By the Commission:

After an order of the Commission was made herein on June 23, 1930, a petition for rehearing was filed. One of the points made in said petition is that the Commission erred in finding "that 'complainant's assignors made the shipments and paid and bore the charges thereon' and that 'the complainant is entitled to reparation with interest.'"

We are rather of the opinion that the record does show that the shippers did pay and bear the charges in question. However, the record does seem to fail to show that any assignment of the claims of shippers was ever made to the complainant herein. The Commission is, therefore, of the opinion that a rehearing should be granted and that this case should be reopened for proof of assignment of the claim or claims and for such other proof, if any, as the complainant may desire to make as to the charges having been paid by the shippers.

O R D E R

IT IS THEREFORE ORDERED, That this case be, and the same is hereby, reopened and that a rehearing be had, limited to the introduction of evidence

as to the payment of freight charges and the question of assignment of claims
by those who did make payment thereof.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alta Boock
John L. Jones
W. H. Waller
Commissioners.

Dated at Denver, Colorado,
this 16th day of October, 1930.

(Decision No. 3103)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF F. G. HARRIS AND F. G. MERRICK)
FOR AUTHORITY TO THE FORMER TO)
TRANSFER TO THE LATTER CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1284-A

October 20, 1930.

Appearances: C. J. Perry, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by F. G. Harris and F. G. Merrick for authority to the former to transfer to the latter the certificate of public convenience and necessity heretofore issued to the former. The certificate sought to be transferred authorizes the (transportation of freight between Bennett, Colorado, and the territory surrounding Bennett extending one mile east, ten miles south and ten miles north thereof, and Denver, Colorado, and intermediate points.

The applicant Merrick has a certificate authorizing the transportation of freight from Strasburg, a point beyond and east of Bennett.

The said Merrick is a responsible operator with a reasonably strong financial standing. The consolidation of the two truck lines will enable Merrick to effect economies, and he proposes also to make some reductions in the rates in effect between Denver and Bennett.

Merrick testified that he would pay or assume any indebtedness which said Harris might owe arising out of the latter's motor vehicle operations.

After careful consideration of the evidence, the Commission is of the opinion and so finds that authority be granted to F. G. Harris to transfer to F. G. Merrick the certificate of public convenience and necessity heretofore issued to the former.


O R D E R

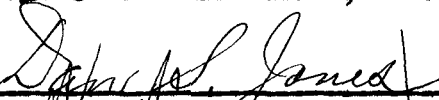
IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to F. G. Harris to transfer to F. G. Merrick the certificate of public

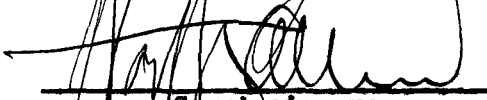
convenience and necessity heretofore issued to the former.

IT IS FURTHER ORDERED, That the tariff of rates and rules and regulations of said Harris which are now on file with the Commission, continue in effect until lawfully changed by said Merrick.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 20th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
CHARLES PETERSEN FOR A CERTIFICATE) APPLICATION NO. 1611.
OF PUBLIC CONVENIENCE AND NECESSITY.)

October 20, 1930.

Appearances: E. C. Craft, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by Charles Petersen for a certificate of public convenience and necessity authorizing the transportation by motor vehicle of milk, cream and dairy products from the Happy Canon territory situated south and somewhat east of the City of Denver. The territory is specifically described in the application as follows:

"Section 32 in Township 4 S. R. 67 West of 6th P.M., Arapahoe County, Colorado; Sections 4, 5, 8, 9, 10, 15, 16, 17, 20, 21, 22, 23, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, in Township 5 S. R. 67 W. of 6th P.M., Arapahoe County, Colorado. Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 in Township 6 S. R. 67 W. of 6th P.M., Douglas County, Colorado."

The dependability of the applicant and his financial responsibility were shown by the evidence. The evidence showed also that there is a need for such a service as the applicant is rendering and that the territory in question is dependent upon him for the transportation of its milk and cream to Denver.

After careful consideration of the evidence, the Commission is of the opinion and so finds that the public convenience and necessity requires the proposed motor vehicle system of the applicant for the transportation of milk and cream and dairy products from the territory hereinbefore specifically described to Denver.

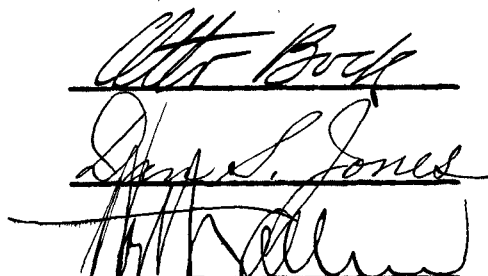
O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant for the transportation of milk and cream and dairy products from the territory hereinbefore specifically described to Denver, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That that the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 20th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF E. E. RIDGLEY, DOING BUSINESS)
AS SOUTH SIDE MOVING AND STORAGE,)
FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1613. —

October 20, 1930.

Appearances: Robert D. Charlton, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by E. E. Ridgley, doing business as South Side Moving and Storage, for a certificate of public convenience and necessity, authorizing the applicant to operate a motor vehicle system for the transportation of furniture, fixtures and household goods between Denver and various points in the State of Colorado. The applicant proposes to use in the service two vans and one truck of the market value of \$6,500.

The applicant's business consists principally of the transportation of the commodities named from one point to another within the City of Denver. Over such operations the Commission does not, of course, have any jurisdiction. Occasionally, however, the applicant is called upon to transport such freight out of or into the city. The Commission has heretofore issued a number of certificates authorizing much the same operation as the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon a requirement that in the transportation of any freight except household goods between points now served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates. The applicant has expressed a

willingness to keep on file a tariff containing rates not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

After careful consideration of the evidence, the Commission is of the opinion and so finds that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business for the transportation of furniture, fixtures and household goods in the City and County of Denver and in the counties of Adams, Arapahoe and Jefferson, in the State of Colorado, and also occasional service throughout the State of Colorado and each of the counties thereof, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant, E. E. Ridgley, doing business as South Side Moving and Storage, for the conduct of a transfer, moving and general cartage business for the transportation of furniture, fixtures and household goods, in the City and County of Denver and in the counties of Adams, Arapahoe and Jefferson, in the State of Colorado, and also occasional service throughout the State of Colorado and each of the counties thereof, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least twenty per cent in excess of those charged by the scheduled carriers;

(b) The applicant shall not operate on schedule between any points;

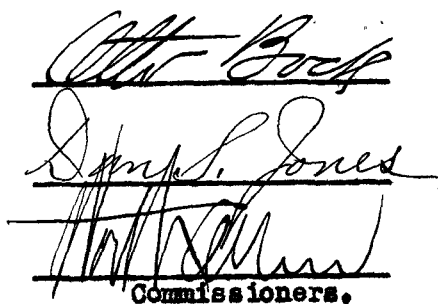
(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed in any other town or city than Denver for the purpose of developing business;

(d) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

IT IS FURTHER ORDERED, That the applicant shall file and keep on file with this Commission tariffs of rates which shall be not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, the first tariff to be filed within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates, rules and regulations filed with this Commission, except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the rules and regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 20th day of October, 1930.

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(Decision No. 3106) 423

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
EARL A. SERRY, DOING BUSINESS AS THE)
SERRY TRANSPORTATION COMPANY, FOR)
AUTHORITY TO ASSIGN AND TRANSFER CER-)
TIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO FRANCIS M. KEITH.)

APPLICATION NO. 1097-A

October 22, 1930.

Appearances: A. P. Anderson, Esq., Denver, Colorado,
attorney for applicants.

S T A T E M E N T

By the Commission:

This is an application by Earl A. Serry to transfer and assign certificate of public convenience and necessity issued to him on October 2, 1929 (Decision No. 2570), to Francis M. Keith.

The testimony shows purchase price involved herein is \$375.60. The Commission has heretofore issued a certificate of public convenience and necessity to transferee, Francis M. Keith, who, in our opinion, is financially dependable.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that Earl A. Serry should be authorized to transfer said certificate of public convenience and necessity to Francis M. Keith.

O R D E R

IT IS THEREFORE ORDERED, That Earl A. Serry be, and he is hereby, authorized to transfer and assign certificate of public convenience and necessity dated October 2, 1929 (Decision No. 2570) to Francis M. Keith, subject to all the terms and conditions contained therein.

IT IS FURTHER ORDERED, That the tariffs and rules and regulations now on file with this Commission covering this operation shall remain in force

and effect until changed or modified in accordance with the Rules and Regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Bock
Samuel Jones
Harold Hall
Commissioners.

Dated at Denver, Colorado,
this 22nd day of October, 1930.

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(Decision No. 3107)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF C. W. WHITNEY AND L. H. PERRY,)
CO-PARTNERS, DOING BUSINESS UNDER)
THE FIRM NAME AND STYLE OF WHITNEY)
AND PERRY SIGHTSEEING COMPANY, TO)
TRANSFER CERTAIN INTEREST AND CER-)
TIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY.)

APPLICATION NO. 563-A.

October 22, 1930.

Appearances: C. W. Whitney, Denver, Colorado,
pro se.

S T A T E M E N T

By the Commission:

On March 7, 1927, (Decision No. 1122) this Commission issued a certificate of public convenience and necessity to C. W. Whitney and L. H. Perry, co-partners, doing business under the firm name and style of Whitney and Perry Sightseeing Company. This application is to assign and transfer the interest of L. H. Perry to C. W. Whitney, hereafter to do business under the name and style of Whitney Sightseeing Company. The purchase price of the interest involved is \$1,000.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that L. H. Perry should be authorized to transfer his interest in the above described certificate to C. W. Whitney.

O R D E R

IT IS THEREFORE ORDERED, That L. H. Perry be, and he is hereby, authorized to assign and transfer to C. W. Whitney all of his right, title and interest in a certain certificate issued to C. W. Whitney and L. H. Perry, co-partners, doing business under the firm name and style of Whitney and Perry Sightseeing Company, dated March 7, 1927, subject to all the terms and conditions contained therein.

IT IS FURTHER ORDERED, That all the tariffs and rules and regulations covering this operation remain in force and effect until changed or modified in accordance with the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Boek

Samuel Jones

W. H. Allen
Commissioners.

Dated at Denver, Colorado,
this 22nd day of October, 1930.

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(Decision No. 3108)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
J. CECIL HOWARD FOR AUTHORITY TO)
ASSIGN AND TRANSFER CERTIFICATE OF) APPLICATION NO. 1217-AA
PUBLIC CONVENIENCE AND NECESSITY.)

October 22, 1930.

Appearances: E. H. Houtchens, Esq., Greeley, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

On November 26, 1928, (Decision No. 1996) this Commission issued a certificate of public convenience and necessity to Charles E. Read, authorizing a motor vehicle system for the transportation of passengers and express between Sterling and the Colorado-Nebraska state line in intrastate as well as in interstate transportation.

On August 23, 1929 (Decision No. 2448), this Commission authorized the transfer of this certificate to Chaney Fox and Floyd Jones.

The instant application is for authority permitting Chaney Fox and Floyd Jones to transfer this certificate to J. Cecil Howard.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that this authority should be granted.

O R D E R

IT IS THEREFORE ORDERED, That Chaney Fox and Floyd Jones be, and they are hereby, authorized to assign and transfer certificate of public convenience and necessity issued on November 26, 1928, (Decision No. 1996) to J. Cecil Howard, subject to all the terms and conditions contained therein.

IT IS FURTHER ORDERED, That the tariffs and rules and regulations

now on file with this Commission covering this operation shall remain in force and effect until modified or changed in accordance with the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Att. Book

Sam S. Jones
Commissioners.

Dated at Denver, Colorado,
this 22nd day of October, 1930.

(Decision No. 3109)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION
OF JOHN W. WALKER, FOR A CERTIFI-
CATE OF PUBLIC CONVENIENCE AND
NECESSITY.

APPLICATION NO. 1694

October 22, 1930.

Appearances: E. H. Houtchens, Esq., Greeley, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for Motor Truck Common
Carriers' Assn., and C.B. Capron.

STATEMENT

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight within a radius of 15 miles of Johnstown, Colorado, to transport livestock from said radius to Denver, Colorado and to transport coal from the coal mines of southwestern Weld County and from Lafayette, Colorado to customers within said radius. Protest was filed against this application by the Motor Truck Common Carriers' Association and C.B. Capron, doing business as Milliken-Johnstown Truck Line.

The testimony shows that the applicant has one truck valued at approximately \$650.00. The applicant produced several witnesses showing the public convenience and necessity is required for the transportation of freight within a radius of 15 miles of Johnstown. The testimony as related to the transportation of coal indicates that this is not a transportation business but a coal business over which this Commission has no jurisdiction.

Relative to the transportation of livestock, the testimony indicates that there are now two authorized motor vehicle systems for the transportation

of livestock from the territory in question to Denver. The applicant testified that within the last year he had only hauled livestock for one person to Denver. It would seem, therefore, that the public convenience and necessity does not require the transportation of livestock to Denver.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires a motor vehicle system by the applicant for the transportation of freight from point to point within a radius of 15 miles of Johnstown, Colorado. The application in all other respects will be denied.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the motor vehicle system for the transportation of freight by the applicant from point to point within a radius of 15 miles from Johnstown, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

IT IS FURTHER ORDERED, That in all other respects the application
be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Wm. Bock
Sam L. Jones
Commissioners.

Dated at Denver, Colorado,
this 22nd day of October, 1930.

At a session of The Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, on the 22nd day of October, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO. 142

Re: Switching charges at Monument, Colorado.

IT APPEARING, That there has been filed with The Public Utilities Commission of the State of Colorado, by The Denver and Rio Grande Western Railroad Company, by George Williams, its Freight Traffic Manager, a tariff containing schedules stating new individual rates and charges to become effective on the 23rd day of October, 1930, designated as follows:

The Denver and Rio Grande Western Railroad
Company Amendment No. 34 to Freight Tariff
D. & R. G. W. G.F.D. No. 4486-G, Colo. P.U.C.
No. 81,

IT IS ORDERED, That the Commission upon complaint, without formal pleading, enter upon a hearing concerning the lawfulness of the rates and charges stated in the said schedules contained in said tariff, viz:

The Denver and Rio Grande Western Railroad
Company Amendment No. 34 to Freight Tariff
D. & R. G. W. G.F.D. No. 4486-G, Colo. P.U.C.
No. 81,

IT FURTHER APPEARING, That the said schedules makes certain increases in rates for the switching of ice at Monument, Colorado, whereby the rights and interests of the public may be injuriously affected; and it being the opinion of the Commission that the effective date of said schedules contained in said tariff should be postponed, pending said hearing and decision thereon,

IT IS FURTHER ORDERED, That the operation of the said schedules contained in said tariff be suspended, and that the use of the rates, charges, regulations and practices therein stated be deferred 120 days, or until the 19th day of February, 1931, unless otherwise ordered by the Commission, and no change shall be made in such rates, charges, regulations and practices during the said period of suspension.

IT IS FURTHER ORDERED, That the rates and charges and the regulations and practices thereby sought to be altered shall not be changed by any subsequent tariff or schedule until this investigation and suspension proceeding has been

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disposed of or until the period of suspension or any extension thereof has expired.

IT IS FURTHER ORDERED, That a copy of this order be filed with said schedules in the office of the Commission and that copies hereof be forthwith served upon The Denver and Rio Grande Western Railroad Company and The Doyle Ice and Storage Company, by D. P. Strickler, its Vice-President, Colorado Springs, Colorado, and

IT IS FURTHER ORDERED, That this proceeding be, and the same is hereby assigned for hearing December 1, 1930, at 10:00 o'clock A. M., Standard Time, in the Hearing Room of the Commission, 305 State Office Building, Denver, Colorado.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado, this
22nd day of October, 1930.

W. H. Brock
David L. Jones
Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

WESTERN RAILWAYS ICE COMPANY,

Claimant,

vs.

THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY,

Defendant.)

CASE NO. 557

IT APPEARING, That on September 13, 1930, the Commission entered its report in the above entitled proceedings, which report is hereby referred to and made a part hereof, and these proceedings now coming on for further consideration on the question of reparation, and the parties having filed agreed statements with respect to the shipments in question, we find that claimant, Western Railways Ice Company, is entitled to an award of reparation in the amount of \$602.77.

IT IS THEREFORE ORDERED, That The Denver and Rio Grande Western Railroad Company be, and it is hereby directed to pay unto claimant, Western Railways Ice Company, Denver, Colorado, on or before November 21, 1930, the amount of \$602.77, as reparation on account of the unreasonable and excessive charges collected.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado, this
25th day of October, 1930.

Chas. Bock
Joseph L. Jones
Wm. H. Miller
Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION
OF THE POWERS MOVING AND STORAGE
COMPANY, a PARTNERSHIP, FOR A
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY.

APPLICATION NO. 1700

October 27, 1930.

Appearances: John H. Schultz, Esq., Denver, Colorado,
for applicants;
Jack Garrett Scott, Esq., Denver, Colorado,
for Motor Truck Common Carriers Ass'n;
Robert D. Charlton, Esq., Denver, Colorado,
for The Colorado Transfer and Warehouse-
men's Association.

S T A T E M E N T

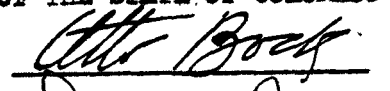
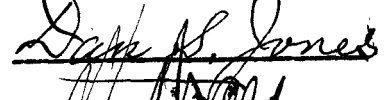

By the Commission:

This is an application by W. E. Powers and F. J. Knauer, co-partners, doing business under the firm name and style of Powers Moving and Storage Company, for a certificate of public convenience and necessity, authorizing the operation of a motor vehicle system for the transportation of freight from Denver throughout the State of Colorado. Protest was filed against this application by the Chicago, Rock Island and Pacific Railway Company. The petition alleges, among other facts, that for many years last past, the applicants have been regularly engaged in the moving and transfer business in the City and County of Denver, and for many years last past have been engaged in affording the occasional service, as a part of their business, of moving and transferring office, store and household goods, furniture, furnishings and fixtures, including safes and musical instruments, between various points in the State of Colorado and particularly between the City and County of Denver and other points in said State; that such regular and occasional service is and has been rendered for compensation and hire from time to time agreed upon between the applicants and their patrons; and that at all the times herein mentioned have been

private carriers, and have not held themselves out as common carriers for hire, and have at all times reserved, and do reserve, the right at any and all times to reject any business that may be offered them, and to fix their own rates and charges; that the applicants have been informed by this Commission and its representatives that a certificate of public convenience and necessity is required under the laws of this state, and they have been advised by counsel that said laws are not applicable to private carriers doing business such as is carried on by the applicants. In other words, the applicants allege they are private carriers, but in fact mean to say that if this Commission should hold they are motor vehicle carriers within the meaning of the public utility laws, then they desire to have a certificate of public convenience and necessity. The testimony shows that the applicants have been in business for some time and that they hold themselves out to the public by advertising and solicitation to transport freight in what is termed an occasional service anywhere in the state. The occasional part refers to anytime they have such business, which is not as frequent as intra-city business.

