ORIGINAL

Decision No. 166.

Before the

PUBLIC UTILITIES COMMISSION

of the

STATE OF COLORADO.

In re ADVANCES OF 10 AND 15 CENTS PER TON IN COAL, COKE AND COKE BREEZE RATES IN COLORADO.

INVESTIGATION AND SUSPENSION DOCKET NO. 11.

Submitted April 8, 1918. Decided April 19, 1918.

A P P E A R A N C E S:

For respondents,

Henry T. Rogers, G.W.Oliver, and J.J.Coleman for The Atchison, Topeka & Santa Fe Railway Co.,

E.E.Whitted, A.S.Brooks and F.Montmorency for Chicago, Burlington & Quincy Railroad Co.,

W.V.Hodges, D.E.Wilson and H.L.McReynolds for The Chicago, Rock Island & Pacific Railway Co.,

E.E.Whitted, A.S.Brooks and B.B.Greer for The Colorado & Southern Railway Co.,

Gerald Hughes and W.M.Bond, Jr. for The Colorado Midland Railroad Co.,

C.C.Hamlin and J.H.Rothrock for The Cripple Creek & Colorado Springs Railroad Co.,

J.Q.Dier for The Denver & Inter-Mountain Railroad Co.,

E.N.Clark and J.G.McMurry for The Denver & Rio Grande Railroad Co.,

Smith, Brock & Ferguson, by Elmer Brock, and W.H. Paul for The Denver & Salt Lake Railroad Co., W.R.Freeman and C.Boettcher, Receivers.

C.E.Warner for Missouri Pacific Railroad Co.,

E.N.Clark and J.G.McMurry for The Rio Grande Southern Railroad Co.,

C.C.Dorsey and J.Q.Dier, for the Union Pacific Railroad Co.

For protestants,

Carle Whitehead and A.L.Vogl for the Consumers' League of Colorado.

Paul W. Lee for The Western Light & Power Co.,

Chinn & Strickler for The Colorado Springs & Interurban Railway Co., The Portland Gold Mining Co., and the Chamber of Commerce of Colorado Springs.

S T A T E M E N T .

By the Commission:

This proceeding arises from an order entered by the Commission on the 8th day of August, 1917, suspending various schedules of rates contained in tariffs filed by the carriers in Colorado, in which blanket increases in all coal, coke and coke breeze rates were proposed, and entering upon an investigation to determine the reasonableness of the proposed rates. The tariffs were filed by, or on behalf of, twenty-one of the carriers operating wholly or in part in the state of Colorado, and provide for a general increase on intrastate traffic of 10 cents per ton in rates of 75 cents or less, and 15 cents per ton in rates of more than 75 cents. The tariffs under suspension were filed by the carriers following the filing of tariffs providing for a blanket increase of 15 cents per ton in the rates on coal, coke and coke breeze between interstate points, filed with the Interstate Commerce Commission under authority contained in its order in the "Fifteen Per Cent Case", decided June 27, 1917, and found at 45 I.C.C. 303, at page 322. The authority of that Commission and the tariffs filed thereunder provided for a blanket increase of 15 cents per ton in the rates on coal and coke, whereas the tar-

iffs herein under suspension provide for 10 cents increase on rates of 75 cents or less, and 15 cents increase on rates of more than 75 cents.

The tariffs filed with this Commission were proposed to become effective August 27, 1917, and certain dates subsequent thereto. The Commission deemed that the rights and interests of the public appeared to be injuriously affected by the proposed increases and therefore deferred the operation of the schedules until the 25th day of December, 1917, and entered upon an investigation and hearing concerning the propriety of the increases and the lawfulness of the schedules.

The hearing thereon was originally set for August 21, 1917, but on August 21, 1917, was indefinitely postponed on request of the carriers. Subsequently the cause was again docketed, the hearing being set for November 12, 1917. This hearing was likewise vacated at the request of the carriers. As the original order of suspension expired on December 25, 1917, it became necessary to enter an order further deferring the use of the rates and charges until the investigation and decision thereon could be concluded. On December 15, 1917, therefore, a suspension order was issued further suspending the schedules until the 24th day of April, 1918.

The Commission was advised on February 4, 1918, of the readiness of the carriers to proceed and the cause was again docketed for hearing on the 26th day of February, 1918,- which hearing however, was again postponed at the instance of the carriers until the 6th day of March, 1918. The hearing was held before the Commission en banc on the 6th and 7th days of March, 1918. The carriers elected to file briefs in the cause, and the case was submitted for decision April 8, 1918.

Protests were entered against the proposed increases by the Golden Cycle Mining & Reduction Company, the

Pikes Peak Consolidated Fuel Company, the Western Light & Power Company, the Colorado Fuel & Iron Company, the Consumers' League of Colorado, the Colorado Springs & Interurban Railway Company, the Portland Gold Mining Company, and the Chamber of Commerce of Colorado Springs.

The matter of increases in interstate rates, which the carriers represented were necessary as a remedial measure to take care of an emergency that had arisen in their operation, was first presented to the Interstate Commerce Commission by the carriers in the Western Classification territory on March 27, 1917 following similar action of the Eastern carriers. Permission was granted by that Commission to the carriers to file tariffs, subject to investigation and suspension, providing for a percentage increase, on not less than 50 days' notice, rather than filing tariffs in the usual manner by showing the individual rates. Thus a saving in time and expense was effected. Hearings were held before the Interstate Commerce Commission prior to the proposed effective dates of the tariffs with respect to the reasonableness of the proposed rates, in order that a prompt decision might be reached, as it was strongly asserted by the carriers that the situation had become critical and delay would detract from the beneficial effects of the remedial measures proposed. Hearings were held lasting practically an entire month, resulting in the accumulation of thousands of pages of testimony and a mass of statistical and other exhibits.

The Interstate Commerce Commission, in its decision, dated June 27, 1917, held that no condition of emergency existed as to the western carriers which would justify permitting a general increase in their rates to become effective. That Commission had, shortly before the issuance of such decision, permitted the carriers in the eastern district to increase generally the rates on bituminous coal, coke and iron ore. In the later case the

Commission was of the opinion that similar increases might be permitted in the western district in the rates on coal and coke, in order to preserve rate relationships between the districts, and, therefore, authorized the western carriers to file new tariffs carrying increases in rates on coal and coke not exceeding in any case 15 cents per ton. The proposed increases contained in the tariffs on commodities other than coal and coke were permanently suspended.

The carriers in the instant case state that the proposed advances in coal and coke rates in the state of Colorado are based upon general conditions affecting in the same way all carriers. A joint brief was filed by the respondents on behalf of all the carriers involved.

The arguments advanced by the carriers in justification of the proposed increases are, apparently, that the Interstate Commerce Commission has allowed increases on the same commodities on interstate traffic and the relationship between intrastate and interstate traffic will be disturbed if the increases asked for are not granted; that coal and coke as compared with other commodities are not bearing their proper proportion of transportation burdens; and that wages, fuel costs, costs of materials and supplies, costs of equipment, and taxes, both state and federal, have increased so materially as to warrant an increase in the rates for transportation.

The state of Colorado for many years has been eighth in rank among the United States both in production and value of the coal produced. The tonnage produced during the year 1917 was 12,515,305 tons. Figures are not yet available showing the consumption and distribution of the yield for the year 1917. In 1915 the coal shipped outside of the state, other than railroad fuel, amounted to 14 per cent of the total state production, and in 1916 to 16 per cent. The balance, therefore, of 86 per cent in 1915 and 84 per cent in 1916, was disposed of

within the state as domestic, industrial and railroad coal. The amount used for railroad fuel in 1915 was 28 per cent of the total state production, and in 1916 it was 25 per cent. The amount used for industrial and domestic within Colorado was therefore, 58 per cent in 1915 and 59 per cent in 1916. These figures are reflected in the distribution of the coal from the Walsenburg and Trinidad districts, which together produce approximately 55 per cent of the coal in Colorado. In these combined districts during the year 1916 the distribution was as follows: Shipped out of the state, 16.5 per cent; railroad fuel 28.8 per cent; the balance, or 54.7 per cent, consumed in Colorado as domestic and industrial coal.

In 1916 the classes of consumption were as follows: At the mines 2 per cent; industrial, 16 per cent; public utilities, 3 per cent; railroads, 25 per cent; domestic, 27 per cent; coking, 19 per cent, and the balance, or 8 per cent, unreported. During the same year the distribution of coal transported commercially to other states, amounting to 16 per cent of the total yield, was: to Kansas, 31.2 per cent; Nebraska, 31.4 per cent; Texas, 23.3 per cent; Oklahoma, 7.1 per cent; New Mexico, 3.1 per cent; other states, 3.9 per cent.

It appears from the foregoing figures that, excluding entirely the coal used by the railroads, the movement and consumption of coal handled as intrastate traffic by the carriers within the state is four times that of the tonnage of coal shipped to points outside of the state.

Colorado's rank among the states in the production of coke is ninth,- the production for the year 1917 having been 1,115,879 tons. The proportion of this tonnage which moved outside of the state is not known, but the figures of the preceding years indicate that approximately 13 per cent of the coke production moves to points in other states.

Applying the percentage distribution figures of 1916 to the actual tonnage of 1917 - - and it is shown by statistics of previous years that such figures remain fairly constant from year to year - - approximately 5,882,193 tons of coal moved under freight rates of carriers within the state in purely intrastate traffic, and approximately 970,884 tons of coke, or a total tonnage of 6,853,077. The figure shown for the estimated coal movement - - 5,882,193 tons - - is reached after the elimination of 16 per cent representing coal moved outside of the state, 25 per cent representing coal used by the railroads, 2 per cent consumed at the mines, and 10 per cent representing one-half of the amount of coal used for coking purposes, which is the approximate amount that does not move under freight rates, being produced immediately at the coke ovens. These figures are, of course, not actual but serve merely as approximate figures upon which to base an estimate of additional revenue expected to result from the rate increases proposed in this cause.

Upon the foregoing figures it is seen that a blanket increase of 10 cents per ton in the freight rates would result in additional revenue of $685,307, and a blanket increase of 15 cents per ton of $1,027,961. As the carriers are asking increases of 10 cents per ton on rates of 75 cents or less and 15 cents per ton on rates of more than 75 cents it is evident that the additional revenue which would accrue to the carriers,providing the rates were made effective, would be between these two amounts.

While the view has been expressed by the carriers, as shown above, that the proposed advances are based upon general conditions affecting all carriers in the same way, yet there has not been the slightest indication of any effort made by the carriers to present their evidence and testimony in a general plan, such as the blanket increases are presumed to contemplate. In other words, there has not been concerted action upon the part of the carriers to present their case in a comprehensive and

logical manner. Indeed, the testimony and evidence presented to the Commission during the first day of the hearing appeared to be so abstract as to require a statement from the Commission requesting the carriers to offer specific testimony relating to the subject before the Commission. With the exception of one carrier the testimony offered had been to the effect that the Interstate Commerce Commission had allowed an increase on the interstate movement of coal, and therefore this Commission should allow the increase.

The major portion of the evidence and exhibits filed in the cause have to do with the increased costs of operation and materials and supplies. Such exhibits as have been introduced purporting to show statistics of the transportation of coal, its revenues and expenses, have been entirely unrelated, not only in the items set forth but in the periods represented. For instance, the exhibit of one carrier will show the number of carloads of coal transported in intrastate traffic during a certain period, while that of another carrier will show the number of tons, and that of a third the number of pounds. The first mentioned exhibit will illustrate the coal movement of perhaps, the year 1914, the second exhibit a period of six months of the year 1917, and the third a period of four months of 1917, representing the coal movements during the months of January, April, July and October of that year.

Under the form of annual report as revised in 1914, which revision relieved the carriers of the necessity of furnishing certain statistical data of traffic movement required in the previous reports, the carriers are not obliged to furnish separate figures of the traffic movement within the state. Under the present form the extent of the requirement in this regard is the reporting of the number of tons of the various commodities handled in carload lots originating on the filing carrier's line within the state. Only two or three of the carriers are able to include

this information in their annual reports. The tonnage originating in the state would not be indicative in any way of the amount moved in intrastate traffic, and is, therefore, useless as a basis for arriving at the actual intrastate movement.

From the exhibits and data furnished the Commission in this cause it would be impossible to even determine the amount of coal handled during a representative period by the respondent carriers, either in intrastate traffic or in interstate traffic.

The principal argument advanced by the carriers is based upon the relationship between interstate and intrastate traffic. It is claimed by the carriers that a relatively greater burden rests upon interstate traffic than upon intrastate traffic. To illustrate the comparison of these burdens the carriers utilize the situation claimed to exist in what is known as the prairie section of Colorado, being that portion of the state lying east of the Rocky Mountains, and including the lines of the Atchison, Topeka & Santa Fe Railway Co., the Missouri Pacific Railroad Company, The Chicago, Rock Island & Pacific Railway Company, The Colorado & Southern Railway Company, the Union Pacific Railroad Company and the Chicago, Burlington & Quincy Railroad Company. The adjacent states into and through which the aforesaid carriers operate and transport coal are Wyoming, Nebraska, Kansas, Oklahoma, New Mexico and Texas. The general character of the country traversed by these carriers in eastern Colorado is practically the same on the line of each of the carriers, being level with grades of not to exceed one per cent as a maximum. As stated by the carriers:

> "The lines of these various carriers encounter the same operating conditions, and they carry the same commodities. The rates on these commodities are approximately the same on all lines, so that the revenues received by these carriers are practically the same on equal units of business. The cost of operation on the various

lines are within close limits the same. Labor is paid approximately the same wage on all lines. Materials and equipment cost all lines approximately the same. Fuel is drawn from the same source and varies in price only within narrow limits. The slight variation between revenues or costs of operation on these railroads would not in any case destroy the rule."

The carriers state that by taking the situation as applicable to one of the carriers, a "typical member of the group", the conditions similarly affecting all carriers in the group are shown, and for the purposes of showing such conditions choose the Atchison, Topeka & Santa Fe Railway. This company introduced into the record an exhibit purporting to show a comparison of revenues and expenses assignable to the intrastate freight business in Colorado, in which, as stated by the witness, "recognition has been taken of the firmly established fact that the short haul, or intrastate traffic, costs more to handle per unit of traffic than the long haul, or interstate traffic". It is claimed by the carriers that this comparison clearly demonstrates that interstate transportation as conducted prior to the recent advance in the interstate coal and coke rates was paying too great a proportion of operating expenses, or, in other words, was contributing too large part of carrier revenue as compared with intrastate business.

The exhibit of the Santa Fe, referred to, was compiled from a formula used in the Arkansas rate case, and which, it is stated by the carriers, was approved by the United States Supreme Court in Rowland v. Boyle, 244 U.S. 106, 37 Sup. Ct. 577, 61 L. Ed. 1022. The same formula is also used by the Santa Fe in four of the other states in which it operates.

In the formula the first of the two separate and distinct freight transportation services is called terminal or station service, covering both the originating and terminating

service of traffic, which is constant and fixed, regardless of the length of haul. The second is called line transportation and its cost is haulage expense, and varies with the distance. Freight expenses are divided, according to the formula, between line and terminal expenses before the apportionment is made between state and interstate traffic. The operating expenses assignable to the terminal or non-haulage service are apportioned between state and interstate traffic on the basis of the number of terminal units handled, while the line or haulage expenses, varying as the length of the haul varies, are apportioned between state and interstate traffic on the basis of ton-miles.

The witness stated that tests had been made, applying the same formula, in the states of Oklahoma and Missouri for five months ended December 31, 1913; in Kansas for the year ended June 30, 1915; and in Arizona for the three months ended October 31, 1913. The result of these tests, according to the witness, showed that the cost of handling an intrastate ton one mile was greater than the cost of handling an interstate ton one mile, in the following degrees: Oklahoma 387.5 per cent greater; Missouri 305.2 per cent; Arizona 348.8 per cent, and Kansas 170.1 per cent, the average of the four being 212.3 per cent. The Frisco line, in the Arkansas case, found the difference to be 319.6 per cent. The average of 212.3 per cent found from the tests in the four states was applied to operations in Colorado for the years ended June 30, 1915, June 30, 1916, and December 31, 1916.

The witness further stated that the average haul of a ton of intrastate traffic in Colorado is 29.5 miles, while that of an interstate ton is 167 miles, or 5.7 times as far. While not so specifically stated by the witness it is assumed that these figures relate to the movement of all freight, and not simply upon coal. Nor is any period named for which these figures are applicable. By referring to the annual report of the Santa Fe for the year ended June 30, 1914, it is found that the average

haul of an intrastate ton of traffic, all commodities, was 57.36 miles, and that of an interstate ton 118.34 miles, or only 2.06 times as far.

While the terms "intrastate" and "interstate" as applied to the comparative tables of revenues and expenses compiled for the purpose of showing the relatively higher cost of handling intrastate shipments may not strictly be classed as misnomers, yet it is evident that these terms are too limited in meaning to properly define the real application of such figures. Clearly the proper terms are "short hauls" and "long hauls" and the witness for the Santa Fe thus amplifies his definition of the application of the exhibit.

The average mileage operated by the Santa Fe in the state of Colorado is 506 miles, and it is this amount of mileage that is covered by the statistics introduced relative to Colorado revenues and expenses. It is a fact that there are short hauls in interstate traffic as well as in intrastate traffic - although it is also true that the general average haul is greater on interstate traffic than on intrastate traffic. Assume that a line were drawn around a portion of the line of the Santa Fe to include 500 miles, 250 miles of which lie in one state and 250 miles in an immediately adjoining state, and that the same tests were applied for the purpose of determining the difference between the cost of the average haul of a ton of freight moving locally within the circumscribed territory and that of the traffic moving through or into or out of the same territory. Without doubt the same results would be obtained from such a test as in the one here presented to the Commission. The figures would not be exactly the same, but the general results would indicate that the cost of the "short haul" movement is much greater than that of the"long haul" movement. In that instance it would be impossible to classify the short haul as an intrastate haul, and the long haul as an interstate haul, for the short haul would have

its application to interstate traffic to as great an extent as to intrastate traffic. Using the same deduction arrived at by the carriers in this case - - that Colorado intrastate rates are too low as compared with interstate rates - - and applying this deduction to the instance cited, it is found that all "short haul" rates, both intrastate and interstate, are not high enough when compared to the "long haul" rates. This would apparently indicate, therefore, that short haul rates generally should be increased, or, at least, that short haul rates generally should be a certain ton-mile revenue ratio above long haul rates.

This, then, is simply a feature of a proposition which has grown to be axiomatic - - that the rate per ton per mile should decrease as the distance of the haul increases. There probably is not a regulatory body in the country which would refuse to recognize this principle, and this Commission has many times utilized it in the railroad cases before it. The difficulty of the application of the rule lies in the determination of the ratio of decrease, or the limit of comparison between the short and the long haul. Can it be definitely determined that the rate per ton-mile on a certain commodity for a haul of 200 miles shall be fixed at 20, 30, 40 or even 50 per cent less than the per ton mile rate on the same commodity for a haul of 50 miles? If so the Commission is unaware of any practical demonstration or finding to that effect.

Continuing as to the situation of the Santa Fe, which is stated to be typical of the traffic and transportation situations controlling upon the lines of the other carriers in eastern Colorado. As stated above, the average local or short haul within the territory limited by the state lines of Colorado for the fiscal year 1914 was 57.36 miles, and the average long or interstate haul 118.34 miles, the former being 48.4 per cent of the latter. The average revenue per ton-mile for the long haul was 9.28 mills and for the local or short haul 15.04 mills,

or 62.1 per cent greater than that for the long haul. Must it be accepted that this percentage of 62.1 should be increased to 100 per cent, resulting in the rate per ton mile on the short haul being double that of the long haul, and that the average revenue per ton-mile on the short haul should be increased to 18.56 mills?

While the Santa Fe is said to be typical of the prairie roads in eastern Colorado, another illustration may be given by referring to the annual report of the Union Pacific Railroad Company for the fiscal year ended June 30, 1913, the statistics of later years not being available. The average haul per ton of intrastate traffic in Colorado was 38.47 miles, and of interstate traffic in Colorado 67.87 miles, or 76 per cent greater on the interstate traffic. The average revenue per ton-mile on the interstate traffic was 9.42 mills and on intrastate traffic 22.23 mills, or 136 per cent greater on intrastate traffic. The Commission is not convinced that the exhibit of the Santa Fe and the evidence introduced by that carrier conclusively demonstrates that coal rates within the state of Colorado are so low as to place a burden upon interstate traffic, or that it clearly establishes the fact, as claimed by that respondent, that the proposed increase in any event should be granted the Santa Fe.

Contention is made by the carriers that failure to grant the proposed increases will result in discrimination through the recent increase in interstate rates and the maintenance of intrastate rates upon the present basis. Examples of two different characters are cited in support of this contention. The first involves the disturbance of differentials formerly applicable between the Trinidad district in Colorado and the Raton district in New Mexico. The second is the change brought about in the rates at the state boundaries - - the rate to the last station within the state being unchanged and the rate to the first station in the adjacent state being increased fifteen cents per ton. The Commission will first consider the former example.

Prior to the increase of 15 cents per ton allowed by the Interstate Commerce Commission the differential between the Trinidad and Raton districts was upon a basis of 10 cents per ton. The distance between the two districts is approximately 30 miles. In a large sense the coal produced in the Raton district is similar to that of the Trinidad district, being a coking coal, while the operating conditions in the two districts are generally similar. The differential of 10 cents per ton applied in either direction - - the rates on coal northbound from Raton being that amount higher than the Trinidad rates and the Trinidad rates on southbound coal being the same amount higher than on coal from the Raton district. Coal northbound from Raton necessarily moves through Trinidad, and coal southbound from Trinidad through Raton.

The filing of the tariffs making the increase of 15 cents per ton in the interstate rates resulted in increasing the differential on coal moving from the Trinidad district into New Mexico and from the Raton district into Colorado. In other words, rates from Trinidad to all points in Colorado to which through rates are applicable are as in effect prior to the raise in the interstate rates; the rates from Raton district to the same points have been increased 15 cents per ton and the differential to such points has therefore been increased to 25 cents per ton. Southbound to points in New Mexico the rates from both the Trinidad and the Raton districts have been increased 15 cents per ton and the differential therefore remains unchanged. Rates intrastate in New Mexico were increased by the filing of tariffs in that state effective in August, 1917.

The respondents claim that another "Shreveport" situation is brought about by the present relation of rates, and cite many Interstate Commerce Commission decisions having reference to such conditions. In addition respondents cite an opinion of the United States Supreme Court relative to similar conditions, namely; Houston etc., Texas Ry.Co. v. U.S., 234 U.S. 342,___

Sup.Ct.___, 58 L.Ed. 1341. The Commission is aware of the many cases cited, and is, in addition, cognizant of the other related decisions in point, both of the Interstate Commerce Commission and the various courts. Reference may be made to analogous cases, such as, The Missouri River-Nebraska Cases, 40 I.C.C. 201; Memphis Freight Bureau v. St.L.I.M.& S.Ry.Co. 39 I.C.C. 303; Business Mens' League of St. Louis v. A.T.&S.F.Ry.Co. 41 I.C.C. 13 and 41 I.C.C. 503; and Traffic Bureau v. American Express Co., 39 I.C.C. 703.

The case of Traffic Bureau v. American Express Company, supra, passed through the courts upon application for injunction restraining the express companies in the state of South Dakota from increasing intrastate express rates to remove discrimination found by the Interstate Commerce Commission to exist against rates from Sioux City, Iowa,to points in South Dakota. The express companies attempted to justify the order by generally increasing express rates throughout the state to the basis found reasonable by the Interstate Commerce Commission from Sioux City, Iowa. The Supreme Court of South Dakota granted the injunction. The United States Supreme Court, however, modified the lower court's order by dissolving the injunction so far as it extended to rates in the competitive territory, and as modified it was affirmed. In the decision, (American Express Co. v. South Dakota ex rel. Caldwell, 244 U.S. 617, 61 L.Ed. 1352,) the Supreme Court stated:

> "But the finding that discrimination exists and that the interstate rates are reasonable does not necessarily imply a finding that the intrastate rates are unreasonable. Both rates may lie within the zone of reasonableness and yet involve unjust discrimination. Interstate Commerce Commission v. B.& O.R.R.Co. 145 U.S. 263, 277, 36 L.Ed. 699, 703, 12 Sup. Ct. Rep. 844, 4 I.C.R. 92. Proceedings to remove unjust discrimination are aimed directly only at the relation of rates. (Italics by the court.) If in

such a proceeding an unreasonable rate is uncovered and that rate made reasonable, it is done as a means to the end of removing discrimination. The correction is an incident merely."

The Commission is of the opinion that the rates from the Trinidad district on the Atchison, Topeka & Santa Fe Railway should not be considered separate and apart from the general proposition of the application for an increase in rates on coal, regardless of the situation brought about with respect to the differential between Trinidad and Raton, especially in view of the contentions of the carriers as to the application being a general proposal of blanket increases. To so consider the Trinidad district would be to depart from the issues contained in the cause before the Commission, and would bring about a separation of what is herein considered as a unit. If the general increase is granted the rates from Trinidad will of course be included, and if it is denied the Trinidad rates will similarly be included in the denial.

It cannot be contended that the Commission should assume to adjust relationships of interstate rates, which, in effect, is what is presented to the Commission in respect to the Trinidad-Raton differential. The Commission has never attempted to so interfere with interstate commerce and, indeed, has even declined to consider the relationship of the Trinidad and Raton or Dawson districts in adjusting coal rates between districts within the state of Colorado, as a comparison or basis of the reasonableness of the differentials between the Colorado districts. Oakdale Coal Co. v. C & S Ry. Co., 4 Colo.P.U.C. 155. The Commission has not the jurisdiction to find that a differential of 10 cents per ton is just and reasonable as between Trinidad and Raton in the transportation of coal moving in interstate traffic or that a differential of 25 cents per ton is either unreasonable or reasonable.

While considering the point raised by the carriers in this respect, however, it is quite pertinent to point out that the adjustment proposed by the carriers will not clarify the situation or obviate the difference in the differential, although it was stated by the witness that such would be the case. To all points to which a 15 cent increase is proposed the differential would, of course, be placed back upon the former basis. But to points to which the 10 cent increase is proposed there will still remain a difference of 5 cents per ton in the differential between the two districts.

In this connection it is contended by counsel for one of protestants that to increase the rates from Trinidad to points in Colorado would be to encourage the cross-hauling of coal, an element of transportation which the federal government is endeavoring to eliminate in so far as is possible, considering it to be an economic waste of transportation facilities. The testimony of the Santa Fe witness shows that during the first six months of 1917 there was a movement of 1,438 cars of coal from the northern New Mexico mines directly through the Trinidad fields to points in Colorado, and that during the same period 3,121 cars of coal moved from the Colorado mines to New Mexico points. The witness also stated that the two coals are in all practical respects similar.

The second method in which the carriers assert that discrimination will arise as between intrastate and interstate traffic is through the making of increases in interstate rates to points immediately across the state line and leaving unchanged the intrastate rates to points next within the state boundaries. Instances are cited by the carriers in support of this contention. The following rates are as in effect to points adjacent to each other across the state lines and as will remain in effect in the event the application for the general increases is denied:

AT&SFRy; From Trinidad to
Trail, Colorado, $2.55
Coolidge, Kansas, 2.55, Difference in distance 6 miles.

CB&QRR: From Walsenburg to
Laird, Colorado, $3.40
Sanborn, Nebraska, 3.65, Difference in distance 5 miles.
From Lafayette to
Laird, Colorado, 2.15
Sanborn, Nebraska 2.85.

CRI&PRy: From Walsenburg to
Burlington, Colorado, $3.35,
Kanorado, Kansas, 3.60, difference in distance 12 miles.

Mo.Pac.R.R.: From Walsenburg to
Towner, Colorado, $2.80,
Astor, Kansas, 3.15, difference in distance 6 miles.

UPRR: From Walsenburg to
Chemung, Colorado, $3.50
Weskan, Kansas 3.65, difference in distance 6 miles.
From Northern Colorado mines to
Julesburg, Colorado, $2.00,
Barton, Nebraska, 2.65, difference in distance 12 miles.

In the first instance it is seen that there is no spread in the difference in the rates to adjacent towns. The difference in the Walsenburg rates to points on the Burlington line is 25 cents for a distance of 5 miles. From Northern Colorado mines to adjacent state and interstate points on the Burlington and Union Pacific it will be seen that the difference in rate in the first case is 70 cents for a difference in distance of 5 miles, and 65 cents in the latter case for a difference of 12 miles. The difference in effect previously in rates has been 55 and 50 cents, respectively, and had been in effect for several years.

Rates generally throughout the states lying just east of Colorado from the Colorado coal districts are upon blanket bases, the blankets extending for hundreds of miles. It is a natural condition consequent upon the maintenance or establishment of blanket rates that the spread in rates between the last point in the first group of stations and the first point in the next succeeding group will appear very high for the short difference in distance. This Commission eliminated the blanket system

of coal rates in eastern Colorado, in Re Eastern Colorado Coal Rates, I Colo.P.U.C.48, without, however, disapproving the blanket basis of making rates.

Instances may be cited showing to what extent the blanket rates are in effect from the Colorado mines. Prior to the Commission's decision in Re Eastern Colorado Coal Rates, supra, a blanket of $3.50 per ton in the rates from Walsenburg extended from Boyero, Colorado, to a point some 331 miles distant, the next station beyond being increased 25 cents per ton, or $3.75, which blanket of such rate extended to the Missouri River or a distance of 517 miles from Boyero. In other words, Boyero, distant from the mines 308 miles, was charged a rate of only 25 cents less than Kansas City, Missouri, 825 miles from the mines. The rates to Boyero, however, were reduced by the Commission in the case referred to and at present the situation above referred to does not prevail to the extent mentioned. To Chemung, Colorado, however, the present rate is $3.50, while the rate to the next station beyond is $3.65. The Missouri River rate at the present time is $3.90, and therefore only 40 cents per ton higher than the rates to Chemung.

Similar instances in the spread of rates may be cited, such as the increase of $1.50 per ton in the rate on nut coal from Walsenburg to Dexter, Kansas, and Hooser, Kansas, on the line of the Missouri Pacific Railroad Company, a distance apart of only 7 miles. The difference in the lump rate between these two points is 50 cents. The rate on lump coal from Walsenburg to La Harpe, Kansas, is $3.90, while to Moran, Kansas, only 8 miles farther, it is $4.40, an increase of 50 cents per ton.

The Commission is of the opinion that the situation mentioned with regard to discrimination across the state lines is not of enough controlling force to be considered as an important factor in arriving at a decision which relates to the entire coal rate fabric of the state. There are many rates within Colorado

which present similar spreads in rates and no attention is drawn to discrimination existing by reason of the maintenance of such rates. It may be here stated that the rates on lignite coal from the northern Colorado mines on the Burlington and Union Pacific to points on these lines in eastern Colorado were prescribed by the Commission in Re Eastern Colorado Coal Rates, supra, after a finding that the prior rates were unjust and unreasonable. In that case the rate to Laird was reduced from $2.65 per ton to $2.15, which increased the spread between Laird and Sanborn, Nebraska, from 5 cents to 50 cents. And it may here be mentioned that the carriers did not then allege that discrimination was brought about between intrastate and interstate traffic, nor did they seek to have the courts pass on the reasonableness of the rates then fixed. If the situation claimed by the carriers is to be a controlling factor it will then be incumbent upon the Commission, in passing upon the propriety of the schedules herein suspended, to also consider the rates throughout the state with especial relation to removing or reducing the spreads of rates between points next adjacent to each other.

In the statement read at the hearing the Commission stated that before an order would be entered increasing the coal rates generally throughout the state the carriers must definitely show that the rates on coal in the state place a burden upon interstate coal traffic, or upon other commodities moving within the state. The evidence of witnesses of each of the carriers in this respect is to the effect that the coal tonnage amounts to a certain percentage of the total tonnage, but the revenue derived from coal traffic does not bear the same percentage ratio to the revenue derived from the entire freight traffic of the road; that, therefore, coal traffic does not bear its share of the transportation expenses, and that rates should be advanced so that the percentage coal revenue bears to the total revenue may be increased.

The comparison used by most of the witnesses was between tonnage and revenue, while that of the witness for the Santa

Fe was between ton-miles of coal traffic and revenue. It is claimed by the Santa Fe that coal ton-miles amount to 44.4 per cent of the total traffic ton-miles, while the coal revenue amounts to only 29.1 per cent of total freight revenue. The Colorado & Southern stated that coal tonnage amounts to 53.32 per cent of total tonnage, and coal revenue 36.60 per cent of freight revenue; the Denver & Rio Grande that coal tonnage is 37 per cent of total tonnage, and coal revenue 27.5 per cent of total freight revenue; and the Denver & Salt Lake that coal tonnage is 83.71 per cent of total, and coal revenue 62.94 per cent of total freight revenue. The figures of the Santa Fe are for intrastate traffic in Colorado, while those of the other carriers are for the entire lines and embrace both the carriers' intrastate and interstate traffic.

This is the first case brought to the attention of the Commission in which carriers have contended that the revenue derived from a certain selected commodity should bear the same or a definite relation to the total freight revenue as the tonnage or ton-miles represented by that commodity bear to total freight tonnage or ton-miles. At least such a proposition has never before been presented, either directly or indirectly, as having a bearing on cases before this Commission. To give approval to this theory would be to establish definitely that rates on the various commodities should bear a fixed relation each to the other. A finding, for instance, that coal, ore, lumber, iron, and all other commodities should bring to the carrier revenues bearing the same relation to the total revenue as the amount handled bears to the total traffic.

That this contention is valid, is, of course, unsupportable by any manner of evidence. Such a fallacy would assume that since coal revenue is not as great in ratio as coal tonnage, the rates on coal should be raised until the ratio reaches such point; that, therefore, coal revenue per ton per mile should not be less than the average revenue per ton-mile derived from all traffic. This theory is likewise untenable and the Commission

cannot give its approval for its adoption and application to rates in Colorado. While revenue is dependent upon the rates a much greater controlling factor is the distance of the haul.

In only one instance, (that of the Santa Fe) do the figures represent intrastate tonnage, and in this case the Commission is not furnished with the relationship of the Santa Fe's coal tonnage or ton-miles and coal revenue upon interstate traffic for purposes of comparison. The contention of the carriers, even were it found to be valid, would apply with equal force to interstate coal traffic. In the case of the other three roads mentioned the statistics furnished do include interstate traffic as well as the intrastate.

With respect to the fallacious theory advanced by the carriers and its application to interstate traffic it may be found illustrative to refer to the situation as found on one of the typical prairie lines, the Union Pacific. The bituminous coal tonnage of this company upon its entire line, including both the interstate and intrastate traffic, during the fiscal year ended June 30, 1912, amounted to 23.88 per cent of the total freight tonnage, while the coal revenue amounted to only 8.3 per cent of the total freight revenue; during the fiscal year 1913 the coal tonnage amounted to 18.9 per cent of the total tonnage and coal revenue to only 6.9 per cent of total freight revenue. In the year 1912 the percentage of coal tonnage to total tonnage was 188 per cent greater than the revenue percentage, and in 1913 174 per cent greater, while the case cited of the Colorado & Southern shows that the percentage of tonnage is only 46 per cent greater than that of the revenue, the Denver & Rio Grande only 35 per cent greater, and the Denver & Salt Lake only 33 per cent greater.

A further illustration of the unsoundness of the carriers' position is shown by considering the relation of the tonnage and revenues of the commodities which are handled in quantities only next to that of bituminous coal on the Union Pacific

entire line, during the fiscal year 1913. During this period grain was transported to the amount of 12.21 per cent of the total tonnage, while the revenue derived from grain traffic amounted to only 7.8 per cent of the total freight revenue, and it is interesting to note that the average revenue per ton-mile on grain was 9.62 mills - - higher even than the average of all commodities, which was 9.27 mills. The lumber tonnage amounted to 6.88 per cent of the total, the revenue accruing therefrom amounting to as high as 7.2 per cent of the total revenue, while the ton-mile revenue was the lowest of any of the commodities handled in appreciable quantities, being 5.34 mills. The livestock traffic amounted to 6.03 per cent of the total tonnage, while its revenue represented 6.3 per cent of the total revenue, its ton-mile revenue being 11.08 mills.

The foregoing paragraph seems to conclusively show that there can be no correlation between the tonnage and the revenue of a certain selected commodity. Although the ton-mile revenue on grain was higher than the average of the road the percentage relation of its revenue to total revenue was considerably less than the percentage of the grain tonnage to the total tonnage, and while ton-mile revenue on lumber was practically half of the average ton-mile revenue of the road the lumber revenue relation to total revenue was greater than the relation of lumber tonnage to total tonnage.

Even assuming that there is merit in the contention offered, which relation must be accepted as one of the factors to be considered in fixing reasonable rates? that claimed by the Santa Fe, i.e., the relation between the commodity's ton-miles and the revenue? or that of the other carriers, the relation between the number of tons handled and the revenue? To more definitely show the fallacy of the carriers' theory the illustration afforded by the table below may be offered, using as a foundation figures approximating those of the Colorado & Southern for the year ended June 30, 1914. The tons handled and

the revenue figures are actual, being taken from the annual report as filed with the Commission. The number of ton-miles is only approximate and is based upon an average haul of coal of 100 miles. The figures in the second column are the basic figures of the Colorado & Southern with the application of the average haul of 136 miles of the class I and II roads in the Western District for the same year and the average per ton-mile revenue of such lines of 6.22 mills. The third column shows the results derived by the use of a 200 mile average haul and a per ton-mile revenue of 8. mills. The table follows:

	C&SRy	Western District Class I & II Roads	Example
Tons, coal and coke	2,339,849	2,339,849	2,339,849
Tons, other commodities	2,482,969	2,482,969	2,482,969
Total traffic	4,822,818	4,822,818	4,822,818
Coal relation to total	48.5%	48.5%	48.5%
Average haul, miles	100	136	200
Average revenue ton-mile ...	$.0092	$.00622	$.0080
Ton-miles, coal and coke ...	233,984,900	318,219,464	467,969,800
Ton-miles, other commodities	308,092,724	308,092,724	308,092,724
Total-ton miles	542,077,624	626,312,188	776,062,524
Coal relation to total	42.0%	50.8%	60.1%
Revenue, coal and coke	$2,154,548.	$1,979,325.	$3,743,758.
Revenue, other commodities .	3,465,036.	3,465,036.	3,465,036.
Total revenue	$5,619,584.	$5,444,361.	$7,208,794.
Coal relation to total	38.3%	36.3%	51.9%
Average revenue per ton	$.92	$.85	$1.60

This illustration is given for no other purpose than to demonstrate that reliability cannot be placed upon such a theory as the carriers advance, and is not presumed to represent any actual conditions now existing. The assumption is that the tonnage, ton-miles and revenue of commodities other than coal and coke remain the same in the different examples shown. It will be seen that a longer haul and a less rate per ton-mile may result in the percentage of coal revenue to total revenue being lower than that of the Colorado & Southern for the period shown, or a longer haul and lower rate per ton-mile may result in the percentage being much larger, in fact, even higher than the percentage relationship of coal tonnage and total tonnage.

The Commission must find that the theory of the carriers does not in any wise prove that intrastate rates on coal in Colorado are unreasonably low, or that the coal rates place a burden upon other commodities.

It is stated by the carriers that coal is a low grade commodity, but that its movement does not involve cheap or

economical transportation; that, in the first place, the coal business is not evenly distributed throughout the year, there being a heavy tonnage for a short time, two or three months, and for the remainder of the year a light tonnage, which leaves the carriers with an excess of equipment, tracks and facilities that cannot be advantageously employed. The statistics of coal production in Colorado show that the coal movement is fairly constant throughout the year, although it is to be admitted that coal moves in somewhat larger volume during the winter months than during the summer. The report for 1917 shows that the three heaviest months were January, August and December. The requirements for the transportation of coal are much different in Colorado than in the east. In the east the carriers are required to furnish a certain class of equipment for this loading, and the equipment must be kept exclusively in that service, whereas the Colorado carriers are able to utilize any equipment into which coal can be loaded, such as stock, box, gondola, or open cars. And it is a well established fact that coal is one of the lowest rated commodities, both in the rates per ton per mile and the cost of transportation per ton per mile, being greatly below the average of all commodities transported.

The statement is made by carriers in their brief that the proposed increase of 10 and 15 cents in coal and coke rates will not average 5 per cent of the Colorado coal and coke rates on all lines. There is no evidence to support this contention and, to the Commission, it clearly appears to be greatly underestimated. It is evident that if this is the case the increase of 15 cents per ton allowed by the Interstate Commerce Commission will not average more than 1

or 2 per cent on the entire interstate movement of coal from Colorado. It is impossible to arrive at the percentage of average increase either upon intrastate or interstate traffic. The Commission has scrutinized the rates of the carriers applying on coal from Colorado mines to points in adjacent states and finds increases to be about as follows:

On the line of the Santa Fe into New Mexico the increases vary from 37 per cent at Lynn (an extreme instance, the mileage being very low and the rate being increased from 40 cents to 55 cents) to 2.3 per cent at Gallup; on the Santa Fe line in Kansas the range is from 13 per cent at Coolidge to 3.9 per cent in the eastern part of the state; on the line of the Rock Island in Kansas the increases range from 10 per cent at Kanorado to 3.7 per cent in the eastern part; on the Missouri Pacific the range is from 7.5 per cent to 4 per cent; and on the lines of the Burlington and Union Pacific from 6 per cent to 4 per cent. The probable amount of average increase on interstate traffic allowed by the Interstate Commerce Commission in the rates from the Colorado mines is between 4 per cent and 5 per cent.

The difference in the average haul of coal largely determines the percentage of increase in the rates, and it will be seen that the increase will, of course, be relatively much greater within the state of Colorado as herein asked than on the longer hauls. For the fiscal year 1914 the average revenue per ton of the Denver & Rio Grande on coal traffic in Colorado and New Mexico was 96 cents; the Colorado Midland, $1.04; the Denver & Salt Lake, $1.19, the Colorado & Southern, 92 cents. This indicates that the proposed increase would certainly not be less than 10 per cent on existing rates, but

more probably would average between 10 per cent and 15 per cent, while the increase granted by the Interstate Commerce Commission would average between 4 per cent and 5 per cent.

An exhibit filed by the Colorado & Southern sets forth the per-mile earnings and taxes of the company's lines in Colorado from 1901 to 1917, inclusive, and the witness introducing the same called attention to the increases in the taxes.. The information shown on this exhibit relative to the per-mile earnings and taxes is of sufficient interest to be included herein.

Year	Mileage	Taxes per mile	Earnings Gross	Earnings Net
1901	801.90	$216.28	$5,026.18	$1,362.34
1902	801.90	250.06	5,789.04	1,516.00
1903	801.88	245.12	6,121.13	1,566.74
1904	813.05	257.28	5,432.50	1,407.16
1905	808.18	238.69	6,669.02	1,959.87
1906	813.38	229.07	7,473.94	2,096.65
1907	819.76	242.07	8,330.79	2,645.54
1908	819.95	239.18	8,120.72	2,621.86
1909	821.24	262.85	8,624.45	2,774.19
1910	824.82	265.00	9,764.47	3,139.76
1911	826.17	281.05	7,824.76	2,597.10
1912	890.89	288.39	7,188.16	2,116.47
1913	900.74	328.84	7,294.21	1,984.46
1914	901.65	362.12	6,533.48	1,890.38
1915	901.65	409.35	7,086.45	2,152.08
1916	901.30	405.93	8,095.33	3,026.91
1917	906.90	473.18	9,590.65	3,645.43

The percentage of taxes to gross earnings in 1901 was 4.303 per cent, and in 1917, 4.934 per cent, while the percentage of taxes to net earnings in 1901 was 15.875 per cent, while in 1917 it was 12.980 per cent. This statement shows that taxes per mile have increased 118.5 per cent from 1901 to 1917 while net earnings have increased 167.5 per cent.

In addition to the testimony and evidence submitted by the Denver & Rio Grande a supplementary financial statement was filed, comparing the results of its operation in 1916 and 1917.

The principal importance given to this exhibit is expressed in the following, as stated by counsel in the brief:

> "The report, however, does contain the item 'Freight Revenue Per Train Mile', showing that the revenue in 1916 was $5.27676 against $5.17629 in 1917, a decrease of 1.9%. This is gross revenue. It does not reflect, therefore, the increased cost of operating a train in 1917 over 1916. That is, this figure does not indicate the net revenue derived from a train of a certain tonnage operated in 1916 as compared with the net revenue of a train of the same tonnage operated in 1917. It does mean, however, that the operation of trains in 1917 compared with operation in 1916 cost 1.9% more per train mile in 1917 than in 1916, due to economic loss in the manipulation of the train equipment alone. In other words, it shows that the traffic handled by the Rio Grande in 1916 was so distributed and was so handled that it cost less to transport it than it did to transport the traffic offered in 1917. Or, stated in another way, it indicates that the excess traffic that was given to the Rio Grande in 1917 was furnished under unfavorable conditions from a transportation standpoint. It was furnished in heavy tonnage for a short period, producing congestion, or it was furnished during periods of temporary interruption of the line, ***. *** The result of these conditions is therefore indicated in the 1.9% decrease in the revenue per train mile. This item is of particular importance in that it shows that the

business of 1917, apart from any increase in costs of labor, materials and supplies, but due wholly to the peculiarities of the situation, was not handled as cheaply as in the preceding year."

The Commission is not furnished with the information to show the number of freight train-miles during the two periods indicated, and is of the opinion, in the absence of this most important item, which is necessary to consider in connection with the tonnage handled, that the item of freight revenue per train mile is of negligible importance or value. To apply the theorem of the carrier above expressed to the comparison of the years 1917 and 1915 it is found that the results will be radically different. The per train mile freight revenue in 1915 was $4.54403, or $.63226 less than in 1917. The increase between 1915 and 1917 was 13.9 per cent. Upon the proposition of the carrier, therefore, this means that the operation of trains in 1917 compared with operation in 1915 cost 13.9 per cent less per train mile than in 1915, due to economic gain in the manipulation of the train equipment alone. And compared with 1914 it would show an even greater difference, since the freight revenue per train mile that year was $4.05317. The train-mile revenue in 1917, therefore, was $1.12312, or 27.7 per cent, greater than in 1914.

While this Commission has passed upon certain of the coal rates in the state in complaints entered and investigations instituted upon the Commission's own motion, it has never been the policy of the Commission in such decisions to materially reduce the rates. In practically every case passed upon the Commission has established the rates with particular considera-

tion and weight given to the alignment of rates to remove discrimination, and to bring about uniformity and equality. Such reductions as have been made in these decisions have been solely for the purpose of removing such discrimination as was found to exist. This, primarily, was due to the fact that the majority of the complaints and investigations involving coal rates were brought under the discrimination section of the act. There have been few cases of the inherent reasonableness of particular rates per se. The largest, territorially considered, case involving coal rates was in Re Eastern Colorado Coal Rates, 1 Colo. P.U.C. 48, and 90 to 99, decided in 1915. Practically the entire consideration of this case was upon the basis of discrimination between localities and the opinion was likewise rendered upon that basis.

On the contrary, the Commission has authorized substantial increases in coal and coke rates in Colorado, increases being granted within the last twelve months. A condition consequent upon the action of the Commission in Missouri Lumber & Supply Co. v. AT&SFRyCo. 3 Colo. P.U.C. 73, in reducing the reciprocal switching rates in Denver 5 cents per ton, was brought about effective February 1, 1916, and resulted in increasing the line haul revenue of the carriers transporting coal to Denver to the same extent, where the coal was destined to industries on connecting lines. The amount of tonnage handled in switching movements is not known but it is undoubtedly considerable. The lignite coal to Denver from the nearby northern Colorado coal fields approximates 1,000,000 tons a year, while from the Walsenburg and Trinidad coal fields the bituminous coal tonnage during 1917 was 180,000. Effective in December, 1917, the Commission took action relative to the

rates on coal and coke to Minnequa which resulted in increases to the carriers in the rates ranging from 5 cents to 37.5 cents per ton, depending upon the points of origination. It is likewise impossible to estimate the increase in revenue to the carriers upon this traffic, but when it is seen that in 1917 approximately 1,320,000 tons of coal and coke moved to Minnequa and which moved under rates that were increased in December, it will be readily seen that the additional revenue is great. In fact, it was stated before the Commission that, based upon previous movements of coal, the increase in revenue will be more than $250,000 per annum.

Effective December 27, 1917, the Commission issued an order permitting the carriers to increase 25 cents per ton the rates on coal from the Oak Hills district to Denver and points beyond. Of a production of 1,000,000 tons a year in this district probably 45 or 50 per cent will receive the application of the increase referred to. Effective February 7, 1918, tariffs were filed with the Commission by the carriers under authority of an order of the Commission increasing rates 25 cents per ton on coal from the South Canon and Cameo districts on the Colorado Midland to Denver and points beyond. At the same time the rates from these districts to Colorado Springs were increased a like amount and the Commission allowed the same to take effect without suspension.

Throughout the hearing of this cause, and in the carriers' brief, mention was made of certain rates in the state which are, while perhaps not absolutely unremunerative, unduly and unreasonably low due to competition, and stated by the witnesses to be "depressed" rates. In the Commission's opinion there is not the least doubt of this fact, as evi-

denced by the rates which come into active or even potential competition with each other.

In a resume of that portion of the carriers' brief devoted to the general conditions and situation of all of the respondents, it is asserted that: "It follows, therefore, that carriers cannot proceed in this case as they have in others. In the first place, statistics and figures cannot be relied upon when the methods of conducting the business have been so radically modified that the result of past operation may no longer be taken as an infallible guide for the present, or a safe prophecy for the future. In the second place, conditions under which the carriers have operated in the past and are now operating, render it impossible for many of them to present the detail history of the past year. The present conditions which have deprived the carriers of trained men and of the necessary funds for the compilations of statistics, render it impossible even if it were essential that the carriers prove this case by statistical evidence."

The Commission is not unaware of the material changes in conditions brought about principally by the war. It fully realizes the difficulty of the carriers preparing masses of detail information which may possibly prove to be superfluous. It believes that the carriers should be relieved of the compilation of all statistics or accounts such as are not absolutely essential and requisite to the proper and efficient operation and maintenance of the carriers' lines. It has followed this principle in the past few months, by permitting the carriers to suspend the future filing of certain reports previously required by the Commission. In addition many schedules have been entirely, and others in part, eliminated

from the annual forms of reports required of the carriers.

As stated by the Commission during the progress of the case the burden of proof rests upon the carriers to show the reasonableness of the proposed increases, by showing that the present coal and coke rates in the state place a burden upon interstate rates, or upon the transportation of commodities other than coal or coke in the state. The Commission, after considering the testimony and evidence of the carriers generally applicable to all alike and also individually, must come to the inevitable conclusion that the carriers have not met the burden of proof which is upon them.

The material increase in costs of transportation over corresponding periods of the last year or two has been unquestionably shown, but it has not been demonstrably proved that an increase of rates generally throughout the state of from 10 to 15 per cent should be placed entirely upon the coal and coke traffic of the state. The carriers have not shown that the present coal and coke rates place a burden upon interstate coal and coke traffic, or upon other commodity traffic within the state.

While the carriers acknowledge their inability to compile minute detailed statements of revenues and expenses related to the transportation of freight, it is significant to point out that only two carriers have presented figures to the Commission to show even the amount of revenue per ton-mile on intrastate coal traffic. This forces the Commission to the conclusion that it cannot then be even ascertained by the carriers themselves that coal and coke traffic in the state is or is not bearing its proper burden of the transportation costs. Unless the carriers know what revenue is

derived from intrastate and interstate coal and coke traffic how can it be determined definitely that the one places a burden upon the other, or upon other commodities?

Without doubt there must have been certain evidence presented to the Interstate Commerce Commission in the case before it to justify the increases allowed by it upon coal and coke rates. If so, the carriers have not presented similar evidence before this Commission, but have relied principally upon the fact that the Commission should allow the increase in order that uniform action may be had to correspond with the action of the Interstate Commerce Commission.

The carriers assert that the greatest emergency exists today that has ever existed in the railroad service in the history of the United States, and that the increases are necessary to provide suitable transportation facilities for the future, and are urgently required to meet the emergencies confronting the railroads. The Commission has had no disposition to delay the proceedings in this cause and it respectfully calls attention to the fact that the carriers, upon their own volition, requested that the cause be vacated from the hearing docket at each setting of the case by the Commission for hearing, until, at the behest of the carriers, a period of some nine months elapsed without any action being taken.

In December, 1917, the federal government, through the President, took over the possession, use, control and operation of the railroads of the United States, and on March 21, 1918, subsequent to the hearing in this cause, an act of Congress was approved entitled "An Act to provide for the

operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes." This action was brought about largely to create a greater efficiency in operation and cooperation, and to harmonize the relations between the various carriers.

As before stated the Commission is of the opinion that the carriers have not met the burden of proof upon them to justify the proposed increases; that they have not shown that coal and coke rates in Colorado place a burden upon interstate coal and coke traffic, and that coal and coke rates in Colorado place a burden upon the transportation of other commodities in the state. Mention has been made by the carriers of depressed rates or rates which are unduly low through competition and which the carriers "would not of their own volition make". If, after an examination of the tariffs by the carriers and such examination indicates that such rates result in a burden upon other traffic, and that such specific rates are low and should be equalized in order to bring about a more ideal relation and remove apparent discrepancies, the Commission will set an early date for the taking of testimony and hear argument in support of same. An order will be entered permanently suspending the operation of the schedules herein under suspension and requiring the carriers to cancel such schedules.