Under these circumstances, the Commission is of the opinion, and so finds, that the applicants are motor vehicle carriers within the meaning of Chapter 154, Session Laws of 1927. Counsel for applicants stated at the close of the hearing that if the Commission should find that the applicants are motor vehicle carriers within the meaning of our Act, that a further opportunity be given to show a public convenience and necessity. This request will be granted. The Commission will retain jurisdiction over this application until such time as it has heard further testimony as to the public convenience and necessity for the proposed operations. No order will be entered at this time.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 27th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
S. R. GIDDINGS FOR A CERTIFICATE OF) APPLICATION NO. 1632
PUBLIC CONVENIENCE AND NECESSITY.)

October 27, 1930.

Appearances: Stow and Stover, Esqs., Fort Collins, Colorado,
attorneys for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for Motor Truck Common
Carriers Association;
John Q. Dier and G. H. Logan, Esqs., Denver,
Colorado, attorneys for Colorado and
Southern Railway Company.

S T A T E M E N T

By the Commission:

This is an application by S. R. Giddings for a certificate of public convenience and necessity for the transportation of freight, goods, wares and merchandise from point to point within the counties of Larimer, Boulder and Weld, and for occasional trips to and from other points in the State of Colorado.

The evidence shows that the applicant specializes in the transportation of oil well equipment and apparatus, such as tanks, casing, tools, etc. Rather rarely he has hauled other commodities, such as dried beet pulp. He does not desire authority to transport household goods, livestock or other farm products.

His equipment consists of three White trucks, one 2½ ton rebuilt truck, four trailers, shop tools, screws, jacks, pulleys, blocks and tackles, etc., having a market value of some \$7,500.

All evidence introduced shows that the applicant is a capable operator and is financially responsible.

The Commission has heretofore issued a number of certificates

authorizing miscellaneous motor vehicle operations, but having a wider scope so far as commodities hauled are concerned than the one here sought. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is generally of more importance may be protected against injurious competition.

The applicant has expressed a willingness to keep on file a tariff, when a tariff shall be required, containing rates not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer and moving business in the Town of Timnath and in the counties of Larimer, Weld and Boulder, and for occasional trips throughout the State of Colorado and each of the counties thereof, for the transportation of oil well equipment and other heavy commodities, not including household goods, livestock and other farm products, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant for the conduct of a transfer and moving business in the Town of Timnath and in the counties of Larimer, Weld and Boulder, and for occasional trips throughout the State of Colorado and each of the counties thereof, for the transportation of oil well equipment and other heavy commodities, not including household goods, livestock and other farm products, subject to the conditions hereinafter named, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

(a) For the transportation of freight between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least twenty per cent in excess of those charged by the scheduled carriers.

(b) The applicant shall not operate on schedule between any points.


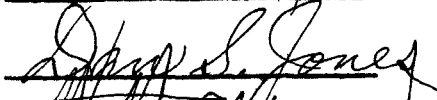

(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed in any other town or city than Timnath, for the purpose of developing business.)

(d) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

IT IS FURTHER ORDERED, That the applicant, when he shall be required to file and keep on file with this Commission tariffs of rates, shall file such tariffs as shall not be lower than those carried on file with the Commission by the Colorado Transfer and Warehousemen's Association until and unless the Commission shall have found tariff or tariffs of said Association unreasonable.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates and rules and regulations, when and if filed with this Commission, except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 27th day of October, 1930.

(Decision No. 3114)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF VANE GOLDEN FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1614

October 27, 1930.

Appearances: Jacob S. Schey, Esq., Longmont, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for Motor Truck Common Carriers'
Association and The Colorado Transfer
and Warehousemen's Association.

S T A T E M E N T

By the Commission:

This is an application by Vane Golden for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight between points within and in the vicinity of Longmont and points elsewhere within the State of Colorado.

The applicant has been engaged in a general transportation business all of his adult life and has operated both within and without the City of Longmont, including trips to remote points in the State.

The Commission heretofore has issued a number of certificates authorizing just such an operation as the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is of more importance may be protected against injurious competition.

The applicant has expressed a willingness to keep on file a tariff containing rates not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

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After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business in the city of Longmont and in the county of Boulder, and for occasional service throughout the State of Colorado and each of the counties thereof, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant, Vane Golden, doing business as Golden Transfer & Taxi Company, for the conduct of a transfer, moving and general cartage business in the City of Longmont and in the County of Boulder, and for occasional service throughout the State of Colorado, and each of the counties thereof, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least twenty per cent in excess of those charged by the scheduled carriers.

(b) The applicant shall not operate on schedule between any points.

(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed in any other town or city than Longmont for the purpose of developing business.

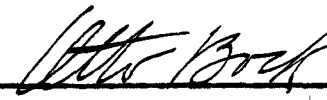
(d) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

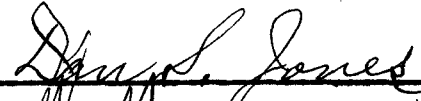
IT IS FURTHER ORDERED, That the applicant shall file and keep on file with this Commission tariffs of rates which shall be not lower than those


carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, the first tariff to be filed within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates, rules and regulations filed with this Commission, except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the rules and regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 27th day of October, 1930.

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(Decision No. 3115)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
WILLIAM A. BOZE FOR A CERTIFICATE OF) APPLICATION NO. 1600
PUBLIC CONVENIENCE AND NECESSITY.)

October 27, 1930

Appearances: Jacob S. Schey, Esq., Longmont, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for Motor Truck Common Carriers'
Association and The Colorado Transfer
and Warehousemen's Association.

S T A T E M E N T

By the Commission:

This is an application by William A. Boze for a certificate of public convenience and necessity authorizing the operation of a moter vehicle system for the transportation of freight between points within and in the vicinity of Longmont and points elsewhere within the State of Colorado.

The transportation business conducted by the applicant was begun by his father in 1876 and has been operated continuously to this date. It has consisted of general miscellaneous hauling of various and sundry commodities, including drinking water.

The Commission heretofore has issued a number of certificates authorizing just such an operation as the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service

to the public is of more importance may be protected against injurious competition.

The applicant has expressed a willingness to keep on file a tariff containing rates not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business in the city of Longmont and in the county of Boulder and for occasional service throughout the State of Colorado and each of the counties thereof, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant, William A. Boze, doing business as William A. Boze Truck Service, for the conduct of a transfer, moving and general cartage business in the City of Longmont and in the County of Boulder, and for occasional service throughout the State of Colorado, and each of the counties thereof, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least twenty per cent in excess of those charged by the scheduled carriers.

(b) The applicant shall not operate on schedule between any points.

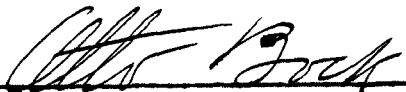
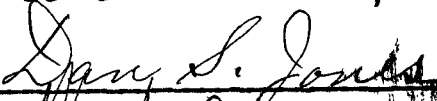

(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed in any other town or city than Longmont, for the purpose of developing business.

(d) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

IT IS FURTHER ORDERED, That the applicant shall file and keep on file with this Commission tariffs of rates which shall be not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, the first tariff to be filed within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates, rules and regulations filed with this Commission, except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the rules and regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 27th day of October, 1930.

(Decision No. 3116)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
CHARLES E. VICKERY FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1606

October 27, 1930.

Appearances: L. W. Newby, Esq., Longmont, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for MOTOR TRUCK COMMON CARRIERS'
ASSOCIATION and The Colorado Transfer and
Warehousemen's Association.

S T A T E M E N T

By the Commission:

This is an application by Charles E. Vickery for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight from and to points in the vicinity of Longmont, Boulder County, Colorado. No authority to operate on schedule is sought.

The applicant produced only one witness, that being himself. The evidence indicated that he had been in the trucking business some seven years. However, there was some evidence to the effect that during that time he had been employed intermittently in a grocery and meat market.

One of the persons to whom a similar certificate has heretofore been issued testified that there is not enough business in the vicinity of Longmont to keep busy those who have certificates. He further testified that already the Commission had issued four such certificates to persons residing in Longmont and that others operating under such certificates from Loveland and Boulder are coming into the territory. The evidence showed also that on the same day prior to the applicant's hearing, two other applicants residing in Longmont had sought such a certificate as is applied for by the applicant, and that those persons have been engaged in the transportation business all of their adult lives.

The Commission has deemed it proper to be and has been rather liberal in issuing certificates of the kind herein sought, particularly in the case of those who have been engaged in the business for some time. However, a reasonable limit should be set. The two other applications heard on the day of the hearing of the one herein have been granted, making six such certificate holders in Longmont. Without question, and we so find, that including the two to whom certificates are issued today, there are enough operators in the Longmont district now to take care of all of the business available.

After very careful consideration of the evidence, the Commission is of the opinion and so finds that the public convenience and necessity does not require the motor vehicle system of the applicant.

ORDER

IT IS WHEREFORE ORDERED, That the application herein be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the applicant cease and desist from operating as a motor vehicle carrier as defined by the statute of the State of Colorado.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

OTTO BOCK

DAN S. JONES

WORTH ALLEN

Commissioners.

(S E A L)

Dated at Denver, Colorado,
this 27th day of October, 1930.

ATTEST: A true copy.

Secretary.

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(Decision No. 3117)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION)
OF A. W. EARL FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1672

October 28, 1930.

Appearances: D. A. Maloney, Esq., Denver, Colorado,
for applicant.

S T A T E M E N T

By the Commission:

On August 26, 1930, the Commission entered an order in the above application. Thereafter a motion for rehearing was filed and rehearing granted. The matter was set down for hearing at Pueblo, Colorado, on October 23, 1930, at which time counsel for the applicant waived rehearing.

O R D E R

IT IS THEREFORE ORDERED, That the petition for rehearing in the above application be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alvin B...
David S. Jones
...
Commissioners.

Dated at Denver, Colorado, this
28th day of October, 1930.

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(Decision No. 3118)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

* * * *

IN THE MATTER OF THE APPLICATION)
OF JOHN E. HICKS FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1618

October 28, 1930.

Appearances: Fred E. Cuckow, Esq., La Junta, Colorado,
attorney for applicant.
Byron G. Rogers, Las Animas, Colorado, for
Clyde Lenocker.
R. F. Maroney, Esq., Denver, Colorado, for
Atchison, Topeka and Santa Fe Railway
Company.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of passengers between La Junta and sundry points upon the public highways in southern and southeastern Colorado. Subsequently an amended application was filed, which seems to be somewhat more specific.

Protests were filed against this application by the Atchison, Topeka and Santa Fe Railway Company and Clyde Lenocker.

The testimony shows that the applicant has one Ford sedan, valued at approximately \$700; that he has operated this service without authority since February, 1930, and that his income has averaged about \$100 per month during that time.

In support of his application he produced two witnesses, who testified that they were employed around the railroad station at La Junta, and that there have been some times when no taxicab was available for a prospective passenger.

This Commission some time ago granted a certificate for taxi service to one Clyde Lenocker; his testimony is to the effect that his service meets all the public needs in the territory involved in this application; that when his equipment is busy other equipment is available to him; that he knows of no instance where any prospective passenger was inconvenienced in not obtaining service, and

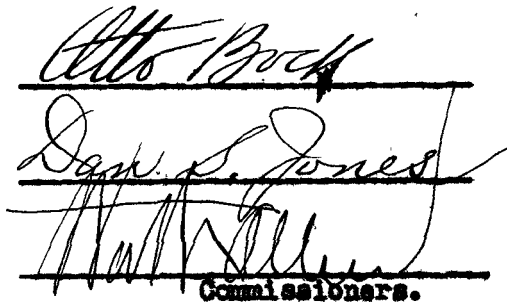
that he is fully capable of taking care of all the public needs; that his main difficulty is that he has been subjected to unlawful competition ever since he has been authorized to operate, which has affected his income, and that if the Commission should grant another certificate that would mean one or the other would have to cease operating.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity, upon the record as made, does not require the proposed motor vehicle taxi service by the applicant.

O R D E R

IT IS THEREFORE ORDERED, that the above application be, and the same is, hereby denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 28th day of October, 1930.

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(Decision No. 3119)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN RE MOTOR VEHICLE OPERATIONS)
OF W. M. NEWTON, DOING BUSINESS)
AS THE ROY TAXICAB COMPANY.)

CASE NO. 586

October 28, 1930.

Appearances: W.M. Newton, per se, Canon City, Colorado.

S T A T E M E N T

By the Commission:

This is a complaint on the Commission's own motion, instituting an investigation into the question as to whether or not the respondent is operating as a motor vehicle carrier as defined in Section 1 (d), Chapter 134, Session Laws of Colorado 1927, and particularly in operating a taxicab and sightseeing service between Canon City and the top of the Royal Gorge and other points.

The applicant appeared at the hearing and testified that he had been operating a taxicab and sightseeing service between Canon City and the Royal Gorge under the belief that it was not under the jurisdiction of this Commission; that he has been holding himself out to the public to render this service generally, and that he ceased operating on September 10, 1930. He also expressed a desire that he would like to commence operation during the next season.

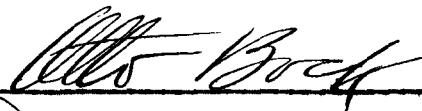
After a careful consideration of the testimony, the Commission is of the opinion, and so finds, that the respondent M.W. Newton, doing business as The Roy Taxicab Company, has been operating as a motor vehicle carrier, as defined in Section 1 (d), Chapter 134, Session Laws of Colorado 1927.


O R D E R


IT IS THEREFORE ORDERED, That W.M. Newton, respondent herein, forthwith cease and desist as a motor vehicle carrier as a motor vehicle carrier as defined by Section 1 (d), Chapter 134, Session Laws of Colorado 1927, unless and until the Commission issues a certificate of public convenience and necessity authorizing such a motor vehicle operation.

IT IS FURTHER ORDERED, That the respondent within twenty days from the date of this order make a report to this Commission, as required by law, on all taxes due to the State.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado, this
28th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
J. P. CALLAHAN AND LOUIS CALLAHAN,)
CO-PARTNERS, FOR A CERTIFICATE OF) APPLICATION NO. 1674
PUBLIC CONVENIENCE AND NECESSITY.)

October 28, 1930.

Appearances: Todd and Underwood, Esqs., Lamar, Colorado,
for applicants.
E. F. Maroney, Esq., Denver, Colorado,
for The Atchison, Topeka and Santa Fe
Railway Company.
J. C. Scott, James W. Peavey and D. A. Maloney,
Esqs. Denver, Colorado, for The Motor Truck
Common Carriers Association, The Colorado
Transfer and Warehousemen's Association,
Schultz Bros. and The Weicker Transportation
Company.

STATEMENT

By the Commission:

This is an application for a motor vehicle system for the
transportation of freight between Pueblo and Holly, Colorado, and intermediate
points east of Lamar, Colorado.

Protests were filed against this application by Schultz Brothers,
The Atchison, Topeka and Santa Fe Railway Company, The Weicker Transportation
Company and The Motor Truck Common Carriers' Association.

The testimony shows that the applicants since approximately May,
1929, have been operating a motor vehicle system in the territory in question.
Their volume has been approximately 9,000 pounds per week; they operate on
Mondays and Thursdays, making deliveries at destination points on Tuesdays
and Fridays.

The Commission several years ago granted a certificate of public
convenience and necessity for a motor vehicle truck operation between
Pueblo and Lamar, which is now being operated by the Weicker Transportation
Company. This is a daily service. The Commission also several months ago.

granted a certificate to Schultz Brothers to operate a motor vehicle freight service between Lamar and Holly. This is also a daily service.

The testimony shows that the merchants at Holly and adjacent territory desire to have early deliveries on Tuesdays and Fridays; the freight on those days from Pueblo via the Weicker Transportation Company reaches Lamar about 5:00 A. M.; Schultz Brothers have recently inaugurated a service leaving Lamar at a very early hour on Tuesdays and Fridays for Holly and other points east. There is no testimony in the record that this service is not satisfactory. Moreover, both the Weicker Transportation Company and Schultz Brothers stated on the record that they expect very soon to file a joint tariff governing the operations from Pueblo to Holly.

In view of the motor vehicle service now rendered to the shipping public involved, the applicant did not sustain the burden of proof of public convenience and necessity.

After a careful consideration of all the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity upon the record as made does not require the motor vehicle system for the transportation of freight by the applicant.

ORDER

IT IS THEREFORE ORDERED, That the above application be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

OTTO BOCK

DAN S. JONES

WORTH ALLEN

Commissioners.

(SEAL)

Dated at Denver, Colorado,
this 28th day of October, 1930.

ATTEST: A TRUE COPY.

Secretary.

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(Decision No. 3121)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
M. B. BENNETT, DOING BUSINESS UNDER)
THE NAME AND STYLE OF BENNETT'S) APPLICATION NO. 1266.
TRANSFER AND STORAGE, FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY.)

October 28, 1930.

S T A T E M E N T.

By the Commission:

On September 27, 1929, the Commission issued an order in the above matter. Thereafter, a motion for rehearing was filed, which was granted. The Commission is now in receipt of a letter from counsel for the applicant, asking that the petition for rehearing be withdrawn, and that our order stand as the final decision;

O R D E R

IT IS THEREFORE ORDERED, That the petition for rehearing in the above application be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Bock
Sam S. Jones
W. H. Allen
Commissioners.

Dated at Denver, Colorado,
this 28th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE JOINT APPLICATION)
OF THE ANDERSON TRANSPORT COMPANY AND)
JESS KENNER, FOR AUTHORITY TO TRANSFER)
AND ASSIGN CERTIFICATE OF PUBLIC CON-)
VENIENCE AND NECESSITY.)

APPLICATION NO. 607-AA

October 28, 1930.

Appearances: Jack Garrett Scott, Esq., Denver, Colorado,
for applicants.
T. R. Woodrow, Esq., Denver, Colorado,
for The Denver and Rio Grande Western
Railroad Company.

S T A T E M E N T

By the Commission:

On December 12, 1927, (Decision No. 1524) this Commission issued a certificate of public convenience and necessity to Thomas H. Berry and Harry R. Berry, co-partners, doing business under the name and style of Berry Brothers, authorizing a motor vehicle system for the transportation of freight and express over three routes, designated A, B and C. Route C authorized a regular scheduled operation between Trinidad and Walsenburg, via Aguilar.