O R D E R.

IT APPEARING, That on August 8, 1917, the Commission entered upon an investigation concerning the propriety of certain increased rates, charges, regulations and practices for the transportation of coal, coke and coke breeze in the state

of Colorado stated in schedules filed by the carriers in Colorado to become effective August 27, 1917, and at subsequent dates, said schedules being designated and enumerated in the order of suspension entered August 8, 1917;

IT FURTHER APPEARING, That a full investigation of the matters and things involved has been had, and that the Commission, on the date hereof, has made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

IT IS ORDERED, That the carriers respondents herein be, and they are hereby, notified and required to cancel, on or before April 24, 1918, the schedules designated and enumerated in the Commission's order of suspension of August 8, 1917.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

George T. Bradley

Leroy J. Williams

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 19th day of April, 1918.

ORIGINAL

Decision No. 970

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

MAKE NO COPY

A. H. RADETSKY,

Complainant

v.

W. R. FREEMAN and C. BOETTCHER, as Receivers of The Denver & Salt Lake Railroad Co.

Defendants.

Formal Complaint No. 155

Submitted April 4, 1918. Decided April 30, 1918.

APPEARANCES:

Barnett and Campbell, and Philip Hornbein for the complainant.

Milton Smith and Elmer Brock for the defendant.

STATEMENT

By the Commission:

The complainant herein is engaged in the business of buying and selling junk in the city and county of Denver, Colorado.

The defendants herein are the duly appointed, qualified and acting receivers of The Denver & Salt Lake Railroad Company and are operating said railroad, which extends from Utah Junction, a station near the city of Denver, northerly and westerly to Craig, a station in the county of Moffat, in the state of Colorado.

This action was originally brought by the complainant to have the Commission determine the proper classification and the proper rate to be applied on about 2,000 tons of old railroad rails,

belonging to the complainant and which complainant contemplated shipping to Denver from Granby on said line of railroad, also the classification and rate to be applied on five carloads of rails belonging to the complainant and transported by defendant from Fraser, a station on defendants' line, to Denver. Three of the said five cars that had already been transported, on arriving at Denver, were rebilled by the complainant and consigned to The Colorado Fuel & Iron Company at Pueblo, Colorado, and were transported from Denver to Pueblo over the Colorado & Southern Railway. The other two of said five cars, at the time of the hearing, were on a sidetrack at Utah Junction, near Denver. The complainant contends the old rails should be classified and shipped as junk, at a rate of 12½ cents per one hundred pounds as carried in defendants' tariff from Granby and Fraser to Denver, while defendants contend the proper rates applicable are the rates applicable to iron or steel rails - the fifth class rate of 43 cents per one hundred pounds from Fraser, and 48 cents from Granby, to Denver. The defendants refused to release the five cars to the complainant until the rate of 43 cents per hundred pounds was paid for the transportation of the same.

A hearing was held in the hearing room of the Commission, at Denver, Colorado, April 4, 1918. After the hearing, the complainant withdrew from the issues herein the matter of determination of the classification and rates on all of the said rails in question, with the exception of the three cars theretofore transported by defendants and which had been rebilled and reshipped by complainant to The Colorado Fuel & Iron Company at Pueblo, over the Colorado & Southern Railway.

The only issue, therefore, now before the Commission, is the proper classification and the proper rate on the three cars of rails transported by defendants from Fraser to Denver. For this

reason it is unnecessary to consider any of the testimony in the record which does not apply to these three cars. The three cars transported by The Colorado & Southern Railway Company from Denver to The Colorado Fuel & Iron Company's plant at Pueblo were accepted by The Colorado & Southern Railway Company, and classified by it as junk. The rate assessed by that carrier for the haul from Denver to Pueblo was its junk rate of 4½ cents per hundred pounds.

The classification rule which governs the rates on scrap iron or junk is as follows:

> "Ratings apply on scrap or pieces of iron or steel having a value for remelting purposes only."

The defendants contend that an inspection showed that the rails in question were not in pieces, but were mostly of full length, and that in order to take the junk rate they should have been broken into pieces. They also contend that the said rails were second-hand rails and might be sold for relaying rails. As to the first contention, this Commission inclines to the view expressed by the Interstate Commerce Commission in Continental Iron & Steel Company v. Louisville & Nashville Railroad Company, 22 I.C.C. 282. The Commission says,-

> "From a practical standpoint and as a matter of physical possibility, it should be noted that few, if any, bridges could be 'broken into scraps or pieces' at the point where they are dismantled and the interpretation of the rule contended for by the carriers would have the inevitable effect of denying to scrap bridge material a lower rate than is accorded to the same material when new, or before its period of service as a bridge has ended. The shipment was billed as scrap iron and it is undisputed that it was used as scrap iron. Our conclusion is therefore that under the rule in question it was entitled to the scrap iron rate."

The complaint herein presents practically the same issue as was involved in the above case. If these rails are in fact scrap iron, to compel the complainant to break them into pieces

before shipment, would be to practically deny him the junk rate, as the expense of breaking the rails into pieces at the point of shipment probably would represent a greater financial outlay than to pay the rate applying on new rails.

As to the defendants' contention that the rails in the three cars were relaying rails and could be disposed of for use other than scrapping: The evidence before the Commission is that most of these rails weighed only 52 and 56 pounds to the yard; that they were old rails, most of them having been made by the Edgar Thompson Company in 1877; that they were bought second-hand 11 years ago; that the complainant had industriously tried to sell them for relaying rails during a period of four or five months, had offered them for sale and showed them to different persons, all of whom had rejected the rails as relaying rails.

The buyer of scrap iron for The Colorado Fuel & Iron Company, who was called as a witness for the complainant, testified that he bought two carloads of rails as scrap iron at a price not to exceed $30.00 per ton; that they were used for remelting purposes; that his company does not buy any relaying rails. The complainant also introduced an exhibit an order from The Colorado Fuel & Iron Company for two cars of scrap rail, at a price not to exceed $30.00 per ton, f.o.b. Minnequa. Complainant testified the scrap iron price at that time was $30.00 per ton. The complainant shipped to The Colorado Fuel & Iron Company three cars of old rails, being one car more than was ordered. One car was refused by that company and afterwards was turned over to the Stearns-Roger Manufacturing Company and was purchased at the scrap iron price of $30.00 per ton.

The evidence is that the rails in these cars were scrap iron, and that complainant was unable to sell them for anything else. The order from The Colorado Fuel & Iron Company shows that two carloads of these rails were sold as scrap iron, while the Colorado

& Southern bill of lading shows that the three cars of rails shipped from Denver to Pueblo were billed and classified as scrap iron. The defendant has not contradicted this testimony and the Commission is of the opinion that the three carloads of rails should be classified as scrap iron and receive the application of the junk rate of 12½ cents per one hundred pounds from Fraser to Denver. A case of this nature depends on its particular circumstances and conditions, and this opinion is not to be construed as a precedent in future cases where different conditions may perhaps exist. An order will be entered in accordance with the foregoing opinion.

ORDER

IT IS THEREFORE ORDERED, That the defendants herein, W. R. Freeman and C. Boettcher, as Receivers of The Denver & Salt Lake Railroad Company, be, and they are hereby, authorized and directed to assess and collect charges upon three carloads of scrap iron rails from Fraser, Colorado, to Denver, Colorado, enumerated and described as follows:

Pa. 284484, Way-bill 31, December 19, 1917,
PLE 46347, Way-bill 43, December 31, 1917,
Pa. 355515, Way-bill 47, January 11, 1918,

which shall not exceed the charges assessed and collected upon the basis of the rate applicable to junk of 12½ cents per one hundred pounds.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy J Williams

A J Anderson

Commissioners.

Dated at Denver, Colorado,
this 30th day of April, 1918.

Decision No. 171.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

INVESTIGATION AND SUSPENSION DOCKET NO. 21.

In re ADVANCE IN GAS RATES AT FORT COLLINS.

(April 30, 1918.)

STATEMENT.

By the Commission:

By tariffs filed effective March 27, 1918, The Poudre Valley Gas Company proposed increases in its rates for gas service in the city of Fort Collins. On March 13, 1918, the Commission entered upon an investigation and hearing concerning the proposed increases and suspended the use of the increased rates, charges and rules contained in the schedules until the 25th day of July, 1918.

The Commission has caused an investigation to be made of the proposed schedules of rates, and is now advised as to the same. No objection or protest has been received relative to the proposed rates, and it appears that by ordinance duly passed by the city council of Fort Collins on April 22, 1918, approval of the rates as filed with the Commission was recommended. The Commission is of opinion that the suspension should be vacated and the schedules allowed to take effect as of May 1, 1918, provided, that such order shall not affect any subsequent proceeding relative thereto.

ORDER.

IT IS THEREFORE ORDERED, That the order heretofore entered in this proceeding suspending the operation of schedules contained in Colo. P.U.C. No. 3 of The Poudre Valley Gas Company, be, and it is hereby, vacated and set aside as of May 1, 1918.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. I. Bradley

Leroy J. Williams

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 30th day of April, 1918.

Decision No.174.

ORIGINAL

Before the

PUBLIC UTILITIES COMMISSION

of the

STATE OF COLORADO.

In re ADVANCES OF 10 AND 15 CENTS PER TON IN COAL, COKE AND COKE BREEZE RATES IN COLORADO.

INVESTIGATION AND SUSPENSION DOCKET NO. 11.

Denial of Rehearing.

May 2, 1918.

By the Commission:-

On the 19th day of April, 1918, the Public Utilities Commission of the state of Colorado entered an order requiring the carriers respondents in this cause to cancel, on or before April 24, 1918, schedules of rates contained in tariffs filed by the carriers proposing increases of 10 cents per ton in rates of 75 cents or less, and 15 cents in rates of more than 75 cents, on coal, coke and coke breeze transported in the state of Colorado, which schedules had been suspended by orders of the Commission until the 24th day of April, 1918.

On the 23rd day of April, 1918, the carriers applied to the Commission for an extension of the effective date of the order of the Commission and a further suspension of the tariffs and schedules involved, the desired extension being 15 days. This additional time was requested in order that the carriers might per-

fect an application for rehearing, and to allow the Commission further time in which to consider such application which the carriers contemplated filing. Pursuant to this request the Commission, on April 23, 1918, issued an order postponing the effective date of its order of April 19, 1918, until May 10, 1918, and further suspending the schedules and deferring the use of the rates and charges therein until May 10, 1918.

On April 23, 1918, a petition for rehearing was filed with the Commission by The Atchison, Topeka & Santa Fe Railway Company and a joint petition for rehearing filed by the following carriers: Chicago, Burlington & Quincy Railroad Company, The Chicago Rock Island & Pacific Railway Company, The Colorado & Southern Railway Company, The Colorado Midland Railroad Company, The Denver & Inter-Mountain Railroad Company, The Denver & Rio Grande Railroad Company, The Denver & Salt Lake Railroad Company, Missouri Pacific Railroad Company, The Rio Grande Southern Railroad Company, and the Union Pacific Railroad Company. The petitions denied the jurisdiction of the Commission and alleged error on the part of the Commission.

The Commission now being fully advised in the premises is of the opinion that the petitions of the respondent carriers for a rehearing should be denied.

O R D E R.

IT IS THEREFORE ORDERED, That the petitions for rehearing, filed with the Commission by the respondent carriers, be denied, and that the order of the Commission in the above cause, entered on the 19th day of April, 1918, shall be come effective May 10, 1918.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. L. Bradley

Leroy J. Williams

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 2nd day of May, 1918.

ORIGINAL

(Decision No.198)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Intermountain Railway, Light & Power Company for permission to increase its rates and charges for electric service in the city of Lamar.

Application No.22.

Submitted August 26, 1918. Decided September 21,1918.

Appearances:
Rush L.Holland for the applicant company; W.E.Fee and Granby Hillyer for the city of Lamar.

STATEMENT.

By the Commission:

On the 11th day of May, 1918, The Intermountain Railway, Light & Power Company, through its attorney, R.L.Holland, filed with the Commission an application for permission to increase its rates and charges for electric service in the city of Lamar. The petition alleges that on September 25, 1916, the city of Lamar filed with the Commission a petition alleging that the rates and charges of the company then in effect were excessive and unreasonable; that the case arising on said petition was docketed by the Commission as Lamar v. Intermountain Railway, Light & Power Company, Case No.100; that after a hearing the Commission fixed the reasonable value of the plants and properties of the company used and useful in serving the territory supplied by the applicant at $139,500.00, and that rates for the company's service were established which the Commission considered reasonable under the then prevailing conditions. (4 Colo.P.U.C.391)

The petition further alleges that the fair value of the company's electric plants and properties as of December 31, 1917, is $160,386.58,on which sum it should be permitted to earn a fair return; that such valuation is arrived at by taking the Commission's valuation of $139,500.00 as of December 31, 1916, and adding thereto the additions subsequently made to the property. The petition further

alleges that the gross revenues from the sale of electricity at Lamar for the calendar year 1917 was $38,450.29; that the operating expenses for that period were $37,146.45, resulting in a net operating revenue of $1,303.84; that the company paid taxes on its electric plants and properties for the same period in the sum of $2,714.00, and that after deducting this amount, together with a depreciation requirement of $2,619.18, the operations of the company for the year ended December 31, 1917, showed a deficit of $4,029.34. The petition further alleges that the company is entitled to earn 8 per cent on the fair value of its property, which would amount to the sum of $11,709.93, and that such fair return added to the deficit in net earnings for the year 1917 brings the total deficit for that year to $15,739.27. The petitioner prays that the Commission speedily investigate the representations made in its petition, and upon hearing being had an order be issued granting the company the relief to which it is fairly entitled.

Notices having been given to all parties at interest, this case came on for hearing in the city of Lamar on the 29th day of July, 1918. Testimony was submitted on behalf of the applicant company through Witness E.C.vanDiest. This testimony on the whole was unsatisfactory, mainly being taken from various memoranda in the possession of the witness. No exhibits or detailed statements of revenues and expenses were submitted, and generally speaking his testimony was not in agreement with the annual report of the company for the year 1917 on file with the Commission.

An examination of the accounts of the petitioner was made by the statistician of the Commission and a statement of revenues and expenses for the year 1917 was submitted in evidence, this statement being as follows:

Operating Revenues:	
Commercial Lighting,	$24,405.39
Municipal Street Lighting	2,680.80
Commercial Power,	9,060.63
Municipal Power,	175.00
Electric Merchandise and Jobbing,	2,128.47
Steam Heating Revenue,	3,696.93
Total,	$42,147.22
Operating Expenses:	
Steam Power Generation,	29,584.31
Transmission,	334.64
Distribution,	1,803.73
Utilization,	1,315.12
Commercial,	2,990.17
New Business,	389.41
General Expense,	2,469.06
Total above items,	38,886.44
Depreciation,	2,619.18
Taxes,	3,015.54
Total Operating Expenses,	$44,521.16
Net Operating Deficit,	2,373.94
Non-operating Revenue,	5.76
Deficit,	$ 2,368.18

It appears from the above statement that the operating revenues from all sources for the year 1917 were not sufficient to meet the operating expenses of the company and taxes, much less to provide for depreciation and pay a return on the fair value of the property. The allegations in the petition of the company to the effect that certain additions to the property had been made during the year 1917, subsequent to the inventory and appraisal by the Commission, and that after adding such additions to the valuation established by the Commission and depreciating the entire property by some peculiar method of the applicant, the fair value of the property as of December 31, 1917, was approximately $160,000.00, is not properly before the Commission. Some additions to the plant have been made, but what these are or what they will amount to in money does not appear in the record and were not given in detail by Mr.vanDiest.

It is wholly unnecessary that the Commission make any further finding as to the fair value of this property. The annual depreciation requirement of $2,619.18 included in the financial statement for the year 1917 was not calculated in accordance with the Commission's order in Case No.100 and is an excessive amount.

Considering that some additions to the property have been made since the order of the Commission in Case No.100 was issued, the Commission is of the opinion that $2,250.00 would have been a reasonable amount to charge to depreciation for the year 1917. As a result, the deficit for the year 1917 as shown by the report of the Commission's statistician should be reduced by the sum of $369.18 or to $1,999.00. A fair return to the owners of the property at this time is not less than the sum of $11,600.00 per annum, so that the earnings for the year 1917 fell short of meeting operating expenses, depreciation, taxes and a fair return to the owners of the property by the sum of $13,599.00. There have also been increases in operating expenses during the year 1918, and on the same basis the deficit for the year 1918 will exceed the above amount.

The Lamar plant of The Intermountain Railway, Light & Power Company is a very inefficient one, the coal consumption being in excess of 16 lbs.of bituminous coal per kilowatt hour of output. While it is fully realized that this condition cannot be corrected at this time on account of the difficulty in securing equipment, the company is not entitled to any reward for efficient operation in the disposition of this case. The cost of steam power plant generation alone for the year 1917 was 70 per cent of the operating revenues for that period and this ratio will probably be increased for the year 1918. There is also a very high unaccounted for loss in distribution, which, in the opinion of the Commission, does not result largely from leakage through trees, as stated by Mr. vanDiest in his testimony.

The serious problem before the Commission, the company and the citizens of Lamar, is that of providing sufficient revenue to enable the company to meet operating expenses necessarily incurred under present operating conditions and with the type of equipment in use. It would be idle at this time to discuss the proposition of providing more efficient equipment for the purpose of reducing operating expenses. Such equipment, even if available, has so advanced in price that its substitution for the present equipment, even if

obtainable, might not be desirable on account of the increase in fixed charges which would result.

The Commission is of the opinion that the rates of the applicant are unremunerative under the conditions prevailing at this time and that, in order to provide additional revenue, the following changes in the present rates and charges should be made:-

(a) A surcharge of 20 per cent should be applied to the bills of all commercial lighting, heating and cooking consumers in the city of Lamar, the town of Wiley and adjacent territory.

(b) The present rates for irrigation pumping and commercial alfalfa meal mills should be abolished.

(c) The following schedule should be established to apply to all power consumers in the territory involved--

Rate:

First	100	Kw-hr.	consumption	per	month,	8¢	per Kw-hr.
Next	300	"	"	"	"	7¢	" "
Next	400	"	"	"	"	6¢	" "
Next	500	"	"	"	"	5¢	" "
Next	700	"	"	"	"	4¢	" "
Next	2000	"	"	"	"	3¢	" "
For all consumption in excess of 4000 Kw-hr. per month						2½¢	" "

Fuel Clause:

The above rates are based on coal costing $2.25 per ton f.o.b.Lamar; for each 10 cents increase in the cost of coal f.o.b.Lamar above $2.25 per ton, one mill per Kw-hr. on all current sold to power consumers will be added; and for each 10 cents per ton decrease in the cost of coal f.o.b.Lamar below $2.25 per ton, one mill per Kw-hr.will be deducted from the bills of power consumers.

Hours of Service:

Consumers who do not guarantee to use power for twelve months of each year shall not operate their motor or motors between the hours of 5:30 p.m. and 8:00 p.m. during the months of November, December, January and February, except in case of absolute necessity for the protection of life and property.

Prompt Payment Discount:

A discount of 10 per cent will be allowed on all bills paid on or before the 10th day of the month next succeeding that in which service is rendered.

Minimum Monthly Guarantee:

The consumer receiving service hereunder must guarantee a monthly bill of $1.00 net per rated horse power of motors connected, up to and including 10 horse power, and a minimum monthly bill of 50 cents net per rated horse power for all connected load in excess of 10 horse power.

Availability:

This schedule shall be available to all consumers using the company's standard power service.

O R D E R.

IT IS THEREFORE ORDERED, That the applicant herein, The Intermountain Railway, Light & Power Company, be, and it is hereby, allowed and permitted to cancel its present rates for irrigation pumping and for commercial alfalfa meal mills, on not less than five days notice to the Commission.

IT IS FURTHER ORDERED, That the applicant herein, be, and it is hereby, permitted to establish, effective on not less than five days notice, by filing and posting with the Commission in the manner provided in Section 16 of the Public Utilities Act,---

A surcharge of 20 per cent to apply to all rates for commercial lighting, heating and cooking service as now in effect.

The following schedule of rates to apply to all power consumers in the territory involved:

Rate:

First	100	Kw-hr.	consumption	per	month,	8¢	per Kw-hr.
Next	300	"	"	"	"	7¢	" "
Next	400	"	"	"	"	6¢	" "
Next	500	"	"	"	"	5¢	" "
Next	700	"	"	"	"	4¢	" "
Next	2000	"	"	"	"	3¢	" "
For all consumption in excess of 4000 Kw-hr. per month						2½¢	" "

Fuel Clause:

The above rates are based on coal costing $2.25 per ton f.o.b.Lamar; for each 10 cents increase in the cost of coal f.o.b.Lamar above $2.25 per ton, one mill per Kw-hr. on all current sold to power consumers will be added; and for each 10 cents per ton decrease in the cost of coal f.o.b.Lamar below $2.25 per ton, one mill per Kw-hr.will be deducted from the bills of power consumers.

Hours of Service:

Consumers who do not guarantee to use power for twelve months of each year shall not operate their motor or motors between the hours of 5:30 p.m.and 8:00 p.m.during the months of November, December, January and February,

except in case of absolute necessity for the protection of life and property.

Prompt Payment Discount:

A discount of 10 per cent will be allowed on all bills paid on or before the 10th day of the month next succeeding that in which service is rendered.

Minimum Monthly Guarantee:

The consumer receiving service hereunder must guarantee a monthly bill of $1.00 net per rated horse power of motors connected, up to and including 10 horse power, and a minimum monthly bill of 50 cents net per rated horse power for all connected load in excess of 10 horse power.

Availability:

The schedule shall be available to all consumers using the company's standard power service.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Geo T. Bradley.

Leroy J. Williams

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 24th day of September, 1918.

ORIGINAL

(Decision No. 200)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN RE ADVANCE IN ELECTRIC RATES OF
THE HOME GAS & ELECTRIC COMPANY.

Investigation and Suspension Docket No. 18.

(October 1, 1918.)

STATEMENT.

By the Commission:

By an order entered the 23rd day of February, 1918, the Commission entered upon an investigation and hearing concerning the propriety of the rates and charges for electric service stated in schedules contained in First Revised Sheet No. 8 to Colo. P.U.C. No. 3 of The Home Gas & Electric Company of Greeley, Colorado, serving Greeley, Evans, Kersey and LaSalle, and adjacent communities.

The respondent herein has filed its Second Revised Sheet No. 8 to Colo. P.U.C. No. 3 withdrawing and cancelling the rates under suspension. It therefore appears that the issues in the cause having been withdrawn, the cause should be dismissed from the docket.

ORDER.

IT IS THEREFORE ORDERED, That the orders of the Commission dated February 23, 1918, and June 28, 1918, be vacated and set aside and the cause herein dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. T. Bradley

Leroy J. Nichols

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

MAKE NO COPY

ORIGINAL (Decision No. 201)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of an Investigation and Hearing, on motion of the Commission, as to the reasonableness of the local class and commodity rates, as charged by The Denver & Rio Grande Railroad Company, between points in the San Luis Valley; also between points in the San Luis Valley and points on the Denver & Rio Grande Railroad in the State of Colorado where the transportation is wholly within the State of Colorado.

Case No. 49.

(October 1, 1918.)

STATEMENT.

By the Commission:

On March 4, 1916, the Commission instituted an investigation, on its own motion, as to the reasonableness of certain class and commodity rates between points in the San Luis Valley and other points in the state of Colorado as charged by The Denver & Rio Grande Railroad Company. The Denver & Rio Grande Railroad is now under the control of the United States Railroad Administration and rates have been established by the Railroad Administration in accordance with General Order No. 28 of the Director General. It therefore appears that this cause should be dismissed from the docket.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy J. Williams

A T Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

ORIGINAL

(Decision No. 202)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN RE OPERATIONS OF TRAINS NOS. 15, 16, 115, 116, 119, 120, 315, 316, 319 and 320 BY THE DENVER & RIO GRANDE RAILROAD COMPANY.

Case No. 94.

(October 1, 1918.)

STATEMENT.

By the Commission:

It appearing that the issues in this cause are no longer pending, the Commission's order of investigation entered August 19, 1916, should be vacated, and the cause herein dismissed.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy J. Mitchell

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

ORIGINAL

(Decision No. 203)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CITIZENS OF ENGLEWOOD,

v.

CITY OF ENGLEWOOD, and
THE DENVER UNION WATER COMPANY.

Case No. 97.

(October 1, 1918.)

STATEMENT.

By the Commission:

It appearing that there has been no prosecution of the cause herein, the Commission is of the opinion that the same should be dismissed from the docket.

ORDER.

IT IS THEREFORE ORDERED, That this cause be, and the same is hereby, dismissed, without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy J. Millikan

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

ORIGINAL

MAKE NO COPY

(Decision No. 204)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of an Investigation and Hearing, on motion of the Commission, into the alleged illegal operation of passenger and freight trains by one or more of the common carriers operating trains within the State of Colorado, in violation of Chapter 129, Page 516, of the Session Laws of Colorado, 1913, and into the necessity and feasibility of ordering reasonable rules and regulations for the safe operation of railway trains.

CASE NO. 101.

(October 1, 1918.)

STATEMENT.

By the Commission:

It appearing that the issues in this cause are no longer pending, the cause should be dismissed.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Troy J. Williams

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

ORIGINAL (Decision No. 205)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CITIZENS OF RULISON, COLORADO,
AND VICINITY,

v.

THE DENVER AND RIO GRANDE RAILROAD COMPANY, THE COLORADO MIDLAND RAILWAY COMPANY, Geo. W. Vallery, Receiver, THE RIO GRANDE JUNCTION RAILWAY COMPANY.

Case No. 118.

(October 1, 1918.)

STATEMENT.

By the Commission:

It appearing that the defendants herein have satisfied the complaint, the cause will be dismissed from the docket.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. T. Bradley

Leroy J. Hillman

A O Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

ORIGINAL (Decision No. 206)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE FEDERAL COAL MINING COMPANY,

v.

THE DENVER & SALT LAKE RAILROAD COMPANY.

Case No. 133.

(October 1, 1918.)

STATEMENT.

By the Commission:

It appearing that there has been no prosecution in this cause, it is the opinion of the Commission that the same should be dismissed.

ORDER.

IT IS THEREFORE ORDERED, That this cause be, and the same is hereby, dismissed, without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. T. Bradley

Leroy Grunsmann

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

MAKE NO COPY

ORIGINAL (Decision No. 207)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE HAYDEN BROTHERS COAL CORPORATION, et al.

v.