On November 27, 1929 (Decision No. 2647), the Commission issued an order authorizing the transfer of this certificate to The Anderson Transport Company, a corporation. The Anderson Transport Company now seeks authority to transfer and assign to Jess Kenner. The purchase price for this operation is \$4,000. Kenner is operating a truck line between Pueblo and Walsenburg. The purpose of this purchase is to make this a one-line operation between Pueblo and Trinidad.

This Commission in Decision No. 3018 stated:

"That there is a public convenience and necessity for the transportation of freight by motor vehicle between Pueblo and Trinidad, via Walsenburg, we have no doubt. In

view of the complaints, however, relative to the service as now conducted, there is a serious question in our mind whether this transfer now required at Walsenburg is such service as the shippers are entitled to. It is undoubtedly true that a better service than now offered can be given to the public if the operation between Pueblo and Trinidad is conducted as a one-line haul."

In that decision we allowed sixty days to Kenner and Anderson to effect a consolidation of their interests. This matter has now culminated in the purchase by Kenner of the Anderson Transport Company operation.

The testimony shows that The Anderson Transport Company has a certain number of creditors, growing out of this transportation business. In the purchase price there is a balance of \$1,340.65 which is to be applied to creditors as far as may be on debts incurred over the operation between Trinidad and Walsenburg, and it was agreed upon the record that J. Edgar Chenoweth, Esq., counsel for The Anderson Transport Company, be authorized to distribute this sum of money between said creditors, after first having obtained approval by this Commission of such distribution.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that The Anderson Transport Company be authorized to transfer said certificate, subject to the conditions hereinafter stated.

O R D E R

IT IS THEREFORE ORDERED, That The Anderson Transport Company be, and it is hereby, authorized to assign and transfer to Jess Kenner certificate of public convenience and necessity issued by this Commission on December 12, 1927, Decision No. 1524, subject to the following conditions:

(a) That said transfer shall not become effective until after the Commission has approved the distribution of said sum of \$1,340.65 between creditors.

(b) That Jess Kenner be required within ten days from the effective date of this order to file tariffs, rules and regulations

with this Commission covering his operations between Trinidad and Pueblo,
Colorado.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Brock

Sam L. Jones

W. H. Hall
Commissioners.

Dated at Denver, Colorado,
this 28th day of October, 1930.

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(Decision No. 3123)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF ED. E. COOPER FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECES-) APPLICATION NO. 1627
SITY.)

October 28, 1930

Appearances: R. R. Cloud and C. V. Marmaduke, Esqs., Pueblo,
Colorado, attorneys for applicant;
J. G. Scott, Esq., Denver, Colorado,
for The Colorado Transfer and Warehousemen's
Association;
T. R. Woodrow, Esq., Denver, Colorado,
for The Denver and Rio Grande Western
Railroad Company;
D. A. Maloney, Esq., Denver, Colorado,
for The Weicker Transportation Company;
L. E. Langdon, Esq., Pueblo, Colorado,
for G. R. Pratt;

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle transportation system for the transportation of livestock, farm products and other articles of freight and merchandise from Pueblo, Colorado, and a radius of fifteen miles around said city to any point in the State of Colorado, and from any point in the State to Pueblo, or a radius of fifteen miles around said city.

Protest was filed against this application by G. R. Pratt.

The testimony shows that the applicant has two trucks, valued at approximately \$1,500.

The testimony as to advantages on the part of the public and where the applicant desires to serve, is not very satisfactory. After considerable discussion it was understood that the applicant desired to operate within a radius of ten miles of Vineland, Colorado, and from that radius to Pueblo, limiting himself solely to agricultural products, including livestock. At

that time his counsel amended the application by striking out "and other articles of freight and merchandise."

This Commission granted to G. R. Pratt several years ago a certificate of public convenience and necessity to operate in this territory. He has five trucks, and says that a good part of the time most of his equipment is idle. He also produced a number of witnesses who testified to the services that he was rendering.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle service of the applicant for the transportation of livestock and agricultural products only, originating on the farm, from point to point within a radius of ten miles of Vineland, subject to the conditions hereinafter stated, which in our opinion the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of livestock and agricultural products only, originating on the farm, from point to point within a radius of ten miles from Vineland, Colorado, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor, subject to the following conditions:

- (1) That the applicant shall not operate a regular scheduled service;
- (2) That the applicant shall be limited in his equipment to two trucks of a total capacity of two and one-half tons;
- (3) That the applicant shall not operate from and to Pueblo, Colorado.

IT IS FURTHER ORDERED, that the applicant shall file tariffs of rates, rules and regulations and schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

IT IS FURTHER ORDERED, That in all other respects the above application shall be denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Elto Brock

John L. Jones

W. H. Allen

Commissioners.

Dated at Denver, Colorado,
this 28th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS OF)
C. E. GOODRICH.)

CASE NO. 584

October 30, 1930.

Appearances: C. E. Goodrich, Evergreen, Colorado,
pro se.

S T A T E M E N T

By the Commission:

An order was made by the Commission on its own motion for an investigation and hearing for the purpose of determining whether or not the respondent, C. E. Goodrich, has been complying with the terms and conditions of the certificate of public convenience and necessity issued to him on November 8, 1928. The said certificate authorizes the transportation of sightseers and tourists from Evergreen, Colorado, to Silver Plume, Echo Lake, Mount Evans and Grand Lake via Berthoud pass and return.

The evidence showed the applicant has been transporting passengers during the season of 1930 between Evergreen and Denver. It showed further that he had in the window of his office in Evergreen a sign to the effect that he would carry passengers to any scenic points in Colorado. It is obvious, therefore, that in transporting passengers to Denver and in holding himself out to the public to transport them on round-trips to points throughout the State he is operating in violation of the terms of his certificate and of the law relating to motor vehicle carriers. It is well settled that such conduct is good ground for revoking a certificate of public convenience and necessity. However, it was not perfectly clear that the respondent realized that he was operating in excess of the authority granted him.

The Commission has concluded not at this time to revoke the respondent's certificate, but to dismiss the case with the warning that in the future he must restrict himself to only those operations authorized by his certificate, and that his failure so to do will doubtless result in prompt revocation of the certificate held.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alto Brock

Sam S. Jones

Alto Brock

Commissioners.

Dated at Denver, Colorado,
this 30th day of October, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
JOHN A. MEYERS FOR A CERTIFICATE) APPLICATION NO. 1644
OF PUBLIC CONVENIENCE AND NECESSITY.)

October 30, 1930.

Appearances: A. B. Bouton, Esq., Denver, Colorado,
for applicant.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of milk, butter, eggs and other small parcels of farm products from a certain territory hereinafter described, to Denver, and for the transportation of small packages from Denver to patrons living in said described territory.

No protest was filed against this application.

The Commission issued to one Gustav Jabs a certificate for a similar operation, which traverses the same territory for some distance. Jabs, however, has filed a waiver with the Commission and consents that the certificate prayed for by Meyers should be granted.

The testimony shows that the territory in which the applicant desires to operate is described as follows:

Commencing in the City of Denver, the route will follow the Brighton Road to the township line between Townships 2 and 3 South at a point on the south line of Section 31, Township 2 South, Range 67 West; thence east ten and one-half miles on the south line of Township 2 South to the southwest corner of Section 36, Township 2 South, Range 66 West; thence one mile south along the west line of Section 1, Township 3 South,

Range 66 West; thence west eleven miles along the north lines of Sections 11, 10, 9, 8, and 7, Township 3 South, Range 66 West, and Sections 12, 11, 10, 9, 8, 7, Township 3 South, Range 67 West, to the Brighton Road; thence to Denver via said Brighton Road.

The applicant's equipment consists of one G. M.C. one-ton truck, valued at approximately \$1,800.

After a careful consideration of the testimony the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of milk, butter, eggs and other small parcels of farm products from the above described territory to Denver, and for small packages from Denver to patrons residing in said above described territory.

O R D E R


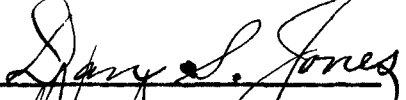

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant, John A. Meyers, for the (transportation of milk, butter, eggs and other small parcels of farm products from the above described territory to Denver, and for the transportation of small packages from Denver directly to the public residing in said above described territory,) and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may

be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 30th day of October, 1930.

(Decision No. 3126)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE JOINT APPLICATION)
OF CHARLES H. O'BRIEN AND CHARLES L.)
WALKER, DOING BUSINESS AS THE PARKER-)
DENVER TRUCK LINE, TO TRANSFER CERTIFI-)
CATE OF PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 307-AAA.

October 30, 1930.

Appearances: Luke J. Kavanaugh, Esq., Denver, Colorado,
for applicants.
E. L. O'Connell, Esq., Denver, Colorado,
for Lester Augustus.

S T A T E M E N T

By the Commission:

On May 6, 1925 (Decision No. 838) the Commission issued a certificate of public convenience and necessity to Lester Augustus, authorizing a motor vehicle system for the transportation of freight in a certain territory not very definitely described in the certificate. On January 16, 1929 (Decision No. 2042) authority was granted to assign and transfer this certificate to Charles L. Walker. On August 18, 1930 (Decision No. 2997) Charles L. Walker was authorized to transfer and assign to Bart Hall a portion of said certificate. In this same decision the territory which has theretofore been somewhat indefinitely described was cured. After the last transfer Walker still retained the right to transport freight by motor vehicle between Parker and Denver and intermediate points. It is now sought to transfer this portion of the original certificate to Charles H. O'Brien.

When authority was granted to Lester Augustus to transfer to Charles L. Walker, the purchase price was designated as \$5,600.00, \$2,000.00 to be paid in cash and the balance to be paid in twenty-four installments of \$150 per month. The testimony shows that the payment of \$2,000 was never paid by Walker to Augustus. While the record is not clear, it is our opinion that there never was any intention of requiring this cash price of \$2,000 as a part of the purchase price. Augustus took a chattel mortgage on the equipment, consisting of six trucks, securing a note of approximately

\$3,500, on which there was a balance due on August 21, 1930, of \$1,282.30. Thereafter Augustus brought a replevin suit in the County Court of Douglas County, to foreclose his chattel mortgage on the trucks. This sale was held on September 13, 1930, at which time Augustus was the sole bidder and purchased these trucks at said sale for \$159, which leaves a balance due on the note of \$1123.30.

The terms of purchase between Walker and O'Brien is solely an assumption of certain debts owed by Walker as follows:

D. K. Bratten, Parker Super Service, Parker, Colo.	\$272.20
D. D. Hilliger	" " 130.00
Simon Flierl	" " 288.00

In addition thereto O'Brien has already paid an indebtedness amounting to \$30.90 to the Parker Mercantile Company. O'Brien for this assumption of indebtedness receives title to three trucks, upon which there is an encumbrance of approximately \$1550.

The financial statement of O'Brien indicates that his net worth is approximately \$2,000.

The assumption of indebtedness involved here does not include the claim of Lester Augustus. Whether the same should be included is in issue before this Commission. The testimony shows that Walker has paid Augustus approximately \$2,200. Augustus then replevined all of the original equipment at one time owned by him, and is now in possession of the same. The testimony indicates that it is the desire of Augustus to obtain the certificate involved herein. No such application, however, is now pending before the Commission. When asked if he obtained the certificate, would he be willing to assume the above described indebtedness of \$770.95, he said he would not. In view of the fact that Augustus has obtained possession of all of the equipment originally transferred to Walker, and in addition thereto a sum of \$2200, it would seem to us that in view of all the circumstances he has received more out of this operation than any other creditor of the transferor.

After a careful consideration of the testimony the Commission is of the opinion, and so finds, that Charles L. Walker should be authorized to transfer the certificate involved herein to Charles H. O'Brien, subject to the

assumption by said Charles H. O'Brien of the following described indebtedness:


D. K. Bratton, Parker Super Service, Parker, Colo.	\$272.20
D. D. Hilliger	" " 180.00
Simon Flierl	" " 288.00

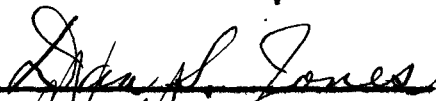
O R D E R


IT IS THEREFORE ORDERED, That Charles L. Walker be, and he is hereby authorized, to assign and transfer to Charles H. O'Brien that portion of certificate of public convenience and necessity dated May 6, 1925 (Decision No. 838), authorizing the transportation of freight between Denver and Parker and intermediate points, subject to the assumption by Charles H. O'Brien of the indebtedness last above described.

IT IS FURTHER ORDERED, That the tariffs, rules and regulations on file with this Commission covering this operation shall remain in force and effect until changed or modified as provided by the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO






Commissioners.

Dated at Denver, Colorado,
this 30th day of October, 1930.

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Dillon 11/8/30

(Decision No. 3127)

514

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF O. L. BEVARD FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1679

October 30, 1930.

Appearances: R. R. Cloud, Esq., Pueblo, Colorado,
attorney for applicant;
R. F. Maroney, Esq., Denver, Colorado,
for Atchison, Topeka and Santa Fe
Railroad Company;
J. G. Scott, J. W. Peavey and D. A. Maloney, Esqs.,
Denver, Colorado, attorneys for Motor Truck
Common Carriers' Association, Colorado Transfer
and Warehousemen's Association, J. H. Harris
and Weicker Transportation Company.

S T A T E M E N T

By the Commission:

This is an application, as modified by the statement of the applicant's attorney at the hearing, by O. L. Bevard of Fowler, Colorado, for a certificate of public convenience and necessity authorizing the transportation of live stock, farm produce and household goods from point to point within a territory extending ten miles east, south and west and thirty-five miles north from the town of Fowler. This territory or parts thereof are served by other certificated motor vehicle carriers, they being J. H. Harris, Edd D. Harriss and A. W. Earl.

The evidence showed that a large amount of agricultural products are produced in the territory in question, particularly beans and corn.

The applicant has expressed a willingness to keep on file a tariff containing rates not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

After a careful consideration of the evidence, the Commission is of

the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a motor vehicle operation for the transportation of livestock, farm produce, household goods, building material, coal and other supplies used by farmers, from point to point within the territory extending ten miles east, south and west and thirty-five miles north from the town of Fowler, subject to the conditions hereinafter imposed, which, in the opinion of the Commission, the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a motor vehicle operation for the transportation of livestock, farm produce, household goods, building material, coal and other supplies used by farmers, from point to point within the territory extending ten miles east, south and west and thirty-five miles north from the town of Fowler, subject to the conditions hereinafter stated, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

(a) The applicant shall not operate on schedule between any points.

(b) The applicant shall file and keep on file with the Commission tariff of rates which shall be not lower than those carried on file with the Commission by the Colorado Transfer and Warehousemen's Association and Edd D. Harris, J. H. Harris and A. W. Earl, unless and until those rates shall be found by the Commission to be unreasonable.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and schedules as required by the Rules and Regulations of this Commission Governing Motor Vehicle Carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions, and this order is made

subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Brock

Lass L. Jones

Commissioners.

Dated at Denver, Colorado,
this 30th day of October, 1930.

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Sillon 11/8/30
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(Decision No. 3128)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF BEN TILLOTSON FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECES-)
SITY.)

APPLICATION NO. 1662 ✓

IN THE MATTER OF THE APPLICATION)
OF M. F. CRAFT AND PERRY DAVIS,)
CO-PARTNERS, DOING BUSINESS AS)
CRAFT AND DAVIS, FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECES-)
SITY.)

APPLICATION NO. 1663

IN THE MATTER OF THE APPLICATION)
OF JOSEPH H. LEE FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECES-)
SITY.)

APPLICATION NO. 1676

October 30, 1930

Appearances: Roy A. Payton, Esq., Fowler, Colorado,
attorney for applicants;
R. F. Maroney, Esq., Denver, Colorado,
for Atchison, Topeka & Santa Fe Railway Co.;
Jack Garrett Scott, James W. Peavey and D. A.
Maloney, Esqs., Denver, Colorado, for
Motor Truck Common Carriers' Association,
Colorado Transfer & Warehousemen's Associa-
tion, Weicker Transportation Company and
the Arkansas Valley Association of Truckmen.

S T A T E M E N T

By the Commission:

The applicants in the three above entitled applications seek
authority to transport by motor vehicle livestock, farm products and general
freight from point to point within a territory extending ten miles east,
twenty miles south, twenty miles west and forty miles north of Fowler, and
to transport livestock from said territory to Pueblo. Each of them now is
using one truck.

The evidence shows a large amount of farm products, particularly corn and beans raised in this area. A substantial although not a large amount of livestock moves from this territory to Pueblo. Edd D. Harriss has a certificate of public convenience and necessity authorizing the transportation of farm products, including livestock, from the territory within a radius of ten miles of Fowler to Pueblo. Moreover, his certificate authorizes transportation of merchandise on schedule from Pueblo. Frequently Harriss is compelled to send empty trucks to Pueblo. The evidence showed that he is prepared to transport all livestock offered for transportation to Pueblo, and that the public convenience and necessity does not require a duplication of this service.

A part of the territory in question is served by Edd D. Harriss and A. W. Earl.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operations of the applicants, and each of them, for the transportation of livestock and other farm products and freight generally from point to point within the territory extending ten miles east, twenty miles south, ten miles west and forty miles north of Fowler, and for the transportation of livestock to Pueblo from points situated between ten and forty miles north of Fowler, subject to the conditions hereinafter stated which the Commission finds are required by the public convenience and necessity.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operations of the applicants, and each of them, for the (transportation of livestock and other farm products and freight generally from point to point within the territory extending ten miles east, twenty miles south, ten miles west and forty miles north of Fowler, and for the transportation of livestock to Pueblo from points situated between ten and forty miles north of Fowler, subject to the conditions hereinafter stated,)

and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) The equipment of the applicants in each case shall in the future be limited to one truck.


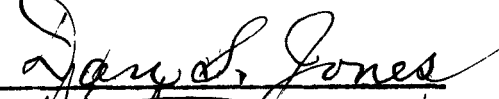

(b) None of the applicants shall operate on schedule between any point.)

(c) The applicants in each case shall file and keep on file with the Commission tariffs of rates which shall be not lower than those carried on file with the Commission by the Colorado Transfer & Warehousemen's Association and J. H. Harriss, ^{Robert J. Harriss & Albert J. W.} ~~Edd D. Harriss~~, and A. E. Earl, unless and until these rates shall be found by the Commission to be unreasonable.

IT IS FURTHER ORDERED, That the applicants, and each of them, shall file tariffs of rates, rules and regulations and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicants, and each of them, shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 30th day of October, 1930.