THE DENVER & SALT LAKE RAILROAD COMPANY, W. R. Freemand and C. Boettcher, Receivers.

Case No. 149.

(October 1, 1918.)

STATEMENT.

By the Commission:

It appearing that the issues in this cause are no longer pending, the complaint should be dismissed from the docket.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. T. Bradley

Leroy J. Mecham

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

ORIGINAL (Decision No. 208)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In re Application of the City Council of Delta for permission to open Columbia Street across the property of The Denver & Rio Grande Railroad Company between Fourth and Fifth Streets, Delta, Colorado.

Application No. 3.

(October 1, 1918.)

STATEMENT.

By the Commission:

It appearing that the issues in this cause are no longer before the Commission, the cause should be dismissed from the docket.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. L. Bradley

Leroy J. Williams

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

ORIGINAL (Decision No. 209)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Board of County Commissioners of Las Animas County vs. The Atchison, Topeka & Santa Fe Railway Company.

CASE NO. 139.

(October 1, 1918.)

STATEMENT

By the Commission:

It appearing that the complainant herein has withdrawn the complaint, the cause should be dismissed.

ORDER

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy Gilleaudeau

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 1st day of October, 1918.

(Decision No. 210)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

FREDERICK W. JEFFERAY,

v.

THE DENVER TRAMWAY COMPANY.

Case No. 160.

(October 4, 1918.)

STATEMENT.

By the Commission:

It appearing that the complainant in this cause has advised the Commission that the answer of the defendant satisfies the complaint, the same should be dismissed.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy J. Hiccians

Commissioners.

Dated at Denver, Colorado,
this 4th day of October, 1918.

(Decision No. 211)

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In re ADVANCE IN ELECTRIC RATES AT OAK CREEK.

INVESTIGATION AND SUSPENSION DOCKET NO. 27.

(October 11, 1918)

STATEMENT.

By the Commission:

On the 26th day of August, 1918, a revised schedule filed by The Oak Creek Service Company, 1st Revised Sheet No. 3 to Colo. P. U. C. No. 2, in which increases in electric rates were proposed, was suspended by the Commission until the 26th day of December, 1918, pending investigation and hearing thereon.

Notice of the filing of the aforementioned schedule was given in a letter addressed to the Mayor and board of trustees of the town of Oak Creek on August 7, 1918, while on the same date communications advising of the proposed increase in rates were forwarded by mail to The Oak Creek Herald and The Oak Creek Times, weekly newspapers published at Oak Creek, requesting that through publication in those newspapers notice of the proposed rate advance be given to the public. No protest against the proposed increase in rates has been filed with the Commission. On the contrary, there has been filed with the Commission a communication in writing, signed by fourteen individuals and business establishments, stating that they are users of the service furnished by The Oak Creek Service Company and that, having been informed that the income of the said company for a long time has been insufficient to meet its monthly expenses, they agree to the increase in rates as contained in the schedule mentioned herein. On September 18, 1918, the Commission addressed a letter to the Mayor and board of trustees asking if the statement signed by the fourteen individuals and firms represented the sentiment of the consumers at Oak Creek with reference to the proposed rate increase. On October 11, 1918, J. T. Richards, town clerk, advised that the town board of trustees of Oak Creek had found no sentiment different from that expressed in the statement signed by the fourteen individuals and firms.

It therefore appears that no hearing is necessary in this cause, and that the suspension should be vacated and the cause dismissed from the docket.

ORDER.

IT IS THEREFORE ORDERED, That the order of August 26, 1918 entered in this cause be, and the same is hereby, vacated and set aside as of October 15, 1918.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. T. Bradley

Tyson J. Williams

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 11th day of October, 1918.

(Decision No. 212)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In re ADVANCE IN ELECTRIC RATES AT PALISADE.

INVESTIGATION AND SUSPENSION DOCKET NO.28.

(October 11, 1918)

STATEMENT

By the Commission:

On the 26th day of August, 1918, a revised schedule filed by The Palisade Service Company, 1st Revised Sheet No. 3 to Colo. P. U. C. No. 2, in which increases in electric rates were proposed, was suspended by the Commission until the 26th day of December, 1918, pending investigation and hearing thereon.

Notice of the filing of the aforementioned schedule was given in a letter addressed to the mayor and board of trustees of the town of Palisade on August 7, 1918, while on the same date a communication advising of the proposed increase in rates was forwarded by mail to The Palisade Tribune, a weekly newspaper published at Palisade, requesting that through publication in that newspaper notice of the proposed rate advance be given to the public. No protest against the proposed increase in rates has been filed with the Commission. On the contrary, there has been filed with the Commission a communication in writing, signed by sixty-eight consumers, stating that the signers are in full accord with the increases in rates proposed by The Palisade Service Company. There also has been received by the Commission a letter signed by J. W. Hoke, town clerk, advising that the board of trustees of the town of Palisade, at a meeting held on the 24th day of September, 1918, requested that an expression of the board's hearty agreement with the proposed increase in rates be conveyed to this Commission.

It therefore appears that no hearing is necessary herein and that the suspension should be vacated and the cause dismissed from the docket.

ORDER.

IT IS THEREFORE ORDERED, That the order of August 26, 1918 entered in this cause be, and the same is hereby, vacated and set aside as of October 15, 1918.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy J. Williams

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 11th day of October, 1918.

COPY

(Decision No. 218)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the Denver & Rio Grande Railroad for permission to construct a railroad track across Cucharas Street, in the city of Colorado Springs, Colorado.

APPLICATION NO. 21.

(November 22, 1918.)

STATEMENT.

By the Commission:

This proceeding arises upon application of the Denver and Rio Grande Railroad in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917, for permission to construct trackage over and across Cucharas Street, in the city of Colorado Springs, Colorado.

There appearing no reason why this application should not be granted, and it appearing further that on November 1, 1918, the applicant obtained authority from the city of Colorado Springs to occupy the above named street, the Commission will issue an order permitting the construction of this trackage, in conformity with the provisions of Section 29 of the Public Utilities Act, as amended April 16, 1917.

ORDER.

IT IS THEREFORE ORDERED, That the applicant, the Denver and Rio Grande Railroad, be, and it is hereby, permitted to construct a railroad track at grade across Cucharas Street in the city of Colorado Springs, as specifically set out and indicated upon the plat filed

with the Commission in this cause.

The Commission reserves the right to make such further orders relative to the construction, operation, maintenance and protection of this crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GEORGE T. BRADLEY

(SEAL)

LEROY J. WILLIAMS
Commissioners.

Dated at Denver, Colorado, this
22nd day of November, 1916.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

ORIGINAL

(Decision No. 219.)

Before the

PUBLIC UTILITIES COMMISSION

of the

STATE OF COLORADO.

In the Matter of the Application of)
THE DENVER, BOULDER & WESTERN)
RAILROAD COMPANY for permission) APPLICATION No. 7.
to increase passenger rates.)

(November 26, 1918.)

STATEMENT

By the Commission:

It appearing that there has been no prosecution of the cause herein, the Commission is of the opinion that the same should be dismissed from the docket without prejudice.

ORDER.

IT IS THEREFORE ORDERED, That this cause be, and the same is hereby, dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy J. Mellen

A F Anderson

Commissioners.

Dated at Denver, Colorado,
this 26th day of November, 1918.

ORIGINAL

(Decision No. 220.)

Before the

PUBLIC UTILITIES COMMISSION

of the

STATE OF COLORADO.

In the Matter of the Application of)
The Town of Julesburg for)
permission to increase rates) APPLICATION No. 11.
for electric and water service.)

(November 26, 1918.)

STATEMENT.

By the Commission:

It appearing that the issues in this cause are no longer pending, the cause should be dismissed.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo T. Bradley

Leroy J. Hutchinson

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 26th day of November, 1918.

(Decision No. 221.)

Before the

PUBLIC UTILITIES COMMISSION

of the

STATE OF COLORADO.

In the Matter of the Application of THE DENVER & SALT LAKE RAILROAD COMPANY, W.R.Freeman and C. Boettcher, Receivers, for permission to increase coal rates.) APPLICATION No. 10.

(November 26, 1918.)

STATEMENT.

By the Commission:

It appearing that the issues in this cause are no longer pending, the cause should be dismissed.

ORDER.

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

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

Geo. T. Bradley

Leroy J. Hickman

A P Anderson

Commissioners.

Dated at Denver, Colorado, this 26th daynof November, 1918.

(Decision No. 222.)

Before the

PUBLIC UTILITIES COMMISSION

of the

STATE OF COLORADO.

In Re ADVANCE IN GAS RATES AT DENVER, COLORADO.

Investigation and Suspension Docket No. 30.

(November 26, 1918.)

STATEMENT.

By the Commission:

On the 9th day of November, 1918 the Commission issued its order in the above cause permitting The Denver Gas & Electric Light Company to increase its rates and charges for gas service in the City and County of Denver, by filing of schedule on not less than five days notice. Such schedule was filed with the Commission November 9, 1918 effective November 14, 1918. On November 13, 1918 a petition for rehearing was filed with the Commission by the City and County of Denver alleging as grounds therefor that the Commission was without jurisdiction to hear and determine the cause. The Commission now being fully advised in the premises is of the opinion that the petition for rehearing should be denied.

ORDER.

IT IS THEREFORE ORDERED, That the petition of the City and County of Denver for rehearing filed in the above cause be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. T. Bradley

Leroy J. Williams

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 26th day of November, 1918.

Decision No. 224

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Application No.20.

In the Matter of the Application of The Pueblo Gas & Fuel Company for determination by the Commission of the rates and charges to be made for gas service in the city of Pueblo.

Submitted December 9, 1918. Decided December 18,1918.

Appearances: Adams and Gast for the applicant company and Chas.H.Rose for the city of Pueblo.

STATEMENT
and
ORDER.

By the Commission:

On the 26th day of June, 1918, The Pueblo Gas & Fuel Company, hereinafter referred to as the applicant or the company, filed with the Commission its application, alleging among other things that notwithstanding an increase in its rates and charges granted by the Commission in its order in Case No.142 decided January 31, 1918, operating costs have advanced to such an extent that, for the first four months during which the increase in rates and charges authorized by the Commission was in effect, the net earnings of the applicant were only $5,647.60 as compared with net earnings of $8,268.47 for the corresponding period of the preceding year, and that this reduction in net earnings came about despite an increase of $4,336.00 in gross receipts for the same period; that, in other words, with an increase in gross receipts of 13.2 per cent, a decrease in net earnings of approximately 32 per cent was experienced on account of increases in the cost of labor and material.

The application sets out in some detail a comparison of prices in effect on June 1, 1917, with those in effect on June 1, 1918, and alleges that as a result of such increasesthe company's deficit for the first five months of the year 1918 was $17,421.98, and that such costs, particularly of material, will be further increased on account of a substantial increase in freight rates made effective by the United States Railroad Administration, but that the extent of such increase could not at that time be determined.

The application further alleges that the company has outstanding bonds of the total par value of $615,000.00, and notes representing its floating debt to the amount of $423,412.51, making a total debt of $1,036,412.51; that the book value of the applicant's plant investment on May 31, 1918, was $1,010,584.65, and that the applicant should be permitted to establish such rates and charges for its service as will permit it to earn over and above operating expenses a fair return on its investment. The applicant asks that the Commission ascertain the value of the assets of the company, determine the rate of interest thereon to which as a public service company it is entitled under the unusual conditions now prevailing, and authorize it to establish and put in force and effect such rates and charges as will enable it to obtain a proper return upon the fair value of its property.

A petition to dismiss was filed with the Commission on December 4, 1918, by the city of Pueblo. This petition alleges in effect that the ordinance and franchise of The Pueblo Gas & Fuel Company was granted by the city of Pueblo in conformity with the sanction and direction of the statutes of the state of Colorado (Section 6525, Par.69, Revised Statutes of 1908); that by the terms and provisions of Article XX of the constitution of the state of Colorado and the terms and provisions of the charter of the city of Pueblo the power to regulate and fix rates of The Pueblo Gas & Fuel Company is vested exclusively in the government of the city of Pueblo; "that the said franchise and ordinance fixing the rates to

be charged by The Pueblo Gas & Fuel Company is confirmed and approved by the adoption of the charter of Pueblo, except ingofar as the same may be legally inconsistent with said charter; that the rates prayed for in said pending application are in excess of the rates set forth in said franchise and ordinance so enacted and confirmed; that the rates prayed for in said application are in excess of the limitation imposed by law (Laws 1913, page 469, Par.15)". Accompanying the petition for dismissal is a stipulation as to certain facts signed by Robert E.Gast of counsel for the applicant, and Charles M.Rose, attorney for the city of Pueblo. A copy of the charter of the city of Pueblo was likewise submitted with the petition to dismiss.

Pursuant to notice duly given to all parties in interest this cause came on for hearing before the Commission at its hearing room in the state capitol building, city and county of Denver, Colorado, at the hour of 10 o'clock a.m., December 9, 1918. Appearances were entered by Adams and Gast for the applicant, and by Charles M.Rose for the city of Pueblo.

At this hearing the petition to dismiss filed on behalf of the city of Pueblo alleging that the Commission does not possess jurisdiction over the rates and charges of public utilities in "home rule" cities was overruled. The matter of the jurisdiction of the Commission over the service and rates and charges of public utilities operating in municipalities governed under the amended Article XX of the constitution of the state of Colorado has been before the Commission on numerous occasions, and most recently in the matter of the investigations of the rates and charges and rules and regulations of The Mountain States Telephone & Telegraph Company, and in the matter of the rates and fares to be charged by The Denver Tramway Company. The question has been involved in many other cases before the Commission, among which are: Castle Rock Railway & Park v.Denver Tramway Co. (1 Colo.P.U.C.126), East Denver

Business & Property Association v. Denver Tramway Company (3 Colo. P.U.C.333 and 4 Colo.P.U.C.276), Ratner v. Denver Gas & Electric Light Company (3 Colo.P.U.C.379). The holdings of the Commission in all these cases, as well as in the cases affecting other "home rule" cities in Colorado, have been to the same effect, and in the present case the Commission will hold as heretofore that the regulation of rates to be charged by public service utilities is not a municipal matter, but is a sovereign right belonging to the state in its sovereign capacity. This holding of the Commission is in accordance with the trend of numerous court decisions throughout the country. In the decisions of the Commission previously referred to are cited many opinions holding to the same effect. Since the issuance of the Commission's previous decisions numerous cases have been decided by state courts, notably Cleveland Telephone Co. v. City of Cleveland, Supreme Court of Ohio, decided June 21, 1918, and Travers City v. Michigan Railroad Commission, ___ Mich.___, 168 N.W.481, P.U.R.1918F, 752, decided July 18, 1918. In both of these cases the courts held that the regulation of public utility rates in municipalities, although such municipalities operate under constitutions giving the municipalities power to regulate all matters of local and municipal concern, is a matter of general concern and does not pertain to local or municipal affairs. Recently the Supreme Court of Oregon has held to like effect in its decision upholding the Public Service Commission in the Portland Street Railway fare case. The petition to dismiss this case is therefore denied.

At the hearing in this case no evidence was submitted bearing upon the value of the property of the applicant. Mr.Gast stated for the applicant, however, that on account of the serious condition in which the company found itself, particularly as to its inability to meet the interest on its bonded debt past due, the company was before the Commission asking merely for such rates as will yield a fair return upon the company's bonded debt, namely,

$613,000.00. He stated further that it had been estimated, and that evidence would be introduced, to show that an increase of 25 cents net per thousand cubic feet in the rate for domestic gas and an increase of 15 cents net per thousand cubic feet in the rate to industrial consumers would produce, if conditions remained reasonably constant, a moderate return upon an assumed value of $613,000.00. Mr.Rose stated in effect that while the city of Pueblo did not admit that the plant of the applicant had a value of $613,000.00, that he was not prepared to go into a valuation proceeding at this time, and that for the purpose of this hearing only and without in any way binding the city of Pueblo, the sum of $613,000.00 might be considered as representing the value of the plant without any serious objection on his part.

The Commission is familiar with the property of the applicant, and while no valuation thereof has ever been made on its behalf, the general character and extent of the property appears in some detail in the record in Case No.142, which has been made a part of the record in this proceeding. Based upon the Commission's experience in the valuation of similar properties and in the valuation of public utility properties generally, the Commission is of the opinion that the sum of $613,000.00 may be considered as the value of the property of the applicant for the purpose of this case, and that such rates as will provide a reasonable return on this amount should not be considered excessive under the conditions prevailing at this time. It will, therefore, be necessary for the Commission to determine only to what extent it will be necessary to increase the present rates and charges in order to provide for a reasonable return on the bonded indebtedness of the applicant.

The earnings and expenses of the company for the years ending October 31 from 1915 to 1918, inclusive, are set out in the following statement:

EARNINGS STATEMENT
YEARS ENDING OCT. 31, 1918

	1915	1916	1917	1918
Gross Earnings	97,009.04	98,999.47	107,698.29	122,088.66
Operating Expenses	65,977.06	67,885.96	82,198.51	99,444.77
Net Earnings	31,031.98	31,113.51	25,499.78	22,643.89
Interest Charges	50,599.92	51,651.59	53,930.41	60,433.85
Deficit	19,567.94	20,538.08	28,480.63	37,789.96

From this statement, which is undisputed in the record, it appears that the net earnings for the year ending October 31, 1918, amounted to $22,643.89 or to 3.7 per cent on the applicant's bonded debt. It further appears that at no time during the above period have the net earnings exceeded 5.1 per cent on the present bonded debt of $613,000.00.

The remainder of the testimony submitted on behalf of the applicant consisted in the main of data relative to increases in taxes and in the cost of labor and material which it has been necessary to meet. This testimony appears undisputed in the record and it is unnecessary that it be discussed in detail in this opinion. Applicant's exhibit No.10 is an estimate of the increase in gross and net earnings that would result from an increase of 25 cents net per thousand cubic feet in the rate for domestic gas and an increase of 15 cents net per thousand cubic feet in the rate for industrial gas, the exhibit being based on the gas sales for the year ending October 31, 1918. This exhibit shows that such an increase would result in net earnings of approximately $50,140.00, which if realized would yield a return of 8.15 per cent on the outstanding bonds.

In view of the decrease in consumption that always follows an increase in rates the Commission is of the opinion that the increase asked for by the applicant will not result in net earnings in excess of

8 per cent on its bonded debt of $613,000.00, and that such increase should be granted.

The franchise under which the company operates in the city of Pueblo establishes maximum rates for the various classes of service and further provides that the company shall pay into the city treasury of the city of Pueblo all that part of its gross receipts from the sale of gas as follows:

> "For the remainder of the year 1911, after the granting of this franchise, and for each of the years 1912, 1913, 1914, 1915, and 1916, all that portion of the gross receipts from the sale of gas in excess of an average of $1.05 per thousand cubic feet sold; for each of the years 1917, 1918, 1919, 1920, and 1921, all that portion of the gross receipts from the sale of all gas in excess of an average of $1.00 per thousand cubic feet sold; for each of the years 1922, 1923, 1924, 1925 and 1926, all that portion of the gross receipts from the sale of all gas in excess of an average of 95 cents per 1,000 cubic feet sold; for each of the years 1927, 1928, 1929, 1930 and 1931, all that portion of the gross receipts from the sale of all gas in excess of an average of 90 cents per thousand cubic feet sold; for each of the years 1932, 1933, 1934, 1935 and 1936, all that portion of the gross receipts from the sale of all gas in excess of an average of 85 cents per thousand cubic feet sold. Said company further agrees, however, to adjust its rates so far as it is possible so that said rates shall be reduced to consumers rather than any excess to be paid to said city."

The rates and charges which the Commission will establish in its order in this case will exceed in some respects the maximum rates permitted by franchise. The average receipts from the sale of all gas will likewise be in excess of $1.00 per thousand cubic feet, and the franchise provides that that portion of such receipts in excess of $1.00 per thousand cubic feet shall be paid into the treasury of the city of Pueblo.

The Commission has held many times that rates established by franchise are not binding upon the Commission and that the Commission may either increase or decrease such franchise rates as circumstances warrant. The provision in the franchise in this case to the effect that all receipts in excess of a certain stipulated average price per thousand cubic feet of gas sold shall be paid into the treasury of the city should not, in the opinion of the Commission, be binding upon the applicant during the present emergency. This provision is similar to that under which The Denver Gas & Electric Light Company operates in the city and county of Denver, and in Investigation and Suspension Docket No.30, decided November 9, 1918, the Commission held that such franchise provisions should be suspended until the further order of the Commission. The Commission's reasons for such action were clearly set out in the above case and do not need to be repeated here.

O R D E R.

IT IS THEREFORE ORDERED, That the applicant herein, The Pueblo Gas & Fuel Company, be, and it is hereby, permitted to establish on not less than five days' notice to the Commission and to the public by filing and posting in the manner prescribed in Section 16 of the Act, the following rates and charges for gas service:

Illuminating or Fuel Gas.

Rate:

For all consumption during the month, $1.40 per thousand cubic feet.

Prompt Payment Discount:

A discount of five cents per thousand cubic feet will be allowed on all bills paid within the discount period, providing that no discount shall be allowed on gas sold through prepayment meters.

Minimum Monthly Guarantee:

Each consumer must guarantee a minimum monthly bill of fifty cents net.

Industrial Fuel.

Rate:

A fixed charge of $9.00 per year per consumer, plus

A fixed charge of $30.00 per year per one hundred cubic feet of maximum demand, plus

Ninety cents per thousand cubic feet for the first fifty thousand cubic feet of gas consumed during the month, and sixty-five cents per thousand cubic feet for all consumption during the month in excess of fifty thousand cubic feet.

Prompt Payment Discount:

A discount of ten per cent will be allowed on all bills paid within the discount period.

Minimum Monthly Guarantee:

One-twelfth of the above yearly fixed charges is payable each month and constitutes the minimum gross monthly bill.

IT IS FURTHER ORDERED, That the provision of the franchise contained in Ordinance No.851 of the city of Pueblo, approved September 26, 1911, for the payment into the treasury of the city of Pueblo of all receipts in excess of a certain stipulated average price per thousand cubic feet of gas sold, above quoted, be, and the same is hereby, suspended, and that the applicant shall not be required to account to the city of Pueblo for gross receipts from the sale of all gas in excess of an average of $1.00 per thousand cubic feet sold from and after the effective date of the rates and charges herein permitted to be established and until the further order of the Commission.

IT IS FURTHER ORDERED, That the rates and charges herein established shall remain in force and effect until the further order of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Geo. T. Bradley

Irving J. Macintosh

A. Henderson

Commissioners.

Dated at Denver, Colorado,
this 18th day of December, 1918.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO. Decision No. 225

In the Matter of the Application of THE DENVER TRAMWAY COMPANY, for the determination by the Commission of the just and reasonable rates, fares and charges to be hereafter paid and enforced on its street and interurban railway lines, and also for authority to change its existing traffic schedule rates, fares and charges, and to make and collect such fares, rates and charges in accordance with the determination and ruling of the Commission.

Application No.17.

(Supplemental Order)

Submitted December 30, 1918. Decided December 30,1918

Appearances:
Gerald Hughes, for The Denver Tramway Company, Messrs.A.L. Vogl, John A.Rush and E.W.Hurlbut, for The Consumers' League of Denver; John A.Rush, pro se; Jas.A.Marsh, for the city and county of Denver.

STATEMENT AND ORDER.

By the Commission:

On December 26, 1918, John A.Rush, pro se, and for all others similarly situated, and The Consumers' League of Denver, filed in the above cause their application for an order modifying the order heretofore made herein, and to require The Denver Tramway Company to give to each person paying a 7-cent fare and 1 cent for transfers a slip or token representing the one cent additional in the case of the 7-cent fare and the 1-cent for transfers, which slips or tokens should be redeemed by The Denver Tramway Company in case the orders of this Commission herein shall be held to be void or made without jurisdiction.

The matter was set for hearing at the hearing room of the Commission at Denver, Colorado, at 1:00 o'clock p.m., December 30, 1918, whereupon argument was presented upon the application by counsel for The Consumers' League of Denver and John A.Rush, pro se, representing the petitioners, and by

Gerald Hughes, representing The Denver Tramway Company. At the conclusion of this argument the Commission announced that in view of the fact that the said petitioners herein withdrew from this case after the question of jurisdiction had been decided by the Commission, and refused to participate or take any part in the proceedings subsequent to the hearings on emergency relief, and took no part in the proceedings after that time, they were not in a position to make such application, and their petition was therefore denied.

Thereupon the Commission announced to Jas.A.Marsh, city attorney of the city and county of Denver, that the Commission would consider such application or motion as he deemed proper to make with reference to a return of fares in excess of those authorized by the emergency order of the Commission issued under date of September 12, 1918, in the event the jurisdiction of the Commission in this case should be denied by the Supreme Court. The Commission further stated that the city had been a party to the proceedings throughout the entire hearings and there was therefore no question as to its right to make such application.

Mr.Marsh then presented orally an application that the order of the Commission entered on the 17th day of December, 1918, be modified to the extent that, until the question of jurisdiction has been determined by the Supreme Court, The Denver Tramway Company be required to issue tokens or receipts showing the amount paid by passengers in excess of the fares specified in the order of the Commission in the so-called emergency relief case, issued September 12, 1918, and stated further that he would file, this date, a written application confirming his oral application. Said written application has been filed and the Commission considers that this is a matter in which the rights of the persons making such payments can only be protected by the issuance of some form of receipt or token by The Denver Tramway Company, there being no other manner in which the evidence or

identification of such payment by the passenger can be preserved.

The question of jurisdiction of the Commission is involved in this matter and is now before the Supreme Court in the case of the City and County of Denver, petitioner, v. The Public Utilities Commission of the State of Colorado and The Mountain States Telephone & Telegraph Co., respondents, being Case No.9443 in the Supreme Court of the state of Colorado; other cases involving the jurisdiction of this Commission over rates of utilities in the city and county of Denver are also pending in said court. It seems proper that until this matter has been decided the passengers should be protected in payments made should it ultimately prove that the Commission was without authority to regulate public utility rates in the city and county of Denver.

By the Commission's order of December 17, 1918, fares of 7 cents for adult passengers and 3½ cents for children over 6 years of age and under 12 years of age, were permitted to be collected by The Denver Tramway Company, the same being an increase of one cent and one-half cent, respectively, over the 6-cent fare and 3-cent half-fare authorized by order of this Commission issued September 12, 1918, with an additional charge of one cent for all transfers issued; this transfer charge being also an increase over the order of September 12, 1918, theretofore no charges for transfers having been made; that on December 24, 1918, The Denver Tramway Company filed its schedules with this Commission putting into effect as of December 26, 1918, the rates authorized by this Commission in its order of December 17, 1918.