205
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
ARVEL HENRIKSON FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1677 ✓

IN THE MATTER OF THE APPLICATION OF)
C. H. WOODIN FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1680

October 30, 1930.

Appearances: A. P. Anderson, Esq., Denver, Colorado,
for Arvel Henriksen;
Pelton & Chutkow, Akron, Colorado,
for C. H. Woodin;
J. L. Rice, Esq., Denver, Colorado,
for Chicago, Burlington & Quincy Railroad Company;
Jack Garrett Scott, Esq., Denver, Colorado,
for Motor Truck Common Carriers' Ass'n and
Fort Morgan-Brush Transportation Company.

S T A T E M E N T

By the Commission:

Application 1677, by Arvel Henriksen, is for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight between Holyoke and Denver, via Wray, on a route following the main public highway through Greeley, Fort Morgan, Brush, Akron, Yuma, Wray and from thence north to Holyoke. It is not the intention of the applicant to serve any point west of Wray from Denver, but the applicant desires to transport freight from any point west of Wray destined to Wray or Holyoke.

Application 1680, by C. H. Woodin, is for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight from Denver to Wray, but not to any intermediate points.

The testimony shows that this Commission issued a certificate of public convenience and necessity to Arvel Henriksen for a motor vehicle system

for the transportation of freight between Denver and Loveland, Colorado. He has never served the territory involved herein. In addition to his own testimony he produced one witness from Wray, who testified that this operation would be handy to him, and a witness from Denver, representing a wholesale house, who testified that such an operation would be a convenience.

Applicant Woodin, in addition to his own testimony, produced two witnesses from Wray, who testified that the proposed operation would be a convenience, and especially as to merchandise, fresh fruits and vegetables that are needed for Saturday's trade; that the service of the rail carrier did not bring this merchandise into Wray early enough on Saturday mornings to serve the customers.

The rail carrier testified that some time previous to the hearing it installed a service, in addition to its tri-weekly service, that permitted merchandise to leave Denver on Friday evening, reaching Wray by fast freight at 3:00 A. M. Saturday morning. The witnesses produced by the applicants have not used this service.

The Commission heretofore issued certificate of public convenience and necessity to Woodin to operate from Sterling to Wray via Akron. Sometime ago the Commission also issued a certificate of public convenience and necessity to one Dale Ressler, authorizing the transportation of freight from Denver to Akron, which certificate has since been transferred to Woodin. The Commission has also issued certificates authorizing freight transportation by motor truck from Denver to points east of Akron to Eckley; the Commission has further authorized motor transportation, by the requirement of joint tariffs, from Denver, via Sterling, to Holyoke.

Woodin commenced to operate on July 21, 1930, between Denver and Wray, some time prior to the assignment of the Ressler certificate to him. This operation, without the issuance of a certificate of public convenience and necessity was, in our opinion, reprehensible by one who is an authorized carrier, who should be fully familiar with the regulatory requirements of motor vehicle carriers. However, we prefer to determine the issues in this application on other grounds. In our opinion, the applicants did not sustain the

burden of showing a public convenience and necessity.

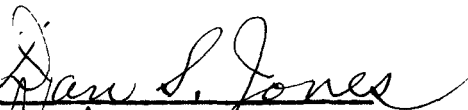
After a careful consideration of the evidence the Commission is of the opinion, and so finds, that upon the record as made the public convenience and necessity does not require the proposed motor vehicle operations in the above applications.

O R D E R

IT IS THEREFORE ORDERED, That the above applications, Nos. 1677 and 1680, be, and the same are hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 30th day of October, 1930.

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(Decision No. 3130)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF J. J. STROH FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1608 ✓

IN THE MATTER OF THE APPLICATION)
OF M. A. HARSH FOR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1609

IN THE MATTER OF THE APPLICATION)
OF R. M. SLAPPER FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY)

APPLICATION NO. 1610

October 30, 1930.

Appearances: David F. How, Jr., Denver, Colorado, atty.
for applicants;
Arthur Aldrich, Denver, Colorado, atty.
for P.C. McKee and Stockton Bros.;
J.Q. Dier, Denver, Colorado, atty. for C&S,
and CB&Q; Denver, Colorado,
E.O. Brock and F.J. Toner, attys. for D&SL Ry.;
D. Edgar Wilson, Denver, Colorado, atty.
for GRI&P.

S T A T E M E N T

By the Commission:

The applicants in the three above entitled applications seek certificates to conduct motor vehicle operations for the transportation of livestock from point to point within the State of Colorado, particularly in what is referred to in the testimony as the "Greeley district", and from that district to Denver.

Protests were filed by certificate holders operating in the territory around Grover and Pierce. Two certificate holders operating under broad certificates for the transportation of livestock throughout the State, having their headquarters in Denver, also protested.

The Denver operators, P.C. McKee and Stockton Brothers, took the position that no more certificates should be granted because they are able

to handle more business than is now offered to them. We are of the opinion, however, that the evidence shows that there are not enough certificated operators to handle this class of business. The difficulty lies in the fact that there are a large number of "wildcat" operators and that when they are compelled, as they should be, to cease operating, there will be enough business available not only for those who have certificates but for the applicants herein.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operations of the applicants, and each of them, for the transportation of livestock from point to point within a territory extending 18 miles north of Greeley, 20 miles east thereof, 20 miles south and 10 miles west, and between points within said territory and other points within the State of Colorado.

O R D E R


IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operations of the applicants, and each of them, for the (transportation of livestock from point to point within a territory extending 18 miles north of Greeley, 20 miles east, 20 miles south and 10 miles west, and between points within said territory and other points within the State of Colorado,) and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

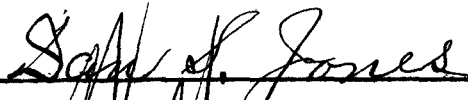
IT IS FURTHER ORDERED, That unless and until further order of this Commission the equipment of the applicants in each of said applications shall be limited to one truck of the capacity of those now in use.


IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of the Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant^s shall operate such motor vehicle carrier system^s according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant^s with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado, this
30th day of October, 1930.

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Salem 11/8/30

(Decision No. 3131)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF)
GLEN D. BAIRD.)

CASE NO. 590.

November 5, 1930.

S T A T E M E N T

By the Commission:

WHEREAS, the Commission did on October 2, 1928, in Application No. 901, issue to the above named respondent a certificate of public convenience and necessity, P.U.C. No. 297; and

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent has been engaging in motor vehicle carrier operations other than those authorized by his said certificate; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent has engaged in operations other than those authorized by his said certificate, particularly in the transportation of passengers from Estes Park, Colorado, to Denver, Colorado.

O R D E R


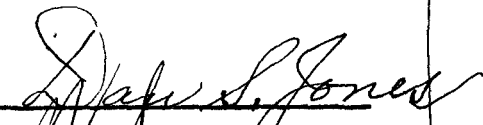
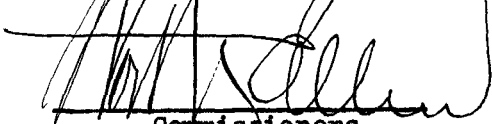
IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not the above named respondent has engaged in motor vehicle carrier operations other than those authorized by his certificate of public convenience and necessity, P.U.C. No. 297, particularly in the transportation of passengers from Estes Park, Colorado, to Denver, Colorado.

IT IS FURTHER ORDERED, That the respondent show cause, if any he

have, by written statement filed with the Commission within ten days from the date hereof, why the Commission should not enter an order cancelling and revoking his said certificate of public convenience and necessity.

IT IS FURTHER ORDERED, That such matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, at such time as shall hereafter be fixed, at which time and place such witnesses may be examined and such evidence introduced as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 5th day of November, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
ARTHUR OESTERICH.)

CASE NO. 588

November 6, 1930.

S T A T E M E N T

By the Commission:

An order was made by the Commission, on its own motion, providing for a hearing and investigation for the purpose of determining whether or not said respondent has been operating as a motor vehicle carrier as defined in Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity. The order further required the respondent to show cause, if any he has, by written statement to be filed with the Commission within ten days from October 15, 1930, why the Commission should not make an order commanding him to cease and desist from operating as a motor vehicle carrier unless and until he shall have obtained a certificate of public convenience and necessity therefor. The matter was duly set for hearing in the Court House in Greeley on Friday, October 31, 1930.

The respondent filed no answer and made no appearance at the hearing, although due and regular notice of the time and place of the hearing was given him. Evidence was taken that shows, and the Commission so finds, that respondent has no certificate of public convenience and necessity and that, in spite of that fact, he is operating as a motor vehicle carrier as defined by the statute.

O R D E R

IT IS THEREFORE ORDERED, That the respondent, Arthur Oesterich, forthwith cease and desist from operating as a motor vehicle carrier as defined

in Chapter 134, Session Laws of Colorado, 1927, until and unless he shall have procured a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Elmer Bock

James S. Jones
W. H. Miller
Commissioners.

Dated at Denver, Colorado,
this 6th day of November, 1930.

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Allen 11/8/30

(Decision No. 3133)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
H. S. LEACH AND S. L. LEACH FOR)
AUTHORITY TO TRANSFER CERTIFICATE) APPLICATION NO. 986-A
OF PUBLIC CONVENIENCE AND NECESSITY.)

November 6, 1930

Appearances: E. H. Houtchens, Esq., Greeley, Colorado,
attorney for applicants.

S T A T E M E N T

By the Commission:

The Commission heretofore issued a certificate of public convenience and necessity to S. L. Leach, P.U.C. No. 246. This is an application by said Leach and H. S. Leach for authority to the former to transfer to the latter said certificate of public convenience and necessity.

The evidence showed, and the Commission finds, that said H. S. Leach has had experience in operating motor vehicle trucks; that he is a dependable operator, and that his financial condition is reasonably satisfactory; that the public convenience and necessity requires that authority be granted to make the transfer as requested.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to S. L. Leach to transfer to H. S. Leach the certificate of public convenience and necessity, P.U.C. No. 246, heretofore issued to said S. L. Leach.

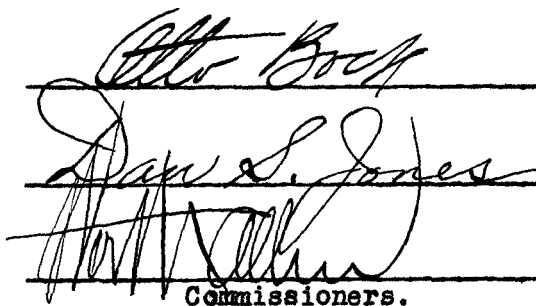
IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations filed with this Commission by said S. L. Leach shall continue in full force and effect until changed according to law and the Rules and

Regulations of this Commission.

IT IS FURTHER ORDERED, That all the terms and conditions inserted in the original order and amendments thereto shall continue in full force and effect after said transfer.

IT IS FURTHER ORDERED, That in accordance with the agreement of said H. S. Leach, any debts that may have arisen out of the operation under said certificate of S. L. Leach, be assumed by said H. S. Leach, and that authority to make this transfer is conditioned upon such assumption.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 6th day of November, 1930.

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(Decision No. 3134)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF F. J. STRASBAUGH FOR AUTHORITY)
TO ASSIGN AND TRANSFER CERTIFICATE) APPLICATION NO. 1062-A.
OF PUBLIC CONVENIENCE AND NECESSITY)
TO E. O. STEVENS.)

November 6, 1930.

Appearances: D. A. Maloney, Esq., Denver, Colorado,
for applicants.

S T A T E M E N T

By the Commission:

This is an application for authority to assign and transfer
certificate of public convenience and necessity, dated January 30, 1930,
Decision No. 2703, as amended.

The testimony shows that the transferor, F. J. Strasbaugh, desires
to sell his operations for the sum of \$1,250 to the transferee, E. O. Stevens.
This purchase price carries with it one motor vehicle truck and the good will
of the business. Stevens has had one year's experience in the operations of
a truckline.

After a careful consideration of the evidence, the Commission is of
the opinion, and so finds, that authority should be granted to assign and transfer
said certificate.

O R D E R

IT IS THEREFORE ORDERED, That F. J. Strasbaugh be, and he is
hereby, authorized to assign and transfer to E. O. Stevens certificate of
public convenience and necessity dated January 30, 1930, Decision No. 2703
as amended.

IT IS FURTHER ORDERED, That the tariffs, rules and regulations

now on file with this Commission covering the territory involved remain in effect until changed or modified as provided by the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Bock

David S. Jones

H. M. Miller

Commissioners.

Dated at Denver, Colorado,
this 6th day of November, 1930.

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(Decision No. 5135)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION)
OF WILLIAM J. GOODENBERGER FOR)
A CERTIFICATE OF PUBLIC CONVEN-)
IENCE AND NECESSITY.)

APPLICATION NO. 1559

November 8, 1930.

Appearances: Swerer & Johnson, Esqs., Denver, Colorado,
attorneys for applicant;
A. P. Anderson, Esq., Denver, Colorado,
attorney for The Hilltop & Denver Truck
Line and The Franktown Truck Line, pre-
testants.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing the operation of a motor truck system for the transportation of freight from point to point in the town of Elizabeth and in the contiguous territory and between Elizabeth and Denver.

The evidence shows that the applicant has been engaged for some time in the transfer business in and about Elizabeth. His main business consists of hauling farm products into Elizabeth, which is situated on the Falcon branch of The Colorado and Southern Railway, and in hauling lumber, coal, etc. from said point to the farmers. He is engaged somewhat in hauling livestock from the farms in the vicinity of Elizabeth to Denver. He seeks no authority to operate on schedule.

It is well known that a local transfer service such as the applicant has been rendering is quite essential to the welfare of the people. It is also true that the movement of livestock in less than carload lots to the stockyards in Denver is considered by the stock raisers a much preferable means of transportation than any other available, although if the stock raisers should collect their stock and make shipments in carload

lots the rates would be considerably less. But this means of shipping livestock is inconvenient and subject to more or less delay. By shipping by truck the shipper can call the truck operator in the afternoon and have his livestock on the early market in Denver the next morning.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation on irregular schedule of freight of all kinds from point to point in and between the following described territories and Elizabeth, and the transportation from said territories of livestock in less than carload lots:

Commencing at a point one-half mile west of the town of Elizabeth, Colorado, on State Highway No. 86 where a north and south county road crosses the same, thence north seven miles, thence east one mile, thence north seven miles to Arapahoe County Line, thence east three miles, thence south ten miles, thence west two miles, thence south four miles, thence west two miles to the point of beginning on State Highway No. 86.

Also a territory within the limits described as follows:

Beginning at the point on State Highway No. 86 approximately one-half mile west of the town of Elizabeth, in Elbert County, thence west three miles to the county line dividing Douglas and Elbert Counties, thence south along said county line six miles, thence east five miles to the north and south main travelled county highway between Elbert and Elizabeth, Colorado, thence north along said highway to the town of Elizabeth, thence west approximately one-half mile to the place of beginning.

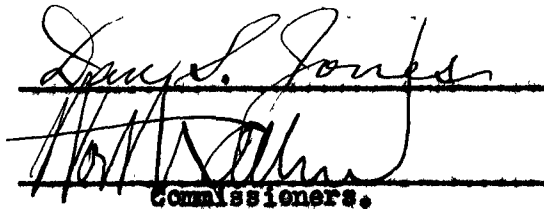
O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant, William J. Goedenberger, for the transportation on irregular schedule of freight of all kinds from point to point in and between the territories (hereinbefore) described and the town of Elizabeth, and the transportation of livestock from said territories to Denver, but not to or from any other points, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 8th day of November, 1930.

(Decision No. 3136)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF HARRY H. HUDSON FOR CERTIFICATE) APPLICATION NO. 1688.
OF PUBLIC CONVENIENCE AND NECESSITY.)

November 8, 1930.

Appearances: Clay R. Apple, Esq., Greeley, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by Harry H. Hudson for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight generally from point to point within a radius of ten miles of the town of Windsor, and between points within said area and other points within the State of Colorado.

The applicant has been engaged in such business for a reasonably substantial period. The evidence shows that there is quite a demand for such service, which includes the hauling of cement, gravel, livestock, beet pulp, building materials, farm products, including livestock, etc.

The Commission heretofore has issued a number of similar certificates. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is of more importance may be protected against injurious competition.

The applicant has expressed a willingness to have conditions

inserted in his certificate similar to those embodied in other certificates.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business from point to point in the area lying within a radius of ten miles of the town of Windsor, and between points in said area and other points in the State of Colorado, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle operations of the applicant, Harry H. Hudson, for the conduct of a transfer, moving and general cartage business from point to point in the area lying within a radius of ten miles of the town of Windsor, and between points in said area and other points in the State of Colorado, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least twenty per cent in excess of those charged by the scheduled carriers.

(b) The applicant shall not operate on schedule between any points.

(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed at any other point than within the territory lying within a radius of ten miles of Windsor for the purpose of developing business.



(d) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to

allow the applicant reasonable latitude in the carrying on of his business as it may develop in the future,

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado,
this 8th day of November, 1930.

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(Decision No. 3137)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS OF)
THOMAS F. MULVANEY.)

CASE NO. 591

November 26, 1930.

S T A T E M E N T.

By the Commission:

WHEREAS, on or about July 3, 1930, in Application No. 1615, Decision No. 2960, the Public Utilities Commission did issue to the respondent above named a certificate of public convenience and necessity to operate as a motor vehicle carrier. The records of this Commission show that the fee prescribed to be paid for the issuance of such a certificate has not been paid and that sufficient opportunity has been afforded the respondent to pay such fee, and that such fee must be paid according to law and the Rules and Regulations of the Commission; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not the certificate of public convenience and necessity heretofore issued to the respondent in Application No. 1615 should be revoked and cancelled for his failure to pay the fee required for the issuance of his certificate.

O R D E R

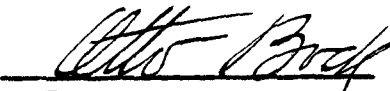


IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not the Commission should enter an order cancelling and revoking the certificate of public convenience and necessity issued to the respondent in Application No. 1615 for his failure to pay the fee prescribed for the

issuance of such a certificate.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why the Commission should not cancel and revoke his said certificate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission on December 6, 1930, at 10:00 A.M. thereof, at the Hearing Room of the Commission, 305 State Office Building, Denver, Colorado, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 26th day of November, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE JOINT)
APPLICATION OF THE ANDERSON)
TRANSPORT COMPANY AND JESS KENNER)
FOR AUTHORITY TO TRANSFER AND)
ASSIGN CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY.)

APPLICATION NO. 607-AA

November 29, 1930.

S T A T E M E N T.