O R D E R

IT IS THEREFORE ORDERED, That the application of John A.Rush, pro se, and for all others similarly situated, and The Consumers' League of Denver, above described, be and the same is hereby denied.

IT IS FURTHER ORDERED, That the application of the city and county of Denver in the above matter is hereby granted.

IT IS FURTHER ORDERED, That The Denver Tramway Company shall, commencing January 1, 1919, within the city and county of Denver, Colorado, issue to each passenger paying a 7-cent fare, or paying 7 cents for two half fares, a receipt or token for one cent, and to each passenger paying one cent for a transfer, a receipt or token for one cent, such tokens or receipts to be redeemed by said The Denver Tramway Company at one cent each in the event the jurisdiction of this Commission to regulate rates of public utilities operating within the city and county of Denver, Colorado, is denied by the Supreme Court of the State of Colorado, which question is now pending before said court in the case of the City and County of Denver, petitioner, v. The Public Utilities Commission of the State of Colorado and The Mountain States T.& T.Co., respondents, being Case No. 9443 in said court, and in other cases, and if such charge is not otherwise legally justified and authorized.

IT IS FURTHER ORDERED, That in the event the jurisdiction of this Commission to regulate rates within the city and county of Denver is upheld by said Supreme Court, in the aforesaid case, then said receipts shall be null and void and said The Denver Tramway Company shall be under no obligation to redeem the same.

IT IS FURTHER ORDERED, That this order shall also apply to passengers traveling in a continuous trip to or from territory contiguous to the city and county of Denver, for which trip a 6-cent fare formerly was charged and for which a 7-cent fare is now being charged.

IT IS FURTHER ORDERED, That the form of said tokens or receipts and the method of using and issuing the same, shall be subject to the approval of this Commission.

This order shall remain in effect until the further order of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Geo T. Bradley

Geo J. Williams

A F Anderson

Commissioners.

Dated at Denver, Colorado,
this 30th day of December, 1918.

(Decision No. 226)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION OF THE DENVER TRAMWAY COMPANY FOR THE DETERMINATION BY THE COMMISSION OF THE JUST AND REASONABLE RATES, FARES AND CHARGES TO BE HEREAFTER PAID AND ENFORCED ON ITS STREET AND INTERURBAN RAILWAY LINES, AND ALSO FOR AUTHORITY TO CHANGE ITS EXISTING TRAFFIC SCHEDULE RATES, FARES AND CHARGES, AND TO MAKE AND COLLECT SUCH FARES, RATES AND CHARGES IN ACCORDANCE WITH THE DETERMINATION AND RULING OF THE COMMISSION.

APPLICATION NO. 17.

STATEMENT.

By the Commission:

On the 17th day of December, 1918, the Commission issued its order in this cause on the petition of The Denver Tramway Company for a determination by the Commission of just and reasonable rates, fares and charges. On December 21, 1918, a petition was filed by the City and County of Denver applying for rehearing.

The Commission now being fully advised in the premises is of the opinion that the petition for rehearing should be denied.

ORDER.

IT IS THEREFORE ORDERED, That the petition for rehearing filed with the Commission on December 21, 1918, by the City and County of Denver be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. T. Bradley

Leroy J. Hilliard

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 31st day of December, 1918.

(Decision No. 227)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION OF THE PUEBLO GAS & FUEL COMPANY FOR DETERMINATION BY THE COMMISSION OF THE RATES AND CHARGES TO BE MADE FOR GAS SERVICE IN THE CITY OF PUEBLO.

APPLICATION NO. 20.

STATEMENT.

By the Commission:

On the 18th day of December, 1918, the Commission issued its order in this cause permitting The Pueblo Gas & Fuel Company to make certain changes and increases in its rates for gas service in the city of Pueblo. On the 26th day of December, 1918, a petition for rehearing was filed by the city of Pueblo, one of the parties to the case.

The Commission now being fully advised in the premises is of the opinion that the petition for rehearing should be denied.

ORDER.

IT IS THEREFORE ORDERED, That the petition for rehearing filed with the Commission on December 26, 1918, by the city of Pueblo be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. L. Bradley

Leroy J. Hilliard

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 31st day of December, 1918.

ORIGINAL Decision No. 228

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the Board of County Commissioners of Washington County for permission to construct a public highway crossing over the tracks of the Chicago, Burlington & Quincy Railroad between ranges 53 and 54, township 2 North, Washington County, Colorado.	)	Application No. 26.

(January 6, 1919.)

STATEMENT.

By the Commission:

This proceeding arises upon application of the Board of County Commissioners of Washington County, Colorado, in compliance with Section 29 of the Public Utilities Act of Colorado as amended April 16, 1917, for permission to construct a public highway crossing over the tracks of the Chicago, Burlington & Quincy Railroad on the range line between ranges 53 and 54, township 2 North, Washington County, Colorado.

Under date of December 17, 1918 the Chicago, Burlington & Quincy Railroad, through its attorney, Mr. E. E. Whitted, advised the Commission that the railroad company had reached an agreement with the representatives of Washington County whereby the interested inhabitants of Washington County had agreed to pay all expense incident to the opening and construction of the crossing, with the exception of the expense incident to the installation of the necessary wing fences and cattle guards.

Under date of December 18, 1918, the Board of County Commissioners of Washington County was advised of the position of the railroad company, and under date of December 19, 1918, Mr. R. A. Ed-

mondson, clerk of the Board, advised the Commission that the County Commissioners of Washington County agreed to the proposition as outlined in Mr. Whitted's letter to the Commission.

It appearing that there is no reason why this application should not be granted and it appearing further that the Board of County Commissioners of Washington County and the Chicago, Burlington & Quincy Railroad have agreed to the issuance of an order without a hearing upon this application, the Commission will issue an order permitting the construction of this highway crossing in conformity with the provisions of Section 29 of the Public Utilities Act of Colorado as amended April 16, 1917, and in conformity with the agreement entered into by the Board of County Commissioners of Washington County and the Chicago, Burlington & Quincy Railroad.

O R D E R.

IT IS THEREFORE ORDERED, That the applicant, the Board of County Commissioners of Washington County, Colorado, be, and it is hereby, permitted to construct a highway crossing over the Chicago, Burlington & Quincy Railroad tracks on the range line between ranges 53 and 54, township 2 North, Washington County, Colorado, in accordance with the provisions of the Commission's order in Case No. 56, issued May 27, 1916.

IT IS FURTHER ORDERED, That all expense incident to the opening and construction of the crossing described herein shall be borne by Washington County, with the exception of the expense incident to the installation of the necessary wing fences and cattle guards, which expense shall be borne by the Chicago, Burlington & Quincy Railroad.

The Commission reserves the right to make such further orders relative to the construction, operation, maintenance and protection of this crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. L. Brandt

Leroy J. Williams

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 6th day of January, 1919.

(Decision No. 229)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION OF THE DENVER TRAMWAY COMPANY FOR THE DETERMINATION BY THE COMMISSION OF THE JUST AND REASONABLE RATES, FARES AND CHARGES TO BE HEREAFTER PAID AND ENFORCED ON ITS STREET AND INTERURBAN RAILWAY LINES, AND ALSO FOR AUTHORITY TO CHANGE ITS EXISTING TRAFFIC SCHEDULE RATES, FARES AND CHARGES, AND TO MAKE AND COLLECT SUCH FARES, RATES AND CHARGES IN ACCORDANCE WITH THE DETERMINATION AND RULING OF THE COMMISSION.

APPLICATION NO. 17.

STATEMENT.

By the Commission:

On the 17th day of December, 1918, the Commission issued its order in this cause on the petition of The Denver Tramway Company for a determination by the Commission of just and reasonable rates, fares and charges. On December 21, 1918, a petition was filed by the City and County of Denver applying for rehearing. On December 31, 1918, the Commission issued an order denying the petition for rehearing.

In view of the fact that the order denying the motion for rehearing in this cause was made without oral argument and oral argument is now desired upon the hearing of the said motion, the order denying the motion for rehearing is therefore set aside, vacated and held for naught, and the hearing on said motion for a rehearing set for Monday, January 13, 1919, at 2 p. m.

ORDER.

IT IS THEREFORE ORDERED, That the order of the Commission dated December 31, 1918, denying the petition for rehearing be, and the same is hereby, set aside, vacated and held for naught, and a hearing on said motion for rehearing set for Monday, January 13, 1919, at 2 p. m.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. T. Bradley

Leroy J. Williams

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 9th day of January, 1919.

(Decision No. 224)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

BOARD OF COUNTY COMMISSIONERS OF PARK COUNTY, COLORADO, et al, Plaintiffs, v. THE COLORADO MIDLAND RAILROAD COMPANY, et al, Defendants, and THE PEOPLE, ex rel. ATTORNEY GENERAL, Intervenor.	Cases Nos. 156 and 161. (Consolidated)
THE COLORADO MIDLAND SHIPPERS ASSOCIATION, Complainant, v. THE COLORADO MIDLAND RAILROAD COMPANY, et al, Defendants.	

STATEMENT.

By the Commission:

On January 15, 1919, the Commission issued its order in this cause. On the 7th day of February, 1919, the Board of County Commissioners of Park county, The Colorado Midland Shippers Association, The Rocky Mountain Fuel Company and the Attorney General of Colorado filed their joint petition with the Commission praying for a rehearing of the above cause, and as grounds for such motion alleged certain error on the part of the Commission.

The said order contained certain recommendations directed to the United States Railroad Administration, and immediately on issuance of the order a copy of the same was transmitted to the general counsel for the United States Railroad Administration. These recommendations were likewise presented to said general counsel personally by the chairman of the Commission on January 25, 1919, who was informed that the recommendations had already received the attention of the United States Railroad Administration. Since that date the Commission has not been advised as to any action taken upon these recommendations. There is nothing, therefore, with reference to the recommendations to justify a rehearing of the cause. The matters stated in the motion for rehearing do not, in the judgment of the Commission, afford sufficient reason for a rehearing herein.

The Commission being now fully advised in the premises is of the opinion that the petition for rehearing should be denied.

O R D E R.

IT IS THEREFORE ORDERED, That the petition for rehearing filed with the Commission on February 7, 1919, by the Board of County Commissioners of Park county, the Colorado Midland Shippers Association, The Rocky Mountain Fuel Company and the Attorney General of Colorado, be, and it is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Leroy J. Mecham

A. P. Anderson

Commissioners.
(Commissioner Grant P. Halderman not participating.)

Dated at Denver, Colorado,
this 18th day of February, 1919.

ORIGINAL

(Decision No. 237)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE BIG FIVE MINING COMPANY v. THE DENVER, BOULDER AND WESTERN RAILROAD COMPANY.

CASE NO. 98

(MARCH 13, 1919.)

STATEMENT.

By the Commission.

IT APPEARING, That on February 24, 1917, the Commission issued an order in this cause requiring the defendant to not remove its spur track, and holding the cause open for a reasonable time in order that the complainant might introduce further evidence with respect to the amount of tonnage, and there has been no prosecution of the cause, the Commission is of the opinion that the same should be dismissed from the docket.

ORDER.

IT IS THEREFORE ORDERED, That this cause be, and the same is, hereby dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Leroy J. Williams

A. T. Anderson

Grant C. Hall

Commissioners.

Dated at Denver, Colorado,
this 13th day of March, 1919.

ORIGINAL

(Decision No. 240)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CITY OF GRAND JUNCTION

v.

THE GRAND RIVER VALLEY RAILWAY COMPANY.

Case No. 158

(April 2, 1919.)

STATEMENT.

By the Commission:

It appearing that the complainant in this cause has advised the Commission that the complaint may be dismissed.

ORDER.

IT IS THEREFORE ORDERED, That this cause be, and the same is hereby, dismissed, without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Leroy J. Williams

A T Anderson

Grant E. Hall Foreman

Commissioners.

Dated at Denver, Colorado,
this 2nd day of April, 1919.

ORIGINAL

(Decision No. 855)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of D.C. Converse for the opening of a Public Highway Crossing over the tracks of the Chicago, Burlington & Quincy Railroad, in Weld County, Colo.) Application No. 38.

(June 13 , 1919)

STATEMENT.

By the Commission:

This proceeding arises upon the application of D. C. Converse, in compliance with Section 29 of the Public Utilities Act of Colorado as amended April 16, 1917, for the opening of a public highway crossing at grade over the tracks of the Chicago, Burlington & Quincy Railroad on the section line between Sections 20 and 29, Twp. 1 N, R 65 W, Weld County, Colorado.

An investigation into the necessity for the opening of a public highway crossing at this point was made by the Commission's engineer on February 27, 1919. He found, and so reported to the Commission, that in this vicinity there are two private crossings used more or less as public highways, one on the line between Sections 20 and 21 and one on the line between Sections 20 and 29, the last mentioned being that which applicant requests be opened as a public highway crossing; that inasmuch as these crossings are within one-half mile of each other, it would be reasonable if one were made a public crossing and the other closed, or at least made a strictly private crossing. In his report

the engineer recommended that a public highway crossing be opened on the line between Sections 20 and 21, rather than on the line between Sections 20 and 29, as requested by applicant. In support of his recommendation that a crossing be located at this point he gave the following reasons: It equally divides the distance between existing crossings; it furnishes a direct route to Hudson for ranchers living east of the railroad tracks; it affords an unobstructed view of approaching trains, while at the point of the proposed crossing between Sections 20 and 29 the view of westbound trains would be obstructed to highway traffic approaching the crossing from the east by a small hill.

At a meeting of the board of county commissioners of Weld County, held at Greeley March 4, 1919, and at which this Commission was represented by Charles D. Vail, its railway engineer, it was agreed that only one of the two crossings mentioned above should be opened as public highway crossings. On April 5, 1919, a further inspection of the two sites proposed for the crossing was made by Commissioner J. W. Birkle of the County Board of Weld County and Commissioner Grant E. Halderman and Engineer Vail on behalf of this Commission. Final agreement was reached for the opening of a public highway crossing on the line between Sections 20 and 21 (the county to do the grading and the railroad to do the crossing, cattle guards and fence work;) and that a private crossing be established for the use of land owners at a point contiguous to the present crossing on the line between Sections 20 and 29, aforesaid.

O R D E R

IT IS THEREFORE ORDERED, That, in accordance with Section 29 of the Public Utilities Act of Colorado as amended April 16, 1917, a public highway crossing at grade be, and the same is hereby, permitted to be opened and established on the section line between Sections 20 and 21, Township 1 North, Range 65 West, Weld County, Colorado, where such section line intersects the main line of the Chicago, Burlington & Quincy Railroad.

IT IS FURTHER ORDERED, That the crossing at the point above described be constructed in accordance with plans and specifications prescribed in the Commission's order in Re Improvement of Grade Crossings in Colorado, 2 Colo. P.U.C. 128.

IT IS FURTHER ORDERED, That the Chicago, Burlington & Quincy Railroad shall open and establish said crossing and shall bear the expense necessary thereto, except that the County of Weld, Colorado, shall have performed the work of grading including such drainage as is necessary to the establishment of proper approaches to said crossing.

IT IS FURTHER ORDERED, That the private crossing between Sections 20 and 29 be permanently closed and that said railroad company open in lieu thereof a private crossing for the convenience of adjoining property owners at any point desirable but not less than 200 feet from the intersection of the section line between Sections 20 and 29 and the main line of the Chicago, Burlington & Quincy Railroad.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Leroy J. Williams

A. R. Lindgren

Isaac E. Stallcup

Dated at Denver, Colorado
this 13thday of June, 1919.

ORIGINAL

(Decision No. 290

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of Frank Titter of Eaton, Colorado, for a Certificate to Operate Freight and Express Service by Automobile Truck between Denver, Greeley and Nunn, Colorado.	) ( ) ( ) ( )	Application No. 42.

(October 11, 1919.)

Appearances: Frank Titter for himself.

STATEMENT.

By the Commission:

The applicant filed his application herein with the Commission May 20, 1919, alleging that as an individual he proposes to operate an automobile truck line as a common carrier of freight and express between Denver, Greeley and Nunn, and to and from said points; that at the present time there is not in operation any automobile truck line as a common carrier between said points for which application has been made or a certificate granted by the Commission for such operation; that the public convenience and necessity require the proposed operation; that no franchise or permits are required by any towns from the applicant in any territory through which it is proposed to operate; that applicant has filed with the Commission a schedule of the rates which he proposes to charge; that the equipment to be used in the proposed service consists of motor-driven vehicles; that applicant will not compete with any line operating between the points named for which a certificate has been issued. The applicant asks that the Commission make its order authorizing applicant to operate an automobile truck line as a common carrier of freight and express between the above named points.

At the hearing, which was held in the hearing room, State Capitol Building, Denver, Colorado, on September 26, 1919, the applicant, Frank Titter, testified that he had not yet engaged in the business proposed in his application; that he is now engaged in operating an automobile for the purpose of carrying passengers between Greeley, Eaton and Ault under a certificate heretofore granted by this Commission; that he had written letters to persons interested in The Denver & Northern Transportation Company proposing to take shares in said company or that they should drop out and allow him to organize the said company, but that he had never received an answer to said letters and had never heard from the company; that he is not now ready to go into the business and has no trucks available; that he does not now contemplate running a line between Denver and Greeley, as he has no equipment; that all of his equipment now is on another line.

After considering the evidence in this case, the Commission is of the opinion and so finds as to the service proposed to be established on the route named in the application herein that public convenience and necessity do not require its operation, as there are other similar lines now in operation adequate to take care of all the business; that a certificate of public convenience and necessity should not issue.

O R D E R.

A public hearing having been held in the above entitled cause and the cause having been submitted, for the reasons above assigned the Commission hereby declares that public convenience and necessity do not now require and will not require the operation by the applicant, Frank Titter, of the automobile truck line service proposed in the application herein. The application is therefore denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Leroy J. Williams

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 11th day of October, 1919.

(Decision No. 291)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of J. H. Franklin and M. C. Coffey for a Certificate of Public Convenience and Necessity for the operation of an Automobile Truck Line between Denver, Frederick, Firestone and Fort Lupton.

Application No. 47

October 11, 1919.

Appearances: M. C. Coffey for applicants.

STATEMENT.

By the Commission:

On June 13, 1919, application was filed herein by J. H. Franklin and M. C. Coffey praying that a certificate of public convenience and necessity be granted to them to operate an automobile truck line between Denver, Frederick, Firestone and Fort Lupton, Colorado. The application alleges that applicants are now engaged in the business of a common carrier between said points; that at present there is not in operation any automobile truck line as a common carrier between the points to and from which applicants propose operating for which application has been made or a certificate granted by the Commission; that the public convenience and necessity require such operation; that no franchises or permits have been obtained by applicants from the various towns on the route, as there are no requirements for the same in such towns. Applicants propose to charge rates on freight and express, including delivery charges, similar to those now

charged by express companies on commodities of a similar nature and for delivery at the same points, which schedule is on file with the Commission, and propose to operate on a schedule as shown by exhibit "A" attached thereto. The equipment to be used in the proposed service consists of motor-driven vehicles. Applicants will not compete with any line operating between the points named for which a certificate has been applied for or granted by the Commission for such operation.

Due notice was given to all parties herein concerned that this cause was set for hearing and a public hearing was held on August 14, 1919.

The testimony on behalf of applicants was that the applicants, J. H. Franklin and M. C. Coffey, comprise a partnership; that applicants are now operating automobile trucks on a regular schedule between Denver, Frederick, Firestone and Fort Lupton, leaving Denver Mondays, Wednesdays and Fridays and returning the same days - three round trips a week; that the above towns are all railroad points; that the applicants have now invested the sum of $1,800.00 in motor truck equipment; that applicants have a license from the city and county of Denver, the only town on their route which requires a license. At the hearing Mr. A. W. Fitzgerald, attorney for The Green Transfer Company in Application No. 51, stated that there was no conflict between the applicants' proposed line and the line of The Green Transfer Company, which he represented, and that his clients had no objection to the issuing of the certificate asked for. Mr. Earl M. Cranston, also being present and representing The Denver & Northern Transportation Company in Application No. 48, also stated that there was no conflict between the line of The Denver & Northern Transportation Company and the proposed line. The evidence, however, disclosed that Fort Lupton, which is the northern terminus of the route

herein proposed, is also an intermediate point on the route for which a certificate is applied for by The Denver & Northern Transportation Company in Application No. 48. However, the town of Fort Lupton is to be reached by the two companies by different routes from Denver. The evidence also discloses that the applicants have been operating their line continuously since about June 25, 1919.

After considering the evidence in this case, the Commission is of the opinion and so finds as to the service proposed to be established on the route named in the application herein, viz., from Denver to Frederick, Firestone and Fort Lupton, that the operation of this route will furnish an adequate and convenient method for the transportation of freight, and that public convenience and necessity require its operation, and that a certificate of public convenience and necessity should issue.

O R D E R.

A public hearing having been held in the above entitled cause and the case having been submitted, the Commission hereby declares that public convenience and necessity require and will require the operation by J. H. Franklin and M. C. Coffey of an automobile truck line service between Denver, Frederick, Firestone and Fort Lupton; provided, that this declaration shall not become effective until the applicants have filed herein certified copies of permits granted by the cities and towns above named or have filed with this Commission a certificate that no such permits are required by the said cities and towns, in accordance with the provisions of Section 35 of the Public

Utilities Act, as approved April 16, 1917.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Leroy J. Williams

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 11th day of October, 1919.

ORIGINAL

(Decision No. 292)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Denver & Northern Transportation Company for a Certificate, in accordance with Section 35 of the Public Utilities Act, for the operation of Freight and Express Service by Automobile Truck between Denver and Greeley and Eaton, Colorado.

APPLICATION NO. 48

(October 11, 1919.)

Appearances: Earl M. Cranston, for the applicant; A. T. Monson, for The Denver-Greeley Motor Express; J. I. Hollingsworth, for The Liberty Transportation and Express Company.

STATEMENT

By the Commission:

On June 28, 1919, an application was filed herein by The Denver & Northern Transportation Company praying that a certificate of public convenience and necessity be issued to it to operate an automobile truck line as a common carrier of freight and express between Denver, Colorado, and Greeley and Eaton, Colorado, and to and from towns and places intermediate and in the vicinity of those named. The applicant alleges that The Denver & Northern Transportation Company is a corporation duly organized and existing under and by virtue of the laws of the state of Colorado; that a certified copy of the articles of incorporation is attached to the application; that the equipment proposed to be used consists of one or more motor-driven vehicles operating each day of the week, except Sundays, in each direction; that the

public convenience and necessity require the proposed operation; that at the present time there is not in operation any automobile truck line as a common carrier between the points to and from those above named for the operation of which this Commission has granted a certificate; that no franchise or permits have been obtained by the applicant from any towns or cities for the reason that there is no requirement for the same in the territory through which it is proposed to operate; that the applicant has filed attached to its application the schedule of rates proposed to be charged on such freight and express matter.

A public hearing in the above cause was begun in the hearing room of the Commission in the State Capitol, Denver, Colorado, August 14, 1919, and was postponed until September 26, 1919, at which time the hearing was concluded.

The testimony on behalf of the applicant is that it now owns and operates two 2-ton trucks that carry perishable, as well as other high-class, freight; that trucks leave Denver at 3 a.m., arriving at Greeley between 7 and 8 and not later than 8 a.m.; that in this way freight is delivered to the merchants as they are opening their establishments for the business of the day; that such delivery allows the merchants to receive commodities in fresh condition, saving the extra handling that would be required in the shipment by railroad; that applicant has so operated about 3 months; that the rates charged in most cases are the same as those charged by the railroad, but in some instances are a little higher; that the expense to the customer, however, is less than shipments by railroad on account of the saving of the extra handling; that

in this way goods are delivered to Greeley and Eaton about three and a half hours earlier than they could be delivered by the railroad; that the applicant has invested about $9,000.00 in its said business; that applicant is incorporated for the sum of $10,000.00, which certificate is on file with the Commission; that no passengers are to be carried by the applicant; that before a certificate is issued the applicant will file with the Commission a complete description of its trucks and equipment, including names of machines, numbers of engines, models, and numbers of state licenses, certified copies of city or county licenses where they are required and a certificate to that effect when licenses are not required, a time table and schedule of the rates under which applicant operates, showing the rates between all points. It was further shown that at the present time the Denver-Greeley Motor Express and The Liberty Transportation & Express Company are also operating automobile truck lines in competition with applicant between Denver and Greeley.

After considering the evidence in this case, the Commission is of the opinion and so finds as to the service performed and proposed to be established on the route named in the application herein, namely, between Denver, Greeley and Eaton, that the operation of this automobile truck line furnishes/an adequate and convenient method for the transportation of freight and express, and that public convenience and necessity require its operation, and that a certificate of public convenience and necessity should issue.

ORDER.

A public hearing having been held in the above entitled

cause and the case having been submitted, the Commission hereby declares that public convenience and necessity require and will require the operation by The Denver & Northern Transportation Company of an automobile truck line service between Denver, Greeley and Eaton.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Leroy J. Williams

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 11th day of October, 1919.

ORIGINAL

(Decision No. 293)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of Charles E. Barkley and Harry E. F. Hoffman, doing business under the firm name and style of the Denver-Greeley-Motor Express, for a Certificate, under Section 35 of the Public Utilities Act, for the Operation of an Automobile Truck Line between Denver and Greeley, Colorado.

Application No. 55.

(October 11, 1919.)

Appearances: A. T. Monson, Esq., for the Denver-Greeley Motor Express; Earl M. Cranston, Esq., for The Denver & Northern Transportation Company; J. I. Hollingsworth, Esq., for The Liberty Transportation & Express Company.

STATEMENT.

By the Commission:

On August 19, 1919, an application was filed herein by Charles E. Barkley and Harry E. F. Hoffman, doing business under the firm name and style of the Denver-Greeley Motor Express, praying that a certificate of public convenience and necessity be issued for the operation by them of an automobile truck line as a common carrier of freight and express between Denver and Greeley, Colorado.

The application alleges that applicants are engaged in the business of motor truck transfer and transportation between Denver and Greeley, and that their chief business consists in hauling and transporting merchandise of every kind and character between said points and also to and from the smaller towns between said points; that the route followed by them is the main traveled Lincoln Highway between Denver and Greeley; that applicants compose a copartnership doing business under the name and style of the Denver-Greeley Motor Express, and that they have been engaged in the business of hauling and transporting merchandise by motor truck since

April 1, 1919; that there are three other concerns engaged in the same business - The Denver & Northern Transportation Company, The Mountain & Plains Transportation Company and The Liberty Transportation & Express Company - and that these, together with applicants, were the first to engage in this business; that the present and future public convenience and necessity require and will require the carrying on of the business aforesaid by applicants, and that in the event this Commission should feel disposed to curtail or prevent the carrying on of said business by any of the concerns which have commenced operations it should do so with those concerns which have commenced operations subsequent to applicants; that the application would have been made at an earlier date had applicants been familiar with the law governing such applications; that a copy of the operating schedule and the rate schedule of applicants is attached thereto and marked exhibits "A" and "B" respectively and filed therewith.