By the Commission:

Counsel for the Anderson Transport Company having filed its petition in the above entitled application for the distribution of the sum of \$1,150.00 to the creditors of said company, it is therefore ordered that the distribution made herein be, and the same is hereby, approved.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Bock
Samuel Jones
Wm. H. Allen
Commissioners.

Dated at Denver, Colorado,
this 29th day of November, 1930.

523

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
LEWIS C. CAMP FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1658

November 29, 1930.

Appearances: William H. Schofield, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by Lewis C. Camp for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight between points within a radius of ten miles of Platteville and other points within the State of Colorado. No authority to operate on schedule is sought. The applicant has been engaged in transporting miscellaneous freight in and about and to and from points within said area for a number of years. He operates some four or five trucks.

Three witnesses other than the applicant testified that his operations are a public convenience and necessity; that the applicant is financially responsible and is a dependable operator.

The Commission has heretofore issued a number of certificates authorizing operations similar to the one the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is of more importance may be protected against

injurious competition.

The applicant has expressed a willingness to keep on file a tariff containing rates not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

After careful consideration of the evidence, the Commission is of the opinion and so finds that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the transportation of freight of all kinds from point to point within a radius of ten miles of Platteville, and between points in said area and other points in the State of Colorado, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant, Lewis C. Camp, for the transportation of freight of all kinds from point to point within a radius of ten miles of Platteville, and between points in said area and other points in the State of Colorado, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) For the transportation of commodities other than household goods between points served singly or in combination by scheduled carriers, the applicant shall charge rates which in all cases shall be at least twenty per cent in excess of those charged by the scheduled carriers.

~~_____~~ (b) The applicant shall not operate on schedule between any points.

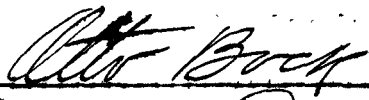

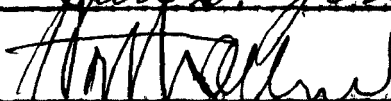
(c) The applicant shall not be permitted, without further authority from the Commission, to establish a branch office or to have any agent employed at any point outside of the territory around Platteville authorized to be served, for the purpose of developing business.

(d) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of his business as it may develop in the future.

IT IS FURTHER ORDERED, That the applicant shall file and keep on file with this Commission tariffs of rates which shall be not lower than those carried on file with the Commission by The Colorado Transfer and Warehousemen's Association, the first tariff to be filed within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the tariffs of rates, rules and regulations filed with this Commission, except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the rules and regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers, and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado, this
29th day of November, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
THE ALTMAN WATER COMPANY.)

APPLICATION NO. 1701

November 29, 1930.

Appearances: J. C. Bailey, Esq., Colorado Springs,
Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by The Altman Water Company, a corporation, for authority to abandon its operations as a public utility engaged in the distribution of water in the Cripple Creek mining district.

The evidence shows that for a number of years last past and at the present time the applicant is losing money on its operations. The amount of the loss is now in excess of \$10,000 per year. The law is well established that a utility cannot be required to continue operations at a loss.

Moreover, the evidence shows that the people to whom water has been furnished will be supplied with water in the future.

The Commission finds that the applicant, The Altman Water Company, be authorized to discontinue operations as a public utility for the distribution of water.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to The Altman Water Company, a corporation, to discontinue operating as a public utility for the distribution of water.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. B. Jones
Dan L. Jones
Wm. H. Allen
Commissioners.

Dated at Denver, Colorado,
this 29th day of November, 1930.

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(Decision No. 3141)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
J. T. SYMONS, JR., FOR AUTHORITY TO)
TRANSFER HIS CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO EDGAR)
A. ARMENTROUT.)

APPLICATION NO. 302-A

November 29, 1930

Appearances: J. T. Symons, Jr., Cripple Creek, Colorado,
pro se;
Edgar A. Armentrout, Green Mountain Falls,
Colorado, pro se.

S T A T E M E N T

By the Commission:

This is an application by J. T. Symons, Jr., and Edgar A. Armentrout for authority to the former to transfer to the latter the certificate of public convenience and necessity now held by the former. The certificate in question is part of an original certificate which was granted to C. H. Williams and Son on February 5, 1926. The portion of the certificate in question was transferred with the authority of the Commission by Williams and Son to Symons. It authorizes the transportation of passengers between Green Mountain Falls and Colorado Springs during the summer season only.

The evidence shows that the applicant Symons owes \$75 on account of the automobile which he has used in his operation. This debt Symons agrees to pay at once out of the purchase price to be paid him by Armentrout. However, Armentrout agreed that he would be responsible for the payment of the said \$75 and that the certificate might be transferred on that condition.

The evidence shows that the said Armentrout is experienced in driving motor vehicles in the mountains, having operated as chauffeur for Williams and Son and having driven a truck for the transportation of school children. His

financial condition was shown to be reasonably satisfactory.

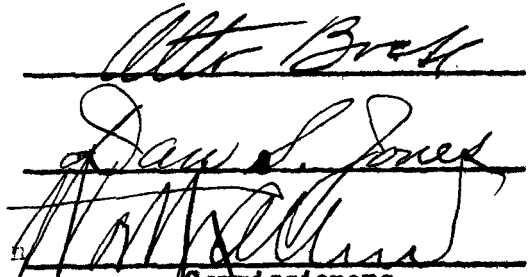
After careful consideration of the evidence, the Commission is of the opinion, and so finds, that authority should be granted to J. T. Symons, Jr., to transfer to Edgar A. Armentrout that part of the certificate of public convenience and necessity originally issued to C. H. Williams and Son and transferred by them to Symons.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to J. T. Symons, Jr., to transfer to Edgar A. Armentrout that part of the certificate of public convenience and necessity originally issued to C. H. Williams and Son and transferred by them to Symons.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations on file with this Commission covering this operation shall remain in force and effect until changed or modified as provided by the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 29th day of November, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF
S. A. DE CHANT AND CLEM DE CHANT,
CO-PARTNERS, DOING BUSINESS AS
DE CHANT BROTHERS.

CASE NO. 582

November 29, 1930

Appearances: Clem De Chant, Alamosa, Colorado,
pro se and the other respondent;
Emerson E. Jones, Esq., Alamosa, Colorado,
for the Colorado Transfer & Warehousemen's
Association.
Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

An order was entered requiring the respondents, S. A. De Chant and Clem De Chant, doing business as De Chant Brothers, to show cause why they should not be ordered to cease and desist from operating as motor vehicle carriers. Clem De Chant appeared for the respondents and testified that he and his brother are engaged in the motor vehicle transportation of freight in the Alamosa district. His testimony shows substantially that in the summer they are engaged in trucking most of the time for two certain customers. He then named, however, two other customers and referred to a third, whose name he could not recall, for whom he had hauled during the past summer. In the winter they engage in hauling promiscuously for the public if and when they are able to agree on rates.

The evidence shows without doubt, and the Commission so finds, that the respondents are engaged in operating as motor vehicle carriers.

O R D E R

IT IS ~~THEREFORE~~ ORDERED, That the respondents, S. A. De Chant and Clem De Chant, and each of them, forthwith cease and desist from operating as motor vehicle carriers until and unless they have procured a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Brock
Samuel S. Jones
W. A. Wallman
Commissioners.

Dated at Denver, Colorado,
this 29th day of November, 1930.

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(Decision No. 3143)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS OF)
RAYMOND H. BODLEY.)

CASE NO. 581 ✓

IN THE MATTER OF THE APPLICATION)
OF RAYMOND H. BODLEY FOR CERTIF-)
ICATE OF PUBLIC CONVENIENCE AND)
NECESSITY.)

APPLICATION NO. 1715

November 29, 1930.

Appearances: Merle M. Marshall, Esq., Alamosa, Colorado,
attorney for applicant and respondent;
T. A. White, Esq., Denver, Colorado,
attorney for The Denver and Rio Grande
Western Railroad Company;
Dan A. Maloney, Esq., Denver, Colorado,
attorney for the Pueblo-San Luis Valley
Transportation Company;
Emerson E. Jones, Esq., Alamosa, Colorado,
attorney for Colorado Transfer and
Warehousemen's Association;
Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

The two above entitled matters were consolidated for hearing. In the case the respondent Bodley was required to show cause why his certificate of public convenience and necessity, issued to him on November 13, 1929, should not be revoked and cancelled for failure of the respondent to limit himself to those operations authorized by his certificate. In the application, Bodley seeks an extension of the certificate issued to him by which he would be authorized to render motor vehicle service for the transportation, not on schedule, between La Jara and Carmel, Colorado, and the vicinities thereof, and Denver, of farm products, including livestock, machinery and supplies, furniture, bee supplies and honey, and oil.

Bodley's certificate issued on November 13, 1929, exactly one year prior to the date of the hearing herein, authorizes motor vehicle freight service between La Jara and Carmel and the vicinities thereof, and other points within a radius of thirty miles thereof. Bodley freely admitted that he had operated to and from points beyond the radius of thirty miles. At one time he testified that he knew what his certificate provided, but thought as to such business not authorized by his certificate he was operating as a contract carrier. At another time during his examination he testified that the reason he was so engaged was that there was a demand for the service. At still another point in his examination he testified that he did not know what was in his certificate.

After the order in the case had been served upon him he professed to go out of the business not authorized by his certificate, but the evidence shows that he merely resorted to a subterfuge. He had another man operate one of his trucks, conducting the business in his (Bodley's) name, at least part of the time. He first said that the truck was merely rented to the third person, but when he was questioned about his having received some money for some of the business done by the third person he stated that the business done by such person was done on a commission basis.

Before the case was heard, the Commission received a letter from the respondent admitting that he had been operating beyond the authority granted and stating that he could not understand why "the Commission continues to hound me in trying to make an honest living."

It is quite obvious that the respondent has grossly abused the authority granted him and has a wholly inadequate conception of the duties and responsibilities under his certificate. He proceeded after getting the certificate to violate the law openly. When proceedings were started herein against him he continued to violate it and resorted to the subterfuge described. It has been held not infrequently by this Commission that if the public convenience and necessity requires the extension of a certificate, the holder of the certificate should first seek and obtain the extension and not take the law into his own hands, as so many who do not have certificates are inclined to do.

It is quite obvious, and the Commission finds, that the respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity so far as a large part of his operations are concerned.

The only witness other than the applicant who testified in support of the application was a gentleman engaged in the bee and honey business. There was some testimony to the effect that rail service from the San Luis Valley to Walsenburg and Denver is not satisfactory, particularly as to the Denver haul. Most of the honey moving into Denver is sold locally or moves out in less than carload lots, whereas most of the honey moving to Walsenburg proceeds out of that point in carload lots.

The certificate of public convenience and necessity held by the Pueblo-San Luis Valley Transportation Company authorizes the transportation of freight from the territory served locally by Bodley. The two objections to the service rendered by that carrier were that the rates were too high and that some two years ago some honey which was shipped to Denver, originating on the line of the Pueblo-San Luis Valley Transportation Company and transferred in Pueblo to another truck line, was damaged and leaked out of its cases or containers. However, the evidence shows that since that time the management of the said carrier has changed and that no freight has been tendered to the carrier since the change was made. As to the rates, the evidence does not show anything more than that Bodley is hauling for less, which is insufficient to prove the unreasonableness of the rates of the carrier now serving the territory, because it is common knowledge that many truck operators are hauling freight at ridiculously low rates.

As we pointed out in the application of N. J. Fitzmorris, Application No. 989, Decision No. 1776, to grant a certificate to one who has flagrantly violated the law is to put a premium on the violation of the law which we are under oath to administer and enforce. Before the Commission would feel warranted in granting Bodley any further certificate rights, it should want the granting of such rights to be preceded by strict observance of the law for a substantial period of time.

Moreover, in this case the Commission is of the opinion, and so

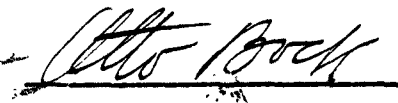
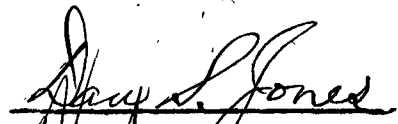

finds, that aside from the matter of Bodley's violation of the law the evidence does not show that the public convenience and necessity requires the desired extension.

O R D E R

IT IS THEREFORE ORDERED, That the respondent, Raymond H. Bodley, forthwith cease and desist from operating as a motor vehicle carrier except as expressly authorized in the certificate of public convenience and necessity heretofore issued to him.

IT IS FURTHER ORDERED, That the application of Raymond H. Bodley for extension of his certificate be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 29th day of November, 1930.

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(Decision No. 3144)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE SILVERTON NORTHERN RAIL-)
ROAD COMPANY FOR PERMISSION TO) APPLICATION NO. 1721
DISCONTINUE SERVICE TEMPORARILY.)

December 1, 1930

Appearances: Frank L. Ross, Esq., Denver, Colorado,
for applicant.

S T A T E M E N T

By the Commission:

This is an application for temporary discontinuance of service by The Silverton Northern Railroad Company, which operates about eight miles of track and about two miles of sidings and branches between Silverton and Eureka, Colorado. Practically 98 per cent of its business is traffic from The Sunnyside Mining and Milling Company. Owing to the price of metals the mining industry generally has become very depressed in this section of our State, and all properties have practically been discontinued.

The rail carrier does not transport mail or passengers; that is taken care of by a motor vehicle operation.

The Sunnyside Mining and Milling Company, the Town of Silverton and the Postmaster of Eureka, Colorado, filed statements with the Commission to the effect that they had no objection to the granting of this application.

The rail carrier has assured the shipping public involved that in the event traffic is required to be moved arrangements will be made to transport the same, either by rail or truck, depending on weather conditions.

After a careful consideration of all the evidence, the Commission is of the opinion, and so finds, that the public interest will not be detrimentally affected by a temporary discontinuance of the rail service of the



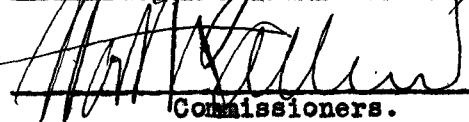
applicant from November 30, 1930 to June 30, 1931, inclusive, unless otherwise ordered by this Commission.

O R D E R

IT IS THEREFORE ORDERED, That The Silverton Northern Railroad Company be, and it is hereby, authorized to temporarily discontinue its rail service, effective November 30, 1930, to and including June 30, 1931, unless otherwise ordered by this Commission.

IF IS FURTHER ORDERED, That during this temporary suspension if sufficient traffic is offered to the carrier for transportation, it will transport or arrange for transporting such traffic either by rail or truck as expeditiously as weather conditions will permit.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 1st day of December, 1930.

W. N. Clark
W. N. Clark

(Decision No. 3145)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
THE SOUTHERN COLORADO POWER COMPANY)
FOR CERTIFICATE OF PUBLIC CONVENIENCE) APPLICATION NO. 1725
AND NECESSITY TO EXERCISE FRANCHISE)
RIGHTS GRANTED BY THE TOWN OF ROCKVALE.)
* * * * *

December 2, 1930.

Appearances: W. N. Clark, Esq., Pueblo, Colorado,
for applicant.

S T A T E M E N T

By the Commission:

This is an application by The Southern Colorado Power Company for a certificate of public convenience and necessity to exercise franchise rights to furnish the Town of Rockvale and its inhabitants electricity for illuminating, heating, power and other purposes. No protests were filed against this application.

The franchise in question was passed by the Town Board of Rockvale on November 25, 1930. The applicant has been serving Rockvale with electric energy for the past thirty years. The instant franchise is a renewal of rights heretofore granted in previous franchises.


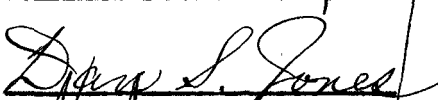
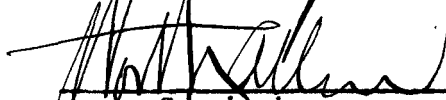
The testimony shows that the investment of the applicant in the town of Rockvale and territory tributary thereto is approximately \$40,000. The Commission, however, shall not be bound by this figure in any subsequent proceeding involving the reasonableness of the rates.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires that the applicant herein be authorized to exercise certain franchise rights granted by the Town of Rockvale, Colorado, in a certain ordinance passed by it on November 25, 1930.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires that The Southern Colorado Power Company exercise certain franchise rights granted by the Town of Rockvale to the applicant on November 25, 1930, and this order shall be deemed and held to be a certificate of public convenience and necessity.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 2nd day of December, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
W. L. EKSTROM FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1576 ✓

IN THE MATTER OF THE APPLICATION)
OF JESS KENNER, OPERATING UNDER THE)
NAME AND STYLE OF THE WHITE TRUCK)
LINE COMPANY, FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

APPLICATION NO. 1589

December 2, 1930.

- Appearances: L. E. Langdon, Esq., Pueblo, Colorado,
for W. L. Ekstrom;
William B. Stewart, Esq., Pueblo, Colorado,
and J. G. Scott, Esq., Denver, Colorado,
for the White Truck Line;
T. R. Woodrow, Esq., Denver, Colorado, for
The Denver and Rio Grande Western
Railroad Company;
J. Q. Dier, Esq., Denver, Colorado, for
The Colorado and Southern Railway Company;
J. Edgar Chenoweth, Esq., Trinidad, Colorado,
for the Anderson Transport Company.

S T A T E M E N T

By the Commission:

On August 25, 1930, the Commission issued a decision, in which we
stated as follows:

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"Before making a final decision of these applications, we
believe that under all the facts and circumstances an opportunity
should be given to Jess Kenner and The Anderson Transport Company
to effect a consolidation of their interests. This we believe
to be necessary toward a more efficient motor vehicle service
between Pueblo and Trinidad. We, therefore, at this time,
conclude not to enter an order in this matter until after
sixty days from the date of this opinion. In the meantime, the
Commission will retain jurisdiction over all the issues involved
in both applications herein."

Kenner and the Anderson Transport Company have effected this
consolidation of their interests, the former purchasing from the latter the

operating rights between Walsenburg and Trinidad.

The applicants herein are both seeking authority to conduct a motor vehicle carrier service between Pueblo and Walsenburg.

In our previous opinion, we stated that in view of all the surrounding circumstances, as between Ekstrom and Kenner, it was our opinion that the equities of the situation required that if a public convenience and necessity should exist to authorize motor vehicle carrier service between Pueblo and Walsenburg, the certificate should go to Kenner.

In view of the consolidation of the interests referred to above and after careful consideration of all the evidence in these applications, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of Jess Kenner for the transportation of freight between Pueblo and Walsenburg and intermediate points.