A hearing was held in the hearing room of the Commission, Capitol Building, Denver, Colorado, on September 26, 1919, which hearing was also a continuation of the hearing on Application No. 48 of The Denver & Northern Transportation Company, had August 14, 1919. Before Application No. 48 was decided, the application of Charles E. Barkley and Harry E. F. Hoffman was filed with the Commission as Application No. 55, while during the same period the application of The Liberty Transportation & Express Company, which is engaged in the motor transportation business in the same territory, was filed as Application No. 58. The Commission, therefore, deemed it advisable to hear and consider at the same time all of the applications covering this territory before issuing a final order. Accordingly, all hearings on applications affecting such territory were set for September 26, 1919.

The evidence in the present case is that the applicants, Charles E. Barkley and Harry E. Hoffman, constitute a copartnership under the name of the Denver-Greeley Motor Express; that they are conducting an

automobile transportation route, hauling beef, merchandise, etc., between Denver and Greeley and to other intermediate towns; that applicants have been so engaged since April 2, 1919, and have operated continuously on a schedule between Denver and Greeley, making a round trip daily except Sunday and Monday of each week; that applicants make a specialty of early service, reaching the various points before the same class of freight is delivered by the railroads; that applicants use two motor trucks in their business, and have an approximate investment therein of $5,000.00; that the manner in which applicants handle freight is a public convenience and is a necessity to their patrons; that applicants handle no passenger traffic; that they have a transfer license in Denver and a state auto license; that the city of Greeley does not require a license; that applicants have filed a schedule of rates with the Commission, together with time of leaving and arrival; that they will file with the Commission their engine numbers and full description of their motor trucks, together with all required licenses or permits from towns along the route, before the issuance of a certificate.

After due consideration of the evidence in this case, the Commission is of the opinion and so finds that the service afforded and maintained and the operation of the route described in the application will furnish adequate and convenient methods for transporting freight and express, and that the public necessity and convenience require and will require the operation of said route by the Denver-Greeley Motor Express, and that a certificate of convenience and necessity should issue.

ORDER.

A public hearing having been held in the above entitled cause and the same having been duly submitted, the Commission hereby declares that the public convenience and necessity require and will require the

operation by the Denver-Greeley Motor Express of an automobile truck line service between Denver and Greeley.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Commissioners.

Dated at Denver, Colorado,
this 11th day of October, 1919.

ORIGINAL

(Decision No. 2944

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Liberty Transportation and Express Company for a certificate, in accordance with Section 35 of the Public Utilities Act, for the operation of freight and express service by automobile truck between Denver and Greeley, Colorado.	)	Application No. 58.

(October 11, 1919.)

Appearances: J. I. Hollingsworth, for applicant;
A. T. Monson, for Denver Greeley Motor Express;
Earl M. Cranston, for The Denver and Northern Transportation Company.

STATEMENT.

By the Commission:

On September 22, 1919, an application was filed herein by The Liberty Transportation and Express Company praying that a certificate of public convenience and necessity be issued to it to operate an automobile truck line as a common carrier of freight and express between Denver and Greeley, Colorado, and to and from intermediate towns and places.

The application alleges that The Liberty Transportation and Express Company is engaged in the business of motor transfer and transportation between Denver and Greeley, and that its business consists in hauling and transporting merchandise of every kind and description between said points and also to and from the towns between said points, and the route followed by it is the main travelled Lincoln Highway between Denver and Greeley; that applicant has filed a certified copy of its articles of incorporation with the Commission; that Harry N. Bennett, one of the incorporators, began said truck line between said named towns and cities on February 15, 1919, and continued to carry on the business until August 10, 1919, when

a copartnership was formed with J. M. Ellis, another one of the incorporators of said corporation; that said copartnership continued until September 17, 1919, at which time the business was incorporated; that applicant has now in continued operation three trucks and has added others for extra business; that applicant would have made this application at an earlier date had it known that the laws required the same; that a copy of the operating time table of applicant, together with a copy of the rate schedule, is filed with the Commission and marked exhibits "1" and "2", respectively.

A hearing in the above matters was held in the hearing room of the Commission, Capitol Building, Denver, Colorado, on September 26, 1919, which hearing was also a continuation of the hearing on Application No. 48, the application of The Denver and Northern Transportation Company. After the first hearing in the case of The Denver and Northern Transportation Company on August 14, 1919, and before final decision by the Commission, this applicant, The Liberty Transportation and Express Company, filed its application, while during the same period there was also filed Application No. 55, the application of the Denver-Greeley Motor Express, both of which applications involved the same territory as the application of The Denver and Northern Transportation Company already under consideration. The Commission therefore deemed it advisable to hear and consider at the same time all of the applications affecting this territory before issuing a final order in any of the cases, and accordingly all of said applications were set for and heard on September 26, 1919.

The evidence in this case is that the applicant and its predecessors in interest have been engaged in the motor transportation business since the middle of February of the present year, operating between Denver and Greeley and intermediate points; that such operation has been continuous, comprising a round trip daily, except Sunday; that at present applicant has three motor trucks and is operating at full capacity; that applicant carries merchandise, fruit, hardware, implements, furniture and other articles; that no passengers are carried; that a copy of its

articles of incorporation is on file with the Commission; that before certificate issues applicant will file with this Commission a copy of the license required from the city and county of Denver and other towns and cities thru which it operates, and that where none is required a certificate from the town clerk that none is required will be filed with the Commission; that applicant has filed with the Commission a time schedule showing time of departures and arrivals at each town en route together with a schedule of the rate charged to and from each point; that applicant has now invested in its business from $12,000 to $14,000; that applicant will file with the Commission a description of all its motor vehicles together with numbers of all engines and licenses.

The Commission after duly considering all the evidence in this case is of the opinion and so finds as to the operations of the applicant and the service now established on the route named in the application, viz., between Denver and Greeley, that the operation of said described route will furnish an adequate and convenient method of transportation of freight and that the public convenience and necessity require and will require its operation, and that a certificate of public convenience and necessity should issue.

O R D E R.

A public hearing having been held in the above entitled cause and the same having been submitted, the Commission hereby declares that the public convenience and necessity require and will require the operation by The Liberty Transportation and Express Company of an automobile truck line service between Denver and Greeley.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Leroy J. Williams

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 11th day of October, 1919.

ORIGINAL

(Decision No. 295)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of David W. Paine for a Certificate to Operate a Motor Truck Transportation Line in Accordance with Section 35 of the Public Utilities Act Approved April 16, 1917.) APPLICATION NO. 56

(October 14, 1919.)

Appearances: A. T. Monson, Esq., for the applicant David W. Paine.

STATEMENT

By the Commission:

On August 25, 1919, an application was filed herein by David W. Paine, praying that a certificate of public convenience and necessity be issued to him for the operation of an automobile truck line as a common carrier of freight and express between Denver and Elizabeth, Colorado, and to and from intermediate towns and places.

In his application, applicant alleges that he is now engaged in motor truck transportation between Denver and Elizabeth, and has been engaged in such business since August 4, 1919; that the present and future public convenience and necessity require and will require the operation of the applicant's transportation line; that the chief business in which this transportation line is engaged is the hauling of milk and other merchandise between Denver and Elizabeth, and to and from other stations between these points; that applicant's equipment consists of one Dodge two-ton truck, which equipment will be

increased as business demands; that the route followed by applicant is the main travelled highway between Denver and Elizabeth, passing thru Parker and Franktown; that copies of applicant's rate and operating schedules, marked "A" and "B" respectively, are attached and made a part of the application.

This application was heard before the Commission in the hearing room, State Capitol Building, Denver, Colorado, September 26, 1919, at 10 a. m.

The evidence shows that the applicant, David W. Paine, lives at Elizabeth, Colorado, 42 miles distant from Denver; that he is engaged in hauling milk and other merchandise from Elizabeth to Denver and general freight from Denver to Elizabeth; that applicant operates on a schedule between said points, leaving Elizabeth at 7 o'clock a. m. and arriving at Denver at 10 a. m., passing thru Franktown and Parker; that applicant averages about 2,300 pounds of freight going into Denver and 3,000 pounds from Denver to Elizabeth; that operation by applicant of a motor truck line is a matter of public convenience and necessity both to applicant's patrons along this route and to his patrons in Denver, for the reason that he calls at the homes of his patrons, loads the milk early in the morning and delivers it direct in Denver while it is sweet. The evidence was further to the effect that applicant has invested in his business the sum of $2,200.00; that he has filed with the Commission a schedule of his rates, together with a schedule of the time of departure and arrival at all points along his route; that before a certificate is issued applicant will file with the Commission a full description of his motor truck, including number of engines; also he will file a copy of all licenses,where the same are required, and in towns where licenses are not required, a statement from the town to that effect.

The Commission after considering the evidence in this case finds as to the service now established and the route being now maintained and operated by the applicant, viz, between Denver and Elizabeth, that the operation of said motor truck line will furnish an adequate and convenient method and mode of transporting freight and commodities and that the public convenience and necessity require its operation, and that a certificate of public convenience and necessity should issue.

O R D E R

A public hearing having been held in the above entitled cause and the same having been duly submitted, the Commission hereby declares that the public necessity and convenience require and will require the operation by David W. Paine of an automobile truck line service between Denver and Elizabeth aforesaid.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Leroy J. Williams

A. J. Anderson

Commissioners.

Dated at Denver, Colorado,
this 14th day of October, 1919.

(Decision No. 799)

5 P.U.C. 880

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Cripple Creek Water Company to have its 9-inch supply pipe line included in the valuation of its plant, and to readjust the valuation of the water rights owned and used by said Company in supplying the City of Cripple Creek in accordance with a decree recently rendered by the District Court of Fremont County, Colorado and to have the water rates to its consumers adjusted in accordance therewith.

APPLICATION NO. 25

Submitted May 20, 1919. Decided November 10, 1919.

Appearances: J. E. and W. G. Simonson for The Cripple Creek Water Company; E. P. Arthur, Esq., Mayor, J. S. Anderson and William Mellen for the City of Cripple Creek.

STATEMENT.

By the Commission:

On August 7, 1918, The Cripple Creek Water Company, hereinafter called, "the Water Company," filed its application which stated in substance: That its system was originally constructed in 1893 with an 8-inch supply pipe line running from its mountain reservoir No. 2 to its "city reservoir" in Cripple Creek; that later this 8-inch pipe line was inadequate to furnish sufficient water supply for the inhabitants of Cripple Creek and for fire protection; that in 1901 a 9-inch pipe line was constructed to provide for such deficiencies; that on the hearing to fix water rates of the Water Company, this Commission found in reference to said 9-inch line, that such improvement had not been "wisely

and prudently made, and that the same cannot be considered by this Commission, in a rate making case, as property in use and useful today," (In re: Cripple Creek Water Company, 2 Colo. P.U.C. 55, 71.)

It was further alleged that this Commission deducted from the value of the properties of the Water Company the value of the 9-inch pipe line, although the evidence showed that such line had been in constant use since 1901 to the date of the previous hearing and ever since; that tests have been made which demonstrated that the 9-inch pipe line is a necessity in the operations of the Water Company; that the insurance rate in Cripple Creek is based on the use of the two separate lines, and the insurance rate would be much higher if the 9-inch line were not used; that on October 16, 1917, the City Council of the City of Cripple Creek passed a resolution, that in its judgment the 9-inch pipe line above described is a necessary, wise and useful adjunct to the water system and should be added by this Commission to the valuation of the Water Company's property.

It was further alleged that this Commission in its former decision found that the Water Company had title to and owned 7.22 cubic feet of water per second of time and placed a value thereon of only $28,000.00 for the reason that the evidence then taken showed that such water rights when purchased cost that amount, although, as it is alleged, the then market value thereof was $75,000.00; that since the former hearing the Water Company has caused its water rights to be adjudicated and obtained a decree for the diversion of 7.22 cubic feet of water per second of time from Beaver Creek, and that the Water Company was decreed to be the owner of such amount of water which was held to be equal to 2 cubic feet of water per second of time constant flow; that the decree so obtained further made provision for change of point of diversion, the use of water for

domestic purposes, and certain storage reservoir rights; that the expense of securing such decree was $3,500.00; that in view of said decree and the costs to obtain the same, this Commission is petitioned to reconsider and modify its former order and findings of value of the Water Company's plant and water rights and that a hearing be had to determine their present value. The Water Company also alleged that its net earnings for the year 1917 were $3,467.95, being 2.3 per cent of the $150,000.00 or valuation fixed by this Commission; that the Water Company's rates should be readjusted to earn 8 per cent on the present value of the water system.

The applicant then prays that this Commission add to the Water Company's valuation the present value of the 9-inch pipe line; the additional value above $28,000.00 the water rights are found to be worth, and to readjust the water rates to earn a fair rate of return on the total present value of the water system.

Pursuant to notice duly given to all parties in interest, the above cause came on for hearing before the Commission at the City Council chamber in Cripple Creek, Colorado, at the hour of 3:15 o'clock P. M., on May 20, 1919. At this hearing evidence was received by the Commission relative to the matters set forth in the application.

The Water Company introduced evidence to show that the 9-inch pipe line was a necessary part of the water system of Cripple Creek, by testimony of Mr. B. B. McReynolds, superintendent of the water department of Colorado Springs, and also introduced the resolution of the City Council of Cripple Creek, requesting the addition by this Commission of the value of the 9-inch pipe line to the valuation heretofore made. The value of this pipe line as given by the Commission's engineer at the previous hearing was $32,990.00, as of that

time.

On the question of the value of water rights the Water Company attempted to show the fair market value of these to be 7.22 cubic feet of water per second of time, at $10,000.00 per cubic foot, or $72,200.00; that the amount paid to adjudicate these rights was $3,011.77.

The Water Company also introduced the decree of the District Court of Fremont County, Colorado, by which changes of points of diversion of the Water Company's priorities theretofore made, for the purpose of supplying the city of Cripple Creek and the inhabitants thereof with water, from the original points of diversion to the reservoirs of petitioner, were permitted, ratified and confirmed; and it was further adjudged that the water to which the Water Company is entitled by virtue of its ownership of certain priorities is a total amount of 7.22 cubic feet of water per second of time, which may be diverted to reservoirs of the Water Company for the use only of the City of Cripple Creek and the inhabitants thereof, and that such water may be diverted at a rate not to exceed 2 cubic feet per second of time constant flow during the irrigation season.

Evidence was introduced by the Commission's statistician, Mr. F. W. Herbert, to show the financial condition of the Water Company at the date of the hearing. The income statement for 1916, 1917 and 1918 is as follows:

INCOME STATEMENT.

	Revenues	1916	1917	1918
501	Commercial Sales	23,798.25	20,932.06	17,776.19
503	Municipal Hydrant Rental	5,250.00	5,250.00	5,250.00
505	Sales to Municipal Depts.	480.00	296.50	70.00
	Total Operating Revenue	29,528.25	26,478.56	23,096.19
	Operating Expenses			
	Distribution			
701a	Superintendence	2,400.00	2,400.00	2,400.00
701b	Wages	3,013.40	3,803.25	2,860.50
711	Repairs-Reservoirs-Tanks-Standpipes	19.25	60.25	19.25
712	Repairs-Distribution Mains	184.45	872.48	174.84
713	Repairs-Services	69.07		
	Commercial Expense			
742	Office Supplies and Expense	353.09	338.88	374.30
	General Expense			
761	Salaries General Officers	1,000.00	1,000.00	1,000.00
766	Expense-General	158.77	200.46	132.93
767	Law Expense	260.90	512.30	250.00
	Total above items	7,458.93	9,187.62	7,212.07
775	Depreciation	6,827.83	6,925.78	6,925.78
779	Taxes	5,733.05	6,902.41	8,523.46
	Total Operating Expense	20,019.81	23,015.81	22,661.31
	Net Operating Revenue	9,508.44	3,462.75	434.88

READJUSTMENT OF INCOME

In its decision in Case No. 31 the Commission found $2,500.00 to be the proper amount to be set aside annually as a depreciation reserve. The amount charged to depreciation by the Water Company, however, was $6,827.83 for the year 1916, $6,925.78 for 1917 and $6,925.78 for 1918. The difference between the amount actually charged for depreciation by the Water Company and that permitted by the Commission by its order in

Case No. 31 is therefore shown to be the following:

	1916	1917	1918
Amount charged by Water Company	$6,827.83	6,925.78	6,925.78
Amount permitted by Commission	2,500.00	2,500.00	2,500.00
Difference	$4,327.83	4,425.78	4,425.78

It follows that if the Water Company had set aside $2,500.00 as the annual depreciation charge for each of these three years instead of the amounts which it actually did set aside, it would make a better showing as to net operating revenue. A proper readjustment of income is brought about by adding the difference between the actual amount charged by the Water Company and that permitted by the Commission to the net operating revenue for each of the three years as set out in Income Statement reproduced above. This readjustment follows:

	1916	1917	1918
Net Operating Income as per Income Statement	$9,508.44	3,462.75	434.88
Add difference in depreciation	4,327.83	4,425.78	4,425.78
Total Net Operating Revenue	$13,836.27	7,888.53	4,860.66

No serious attempt was made by the city of Cripple Creek to dispute the evidence produced, except to show that property generally had depreciated greatly in market value in the city of Cripple Creek.

The Commission has again considered the question of whether the 9-inch pipe line is in use and useful as a part of the water system of the Water Company and finds that the evidence sustains the contention of the Water Company that such 9-inch pipe line is in use and useful as a part of the water system of the Water Company, and further finds that the value of the 9-inch pipe line is $31,248.00, which sum shall be and is hereby added to the sum of $150,000.00 heretofore found by this

Commission as the value of the Water Company's system.

As to the contention that the sum of $72,200.00 should be adopted as the value of the water rights of the Water Company instead of $28,000.00, the Commission declines to find such additional value upon the evidence submitted.

Upon the former hearing the Commission accepted the original cost as the proper measure of value as against "the so-called market value of these water rights." Furthermore, since the decision of this Commission, the Supreme Court of the United States, in Denver v. Denver Union Water Co., 246 U.S. 176, 62 L. E. 649, had before it the question of whether there is actual ownership of water, or whether a carrying company diverting water for the beneficial use of others is agent or quasi-trustee of the consumers, and is not itself the owner of the rights of diversion. The court declined to pass upon the question as not necessary to its decision, and this Commission will not do so, as even if the excess value is allowed, it is impossible for the Commission to grant rates which would earn an adequate return upon such sum, as such rates would exceed the value of the service. The Commission will allow, however, the sum of $3,011.77 paid by the Water Company for the adjudication of its water rights, as an addition to the value of $150,000.00 heretofore placed upon the Water Company's system, and finds that such sum of $3,011.77 shall be and is hereby added to the sum of $150,000.00 heretofore found by this Commission as the value of the Water Company's system.

Referring to the income statement above set forth it will be noted that while the Commercial sales have decreased considerably since 1916, the taxes have increased. It also appears that there has been a very substantial decrease in the net operating revenue. The rates, however, cannot be substantially increased for the value of service in this community is about

reached in the present rates, except in some modifications hereafter made, and it is very doubtful if substantial increases were granted whether there would be any net gain to the Water Company, as there would likely be a reduction of use.

The Water Company is and has been disobeying the order of this Commission in Case No. 31 wherein the Water Company was ordered to set aside annually $2,500.00 as a depreciation requirement. The above statement shows that the Water Company set aside the amount of $6,827.83 for 1916 and $6,925.78 for 1917 and 1918, which shows a much lower per cent of return than the Company really earned. The former order of the Commission is still in effect and must be complied with by the Water Company.

The Commission finds that the following rates, set out in the order herein, are reasonable rates and should be substituted for the rates now on file with the Commission for the respective classes of service.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, The Cripple Creek Water Company, be, and it is hereby, permitted to establish by filing and posting in the manner provided in Section 16 of the Public Utilities Act, the following rates and charges for water service:

ANNUAL WATER RATES.

Bakery, per oven	$15.00
Barber Shop, first chair	10.00
Barber Shop, each additional chair	3.00
Billiard Parlor, each table	2.50
Billiard Parlor, minimum charge	15.00
Blacksmith Shop, per forge	3.00
Blacksmith Shop, minimum charge	12.00
Boarding Houses, (see Hotel rate)	
Brick Work, per thousand, kiln count	0.15
Brick Yard, per gang of hands	20.00

Bottling Works, (or by Meter)	$24.00
Churches	10.00
Club Rooms	30.00
Cigar Factories, per hand	2.00
Cigar Factories, minimum charge	5.00
Cigar Stores, on foot front basis	
Cigar Stores, minimum charge	15.00
Cow, per head	3.00
City Hall, Fire Stations, and other uses not provided for in Hydrant Rental	60.00
Court House, by meter	
Fire Hydrants, for the first 100 (minimum use by City) each	52.50
Fire Hydrants in excess of 100, each	45.00
Fountains, Soda	20.00
Fountains, drinking, when in use, per mo.	2.50
Fountains, ornamental or vegetable, by meter	
Carage, public, on store front basis or by meter	
Garage, private	2.00
Halls	12.00
Horse, per head	3.00
Hospitals, by meter	
Hotels, each room with water connection	2.00
Hotels, each room without water connection	1.50
Hotel, dining room, per table chair	1.00
Hotel, dining room, per stool at counter	2.00
Laundry, by meter rate	
Livery Stable, per stall	2.00
Livery Stable, minimum charge	24.00
Photograph Gallery, (or by meter)	15.00
Offices, dentist or surgeon	8.00
Offices, not otherwise specified	5.00
Residences, rate for each family-	
1 to 4 rooms	10.00
5 to 6 rooms	12.00
7 to 8 rooms	14.00
8 to 9 rooms	16.00
Residences of more than 10 rooms use hotel rate	
Restaurants, per table chair	1.00
Restaurants, per stool at counter	2.00
Restaurants, minimum charge	30.00
Steam Boilers, minimum charge, or by meter	16.00
Sprinkling, lawn or garden, per season, per lot of 25 feet or less	2.00
Stores, drug, (soda fountain extra)	30.00
Stores, confectionery, (soda fountain extra)	25.00
Stores, meat or butcher shops	20.00
Stores, not otherwise specified including offices on first floor, street front 12½ foot front or less	10.00
12½ to 25 foot front	20.00
25 to 50 foot front	30.00
Stores, in excess of 50 foot front, per foot front	0.60
Watering Troughs, when in use, per month	10.00

In addition to the above flat rates, the following annual charges will be made for bath

tubs, water closets and urinals:

Bath tubs, private house	$ 6.00
Bath tubs, hotel or boarding house,....	10.00
Bath tubs, barber shop or public	18.00
Water closets, private house	6.00
Water closets, business house, private use	7.50
Water closets, hotels or boarding house	10.00
Water closets, billiard parlor and cigar stores, public use	15.00
Urinals, private	6.00
Urinals, public	10.00

METER RATES

For	the	first	10,000	gal.,	per	month,	50¢	per	M.	gal.
"	"	next	10,000	"	"	"	40¢	"	"	"
"	"	"	20,000	"	"	"	30¢	"	"	"
"	"	"	40,000	"	"	"	20¢	"	"	"

For all water used in excess of 80,000 gallons, per month, 18¢ per M. gallons.

IT IS FURTHER ORDERED, That the foregoing rates and charges shall apply to all service rendered by the applicant on and after January 1, 1920.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Leroy J. Williams

Isaac E. Stephenson

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
this 10th day of November, 1919.

ORIGINAL

(Decision No.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Smuggler Leasing Company, a corporation,	)	
Complainant,	)	
v.	)	CASE NO. 178
The Roaring Fork Electric Light & Power Company, a corporation,	)	
Defendant.	)	

(January 8, 1920.)

Appearances: Hughes & Dorsey and E. I. Thayer, for complainant; Pershing, Nye, Fry & Tallmadge and Robert G. Bosworth, for defendant.

STATEMENT

By the Commission:

On January 16, 1919, The Roaring Fork Electric Light & Power Company, hereinafter called the Electric Company, filed with this Commission rate schedule P.U.C. Colo. No. 3, cancelling rate schedule P.U.C. No. 2, advancing rates for electric service at Aspen, Colorado. On February 27, 1919, the proposed rates were suspended, and on April 25, 1919, an order was entered which permitted the schedule to become effective, with certain modifications as specified in such order.

On July 14, 1919, The Smuggler Leasing Company, filed its complaint herein, alleging that the rates for power established by the above new schedule are unreasonable, unjust, and discriminatory, and requesting this Commission to investigate the reasonableness of such rates.

The Electric Company filed a demurrer, alleging that the Commission has no jurisdiction to hear or determine the matters alleged

in the complaint, and relied upon the following provision of the Public Utilities Act to support its contention:

Section 45, page 493, Laws Colo., 1913:

> "Provided, that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates, or charges of any gas, electrical, water, or telephone corporations, unless the same be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the county, city and county, or city or town, if any, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers or prospective consumers or purchasers, of such gas, electrical, water or telephone service."

It appearing that the complaint is not signed as provided by the Act, it is necessary to sustain the demurrer. The Commission will, however, in view of the importance of the questions raised by the complaint, avail itself of the provisions of the Public Utilities Act, and this day order an investigation, on its own motion, of the reasonableness of the power rates of the Electric Company.

IT IS THEREFORE ORDERED, That the demurrer of The Roaring Fork Electric Light & Power Company to the complaint herein be and the same is hereby sustained, and the complaint dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Leroy J. Williams
A P Anderson
Grant E. Halderman
Commissioners.

Dated at Denver, Colorado,
this 8th day of January, 1920.

~~COPY~~ 3

(Decision No. 317 ~~316~~)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Denver Tramway Company for the determination by the Commission of the just and reasonable rates, fares and charges to be hereafter paid and enforced on its street and interurban railway lines, and also for authority to change its existing traffic schedule rates, fares and charges, and to make and collect such fares, rates and charges in accordance with the determination and ruling of the Commission.

Application No. 17.

(January 12, 1920.)

STATEMENT.

By the Commission:

On the 15th day of January, 1919, the Commission issued its order in the above entitled cause suspending certain increases in fares as specified in said order and continuing to February 15, 1919, the hearing on the motion for rehearing filed herein by the city and county of Denver. Subsequently thereto orders were issued deferring the hearing on the motion for rehearing until January 15, 1920.

Necessity being shown for further continuance of said hearing, the foregoing orders are hereby further modified in the following particulars only:

ORDER.

IT IS HEREBY ORDERED, That the hearing on the motion for rehearing filed herein by the city and county of Denver be, and the same is hereby, further continued until the further order of the

Commission, without prejudice to the right of the city and county of Denver, The Denver Tramway Company or this Commission to call a hearing on the motion for rehearing, and without prejudice to the right of any party to obtain a writ of review in this cause upon its final decision.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

LEROY J. WILLIAMS

(SEAL)

A. P. ANDERSON

GRANT E. HALDERMAN
Commissioners.

Dated at Denver, Colorado,
this 12th day of January, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

COPY

5

(Decision No. 318)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of C. A. Van Dorn, T. H. Wise and R. S. Hamilton, for a certificate of public convenience and necessity for the construction and operation of an electric light and power system in the town of Craig, Colorado.	)	Application No. 63.

(January 14, 1920.)

Appearances: C. A. Van Dorn, for applicants.

STATEMENT.

By the Commission:

This is an application for a certificate of public convenience and necessity to exercise the rights and privileges granted to the applicants by the town of Craig under Ordinance No. 97, passed and approved at a regular meeting of the board of trustees of the town of Craig on October 8, 1919. The application was filed with the Commission October 24, 1919. All parties were duly notified of the time and place of hearing and a hearing herein was had by the Commission on November 25, 1919. C. A. Van Dorn of Craig, Colorado, appeared for the applicants. There were no other appearances.

The testimony in the case shows that the above named applicants, C. A. Van Dorn, T. H. Wise and R. S. Hamilton, applied for a franchise, which was granted to them by the town of Craig for said purposes; that applicants thereafter duly assigned said franchise to The Craig Service Association, which assignment has been duly filed with this Commission; that applicants have organized The Craig Service Association for the purpose of constructing and operating the said electric light plant; that applicants now apply for and are desirous of obtaining a certificate of public convenience and necessity to be issued to The Craig Service Association for the

purposes aforesaid. The testimony also shows that there has been filed with the Public Utilities Commission a certified copy of the articles of incorporation of The Craig Service Association under the laws of Colorado. The testimony also shows that on November 19, 1919, there was filed with the Commission on the part of the town of Craig an answer to the application filed herein, admitting each and every allegation therein contained, and requesting that said certificate be issued as applied for. It further appears from the testimony that there is no other company now engaged in the public service of supplying electricity for said purposes in said territory; that there are no other means by which the town of Craig or its inhabitants or the surrounding country can be supplied with electricity for said purposes, except by the construction of a new plant; that the applicants are well known and substantial business men of the town of Craig; that there is now a demand and necessity for a supply of electricity for lighting, heating and power purposes in the town of Craig; that the said town is growing rapidly and is now a community of about 1,500 inhabitants, in Moffat County, Colorado; that the amount of money proposed to be invested in said plant is $25,000.00.

ORDER.

The Craig Service Association, as the assignee of the original applicants, having applied to this Commission for a certificate to exercise the rights granted under Ordinance No. 97 of the town of Craig, Colorado, and a public hearing having been held thereon, and the Public Utilities Commission being now fully advised in the premises, it is hereby declared that the present and future public convenience and necessity require, and will require, the exercise by The Craig Service Association, its successors and assigns, of the rights and privileges conferred by Ordinance No. 97 of the town of Craig, Colorado, passed and approved at a regular meeting of the board of trustees thereof on the

8th day of October, 1919.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

LEROY J. WILLIAMS

(SEAL)

A. P. ANDERSON

GRANT E. HALDERMAN
Commissioners.

Dated at Denver, Colorado,
this 14th day of January, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

319

(Decision No.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Application of The Western Colorado Power Company for a certificate of public convenience and necessity in the city of Montrose, Colorado.) Application No. 67.

(January 14, 1920.)

Appearances: Bulkeley Wells, for applicant.

STATEMENT.

By the Commission:

This is an application by The Western Colorado Power Company for a certificate of public convenience and necessity to exercise the rights and privileges granted by the city of Montrose under Ordinance No. 130, passed by the city council of the city of Montrose on September 22, 1919, and approved by a majority vote of the qualified electors who participated in a special election held on November 18, 1919. The application was filed with the Commission on December 27, 1919, and thereafter, on December 29, 1919, there was filed with the Commission a stipulation between The Western Colorado Power Company and the city of Montrose in which it was stipulated that the Public Utilities Commission might issue to The Western Colorado Power Company a certificate showing that public convenience and necessity require and will require the furnishing of electric service to the city of Montrose by The Western Colorado Power Company for lighting, heating and power purposes, and that said Company may exercise the rights and privileges granted by said franchise ordinance. Certified copies of Ordinance No. 130 passed by the city council of Montrose and of the canvass of the vote on Ordinance No. 130 cast at the special election of November 18, 1919, have been filed with the Commission, together with copies of the said franchise and of the articles of incorporation of applicant company. There has also been filed with the Commission a plat

of the city of Montrose showing the streets, avenues and other places occupied by applicant's system.

A public hearing in this case was held in the hearing room of the Commission on Friday, January 9, 1920. The testimony was that The Western Colorado Power Company is engaged in furnishing electric current for lighting, heating and power purposes in the city of Montrose; that there is no other public utility now engaged in supplying electricity for said purposes in said territory; that there are no other means by which the city or its inhabitants or the surrounding country can be supplied with electricity for said purposes; that the applicant has been engaged in supplying electricity for said purposes in the city of Montrose for some years past, and that the present franchise was obtained and granted by reason of the former franchise in said city having expired; that the capital invested in applicant's plant is $153,000.00. A fee of $25.00 for the issuance of the certificate herein required by the Commission has been paid to the Commission.

ORDER.

The Western Colorado Power Company having applied to this Commission for a certificate to exercise the rights granted to it by Ordinance No. 130 of the city of Montrose, Colorado, and a public hearing having been held thereon, and the Public Utilities Commission being now fully advised in the premises, it is hereby declared that the present and future public convenience and necessity require, and will require, the exercise by The Western Colorado Power Company, its successors and assigns, of the privileges conferred by Ordinance No. 130 of the city of Montrose, passed by the city council thereof on the 22nd day of September, 1919, and approved by a majority vote of the qualified electors participating in a special election held on the 18th day of November, 1919.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

LEROY J. WILLIAMS

A. P. ANDERSON

GRANT E. HALDEMAN
Commissioners.

(SEAL)

Dated at Denver, Colorado,
this 14th day of January, 1920.

322

(Decision No.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Application of Citizens of Peetz for opening of highway crossing at grade over tracks of Chicago, Burlington & Quincy Railroad at Peetz.) APPLICATION NO. 52.

(February 2, 1920.)

STATEMENT.

By the Commission:

On October 1, 1919, the Commission issued its order in this cause requiring the Chicago, Burlington & Quincy Railroad Company to remove its station platform from across Main Street in the town of Peetz, Logan County, Colorado, and to install across its tracks and right of way a safe and adequate crossing on said Main Street within 90 days from the service of a certified copy of such decision and order upon it, and that such crossing be constructed in accordance with plans and specifications prescribed in this Commission's order, In re Improvement of Grade Crossings in Colorado, 3 Colo. P.U.C. 128.

On October 10, 1919, an application was filed by the railroad company for a rehearing and as grounds for such motion alleged error on the part of the Commission. Argument upon the motion for a rehearing was heard on the 5th day of November, 1919.

On December 3, 1919, this Commission ordered that the time in which the railroad company shall do the things prescribed in the order dated October 1, 1919, be extended for an additional period of 90 days.

The Commission now being fully advised in the premises is

of the opinion that the petition of the Chicago, Burlington & Quincy Railroad Company for a rehearing should be denied.

ORDER.

IT IS THEREFORE ORDERED, That the petition for rehearing filed with the Commission October 10, 1919, by the Chicago, Burlington & Quincy Railroad Company be, and it is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(SEAL)

LEROY J. WILLIAMS

A. P. ANDERSON

GRANT H. HALDERMAN
Commissioners.

Dated at Denver, Colorado,
this 2nd day of February, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 324)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of The Redvale and Cedar Telephone Company for a Certificate of Public Convenience and Necessity for the Construction of a Telephone Line from Redvale, Colorado, to Cedar, Colorado.	Application No. 73.

March 27, 1920.

Appearances: John M. Woy, for Applicant.

STATEMENT.

By the Commission:

This cause comes on for consideration on the application of the Redvale and Cedar Telephone Company for a certificate that the present and future public convenience and necessity require and will require the construction and operation of a telephone line from Redvale, Colorado, to Cedar, Colorado, and to ranches along said line. The application was filed with the Commission February 7, 1920.

The matter was set for hearing for March 22, 1920, and notices of said hearing were served on interested parties. No protests or objections were received against the issuing of a certificate. The following facts as alleged in the application were presented to the Commission by the applicants, in substantiation of their prayer for the issuance of the certificate:

That the Redvale and Cedar Telephone Company is a corporation organized and existing under and by virtue of the laws of the State of Colorado; that said corporation is authorized to engage in the telephone business in Montrose and San Miguel Counties of the state of Colorado, but more particularly to construct and operate a telephone line from Redvale,

Colorado, to Cedar, Colorado, and surrounding territory; that a certified copy of said articles of incorporation is filed with the Commission; that the proposed line will extend from Redvale, Colorado to Cedar, Colorado, and to sundry ranches along said line; that said line will cross a territory which is settled by ranchers and cattlemen; that the distance from Redvale to Cedar is about 40 miles, and the only means of communication, except by telephone, is by stage and mail; which stage and mail make a round trip twice a week; that the territory is not now supplied with telephone communication at all, the nearest telephone to Cedar being at Redvale, at which point the proposed line will connect with the system of the Mountain States Telephone and Telegraph Company for long-distance and outside service; that said telephone line is seriously needed by the inhabitants of this territory for communication with Redvale, Norwood and other points where they transact business, and for securing doctors and other services in an emergency; that no franchises have been secured for the reason that no incorporated town or city is to be reached by this line; that the line in a general way follows closely the wagon road from Redvale to Cedar, with lines extending to various ranches; that the said line will be constructed for the mutual benefit of the residents along said line, and that most of said residents will take stock in the company; that the said line will not come into competition with any other public utility, but will connect at Redvale with the lines of the Mountain States Telephone and Telegraph Company through the Norwood exchange for long-distance service.

The Mountain States Telephone and Telegraph Company has filed with this Commission its statement that it has no objection to the construction of this line.

A certified copy of the articles of incorporation of the applicant company has been filed in this case with the Commission. The capital stock of the applicant company is $10,000. In the opinion of the Commission the allegations in the application have been fully sustained, and the present and future public convenience of the citizens and patrons along the proposed tele-

phone line require and will require the construction and operation of said telephone plant.

ORDER.

IT IS THEREFORE ORDERED, That the public convenience and necessity require and will require the construction and operation of the telephone line, plant and facility proposed by the Redvale and Cedar Telephone Company as applied for in its said application.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. P. Anderson.

(SEAL)

Frank P. Lannon,
Commissioners.

Dated at Denver, Colorado,
this 27th day of March, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 3265)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the City of Fort Collins for permission to take up and abandon a portion of the Fort Collins Municipal Railway track outside the corporate limits of the City of Fort Collins.

Application No. 78.

March 29, 1920.

Appearances: Frank J. Annis, for the City of Fort Collins.

STATEMENT AND ORDER.

By the Commission:

March 11, 1920 there was filed with the Commission the application of the city of Fort Collins, by its attorney, Frank J. Annis for an order of this Commission permitting it to abandon that portion of its municipally owned and operated street railway line from the corporate limits of said city to Andersons's Corner. The portion of said line proposed to be abandoned is more particularly described in the application herein and in a plat of the portion of the railway proposed to be abandoned, which plat was filed with the application.

The street railway system in the city of Fort Collins was originally owned by the Denver & Interurban Railroad Company. In 1918 that company, being in the hands of a receiver of the Federal Court, Judge Lewis, then presiding, instructed the receiver to apply to this Commission for permission to abandon service upon that portion of the line of the Denver & Interurban Railroad Company operated as a street railway in Fort Collins and adjoining territory. The Fort Collins street railway, while being a part of the Denver & Interurban Railroad Company's system, was not connected with the main line, which main line extends from Denver to Boulder,

Colorado. One of the reasons assigned for asking permission to abandon and discontinue service on the Fort Collins street railway was that said portion of the Denver & Interurban Railroad Company's property was then and had been for some time operated at a great loss; that it was a burden on the rest of the system, causing the whole system to be operated at a loss.

After a hearing and due consideration of all issued involved in the case, the Commission at that time issued its order permitting the receiver to cease operations on the line in the city of Fort Collins and adjoining territory, but refused permission to tear up and dismantle the said line.

In the hearing in the original case, it appeared that the cost of constructing the Fort Collins street railway line was something upwards of $300,000. In May, 1919, the city of Fort Collins purchased the line from the Denver & Interurban Railroad Company at a very great reduction from the original cost of construction, and has since been operating the same. By taking over the street railway for a price much below the cost of construction, thereby reducing capitalization and the amount on which a fair return on the investment must be provided, also by increasing the street railway fare, together with the hearty cooperation on the part of the citizens and good management on the part of the city authorities, the city of Fort Collins has been able to operate the line, meet all expenses and pay some return on the investment.

The present application seems to be a further effort on the part of the city in the interest of safety of operation and reduction of expense by means of the abandonment of that part of the line from the city limits to Anderson's Corner. The evidence shows that there will be thereby eliminated two railroad crossings at grade; that by rebuilding the line along the south side of the Colorado & Southern Railroad Company's tracks, instead of crossing over and following along the north side of the Colorado & Southern tracks as at present, practically no one will be inconvenienced and many employes of the Great Western Sugar Company's factory will be afforded transportation in and out of the city of Fort Collins, while at the same time the revenue of the applicant promises to be greatly increased. A statement of the operating revenue and expense for this particular branch, known as the "Sugar Company

Line", from June 9, 1919, to March 23, 1920, was filed with the Commission by the applicant herein and is as follows:

Operating expense	$3825.97
Revenue	2155.62
Loss aside from maintenance	$1672.35

Due notice of application in this case was given to all parties concerned, as well as notices of the time and place of the hearing herein, and notices of the hearing were caused to be inserted in the daily newspapers of Fort Collins. No protests have been filed against granting the application, nor did anyone appear at the hearing objecting to the granting of the permission sought. While this application was filed as an application to abandon a part of the original line as described in the complaint, the Commission, after a hearing and a consideration of the evidence herein, considers the effect of the application to be for permission to eliminate the old, longer and more dangerous line as described in the complaint and the plat filed herein and for the construction of a new, shorter and less dangerous line, reaching practically the same territory and causing little, if any, inconvenience to any of its patrons. The effect seems to be to decrease danger of operation, to give reasonable service, and to considerably increase the revenues of the city in its operation of a street railway system. The Commission is mindful of the fact that this application is made by the city of Fort Collins, whose officers are in a position to well know and understand the needs of the people, not only in connection with the operation of the street railway as affecting receipts and disbursements, but also in connection with the needs of the people as relates to their convenience and comfort. The city in this respect is in a different position than that occupied by a private concern operating a utility for a return on its investment.

For the above reasons the request of the city of Fort Collins will be granted.

O R D E R.

IT IS THEREFORE ORDERED, That the applicant, the city of Fort Collins, be and is hereby permitted to abandon, dismantle and discontinue service on that portion of its street railway line proposed and described

in the complaint herein and shown in the plat filed herewith; that the said city of Fort Collins be and is also hereby granted permission to construct the new line as proposed in the application herein and shown on the plat filed herewith.

This order is to take effect and be in force from and after this date.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. P. Anderson,

(SEAL)

Frank P. Lannon,

Commissioners.

Dated at Denver, Colorado,
this 29th day of March, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 326)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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In the Matter of the Application of)
The Midland Terminal Railway Company) Application No. 76.
for Permission to Discontinue Agency)
at Independence, Colorado.)

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April 1, 1920.

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Appearances, John H. Rothrock, for Applicant.

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STATEMENT.

By the Commission.

On February 27, 1920, application was made by the Midland Terminal Railway Company for permission from the Commission to discontinue its agency at Independence station on its line of railway. The application alleges that the agency is maintained at this station solely for freight service; that no passenger trains are run over this portion of the said line; that the station is located one mile from Bull Hill station in the Cripple Creek District; that an agency station is maintained at Bull Hill, where all of the business now handled at Independence can be handled.

A hearing was held in the City Hall at Victor, Colorado, March 18, 1920 at 3 P. M. The testimony indroduced at the hearing by the applicant shows that the station of Independence is in the Cripple Creek mining district in Teller County, Colorado, and is about one mile distant from Bull Hill station on the same line, and is about one mile distant from Goldfield, a station on the Colorado Springs and Cripple Creek District Railway Company's line; that said station is now being used only as a freight

station; that the business transacted at Independence can be transacted at the station of Bull Hill without any appreciable inconvenience to its patrons; that by discontinuing an agency station at Independence there will be a saving to the applicant of the expense of maintenance, which is unnecessary; that the expense of maintaining the Independence station includes the salary of the agent of $105 per month and other expenses, including heating, lighting, telephone, stationery and supplies, amounting to about $25 per month, or a total expense of about $130 per month; that the average revenue received from freight shipped from Independence station per month is less than $200; that any incoming freight received at this station can and will be taken care of by the employees at Bull Hill; that said employees will go to Independence for that purpose; that if any customer should prefer to ship from Independence he could still do so. The train conductor would receive such shipment and give a receipt for the same.

Due notice of the application and the time and place of the hearing was given. No protest was filed with the Commission, and no one was present at the hearing to protest against the granting of permission to the applicant to discontinue the agency. The application is for permission to discontinue the agency only, and the station and buildings will still be maintained. The applicant will therefore be granted permission to discontinue the agency at Independence.

O R D E R.

IT IS THEREFORE ORDERED, That the Midland Terminal Railway Company be and it is hereby granted permission to discontinue the employment of an agent and the maintenance of an agency station at Independence, Colorado, in accordance with the application.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(SEAL)

Grant E. Halderman

A. P. Anderson

Frank P. Lannon

Commissioners

Dated at Denver, Colorado,
this 1st day of April, 1920.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of The Application of The Board of County Commissioners of Jefferson County, Colorado, for an Order upon The Denver & Intermountain Railroad Company to put in crossings at a Public Road on their line in Jefferson County, Colorado.

Application No. 65

April 5, 1920.

Appearances: George B. Campbell, for the Board of County Commissioners of Jefferson County; H. L. Robertson for The Denver & Intermountain Railroad Company; A. D. Quintanse for Hugh de France, et al.

STATEMENT.

By the Commission:

The Denver & Intermountain Railroad Company operates a line of standard guage railroad from Denver to Golden, Colorado, the county seat of Jefferson County. December 22, 1919, the Board of County Commissioners of Jefferson County filed its petition and application with the Commission alleging that it had established and declared a public road along and near the section line of Section 2, T. 4 S., R. 69 W., and that said public road crosses the main track and spur track of the Denver & Intermountain Railroad. Application is made to the Commission for an order authorizing and directing The Denver & Intermountain Railroad Company to construct suitable and proper crossings over and across its tracks thereat according to law, and to open across its right-of-way said public road as laid out and established by the Board of County Commissioners.

The Denver & Intermountain Railroad Company filed its answer to this application January 6, 1920, setting forth therein that there is already a roadway across its tracks connecting with the main highway parallel to and south of its tracks, known as the South Golden concrete road, at a point about 1,500 feet east of the crossing asked to be opened by the applicants, and that by constructing a road along the north line of the railroad's right-of-way from the proposed crossing to the crossing now existing, no necessity would exist for the new crossing. The railroad company objected to the proposed crossing more particularly because it would add another crossing at grade within a few hundred feet of a crossing already established. The proposed crossing is at or near Wyman's station, while the existing crossing about 1,500 feet east is at Johnson's siding.

January 30, 1920, a reply to the railroad's answer was filed by the Board of County Commissioners and on the same date a reply was filed by Hugh de France, et al., by their attorneys. These replies allege at length that the crossing at Johnson's siding is merely a private crossing although the public is compelled to use it; that it is inconvenient, narrow, winding and inadequate to accommodate the public, and is a road over which the county has no jurisdiction or control.

The matter came on for hearing before the Commission at its hearing room, Capitol Building, Denver, Colorado, pursuant to notice on March 5, 1920. A great deal of testimony was heard, which, in the main, supported the allegations of the applicants, that the public convenience and necessity require the opening of the crossing petitioned for at Wyman's station and that the crossing at Johnson's siding is one over which the County exercises no control; that it is

merely a private crossing although the public is compelled to use it; that it is narrow, inconvenient and inadequate for public use.

At the close of the testimony all parties interested reached an agreement, which was made a part of the record in this case, to the effect that the Wyman's station crossing should be opened on condition that applicants bear the expense of material for wing fences and planking for the crossing and such other expenses as might be necessary in establishing the crossing up to the cattle guards at either side of the highway; the railroad company to supervise the work and to furnish and install cattle guards; the County Commissioners of Jefferson County to properly grade the highway up to the tracks of the railroad and between main and spur tracks; the crossing when installed to conform to the standard required by, and in accordance with, the rules provided for the opening and installation of grade crossings by the Commission, In re Improvement of Grade Crossings in Colorado, 2 P.U.C. 128-136.

O R D E R

IT IS THEREFORE ORDERED, That respondent, The Denver & Intermountain Railroad Company be, and it is hereby, directed and authorized to install a crossing at grade over its tracks and right-of-way on the public highway established by the Board of County Commissioners of Jefferson County, Colorado, northerly along the east section line of Section 2, T. 4 S., R. 69 W., Jefferson County, Colorado, at or near Wyman's station.

IT IS FURTHER ORDERED, That applicants shall bear the expense, in compliance with the agreement aforesaid, of materials for the building of the wing fences and the planking for said crossing, and to do all grading necessary and proper to be done in the opening of said crossing; that the expense of installation of cattle guards shall be borne by said railroad company, and that it shall

supervise the work of opening and installing said crossing, and that when completed, the crossing shall conform to the standard required by the rules of this Commission as set forth in 2 P.U.C. 126-136, In re Improvement of Grade Crossings in Colorado.

IT IS ORDERED FURTHER, That the present crossing maintained at Johnson's siding may be closed to public use and travel, and, that so far as the Commission has authority in the premises, the use of said crossing at Johnson's station shall hereafter be restricted to private use and travel.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Halderman

(SEAL)

A. P. Anderson

F. P. Lamson

Commissioners.

Dated at Denver, Colorado,
this 3rd day of April, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 328).

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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In the Matter of the Application of the Town of Vona for a Certificate of Public Convenience and Necessity for the Construction of a Water Works System.) Application No. 68.

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April 7, 1920.

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Appearances: J. A. Elsey, Charles F. O'Neill and E. B. Wilson, Town Trustees, for the Town of Vona; P. B. Godsman for F. L. Howell, I. D. Fuller and Other Citizens and Taxpayers, Protestants.

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STATEMENT.

By the Commission:

On January 10, 1920, the Town of Vona filed with the Commission its application for a certificate that public convenience and necessity require and will require the construction and operation of a water works system to be constructed and owned by the Town of Vona.

The application sets forth that the Town of Vona has no water works system and that it is impossible to obtain any water from wells under the greater portion of the town; that the taxpayers of the town, at an election held January 5, 1920, voted to construct a water works system for fire protection and domestic uses. Applicant prays that a certificate be issued to it. The application is signed by William E. Melling, Mayor. Applicant also filed with the Commission a certificate that on January 5, 1920, an election was held in the Town of Vona under Ordinance No. 13, an ordinance authorizing a special election; that at said election the proposition of issuing $25,000

in town bonds for the construction of a system of water works for said town of Vona was submitted to the voters and adopted by them. Said certificate is signed by A. M. Strehlow, the town clerk and recorder, by H. E. Haynes, deputy, with the seal of the town of Vona attached thereto. Copy of the notice to the public of the special election was also attached, such notice making known that there was to be submitted to the voters the following question:

> "Shall the Board of Trustees of the Town of Vona be authorized to construct a system of water works for fire and domestic purposes to be owned, managed and operated by the town; such erection and construction to be paid for by an issue of the bonds of the town in the aggregate amount of $25,000, or so much thereof as may be necessary; said bonds to mature 15 years after the date of their issue?"

A copy of said Ordinance No. 13 adopted December 4, 1919, authorizing said election, was also filed with the Commission.

Due notice was given to all parties concerned of the time and place of the hearing, and the hearing was held in the hearing room of the Commission in Denver, Colorado, on March 15, 1920, at 10 o'clock A. M.

The allegations of the complaint were sustained by the testimony and shows that Vona is a town of about 300 inhabitants and is located in Kit Carson County, Colorado, on the main line of the Rock Island railroad; that under Ordinance No. 13 a special election was authorized and was held in said town on January 5, 1920, at which time the construction of a water works system and the issuance of the $25,000 in town bonds for the purpose of said construction was authorized by the voters of the town. A plat of the town of Vona was introduced in evidence and the proposed location of the plant, including the mains and distribution system, is indicated thereon, showing the sizes of the pipe lines.

The system proposed to be constructed is limited to the town of Vona.

Protests on the part of P. B. Godsman and other taxpayers which were filed only objected to the expending of any part of the funds voted by the people for the construction of a water works system, for the purpose of

constructing an electric light plant or for any other purpose than the construction of the water works system, as authorized by the voters.

The applicant herein prays only for a certificate from the Commission that public convenience and necessity require and will require the construction and operation by the town of Vona of a water plant, and the certificate issued herein will be confined th that construction alone. If the construction and operation of an electric light plant is later contemplated by the town of Vona, it must obtain a certificate therefor in the regular way before proceeding to construct and operate the same.

From the testimony presented, the Commission finds that the construction and operation of a water system in the town of Vona would be clearly,not only a convenience, but is an actual necessity for its citizens.

O R D E R

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity require and will require the construction and operation of a water works system by the town of Vona, Colorado.

The applicant is hereby permitted to construct and operate its water system according to its application on file herewith.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(SEAL)

G. E. HALDERMAN

A. P. ANDERSON

F. P. LANNON

Commissioners

Dated at Denver, Colorado,
this 7th day of April, 1920.

I do hereby certify that the foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

(Decision No. 329)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of the Town of Seibert for a Certificate of Public Convenience and Necessity for the Construction and Operation of a Water Works System.	)	Application No. 70.

April 7, 1920.

Appearances: W. I. Conley, Mayor of the Town of Seibert.

STATEMENT.

By the Commission:

On January 15, 1920, the Town of Seibert filed with the Commission its application for a certificate that public convenience and necessity require and will require the construction and operation of a water works system to be constructed and owned by the town of Seibert. The application sets forth that the town of Seibert has no water works system; that the taxpayers of the town voted to construct a water works system for fire protection and domestic uses. Applicant prays that a certificate be issued to it. The application is signed by W. I. Conley, Mayor.