The Commission further finds that the public convenience and necessity does not require the motor vehicle system proposed by W. L. Ekstrom in Application No. 1576.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of Jess Kenner for the transportation of freight between Pueblo and Walsenburg and intermediate points, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to

compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

IT IS FURTHER ORDERED, That the application of W. L. Ekstrom No. 1576 be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alto Bock
Sam L. Jones
For Hallen
Commissioners.

Dated at Denver, Colorado,
this 2nd day of December, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE THE GREELEY GAS AND FUEL)
COMPANY.)

CASE NO. 578

December 2, 1930.

S T A T E M E N T

By the Commission:

The Greeley Gas and Fuel Company filed its tariff, Colo. P.U.C. No. 5, containing proposed rates for natural gas to be distributed in the city of Greeley to become effective September 15, 1930. Prior to the effective date The Greeley Chamber of Commerce filed its protest. After consultation with the parties it was agreed that the Commission allow the said rates to become effective and that the utility would assume the burden of justifying the rates. An order based upon said agreement was made by the Commission.

The Commission is now in receipt of a motion by the said protestant, The Greeley Chamber of Commerce, in which it is stated that the said Chamber withdraws all objections heretofore made and asks that its protest be disregarded and dismissed.

O R D E R

IT IS THEREFORE ORDERED, That this proceeding be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alto Brock
Don L. Jones
Arthur Williams
Commissioners.

Dated at Denver, Colorado,
this 2nd day of December, 1930.

weh

(Decision No. 3148)

At a General Session of the Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, December 3, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO. 143

IT APPEARING, That The Colorado and Southern Railway Company on November 5, 1930, in accordance with General Order No. 34, filed a notice with the Commission of the Company's intention to close the station at Eastonville, El Paso County, Colorado, and withdraw its agent at said station on December 8, 1930.

AND IT APPEARING FURTHER, That on November 25, 1930, twenty-eight citizens, taxpayers and land owners of Eastonville and vicinity filed a petition with the Commission protesting the discontinuance of the railroad station agency and the removal of the agent at Eastonville, Colorado, as set out in the notice of the aforesaid railroad company,

IT IS THEREFORE ORDERED, that the proposed date of the discontinuance of said agency and the withdrawal of the agent at Eastonville, Colorado, be suspended one hundred twenty days from December 8, 1930.

IT IS FURTHER ORDERED, That discontinuance of said agency service appearing to be injuriously affecting the rights and interests of the patrons of the railroad company at the aforesaid place, that the same be made a subject of investigation and determination by the Commission within the said period of suspension or within such further time as the same may be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the petition for discontinuance of said service and copies hereof be forthwith served on said The Colorado and Southern Railway Company, the petitioner, and

R. E. Staley, Eastonville, Colorado, one of the protestants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Brock

Sam. S. Jones

W. H. Sullivan

Commissioners.

Dated at Denver, Colorado,
this 3rd day of December, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
THE DENVER AND RIO GRANDE WESTERN)
RAILROAD COMPANY FOR PERMISSION TO)
INSTALL GRADE CROSSING SIGNALS AT)
MAIN STREET IN THE TOWN OF BUENA)
VISTA, COLORADO.)

APPLICATION NO. 1734

December 3, 1930.

S T A T E M E N T

By the Commission:

On November 20, 1930, The Denver and Rio Grande Western Railroad Company filed with the Commission an application in compliance with General Order No. 13 for the installation of certain signals at Main Street in the town of Buena Vista, Colorado.

The application alleges that the signal is necessary to dispense with the maintenance of a watchman at said crossing.

It is proposed to install the audible and flashing visual indicator highway crossing type of signal that has heretofore been approved at other installations. These signals will be located in the center of the street where said street crosses the main line track of The Denver and Rio Grande Western Railroad and to be installed approximately fifteen feet from the center of the track.

The Board of Trustees of the Town of Buena Vista on November 7, 1930, adopted an ordinance approving the installation of these signals and the discontinuance of the crossing watchman on the installation of the signals.


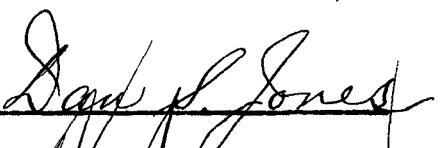

Since, therefore, there appears to be a necessity for the installation of the proposed type of crossing signal at this place, and that the type of signal and method of installation being the same as that which has heretofore

been approved by the Commission, the Commission is of the opinion and so finds that the public safety and necessity requires the installation of the signals as herein proposed, and will so order.

O R D E R

IT IS THEREFORE ORDERED, That the application of the Denver and Rio Grande Western Railroad Company, in compliance with General Order No. 13, for the approval of the installation of a certain type of highway grade crossing signal at Main Street in the town of Buena Vista, Colorado, as set out in the plan attached to application, be, and the same is hereby, approved.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO




Commissioners.

Dated at Denver, Colorado,
this 3rd day of December, 1930.

(Decision No. 3150)

At a General Session of The Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, December 3, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO. 144

IT APPEARING, That the Union Pacific Railroad Company, in accordance with General Order No. 34, filed a petition on November 17, 1930, requesting permission to close the agency at Bunell, Arapahoe County, Colorado, and discontinue the maintenance of an agent at said station on December 15, 1930, averring that the present or future business of the Company can be handled without the expense of this agency,

AND IT APPEARING FURTHER, That on November 22, 1930, the Commanding Officer at Fitzsimons General Hospital, U.S. Army, filed a communication with the Commission advising that the matter of authority to protest the abandonment of the agency had been taken up with the Quartermaster General, Washington, D.C. with the expectation that such authority would be granted, and requested continuance of the agency until this matter could be determined and also an objection was made as to the correctness of paragraph three (3) of the application, and


IT IS THEREFORE ORDERED, That the proposed date of the discontinuance of said agency at Bunell, Colorado, be suspended ninety days from December 15, 1930.

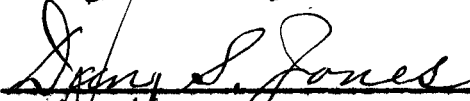
IT IS FURTHER ORDERED, That discontinuance of said agency service appearing to be injuriously affecting the rights and interests of the patrons of the railroad company at the aforesaid place, that the same be made a subject of investigation and determination by the Commission within the said period of suspension, or within such further time as the same may be suspended.


IT IS FURTHER ORDERED, That a copy of this order be filed with the petition for discontinuance of said service, and copies hereof be forthwith served on said the Union Pacific Railroad Company, the petitioner, and P.S.

Halloran, Colonel, Medical Corps, Commanding Officer at Fitzsimons
General Hospital, U. S. Army, Denver, Colorado, the protestant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners.

Dated at Denver, Colorado,
this 3rd day of December, 1930.

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(Decision No. 3151)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
JACK PERRY, DOING BUSINESS AS) CASE NO. 529
SERVICE TRUCK LINE.)
* * * * *

December 3, 1930.

S T A T E M E N T.

By the Commission:

On May 1, 1930, the Commission entered an order in the above entitled case requiring the respondent, Jack Perry, doing business as Service Truck Line, to forthwith cease and desist from operating as a motor vehicle carrier as defined by law. The testimony showed, and the Commission found, that the respondent had been operating for a considerable time as such motor vehicle carrier, transporting considerable tonnage between Pueblo and Denver.

In the order of May 1, 1930, the Commission omitted any reference to the payment of the tax required to be paid by motor vehicle carriers as compensation for use of the highway. The respondent so far has not made any reports nor paid this tax. Under the circumstances, we believe it necessary to issue an order requiring him to do so.

O R D E R

IT IS ~~THEREFORE~~ ORDERED, That the respondent herein, Jack Perry, be, and he is hereby, directed to file with this Commission, within ten days from the date hereof, reports of freight actually transported by him over the public highways of this state since January 1, 1930, and to pay to the Commission as compensation for the use of said highways a mileage tax upon the goods so transported, as provided by law.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Boer
James Jones
W. H. Miller
Commissioners.

Dated at Denver, Colorado,
this 3rd day of December, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF R. H. BURKDOLL FOR A CERTIFICATE) APPLICATION NO. 1590
OF PUBLIC CONVENIENCE AND NECESSITY.)

December 3, 1930.

Appearances: D. A. Maloney, Esq., Denver, Colorado,
for applicant;
Tod C. Storer, Esq., Pueblo, Colorado,
for Missouri Pacific Railway Company.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of freight from Pueblo to Arlington, Haswell, Galatea, Eads, Chivington, Brandon, Sheridan Lake, Stewart and Towner. No authority was asked for the transportation of freight between Pueblo and Sugar City inclusive, or to intermediate points between Pueblo and Sugar City. However, at the hearing the applicant filed an amendment seeking authority to transport freight originating east of Sugar City to Sugar City and points west thereof, including Pueblo.

The Commission on June 18, 1929, authorized a motor vehicle carrier system for the transportation of freight between Pueblo and Sugar City, Colorado, and intermediate points east of Boone. In view of the fact that this motor vehicle carrier was not served with a copy of the instant application, nor received a notice of the hearing, the Commission required the applicant to obtain a statement from such motor vehicle carriers relative to their attitude. This statement has now been filed with the Commission,

from which it appears that such motor vehicle carriers have no objection to the granting of this application as amended.

The testimony shows that the applicant is in the produce business in the City of Pueblo, and furnishes his products to customers east of Sugar City to the Colorado State line; that on numerous occasions he has been requested to transport other freight from Pueblo to his customers. For some time he has furnished transportation for some of his customers, and has paid the tax for the use of the highway to the Commission.

Several witnesses appeared in behalf of the applicant, who testified to the public convenience and necessity of the service. The applicant proposes to operate on regular schedule semi-weekly; east of Eads he proposes an irregular service on such days and at such times as occasion may demand. His equipment consists of two trucks, valued at approximately \$2,000.

There is no evidence in the record on which this Commission can base a finding of public convenience and necessity for the proposed motor vehicle system east of Eads, and in that respect the application will be denied.

The testimony of shippers at Eads as related to the rail service was to the effect that it is not dependable, and that the freight from Pueblo scheduled to arrive at Eads on Friday noon is usually too late for delivery and sale to the public on Friday.

At a continued hearing of this matter the witnesses for the rail carrier testified that it had instituted a new freight service between Pueblo and Eads, which provided for a car to be set out at that point early Friday morning, and that it would take approximately 90 days to determine whether the shippers would use such service sufficiently so that the same may be permanently maintained. On the first day that this extra car was used no freight was delivered at Eads.

After a careful consideration of all the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of freight between Pueblo and Eads, Colorado, and intermediate points east of

Sugar City, and for the transportation of freight originating at points east of Sugar City, including Eads, to Sugar City and points west thereof, including Pueblo.

O R D E R

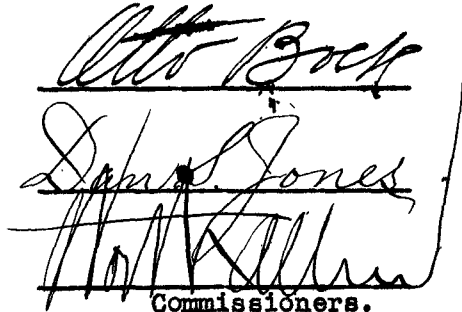
IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of freight between Pueblo and Eads, Colorado, and intermediate points east of Sugar City, and for the transportation of freight originating at points east of Sugar City, including Eads, to Sugar City and points west thereof, including Pueblo, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the application in all other respects be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the applicant shall file tariffs of rates, rules and regulations and time and distance schedules as required by the Rules and Regulations of this Commission governing motor vehicle carriers, within a period not to exceed twenty days from the date hereof.

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public enemy or unusual or extreme weather conditions; and this order is made subject to compliance by the applicant with the Rules and Regulations now in force or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 3rd day of December, 1930.

✓ *Gas* *Wick*
(Decision No. 3153)

At a session of The Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, the 5th day of December, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO. 145

Re: Livestock - loading, unloading, feeding and watering stops at railroad operated stockyards.

IT APPEARING, That there have been filed with the Public Utilities Commission of the State of Colorado, by the Union Pacific Railroad Company, by F. B. Choate, its General Freight Agent, a tariff containing schedules stating new individual rates and charges, and new individual regulations and practices affecting such rates and charges becoming effective on December 9, 1930, designated as follows:

Union Pacific Railroad Company, Supplement
No. 26 to U. P. R. R. Tariff No. 3035-E,
Colo. P.U.C. No. 248, effective December
9, 1930,

IT IS ORDERED, That the Commission, upon complaint, without formal pleading, enter upon a hearing concerning the lawfulness of the rates, charges, regulations and practices stated in the said schedules contained in said tariff, viz:

Union Pacific Railroad Company, Supplement
No. 26 to U. P. R. R. Tariff No. 3035-E,
Colo. P.U.C. No. 248, Item No. 940-A.

IT FURTHER APPEARING, That the said schedules make certain increases in rates for the intrastate transportation of livestock whereby the rights and interests of the public may be injuriously affected, and it being the opinion of the Commission that the effective date of the said schedules contained in the said tariff should be postponed pending said hearing and decision thereon,

IT IS FURTHER ORDERED, That the operation of the said schedules contained in said tariff be suspended and that the use of the rates, charges, regulations and practices therein stated be deferred 120 days or until the 7th day of April, 1931, unless other^{wise} ordered by the Commission, and no change shall be

made in such rates, charges, regulations and practices during the said period of suspension.

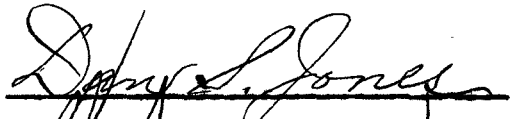

IT IS FURTHER ORDERED, That the rates and charges, and the regulations and practices thereby sought to be altered shall not be changed by any subsequent tariff or schedule until this investigation and suspension proceeding has been disposed of or until the period of suspension or any extension thereof has expired.

IT IS FURTHER ORDERED, That a copy of this order be filed with the said schedules in the office of the Commission and that copies hereof be forthwith served upon the Union Pacific Railroad Company and Charles E. Blaine, care of American National Livestock Association, Phoenix, Arizona.

IT IS FURTHER ORDERED, That this proceeding be assigned for hearing at a future date to be determined by the Commission, due notice of such date and place of hearing being given all interested parties.

Chairman Bock absent.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

Dated at Denver, Colorado, this
5th day of December, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE STATE HIGHWAY DEPARTMENT)
OF THE STATE OF COLORADO FOR THE)
OPENING OF A PUBLIC HIGHWAY CROSSING)
OVER THE TRACK OF THE DENVER AND)
SALT LAKE RAILWAY COMPANY AT A POINT)
1547 FEET NORTHERLY FROM M. P. D 65,)
NEAR TABERNASH.)

APPLICATION NO. 1716.

December 9, 1930.

Appearances: Thos. L. Pollock, Esq., Assistant Attorney
General, for the applicant.

S T A T E M E N T

By the Commission:

This proceeding arises out of the application of The State Highway Department of the State of Colorado filed with the Commission on October 24, 1930, in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917, for the opening of a public highway crossing at grade approximately 1547 feet northerly from Mile Post D 65 of The Denver and Salt Lake Railway Company.

The application alleges that said crossing is necessary on account of a change in the location of the state highway to secure a better highway in line and grade.

A copy of the application was duly served on the respondent, The Denver and Salt Lake Railway Company, and answer was made thereto by the Company's attorney on November 5, 1930, protesting the application, alleging that the proposed crossing is unnecessary; that it will create a hazard both to the traveling public on the highway and on the railroad, and that the State Highway Department has not yet obtained the necessary right-of-way and

authority to make said crossing.

The matter was set down for hearing at the Hearing Room of the Commission, State Office Building, Denver, Colorado, at 2:00 P. M. Tuesday, November 25, 1930, and all parties concerned therein were duly notified. Mr. Thomas L. Pollock, Assistant Attorney General of the State of Colorado, appeared for the applicant. The protestant did not enter an appearance either by counsel or otherwise.

The hearing was then continued to ten o'clock A. M. on November 26, 1930, at which time Mr. Pollock again appeared for the applicant but the protestant was not represented.

Mr. Reedy, Principal Assistant State Highway Engineer, and Mr. Maloney, Assistant State Highway Engineer, testified in behalf of the applicant. Their testimony showed that the State Highway Department has made surveys and prepared plans and advertised for bids for the construction of a Federal Aid Project (No. 151-A) which contemplates relocation and improvement of a portion of United States Highway No. 40 from the vicinity of Fraser to the vicinity of Tabernash. At the present time this highway is located west of the Denver and Salt Lake Railway and has some bad alignment and one very steep hill near Tabernash. It is now proposed to relocate the state highway so as to generally parallel the east line of the railroad company's right-of-way, and instead of crossing the track near Fraser, it is now proposed to cross the track near Tabernash at the point where the grade crossing is desired. They testified that a much better grade and alignment will be secured by proposed new highway. Also that the proposed crossing will be safer than the present crossing near Tabernash by reason of the better approach that has been planned.

Mr. Chas. H. Rankin, Railway Engineer for the Commission, testified that he had made an inspection of the proposed site of the new crossing and that it will be safer than the present crossing near Fraser, because of the wide sweeping curve with center of highway about 400 feet from the track and a tangent of about 150 feet before the crossing is reached, and with nearly level grade in highway on the approach to the crossing. The present crossing

makes a short turn with an up grade to the track at the crossing being more dangerous than the proposed crossing approach.

He also stated that the present county road crossing about 500 feet north of the proposed crossing and now crossing the yard tracks of the railroad near the south end of the Tabernash yard tracks can be abolished and closed as the county highway connects with the new highway on the curve approaching the new crossing, and the county road crossing will not therefore be needed. The county commissioners have advised that there is no objection to the abandonment of this crossing. No testimony was offered by the protestant.

The Commission, therefore, finds from the evidence submitted at the hearing and the records in the case that the proposed crossing will be a public convenience and necessity for the traveling public and that the present county road crossing near the south end of the Tabernash railroad yard tracks can be closed and abandoned as being no longer needed when new crossing is ready for use, and it will now make its order accordingly.

O R D E R

IT IS THEREFORE ORDERED, In accordance with Section 29 of the Public Utilities Act, as amended April 16, 1930, that a public highway crossing, at grade, be and the same is hereby permitted to be opened and established across the main line track of The Denver and Salt Lake Railway Company at a point about 1547 feet northerly from Mile Post D 65, the said point being station 170 plus 21.5 of the said State Highway Department's surveys and plans for Federal Aid Project No. 151-A, conditioned, however, that prior to the opening of said crossing to public travel it shall be constructed in accordance with plans and specifications as prescribed in the Commission's order "In re Improvements of grade crossings in Colorado, 2 Colo. P.U.C. 128."

IT IS FURTHER ORDERED, That the present county highway crossing about 500 feet north of the proposed crossing and which is near the south end of the yard tracks of The Denver and Salt Lake Railway at Tabernash shall be closed and abandoned when the aforesaid new state highway crossing is opened for public travel.

IT IS FURTHER ORDERED, That the expense of the construction and

maintenance of grading for the highway up to the track at the new crossing authorized, including drainage therefor, shall be borne by the State Highway Department of Colorado and the expense of the installation and maintenance of said crossing, including necessary cattle guards, crossing plank, signs and other expense, shall be borne by the respondent, The Denver and Salt Lake Railway Company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Attn Brock

Sam S. Jones

Commissioners.

Dated at Denver, Colorado,
this 9th day of December, 1930.

(Decision No.3155)

At a General Session of the Public
Utilities Commission of the State of
Colorado, held at its office in Denver,
Colorado, December 8, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO.146

Re: Closing station at Parker, Colorado,
by The Colorado and Southern Ry.Co.

IT APPEARING, That The Colorado and Southern Railway Company, in
accordance with General Order No. 34, filed with the Commission on November
22, 1930, a notice of its intention to withdraw its agent and close its station
at Parker, Colorado, on December 8, 1930.

AND IT APPEARING FURTHER, That on December 2, 1930, a petition contain-
ing names of twenty-two firms and individuals of Parker and vicinity was filed
with the Commission protesting the proposed abandonment of said railroad agency
service at Parker, Colorado, and

IT IS THEREFORE ORDERED, That the proposed date of the discontinuance
of the aforesaid station agency service and withdrawal of agent be suspended one
hundred and twenty days from December 8, 1930, unless otherwise ordered by the
Commission.

IT IS FURTHER ORDERED, That said discontinuance of agency service and
withdrawal of agent appearing to be injuriously affecting the rights and interests
of the patrons of the railroad company at the aforesaid place and others that might
be concerned that the same be made a subject of investigation and determination by
the Commission within said period of suspension or within such further time as the
same may be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the notice
of discontinuance of said service and copies hereof be forthwith served on said

The Colorado and Southern Railway Company and Victoria Newcomb, postmistress
at Parker, Colorado, one of the protestants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

OTTO BOCK

DAN S. JONES

WORTH ALLEN

Commissioners.

(S E A L)

Dated at Denver, Colorado, this
8th day of December, 1930.

ATTEST: A true copy.

Secretary.

682
look ✓
(Decision No. 3156)

At a General Session of the Public
Utilities Commission of the State
of Colorado, held at its office in
Denver, Colorado, December 9, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO. 147

IT APPEARING, That the Union Pacific Railroad Company filed with the Commission on November 17, 1930, a petition requesting authority to discontinue its station agency and withdraw its agent at the town of Henderson, Colorado, on December 15, 1930, on the ground that the convenience and necessity does not require such agency service at that place,

AND IT APPEARING FURTHER, That on December 1, 1930, a petition containing the names of 118 persons, firms, or patrons of the carrier residing within a radius of three miles of Henderson, Colorado, was filed with the Commission protesting the abandonment of said agency and the withdrawal of the agent and presenting therein a statement of the amount of business done at this station,

IT IS THEREFORE ORDERED, That the proposed date of the discontinuance of the aforesaid station agency service, and withdrawal of agent, be suspended one hundred and twenty days from December 15, 1930, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That said discontinuance of agency service and withdrawal of agent appearing to be injuriously affecting the rights and interests of the patrons of the railroad company at the aforesaid place, and others that might be concerned, that the same be made a subject of investigation and determination by the Commission within said period of suspension or within such further time as the same may be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the petition for discontinuance of said service and copies hereof be

forthwith served on said the Union Pacific Railroad Company, the petitioner, and the postmaster at Henderson, Colorado, to advise the protestants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Chas. Brock
Samuel S. Jones
H. W. Sullivan
Commissioners.

Dated at Denver, Colorado,
this 9th day of December, 1930.

(Decision No. 3157)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF FULTON PETROLEUM CORPORATION)
FOR A CERTIFICATE OF PUBLIC CON-)
VENIENCE AND NECESSITY.)

APPLICATION NO. 1557

December 10, 1930

Appearances: George D. Parkinson, Esq., Salt Lake City, Utah,
and Burgess & Adams, Esqs., Grand Junction,
Colorado, attorneys for applicant;
James R. Jones and J. G. Scott, Esqs., Denver,
Colorado, for protestant Argo Oil Company;
Tupper, Smith & Holmes, Esqs., Grand Junction,
Colorado, for protestant Southern Union Gas
Company.

S T A T E M E N T

By the Commission:

The applicant, Fulton Petroleum Corporation, has obtained from the city of Grand Junction a franchise for the distribution in said city of gas to be piped from a structure known as Garmesa, situated some twenty-seven miles northwest of that city. Said structure is a proven gas field.

The applicant proposes to serve a number of towns and communities in the Grand Junction district, including the towns of Fruita, Clifton and Palisade, and the territory intermediate to Grand Junction and Fruita. Fruita is west of Grand Junction, the towns of Clifton and Palisade east. The town of Fruita also has granted a franchise to the applicant. Grand Junction is a home rule city having legislative powers granted by Article XX of the Constitution of Colorado. Fruita is not a home rule city.

The application alleges that the applicant, "with its connections and associates, is financially able to carry out the program of construction and service hereinbefore proposed, and is financially able to furnish additional facilities or extensions of service as the requirements of public and private consumers may demand."

It further alleges that the present and future convenience and necessity of the communities proposed to be served require the construction of the system and the rendering of the service herein proposed.

The application concludes with a prayer "for the issuance to it of a certificate of convenience and necessity for the service herein proposed, and for such other and further award and relief as may be lawful and just in the premises."

Two protestants vigorously opposed the application, one being Southern Union Gas Company and the other Argo Oil Company. The points made generally by the protestants are that the supply of natural gas in the Garmesa structure is inadequate as to quantity and unsatisfactory as to quality; that the applicant has not shown itself to be capable financially of performing its proposed undertaking or of fulfilling its duty to the public should a certificate be granted to it. Protestants further allege that if the public convenience and necessity should require the furnishing of natural gas to the communities in question, they are in a better position to render that service than the applicant.

A representative of Southern Union Gas Company testified that his company, while it does not have a firm commitment, does have a tentative agreement under and by which it may secure natural gas from the Piceance structure; that the company was then about to receive a franchise from the town of Rifle, under which it would distribute natural gas in said town to be brought from said structure. He testified that the Btu (British thermal units) content of the Piceance gas is higher

than the Garmesa gas. The distance between the Piceance field and Grand Junction is eighty-five miles, between the field and Rifle thirty-two miles. The Southern Union Company would not construct a pipeline through or around Grand Junction in order to serve the town of Fruita if it should not serve Grand Junction also. If it cannot procure a franchise to serve Grand Junction, it is almost certain it would not desire to bring gas from the Piceance field to serve Clifton and Palisade and the other communities outside of Grand Junction.

Argo Oil Company states that it is the holder of large acreages on both the Highline and the Piceance structures, the former being situated near the Garmesa structure in Mesa County. No gas has been discovered in the Highline. A subsidiary of the Argo company has spent some \$65,000 in development work in the Piceance structure, finding some gas comparatively free of carbon dioxide and with a heating value of some 905 Btu. The Argo company itself has spent some \$65,000 in development work on the Highline structure, although no gas has yet been discovered. It appears that further work will proceed on both structures.

The Garmesa structure has had a rather interesting history. Some four companies drilled on the structure, or what was thought to be the structure, before the applicant herein came on the scene. Those companies are Carter Oil Company, Midwest Refining Company, Sun Oil Company and Gypsy Oil Company. Both of the two latter companies discovered gas. The wells of these two companies were about 3,000 feet apart. The Sun Company discovered gas at a depth of about 2860 feet, the Gypsy Company later finding gas in the same sand and in two lower sands. Both of these companies plugged their wells and abandoned them. The applicant herein then drilled a well which is within about 1000 feet of the Gypsy well and is substantially, although not exactly, between it and the Sun well.

A large part of the contents of the gas in the three sands is carbon dioxide, an inert non-combustible gas. According to testimony for

the applicant, the gas in the first sand contains about 20 per cent of carbon dioxide and 10 per cent of nitrogen, which also is a non-combustible gas, that in the second sand 51½ per cent of carbon dioxide and 13 per cent of nitrogen, and that in the third sand about 58 per cent of carbon dioxide and 13 per cent of nitrogen. It was estimated that the flow of gas per day in cubic feet from the three sands, one to three, respectively, is 18,000,000, 17,000,000 and 40,000,000, and that there is a sufficient supply of fuel gas after all but some 10 per cent of the carbon dioxide is removed to furnish 10,000,000 cubic feet per day for 25 years or 5,000,000 cubic feet per day for 50 years.

The evidence of the protestants as to the ingredients of the gases in the various sands does not show variances of great importance. A geologist by the name of Westby was instructed by Empire Gas and Fuel Company to and he did make an examination of the Garmesa structure, and made a report based thereon. This report made before the applicant became interested is deemed by the Commission of considerable importance, as the Empire Company evidently was then considering developing the field. In his conclusion Westby states, "At 2632 feet two million feet of gas per day was developed. At 2657 feet the flow increased to five million but after flowing for 24 hours brought in salt water at 10 barrels an hour. Shows of gas of no importance were found above this horizon in the Dakota. Fresh water was discovered in the top of the La Plata formation at a depth of 3210 feet." He further stated in his conclusions and recommendations, "The Garmesa Anticline has been estimated to contain about five billion cubic feet of gas, a supply which would last about 27 years at a consumption rate of 500,000 cubic feet per day." He recommended the drilling of two more wells at points removed from the Gypsy and Sun wells in order "to make certain of the gas content of the structure." He pointed out that the open flowing of the Gypsy well had substantially dissipated the total estimated reserve of the gas. A witness for applicant admitted salt water came up with the gas from the second sand.

It is apparent that since the three wells drilled by the Gypsy, the Sun and the applicant herein are in such close proximity to each other, geologists can only make rather unsatisfactory estimates and cannot determine with any certainty the amount of gas available. There was much detailed evidence about various possible methods of extracting the carbon dioxide, which after extraction it is proposed to use in the manufacture of dry ice. The nitrogen in the gas cannot be removed on any commercial or practical basis. The content of the gas after the carbon dioxide is removed will contain a much larger percentage of nitrogen than was contained in the gas before such separation of the carbon dioxide.

A learned chemist by the name of Christensen discussed at some length the various processes for separating the carbon dioxide. That the carbon dioxide can be separated we have no doubt. The cost of constructing a plant of sufficient capacity to make such separation as will be necessary is a matter about which we have considerable doubt. One corporation has stated that the installation cost of such a plant employing what is called the Girdler process, which would remove practically all the carbon dioxide from two million cubic feet of gas per day containing 20 per cent of carbon dioxide and flowing at a pressure of 300 pounds per square inch, would be \$27,500. It offered to guarantee that such a plant would remove carbon dioxide down to a concentration of not more than one per cent by volume. The fact is, however, that there is, according to the evidence, no separation of carbon dioxide being made anywhere at the present time on a commercial basis. Plans concerning the sale of dry ice to be made from the carbon dioxide are in, what appear to us, an immature state. The applicant gave no definite information about the sale of dry ice, although questioned on the point. Whether the Government will permit the separation of the gas unless the carbon dioxide can be used for useful purposes is doubtful.

During the first hearing herein held on July 24 and 25, one of the Commissioners asked this question, "You will introduce a financial statement of the company will you, as of some recent date?" The witness on the stand at the time, Frank Goodwin, a director of First Seattle Dexter National Bank and the vice president of the applicant, answered "We haven't made up our financial statement to the present time; what we make up now isn't reflective of the actual condition in this case; we have assets that we are ourselves aware are worth a great deal of money; we expect to demonstrate those assets and are demonstrating them at this time, and have made a sort of a demonstration in Utah that will reflect more nearly what these companies are worth, and we don't want to have the record appear in Bradstreet's or Dun's, or publish it generally, from the fact that we want the showing to come when our assets are in evidence to any one." The Commissioner then stated, "It is the practice of the Commission in all such cases, motor vehicle, utility and others to require financial statements of those who propose to serve the public, and we would like to have it in this case." One of the attorneys for the applicant then answered, "If we don't make sufficient showing along that line without it we will certainly do it." The second hearing was fixed at a time that would permit Mr. Fulton, the president of the applicant, to be present. We assumed at that time that a financial statement would be forthcoming and some definite evidence given as to the method of financing the proposed developments. However, no witness testified at that hearing for the applicant.

The evidence given by Frank Goodwin at the first hearing showed that five persons, Fulton, the president of the company, Frank Goodwin, Arthur Goodwin and Joseph Esenal hold a controlling interest in the applicant, and that their combined wealth or assets amount to at least two million dollars; that there are other wealthy stockholders and that eight or ten of them are probably worth ten or fifteen million dollars.

The applicant has some fifteen oil wells with a production of about 250 barrels a day.

Goodwin further testified they estimate that a thirty ton capacity dry ice plant would cost in the neighborhood of \$70,000; that a purifying plant will cost \$15,000, the distribution systems in Grand Junction and Fruita \$125,000 and \$10,000, respectively; that while the application alleged the transmission pipeline would cost \$10,000 a mile (or a total of \$270,000) "Temporarily we will probably put in a four-inch line from the well to Fruita, which will cost about \$3,000 a mile."

The company had in July liquid assets consisting of cash and oil amounting to about \$65,000. Only three or four thousand of the total of 250,000 shares with a par value of \$1.00 each, had not been issued. Goodwin testified that "There is an agreement between the majority stockholders to increase the capitalization of this company to provide for our future needs." He later testified concerning the financing to be employed, "As I have stated, the majority stockholders have agreed to an increase in stock when it is necessary, when the time of financing comes along, or we have other plans of bonding the proposition; there are no bonds or mortgages on the property now, or we may take it up among the stockholders of our company alone and finance it that way," and that the plan they "intend to follow has not yet been definitely determined."

The position taken by the applicant at the hearings and in its brief is shown by the following statement contained in the brief: "The applicant has indicated that it intends going ahead with its program to bring natural gas to Grand Junction, regardless of the action of the Commission upon this application." Applicant states in its brief what authority it seeks from the Commission. We quote from the brief: "We refer to these cases so that the real issue before the Commission, which is whether or not it should grant a certificate of public convenience and necessity to the applicant to supply the town of Fruita and the intervening territory between Fruita and Grand Junction, may not be obscured. So

much evidence was submitted to the Commission on collateral matters that the real issue may be lost sight of unless it is firmly kept in mind." It is admitted in applicant's brief that so far as the towns of Clifton and Palisade, which lie east of Grand Junction, are concerned, ". . . no evidence was introduced in support of that part of the petition."

If the applicant has authority under the law without any certificate of convenience and necessity from this Commission to construct the separation plant near the well or wells, and the pipeline from the structure to Grand Junction, and it intends, as it says, to do such construction even though no certificate is granted herein, the question arises whether the Commission at this time should either issue or deny the certificate sought. As we understand the facts, the transmission pipeline and separation plant will probably be of the same size and capacity without authority to serve any of the territory outside of Grand Junction as it would be with such authority.

The City of Loveland was pursuing plans for the construction of a hydro plant on the Big Thompson river some miles from the city limits for the purpose of developing electric energy to be distributed in said city. This Commission brought suit in the name of the people to enjoin the city from proceeding, "alleging in its complaint that a certificate authorizing such construction had been refused by the Commission and that it had directed the city not to begin work upon the same." The Supreme Court of Colorado held in *People, ex rel. City of Loveland*, 76 Colo. 188, that the construction and operation of said plant was a matter over which we had no jurisdiction. The Supreme Court in that case said concerning Section 35 of Article V of the Constitution, "that any attempt by the Commission 'to interfere with any municipal improvement, money, property or effects' was prohibited. An attempt by the legislature to grant the Utilities Commission any power which it is thus prohibited from exercising is futile." The argument is made that while under Section 35 of Article V a

municipality in order to serve its own people may go outside of its city limits and construct its power plant and a transmission line therefrom, yet under Article XX of the Constitution, granting to a municipality "all other power necessary, requisite or proper for the government and administration of its local and municipal matters", a home rule city may not in the exercise of its broad powers secure service of its citizens by a privately owned utility without a certificate of public convenience and necessity from this Commission if by chance the power plant or transmission line is situated over and beyond the municipal limits.

The Supreme Court in the case of City and County of Denver v. Mountain States Telephone and Telegraph Company, et al., 67 Colo. 225, speaking of the language just quoted from Article XX of the Constitution, said "Could language be stronger? Clearly this is an express grant of full and complete power of local self-government. It necessarily includes the power, whether of eminent domain, taxation, or police, necessary to modern, progressive and efficient local self-government. Indeed, the growth of cities has been the productive force broadening and extending the police power. It is indispensable to self-government in all our municipalities. In fact, it is the very soul and spirit thereof."

If it should be held that a privately owned utility serving a home rule city may not, although authorized by a franchise from said city, construct a plant or distribution line or do any other construction work outside of the city limits for the sole purpose of serving consumers therein, then this power which has been referred to as being so "full and complete" is really not adequate to permit of unrestrained local self-government. What difference does it make to the people of the State whether the money spent in the construction of a power plant and pipeline to be used solely to serve consumers within a home rule city is expended within or without the city limits? As we view the matter it is of no concern to anybody except the consumers in the city. We cannot find any

method of reasoning by which we can conclude that a municipality itself may expend money on its utility outside of the city and a privately owned utility serving a home rule city may not do the same thing.

It is argued by the attorneys for Argo Oil Company that even though any particular construction work is done for the sole purpose of serving consumers within a home rule city and therefore, is a matter of concern to such local consumers only, the question is one of territory; that any activity of a utility serving a home rule city which by chance happens to be over the line of the city limits is within the jurisdiction and control of this Commission, because it has jurisdiction over the territory outside of the city. In view of the language quoted above that a home rule city "and the citizens thereof, shall have . . . all other powers necessary, requisite or proper for the government and administration of its local and municipal matters", and the language of Article XX that "Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of said city or town any law of the state in conflict therewith", and in view also of the decision of the Supreme Court in the Mountain States Telephone and Telegraph Company case that "The police power to control public utilities need not be granted or invested in a subordinate agency in express words", we are unable to agree with the contention made. Cooley on Const. Limitations is quoted in the case last cited to the effect that "Narrow and technical reasoning is misplaced when it is brought to bear upon an instrument framed by the people themselves . . ."

In *City of Lamar v. Town of Wiley*, 80 Colo. 18, the court says that, "The same fundamental reason that operated to control the decision in the Holyoke case, under the facts of that case, makes inapplicable the rule there applied to the state of facts here, which invoke a different rule." The fundamental reason why the Supreme Court held in the Holyoke case that this Commission had no jurisdiction over the rates charged by a municipality to consumers therein was that the matter was one of purely local concern, which the voters in said town had power to control. The

Commission
fundamental reason why that court held that this/~~court~~ did have jurisdiction in the Lamar case was that the matter of rates charged by a municipally owned utility to consumers living outside of the city is one in which those outside of the city are concerned and need some protection. Bringing the "same fundamental reason" to bear in this case we find that the pipeline, separation plant and possibly other works are matters in which the consumers of Grand Junction alone are concerned unless and until authority should be granted to use them in serving consumers outside of said city. We are of the opinion that since there is no reason why this Commission should control the construction and operation of a public utility's works situated outside of a home rule city when used solely for the purpose of serving said city, explicit and compelling language would have to be found to lead us to the conclusion which reason forbids we reach. We, therefore, agree with the contention of the applicant herein that it has authority without any certificate from this Commission to construct a pipeline, separation plants and any other works to be used for the purpose of conveying gas to Grand Junction only.

It might be argued that since the transmission pipeline and other works might later be used in serving territory outside of Grand Junction, we should at this time either grant or refuse a certificate to build them. The same argument could be made with respect to a municipal project or works constructed within the limits of a home rule city by a privately owned utility.

It is the desire of this Commission not to meddle with affairs over which it has no jurisdiction. It is our desire also to do nothing that will prevent the carrying out of the purposes and desires of a home rule city. The matter of "keeping hands off" of the Grand Junction situation is one thing, the granting of a certificate of public convenience and necessity herein authorizing the exercise of franchise rights in Fruita and the service of consumers in that town and the territory intermediate to it and Grand Junction is another.

The Commission was quite surprised when at the second hearing no evidence whatever was offered as to the financial condition of the applicant, or the plans for financing the contemplated developments. One of the most elementary principles of utility regulation is that a utility desiring a certificate of public convenience and necessity should make ample proof of financial responsibility. In this application it was shown very clearly that the applicant has no sufficient funds to finance its program, and we were told frankly that it has not been decided whether the directors, the stockholders generally, or the public would be called upon for the money.

In the case of *Re Wilcox*, P.U.R. 1916C, 35, it appears that one Jones desired a certificate of public convenience and necessity to construct a gas plant in the city of Idaho Falls, Idaho. The Commission said, "The whole plan or scheme of applicant Jones seemed to be, as we gathered from the evidence adduced, that he would secure a certificate of public convenience and necessity, thereby securing the control of that field for a time at least, and then endeavor to secure the necessary capital, either by subscription or by bonding the plant, with which to construct the plant and distribution system. He presented no definite, tangible plan of procedure but trusted to the future to take care of itself. In other words, it appeared that he was acting purely as a promoter." We do not mean to intimate that the applicant company is a promoter, but its plan is rather similar to that of Jones in the Wilcox case.

In the case of *Re Niagara River and Eastern R.R. Co.*, P.U.R. 1917A, 278, the New York Commission said concerning the matter of financing the construction of a proposed railroad, that while the proof did "not reflect upon the financial ability or good faith of any of the gentlemen referred to", their ability to finance the construction of the railroad is not shown by mere statements of men of responsibility that "when necessary consents from public authorities are obtained, I shall assist as far as possible in the financing of the proposition," and that "our associates . . .

will be prepared to carry our share of the cost."

The California Commission said in *Re United Stages, et al.*, P.U.R. 1925A, 688, "In considering the granting of certificates of public convenience and necessity, it is the policy of the Railroad Commission to require evidence of the financial ability and responsibility of the applicant commensurate with the character and extent of the operations proposed."

In *Re Chicago, F.L. & N.E.R. Co.*, P.U.R. 1918E, 470, the Illinois Public Utilities Commission stated, "The construction in this country of a suspended monorail railroad as proposed by the petitioner is in the nature of an experiment; at least its practicability has yet to be determined; and the petitioner should not be permitted to construct a railroad of this kind with money derived entirely from the sale of bonds."

Other cases to somewhat the same general effect are:

Re Louis Sposito, P.U.R. 1922E, 535.

Re C. D. Gulick, P.U.R. 1925E, 359.

Re Pacific Public Service Corp., P.U.R. 1918A, 497.

Re Universal Bus Line, P.U.R. 1923B, 90.

Re Ritter, et al., P.U.R. 1923B, 530.

Re Chicago and Joliet Transportation Co., et al.,
P.U.R. 1928E, 481.

If the Commission were sure that the officers and directors of the applicant were going to use their own funds and that the public would not be called upon to purchase bonds or stock to finance the contemplated developments, we believe we would have no hesitancy in issuing the certificate herein. However, in view of the testimony of Goodwin, there is no certainty how the funds are to be raised. It is quite clear that the corporation itself does not have available more than enough money to make a mere start. As we have said, we have no doubt that it is possible to make the separation of the carbon dioxide, but in view of the fact that no commercial plant is known to be making the extraction, and of the further fact that the plans for the manufacture and sale of dry ice from the carbon dioxide apparently are not perfected, we do not believe that we should at this

time take any action which may be relied upon by the public in purchasing securities to finance construction and possible experiments. We do not mean for a moment to say that the applicant may not on a practical commercial basis be able to make the separation of gases and to manufacture and profitably sell the dry ice and render efficient service in the distribution of the fuel gas. However, with all due respect for the conclusions reached by the city of Grand Junction, we are not at this time entirely satisfied that the venture is or will be a success.

It is urged by the attorneys for the protestant Argo Oil Company that since it is necessary in constructing the pipeline from the Garmesa structure to Grand Junction to cross the public domain, we must assume jurisdiction over such construction because otherwise the applicant will not be able to get the necessary authority from the Government to cross the land. Section 28, Chapter 85 of the Act of February 25, 1920; 41 Stat; provides inter alia:

"Rights of Way for Pipe Lines. Rights of Way through the public lands, including the national forests of the United States are granted for pipeline purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 181 of this title, to the extent of the ground occupied by the said pipe line and twenty-five feet on each side of the same under such regulations as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon the express condition that such pipe lines shall be constructed, operated, and maintained as common carriers. The Government shall in express terms reserve and shall provide in every lease of oil lands hereunder that the lessee, assignee, or beneficiary, if owner, or operator or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government of any citizen or company not the owner of any pipe line, operating a lease or purchasing gas or oil under the provisions of sections 181 to 194, 201 to 208, 211 to 214, 221, 223 to 229, 241, 251, and 261 to 263 of this title. No right of way shall be granted over said lands for the transportation of oil or natural gas except under and subject to the provisions, limitations, and conditions of this section."

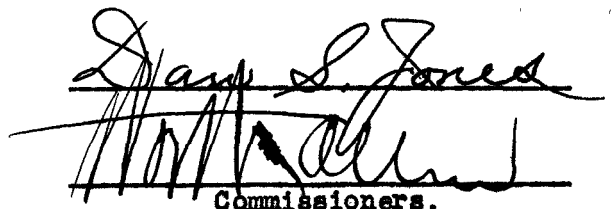
Since it is thought that one complying with this Federal statute must become a common carrier, several applications have been filed with this Commission seeking certificates of public convenience and necessity to operate oil pipelines as common carriers. We may observe that if the Government

in its grant or lease of a right-of-way conditions the rights therein granted upon the requirement that the pipeline "shall be constructed, operated and maintained as a common carrier", and the applicant herein desires a certificate to carry for others, including the Government, the gas that might conceivably belong to them, we might grant such a certificate, but it would not necessarily carry authority to the applicant herein to distribute gas in Fruita and the territory between that town and Grand Junction, which is quite a different thing. Moreover, it goes without saying that while this Commission is glad to take any reasonable action necessary to accommodate the public and those serving it, the Federal act in question cannot confer upon us duties which, under the law of Colorado, we do not have power to perform.

If the applicant proves that it can successfully make the separation of gases and distribution of the fuel gas in Grand Junction, it would appear that such other neighboring communities, including the town of Fruita, as desire the service of the applicant should promptly receive it. We shall then be ready promptly and sympathetically to consider their needs. In the meantime the applicant will not be prevented by the Commission from going ahead and serving consumers in Grand Junction.

Jurisdiction of the application herein is retained by the Commission for such further proceedings and orders as may be proper with respect to service desired to be rendered by applicant in towns and territory other than Grand Junction.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO


Commissioners.

Dated at Denver, Colorado,
this 10th day of December, 1930.

Chairman Bock dissenting:

I regret exceedingly that I am unable to agree with my colleagues in the disposition of this application. I concur with the statements contained in the majority opinion relative to the requirement of a showing of financial responsibility. That no showing of financial responsibility was made is clear from the record and from the statements contained in the majority opinion. It is, therefore, not necessary to make any further reference to this matter.

In my opinion, the record would also sustain a finding that the Garmesa structure is inadequate as to quantity and unsatisfactory as to quality of natural gas. The majority opinion goes into that matter in detail, and a careful study of this opinion would indicate that this is also the viewpoint of the majority. This project in order to assure adequate service is tied in with the proposed separation of carbon dioxide from the gas, and the record is clear that at present no separation of carbon dioxide is being made on a commercial basis.

This dissent is mainly directed to the proposition contained in the majority opinion that this Commission has no jurisdiction over the construction, operation and maintenance of a pipe line from Garmesa structure to Grand Junction in a territory which is outside of the municipal area of Grand Junction.

It is admitted in applicant's brief that so far as the distribution of gas in the towns of Clifton and Palisade and intervening territory which lie east of Grand Junction, "no evidence was introduced in support of that part of the petition." That leaves for our disposition in this application the town of Fruita and the intermediate territory between Fruita and Grand Junction and any territory adjoining the pipe line to be constructed from the Garmesa structure. It is contended that the applicant does not require any authority from this Commission to construct a pipe line for the transmission of natural gas to Grand Junction, a home rule city, for distribution there to consumers. In fact, the applicant said in its brief that it intends going ahead with its program to bring natural gas to Grand Junction regardless of the action of the

Commission upon its application. If the applicant has authority under the law, without any certificate of public convenience and necessity from this Commission, to construct the pipe line from the Garmesa structure to Grand Junction and a separation plant nearby the well or wells, and it intends as it says to do such construction work even though no certificate is granted herein, the question arises whether the Commission should at this time either deny or grant the certificate sought. As I understand the facts, the pipe line to be constructed for the transmission of the gas and the separation plant will probably be of the same size and capacity without authority to serve any of the territory outside of Grand Junction as it would be with such authority. Upon the record as made, the question of our jurisdiction over the construction of this pipe line from the Garmesa structure to Grand Junction is, therefore, squarely before us.

In People, ex rel. City of Loveland, 76 Colo. 188, the Supreme Court of this State had before it as one of the issues the construction and operation of a plant outside of the municipal area to generate electric energy by the municipality of Loveland, which distributes this energy within its municipal area. The Supreme Court in that case decided that the construction and operation of this plant was a matter over which our Commission had no jurisdiction solely because of certain language in Section 35 of Article V of the Constitution of Colorado. This section reads as follows:

"The general assembly 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, or to levy taxes or perform any municipal functions whatever."

As will be readily understood from the reading of this section, this section prohibits the legislative department from delegating power to a special commission over any municipal function. It purely relates to matters of municipal government and our Supreme Court has never construed this section in such a way as to apply it to a private utility operating in a home rule city. If Section 35 applies to any private utility operating in any municipality, then this Commission has assumed jurisdiction over considerable territory to which Article XX of the Constitution does not apply.

The case of the Town of Holyoke vs. Smith et al., 76 Colo. 286, was the first instance in which our Supreme Court defined Section 35 of Article V of the Constitution and applied it solely to municipally operated utilities. In that case the Court said:

"Where the people are dealing with a privately owned public utility the situation is quite different and there is good reason for a commission which shall act in the interest of the public to avoid the possibility of oppression . . ."

It appears to be absolutely clear from the opinions by the Supreme Court in construing Section 35 of Article V, supra, that the language therein is not applicable to any private utility operated within a municipality.

It is contended that under Article XX of the Constitution, our Commission has no jurisdiction over any plant, transmission line or pipe line constructed outside of a municipal area which serves a private utility operating in a home rule city. Our Supreme Court has several times construed Article XX of the Constitution. I am unable to find any language of the Supreme Court from which it may be said that our jurisdiction has been adversely affected in a situation as described above. Practically every one of these cases deals solely with the regulation of rates charged to the consumer within the municipal area of a home rule city. We are an administrative body and until the courts have judicially determined otherwise, our primary function is to administer the law as we find it. We may sympathize with the predicament of the legal limitations of a home rule city and prefer to keep "hands off", but since when is that a reason to disregard the plain mandate of the Public Utilities Act? Until the courts have expressly held that our jurisdiction over pipe line construction does not apply to the facts before us, we have no choice in the matter. People vs. Laddy, 53 Colo. 109, 111.

The majority opinion assumes that the public outside of the municipal area involved is not concerned in the construction and operation of a pipe line outside of the municipal area. Is that true? On this theory a private utility serving a home rule city with electric energy could take any hydro-power site in the state and construct a plant thereon without any authority from this Commission on the ground that they are only

✓serving the energy generated to the consumers in such a city, although such a power site may be necessary to adequately and economically serve the public more adjacent to the power site. This is only one illustration of why an additional public to that residing in such a municipal area may be interested. In my opinion, the rights granted to a utility to construct in territory other than the municipal area involved is of great concern to the territory in which the construction is made. In the instant case it is sought to construct a pipe line 27 miles long outside of the municipal area. This construction will not only be made over private property, but also over public property. Undoubtedly, the right of eminent domain is claimed if satisfactory arrangements cannot be made to purchase a right of way. Moreover, the public residing along this pipe line may have a right to be served with natural gas. The record shows that some of the right of way involved over this 27 miles is over public lands and the Federal Government will not grant a right of way for such purposes unless such pipe line is constructed, operated and maintained as a common carrier. (Section 28, Chapter 85 of the Act of Congress of February 25, 1920.) In other words, the applicant cannot operate and maintain a pipe line on a right of way obtained over public lands from the Federal Government unless the same is operated and maintained as a common carrier, which means that any public that may reasonably be served from this pipe line intermediate to and between the Garmesa structure and Grand Junction or/and any company producing natural gas on the Garmesa structure, has a right to be served.

It, of course, will not be denied that the power to authorize a utility to operate as a common carrier in the territory involved resides solely in the State, functioning through this Commission, and until this Commission has authorized the serving of the territory adjoining the pipe line, the applicant has no legal basis on which to obtain a right of way from the Federal Government. The Federal Government, however, has sole jurisdiction under what conditions it will grant rights of way over public lands. Our jurisdiction is exclusive so far as intrastate pipe lines are concerned.

Moreover, this becomes important when we call attention to Section 2946, Compiled Laws of Colorado, 1921, wherein this Commission is given jurisdiction over the territory served and to be served by private utilities. This section was before our Supreme Court in Public Utilities Commission vs. Loveland, 289 Pac. 1090.

In construing this section, the Supreme Court said:

"The very object of the provisions of the statute applicable here was to prevent, in the interest of the general public, unnecessary duplication of facilities or systems for furnishing the same to customers. When the city became a public utility under the statute, it had no superior right as to territory outside of its municipal boundaries over the rights of any other public utility, private corporation or otherwise, authorized to furnish service."

I take it to mean from this language that this Commission has jurisdiction over the territorial rights outside of the city limits of Grand Junction involved in the construction of this pipe line, and until we grant a certificate to construct such a pipe line, no legal authorization exists therefor. For this Commission to now stand aside and permit this construction without our authority would, in my opinion, be a direct violation of the laws which we are required to administer. The record in this case shows that other utilities desire to serve in some of the territory involved herein. No application, however, has been filed by them seeking a certificate of public convenience and necessity to construct or operate. Their testimony is only relevant in this case to show how important it is for this Commission to preserve its power over territorial questions. As long as a competitive situation is possible in the quest for obtaining natural gas in any given territory, the question as to who should receive that territory is a very vital one, not only to the public residing in a home rule city, but also to the public residing outside of such municipal area and residing along the pipe line construction involved who may desire service. In the event of the distribution by the applicant of natural gas to other consumers than those residing within the municipal area of Grand Junction subsequent to the construction of the pipe line and separation plant, the expenditures now made by the applicant as applied to the rate structure in the determination of reasonable rates, may become of very great importance to such consumers as reside outside of the said municipal area.

In view of the record on the question of financial responsibility and the adequacy of the natural gas, and after a careful consideration of all the facts and circumstances made in the record of this case, I am of the opinion that the public convenience and necessity does not require the construction of a pipe line for the transmission of natural gas and the distribution of this gas in the towns and communities involved. The application should therefore be denied.


Chairman.

Dated at Denver, Colorado,
this 10th day of December, 1930.

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(Decision No. 5158)

At a General Session of The Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, December 15, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO. 148

IT APPEARING, That the Union Pacific Railroad Company filed with the Commission on November 21, 1930, a petition requesting authority to discontinue its station agency at River Bend, Colorado, on and after December 20, 1930, on the grounds that the convenience and necessity does not require said agency service.

IT APPEARING FURTHER, That on December 10, 1930, Messrs. La Force and Ferguson filed a letter with the Commission protesting the discontinuance of the aforesaid station agency averring that such action will work a hardship on the people in that vicinity and be a detriment to the growth of the community.

IT IS THEREFORE ORDERED, That the proposed date of the discontinuance of the aforesaid station agency at River Bend be suspended one hundred twenty days from December 20, 1930, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That said discontinuance of agency service appearing to be injuriously affecting the rights and interests of the patrons of the railroad company at the aforesaid place, and others that might be concerned, that the same be made a subject of investigation and determination by the Commission within said period of suspension or within such further time as the same may be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the petition for discontinuance of said service and copies hereof be forthwith served on the said Union Pacific Railroad Company, the petitioner, and Messrs. La Force and Ferguson, B.O.Box 5564, Tulsa, Oklahoma, the protestants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Elmer Brock
David L. Jones
Commissioners

Dated at Denver, Colorado, this
15th day of December, 1930.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

The Bear River Coal Company,
et al

Complainants.

vs.

The Denver and Salt Lake Railroad
Company, et al

Defendants.

CASE NO. 277

December 18, 1930.

S T A T E M E N T

By the Commission:

The Commission is advised by counsel for complainants that the
above complaint may be dismissed without prejudice.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Alto Brock
Daniel L. Jones
W. H. Allen
Commissioners.

Dated at Denver, Colorado
this 18th day of December, 1930.