Applicant also filed with the Commission a certificate that on December 1, 1919, an election was held in the town under a town ordinance authorizing the same; that at said election a proposition to issue $40,000 in town bonds for the construction of said water works system for said town was submitted to the voters and adopted by them. Said certificate is signed by C. O. Walker, Town Clerk, with the town seal thereto attached. A copy of the notice to the public of said special election was also attached, giving notice that there was to be submitted to the voters the

following question:

> "Shall the Board of Trustees of the Town of Seibert be authorized to erect and construct a system of water works for fire and domestic purposes to be owned, managed and operated by the town; such original erection and construction to be paid for by an issue of town bonds in the aggregate amount of $40,000?"

Due notice of the time and place of the hearing was given to all parties concerned, and the hearing was held in the Hearing Room of the Commission in Denver on Monday, March 15, 1920, at 10 o'clock A. M.

The allegations of the complaint were sustained by the testimony and show that the town of Seibert is a town of about 300 inhabitants and is located in Kit Carson County, Colorado, on the main line of the Rock Island Railroad; that under an ordinance passed by the town board a special election was authorized, and said election was held in said town on December 1, 1919, at which election the question of the construction of a water works system and the issuance of $40,000 in town bonds for the purpose of said construction was authorized by the voters of said town. A plat of the town of Seibert was introduced in evidence and the proposed location of the plant, including the mains and distribution system, is indicated thereon, showing the size of the pipe lines.

The system proposed to be constructed is limited to the town of Seibert.

The applicant herein prays for a certificate from the Commission that public convenience and necessity require and will require the construction and operation by the town of Seibert of a water works system, and the certificate issued herein will be confined to that construction alone.

From the testimony presented, the Commission finds that the construction and operation of a water works system for the town of Seibert is a public convenience and an actual necessity for its citizens.

O R D E R

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity require and will require the construction and

operation of a water works system by the town of Seibert, Colorado. The applicant is hereby permitted to construct and operate a water works system according to its application on file herewith.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(S E A L)

G. E. HALDERMAN

A. P. ANDERSON

F. P. LANNON

Commissioners

Dated at Denver, Colorado,
this 7th day of April, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

(Decision No. 330)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the town of Eads for a Certificate of Public Convenience and Necessity for the Construction and Operation of a Water Works System.) Application No. 69

April 9, 1920.

Appearances: A. T. Cherry, Clerk and Recorder of the Town of Eads, Colorado.

STATEMENT.

By the Commission:

On January 13, 1920, the town of Eads filed with the Commission its application for a certificate that public convenience and necessity require and will require the construction and operation of a water works system by the town of Eads.

The application sets forth that the town of Eads has no water works system; that the taxpayers of the town, at a special election held January 6, 1920, voted to construct a water works system for fire protection and domestic uses. Applicant prays that a certificate be issued to it. Applicant also filed with the Commission a certificate that on Tuesday, January 6, 1920, a special election was held in the town of Eads under Ordinance No. 18; that at said election the proposal to issue $50,000.00 in water works and electric light bonds of the town of Eads was submitted to the voters and adopted by them. Said certificate is signed by A. T. Cherry, Town Clerk and Recorder, with the town seal attached. The notice to the public of

the special election was also attached, giving notice that there was to be submitted to the voters the following question:

> "Shall the Board of Trustees of the town of Eads be authorized to erect and construct a system of water works for fire and domestic purposes, to be owned, managed and operated by the town?"

A copy of Ordinance No. 18 authorizing said election was also filed with the Commission.

Due notice of the time and place of the hearing herein was given to all parties concerned and the hearing was held in the hearing room of the Commission in Denver, Colorado, on March 15, 1920 at 2 o'clock P. M. The allegations of the complaint were sustained by the testimony which shows that the town of Eads is in Kiowa County, Colorado, on the main line of the Missouri Pacific Railway Company, and is the county seat of Kiowa County; that under said Ordinance No. 18 a special election was authorized and that said election was held in said town January 6, 1920, at which election the construction and operation of a water works system was authorized by the voters of the town. A plat of the town of Eads was introduced in evidence and the proposed location of the plant, including the mains and distribution system is indicated thereon, showing the sizes of the pipe lines, etc. The system proposed to be constructed is limited to the town of Eads.

The application herein is for a certificate from the Commission that public convenience and necessity require and will require the construction and operation by the town of Eads of a water works system only, and the certificate issued hereon will be confined to that construction alone. The certificate of the town clerk recites that at the special election "the question of issuing $50,000.00 worth of water and electric light bonds" was passed upon by the voters. Ordinance No. 18, authorizing said election, in no way authorizes the submission of the question of constructing or operating an electric light plant and

the Commission is unable to find where such question was ever submitted to the voters. Therefore the certificate to that effect must be an error. If the construction and operation of an electric light plant are later contemplated by the town of Eads, it must obtain a certificate therefor in the regular way before proceeding to construct and operate the same.

From the testimony presented the Commission finds that the construction and operation of a water system for the town of Eads would be clearly not only a convenience but an actual necessity for its citizens.

O R D E R

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity require and will require the construction and operation of a water works system by the town of Eads, Colorado. The applicant is hereby permitted to construct and operate a water system according to its application on file herewith.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Halderman

(SEAL)

A. P. Anderson

F. P. Lannon

Commissioners.

Dated at Denver, Colorado,
this 9th day of April, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

~~COPY~~

54

(Decision No. 331)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of R. Herle Ayres for the Issuance of a Certificate of Public Convenience.) APPLICATION NO. 72

April 13, 1920.

Appearances: R. S. Sauter, Esq., of Sterling, for Applicant.
No other appearance.

STATEMENT

By the Commission:

This is an application for a certificate of public convenience and necessity filed January 30, 1920, by R. Herle Ayres for the issuance to him by the Commission of such certificate for the purpose of engaging in the business of operating an automobile or autobus service for the transportation of passengers, freight and express between Sterling, Logan County, Colorado and Holyoke, Phillips County, Colorado, and between Holyoke and Julesburg, Sedgwick County, Colorado, over the route and to conform to the schedule as filed with the application.

The matter was set for hearing at Sterling, Colorado, and heard by the Commission on March 12, 1920, at which hearing the applicant gave testimony to the effect that no person beside applicant is interested in the proposed business; that no permits or licenses are required by either the counties or towns through which the autobus service is to be inaugurated, and that the total capital proposed to be invested in such autobus service is approximately $3,500.00; that appli-

cant has procured licenses required by the laws of the State of Colorado, and by the Internal Revenue laws of the United States, for the operation of such autobusses.

The evidence discloses that the territory through which the autobus service will operate is served only by the branch line of the Chicago, Burlington & Quincy Railroad extending from Sterling, Colorado, to Holdrege, Nebraska, which has one passenger train each way per day, with no trains on Sunday, to take care of travel between Sterling and Holyoke; that there is no line of railroad or other facilities for transportation between Holyoke and Julesburg; that the three principal points, to wit: Sterling, Holyoke and Julesburg, are the points representing, roughly, the points of a triangle, and that one who desires to travel from Holyoke to Julesburg by train is required to go to Sterling thence to Julesburg, a total of 108 miles, whereas the distance between Holyoke and Julesburg is but 32 miles.

The Chicago, Burlington & Quincy train service between Sterling and Holyoke, as it now runs and as it has been running for a number of years, leaves Sterling early in the morning and returns to Sterling about 5 o'clock in the afternoon; so that persons desiring to travel between points on the Sterling-Holdrege branch between Sterling and Holyoke, have but the one convenience and facility regularly established, and upon which to rely.

Applicant, by the schedule proposed, proposes to furnish means of transportation between Sterling and Holyoke, leaving Holyoke in the morning for Sterling and Sterling in the afternoon for Holyoke, thus affording the public a means of transportation additional to that furnished by the railroad and so arranged as to run in the opposite direction from the train service.

The autobus to be used by applicant is described as the New Reo Speed Wagon Type, three-quarter ton truck, equipped with passenger bus body, to accommodate comfortably twelve passengers, and to carry

freight and express, the autobus being heated in cold or inclement weather.

No person appeared in opposition to the application, and in addition to the testimony of the applicant, there were filed a number of letters from residents of the towns and communities proposed to be served as represented by Commercial Associations and similar civic organizations, all of which were to the effect that the establishment of the proposed autobus service would be of great convenience to the public resident in the territory served, and to the traveling public generally.

A map of the territory proposed to be served by the applicant discloses the geography of the situation, which together with the facts submitted, leaves no doubt in the mind of the Commission that this presents as clear a case for the issuance of a certificate of public convenience and necessity as may well be presented.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require and will require the establishment of the autobus service proposed by the applicant in his application, and that this order will be deemed and considered to be a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Halderman

(SEAL)

A. P. Anderson

F. P. Lannon

Commissioners.

Dated at Denver, Colorado, this 13th day of April, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 332)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Ward-Burns Stage Line Company for a Certificate to Operate Passenger Service by Automobile Between Littleton and Denver.	)	APPLICATION NO. 75.

April 16, 1920.

STATEMENT.

By the Commission:

On February 24, 1920, J. O. Ward and Roderick W. Burns, as the Ward-Burns Stage Line Company, filed their application with the Commission for a certificate of public convenience and necessity for the operation of a stage line between Denver and Littleton.

A petition in intervention was filed by the town of Littleton on March 16, 1920, setting up in substance that there is no necessity for the proposed auto stage line; that the Denver & South Platte Railway Company supplies all necessary needs of the people, and that an auto transportation line in competition therewith would hinder the successful operation of said railway, which would be a detriment to said town; that the applicant has not obtained, and cannot obtain, a franchise or permit from the town of Littleton.

On the same date the Denver & South Platte Railway Company also filed objections to the granting of the certificate, setting forth that it operated an hourly service from 6:30 A. M. to midnight daily, between Englewood and Littleton, with an additional half hourly service on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays between 4 and 7 P. M., and on Saturdays and Sundays between 12 M. and 7 P. M.; that the fare charged is ten cents, commutation tickets being sold for six cents.

The case was set for hearing on March 16, 1920, at 2 o'clock P. M., at the hearing room of the Commission, Denver, Colorado, all parties being duly notified.

On the date of the hearing, March 16, 1920, the applicants did not appear and the Commission continued the case to April 6, 1920, at 2 o'clock P. M. The applicants were notified of the continuance.

On the date to which the case was continued, the applicants again failed to appear. The Denver & South Platte Railway Company, protestant, appeared by Wendell Stephens, of Symes & Stephens, and was allowed to introduce testimony, which was to the following effect:

That the Denver & South Platte Railway serves all the needs and necessities of the people traveling between Denver and Littleton, at a reasonable fare and that there is no necessity for an auto stage line; that competition would endanger the successful and efficient operation of the Denver & South Platte Railway; that the applicant has not obtained, and cannot obtain, from the town of Littleton the consent, franchise or permit for the operation of the proposed stage line; that said town has refused to issue such franchise or permit; that the Denver & South Platte Railway maintains service at a rate of ten cents for a single trip for cash fare and six cents for commutation tickets; that the regular service consists of cars every hour between Englewood and Littleton and Littleton and Englewood from 6:30 A. M., until midnight, with additional service Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays from 4 P. M., to 7 P. M., and additional service on Saturdays and Sundays from 12 o'clock noon until 7 P. M.; that said railway connects at Englewood with the line of the Denver Tramway Company; that the Denver & South Platte Railway has operated since 1908 and up to the present time has never paid any dividend to its stockholders, nor has it paid any interest upon its bonded indebtedness; that during the past year there has been a deficit in its operating expenses.

Section 35 (c) of the Public Utilities Act, Session Laws of 1917,

page 420, provides that:

> "Every applicant for a certificate shall file in the office of the Commission such evidence as shall be required by the commission to show that such applicant has received the required consent, franchise, permit, ordinance, vote or other authority of the proper county, city and county, municipal or other public authority."

This section has not been complied with by the applicants and no such authority has been filed with the Commission, nor has any evidence been introduced showing such authority.

From the testimony in the case the Commission finds that the public convenience and necessity does not require, nor will it require, the operation of the proposed Ward-Burns Stage Line.

The application is therefore denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Halderman

(S E A L)

A. P. Anderson

F. P. Lannon
Commissioners

Dated at Denver, Colorado,
this 16th day of April, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

COPY

69

(Decision No. 333)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Midland Terminal Railway Company for Permission to Discontinue Agency at Elkton, Colorado.) Application No. 41.

April 19, 1920.

Appearances: J. H. Rothrock, for Applicant, The Midland Terminal Railway Company;
W. G. Ames, for Protestants.

STATEMENT.

By the Commission:

On January 29, 1920, applicant filed with the Commission its application to discontinue the agency at Elkton, a station on its line of railway. On a former application, and after a hearing thereon wherein the same issues were involved, the Commission issued its order, on June 13, 1919, denying its permission to abandon the agency at said station until the further order of the Commission, with permission to the company to petition the Commission for a reopening of the case if conditions should be so changed that the subject might again properly be brought to the attention of the Commission.

The company in the present application alleges that conditions have now become much worse and that the earnings are affected to such an extent as to endanger the successful operation of the system as a whole.

On March 5, 1920 a protest was filed by the citizens of Elkton against the discontinuance of the agency.

After due notice a hearing was held by the Commission at the City Hall in Cripple Creek, Colorado, March 19, 1920, at 10 o'clock

A. E. From the testimony it appears that Elkton is a station on the applicant's line in the Cripple Creek district in Teller County, Colorado, located between Victor and Cripple Creek.

Applicant's Exhibit "A" is a statement of the freight revenue at this station for the four months of October, November and December, 1919, and January, 1920, and shows:

Revenue for freight received.....	$285.43
Revenue for freight forwarded.....	39.82
Total.....	325.25

Exhibit "B" shows the passenger revenue for the same months, viz:

Inbound.....	$ 9.10
Outbound.....	32.90
Total.....	42.00

The total revenue for both freight and passenger for the four months is $367.25, or about $91.80 per month.

The testimony is to the effect that the expenses of maintaining the agency at Elkton are:

Agent's salary.....	$105.00	per month
Other incidental expenses.....	25.00	" "
Total.....	130.00	" "

E. S. Hartwell, secretary and auditor of the company, testified that the earnings of the applicant's entire system for the last six months showed a deficit of about $3,000 per month. No attempt was made by protestants to contradict these figures, and from the testimony it appears that not only Elkton station, but the whole system, has been operated at a loss for the last six months.

The Commission has not been disposed in every instance to allow the abandonment of an individual station on the mere showing that that particular station has failed to earn the expense of maintenance where the whole system is shown to be earning a return on the investment. However, in this case, it appears that economies are necessary to the end that the whole system may be enabled to earn its operating expenses and the Commission is of the opinion, therefore, that it should allow such necessary economies as will insure the operation of the system as a whole.

The testimony of the protestants undoubtedly shows that it would be a considerable convenience to them if an agent were maintained at Elkton. However, after due consideration of all the facts and conditions entering into the case, the Commission is of the opinion that the maintenance of a caretaker at Elkton is all that should be required of the company at this time. It is important that applicant be allowed to earn sufficient revenue to enable it to continue to operate the railroad, and the people of Elkton can better get along without the agent than the railroad itself.

O R D E R.

IT IS THEREFORE ORDERED, That the applicant, The Midland Terminal Railway Company, be and is hereby permitted to discontinue its agency at the station of Elkton.

IT IS FURTHER ORDERED, That the applicant shall maintain a day caretaker at Elkton station who shall meet all of its passenger trains and its local freight train and care for all baggage and freight.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN,

(S E A L)

A. P. ANDERSON,

FRANK P. LANNON,
Commissioners.

Dated at Denver, Colorado,
this 19th day of April, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the Town of Hugo, Colorado, for a Certificate of Public Convenience and Necessity for the Construction of an Electric Light and Power System.

APPLICATION No. 80.

May 7, 1920.

Appearances: John G. Reid, Attorney for applicant, and also representing the Lincoln Light & Power Company, Hugo, Colorado.

STATEMENT.

By the Commission:

On March 30, 1920, an application was filed with the Commission by the town of Hugo for a certificate that public convenience and necessity require and will require the construction by said town of an electric light and power system. The application in substance alleges that it is a municipal corporation organized and existing under and by virtue of the laws of the state of Colorado; that the applicant desires to furnish electric current in the town of Hugo to the inhabitants thereof for light, power and other purposes; that there is no other public utility furnishing electric current at this time in the territory described; that a map showing the proposed location of the plant, together with the streets, avenues and alleys in, upon and along which it is proposed to construct its distribution lines, is submitted herein. Applicant prays for an order for a certificate of public convenience and necessity.

After due notice a hearing on the application was held at the hearing room of the Commission in Denver, Colorado, April 22, 1920, at 10 o'clock A. M. No protests were filed and no person or persons appeared at the hearing to protest against the granting of the certificate. John G. Reid, Esq., appeared as attorney for the town of Hugo and also for The Lincoln Light and Power Company.

The evidence discloses that the town of Hugo is a growing town of about 1,000 inhabitants and is situated about 105 miles east of Denver on the line of the Union Pacific Railroad; that it is the county seat of Lincoln County; that among the different kinds of business conducted in the town, and which are in need of light and power in connection with the conduct of their business, are two elevators, three garages, one machine shop, one shoe shop, two printing offices, and the roundhouse and shops of the Union Pacific Railroad. There is also great need of electricity for lighting and domestic purposes, as well as for city street lighting.

The evidence further discloses that a certificate of public convenience and necessity was heretofore issued by the Commission to The Lincoln Light and Power Company to operate in this territory; that the said company has no intention of exercising such authority and that such company has filed with the Commission its statement to that effect, asking that said certificate be canceled and that a certificate be issued to the town of Hugo. The said statement is signed by the president of the company under its corporate seal.

The evidence discloses that there is not now any electric light or power plant situated either within or adjacent to the town of Hugo from which electricity can be obtained; that the said town proposes to construct a municipal plant and to operate the same as such. The evidence also discloses that pursuant to an ordinance passed by the board of town trustees, an election was held in Hugo on the sixth day of April, 1920, when the following questions were submitted to the voters of said town, with the following results:

1st. Shall the board of trustees of the town of Hugo be authorized to contract an indebtedness on behalf of the town and upon the credit therefor by issuing the bonds of the town in the aggregate amount of $15,000 for the purpose of constructing a plant to supply electric lights?

The result of the election was 84 votes for and 9 votes against.

2nd. Shall the board of trustees of the town of Hugo be authorized to erect electric light works for the purpose of supplying said town and the inhabitants thereof with electric light and power, said works to be owned, operated and managed by the town.

The result of the election was 93 votes for and 9 votes against.

It appears from the evidence that the applicant has proceeded carefully and according to law.

O R D E R.

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity require and will require the construction and operation by the applicant, the town of Hugo, of an electric light and power plant to be owned and operated by said town as a municipal plant. This order shall be deemed a certificate therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Halderman

A. P. Anderson

(S E A L) F. P. Lannon

Commissioners

Dated at Denver, Colorado,
this 7th day of May, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the state of Colorado entered in the above entitled cause and now on file in this office.

Secretary

~~COPY~~

(Decision No. 3377)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Crystal River Railroad Company for Permission to Discontinue Service Temporarily.	)	APPLICATION NO. 85. Extension of Order.

May 19, 1920.

STATEMENT.

By the Commission:

On November 24, 1919, an order was entered in the above application, permitting The Crystal River Railroad Company to discontinue operation of its line of railroad until the first day of June, 1920, unless said order be modified or extended by the Commission and directing that its track and roadbed be kept in a reasonably good state of repair for the resumption of operations thereon at the end of said period; and forbidding said railroad company to remove its line of railroad, equipment or any part thereof.

On May 14, 1920, applicant filed its supplemental application with the Commission wherein it is shown that conditions surrounding the Crystal River Railroad and in the territory which it has heretofore served have not changed since the application for permission to discontinue service was filed and the order entered thereon on November 24, 1919, permitting such discontinuance of service.

The supplemental application further states that at the present time there is no prospect of a resumption of business in the territory served by The Crystal River Railroad that will require the resumption of service by said railroad, and that there is no business in prospect which would enable the railroad to earn sufficient revenue to maintain its operations. Applicant prays that the aforesaid order of November 24,

1919, be extended and enlarged so that the said railroad company be permitted to discontinue service until the first day of June, 1921, unless in the meantime conditions so change as to justify the resumption of operation of the railroad.

The Commission finds from the application filed herein on May 14, 1920, and from the record heretofore made by the applicant, that permission for the extension of the order heretofore made on November 24, 1919, should be granted, in conformity with the prayer of the supplemental application, and that this is not a matter in which a further public hearing is deemed necessary.

O R D E R

IT IS THEREFORE ORDERED, That the permission for discontinuance of operation of its line of railroad heretofore granted to The Crystal River Railroad Company be and is hereby extended from June 1, 1920, until June 1, 1921, unless this order be modified or otherwise altered or changed by the Commission.

IT IS FURTHER ORDERED, That applicant shall not permit its track and roadbed to unreasonably and unnecessarily deteriorate, so that service may be resumed at the end of the above period of extension, or sooner, should the Commission so order upon the necessity therefor being made to appear.

IT IS FURTHER ORDERED, That The Crystal River Railroad Company shall not remove or dispose of its line of railroad, equipment or any part thereof.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(SEAL)

GRANT E. HALDERMAN

A. P. ANDERSON

P. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 19th day of May, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

Decision No. 338.

1

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the Town of Otis for the Establishment of a Public Highway Crossing over the Tracks of Chicago, Burlington & Quincy Railroad Company, at Washington Street in said Town.

APPLICATION NO. 74

May 19, 1920

STATEMENT

By the Commission:

On February 14, 1920, the town of Otis, Yuma county, made application to the Commission for the establishment of a public highway crossing across the tracks and right-of-way of Chicago, Burlington & Quincy Railroad Company, at Washington Street in said town.

The matter was made the subject of investigation by the railway engineer for the Commission who, on February 25, 1920, reported that Washington Street is the business street of the town of Otis and is the only street connecting the original townsite with the Wilton addition lying on the south side of the railroad tracks, and that said crossing has been in use by the public for many years. The engineer recommended that, in view of the situation and the facts as he found them to be, said crossing be opened and be declared a public crossing.

The railroad company does not object to the opening of the crossing, and asks only that the Commission shall declare it to be a public highway crossing and to be upon an established highway.

The town of Otis, through its mayor and town clerk, has made it satisfactorily to appear to the Commission that Washington Street extending across the right-of-way and tracks of the Chicago, Burlington &

Quincy Railroad Company is, and has been for some years past, a public street of said town and in use by the general public.

ORDER

IT IS THEREFORE ORDERED, That Washington street in the town of Otis, Colorado, where the same intersects the right-of-way and tracks of Chicago, Burlington & Quincy Railroad Company, is hereby declared to be a public highway crossing for the use and accommodation of the public.

IT IS FURTHER ORDERED, That said railroad company be and it is hereby required to open and install a crossing over and across its tracks and right-of-way where the same intersects said Washington street in said town of Otis, in conformity with the rules and regulations adopted by the Commission, In re Improvement of Grade Crossings in Colorado, 2 P.U.C. 128; and that such crossing shall be installed within ninety days from this date.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A. P. ANDERSON

E. P. LANNON
Commissioners.

Dated at Denver, Colorado,
this 19th day of May, 1920.

I do Hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

Decision No. 339

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of The Crystal River & San Juan Railroad Company to discontinue operation.	APPLICATION NO. 5. Extension of Order.

May 26, 1920.

STATEMENT.

By the Commission:

By an order of the Commission made and entered in the above matter November 12, 1919, The Crystal River & San Juan Railroad Company was granted permission to continue cessation of operation of its said railroad from December 31, 1919, to June 1, 1920.

On May 21, 1920, the Crystal River & San Juan Railroad Company, by Messrs. Bartels and Blood, its attorneys, filed its application for an order extending the order of November 12, 1919, from June 1, 1920, until December 31, 1920, or until such time prior to December 31, 1920, as the quarries and plant of the Colorado Yule Marble Company should again be operating, or the business in the territory served by said railroad should again require the resumption of service of the railroad.

The application of applicant railroad company represents that all statements of the matters and things set forth in the several petitions heretofore filed with the Commission with reference to discontinuance of operation of the railroad temporarily were and are true, and still exist; that operation of the said railroad is dependent entirely upon the resumption of operation of the quarries and plant of the Colorado Yule Marble Company, and that operation of the marble plant has not yet been resumed; that purchasers of said marble property represent to applicant that they have not yet acquired title to said property under foreclosure proceedings,

but that purchasers will be entitled to sheriff's deeds to said property on or about June 10, 1920, and that upon the acquirement of said property it is the intention of the purchasers thereof to reorganize and endeavor to resume active operation of said marble quarries and plant.

It appears to the Commission that the representations in said application are sufficient to justify the extension of the discontinuance of operation of said railroad for the period requested and there seems to be no necessity for giving notice and having a further hearing upon the matter.

O R D E R.

IT IS THEREFORE ORDERED, That permission for discontinuance of operation of said railroad be, and the same is hereby, extended from June 1, 1920, until December 31, 1920, unless this order be sooner modified, rescinded, or extended by the Commission.

IT IS FURTHER ORDERED, That said The Crystal River & San Juan Railroad Company shall not remove its roadbed or dispose of any of its equipment.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDEMAN,

(SEAL)

A. P. ANDERSON,

FRANK P. LANNON.

Commissioners.

Dated at Denver, Colorado,
this 26th day of May, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

****

I. & S. Docket No. 45.

IN RE ADVANCE IN RATES OF THE WATER UTILITY OF THE TOWN OF OTIS.

June 9, 1920.

STATEMENT.

By the Commission:

On March 20, 1920, the Town of Otis filed its schedule of rates for water, Colo. P.U.C. No. 2, proposed to become effective April 30, 1920. The schedule as filed provided for a rate of $1.50 for the first 1,000 gallons and 80¢ per 1,000 gallons for all consumption in excess of that amount, with a minimum monthly charge of $1.50. These rates represented a considerable increase over the rates in effect at the time of the filing of the schedule.

Subsequent to the filing of the schedule the Commission received a protest against the proposed rates and after consideration, on April 15, 1920, issued an order suspending the operation of the schedule until August 28, 1920, and in the same order entered upon an investigation concerning the propriety of the increases and the lawfulness of the rates contained in the schedule.

The Commission has conducted an investigation in this matter through its engineering department and the respondent herein has signified its willingness to withdraw its proposed schedule and file in lieu thereof a schedule based upon the result of the investigation of the Commission and which will be satisfactory to the consumers.

This new schedule was filed with the Commission tentatively on May 17, 1920. The Commission has examined the same thoroughly and finds that it corresponds in all respects to the recommendations of the engineer. Further the Commission has received notice from the protestant that if the amended schedule, Colo. P.U.C. No. 3, is permitted to become effective in lieu of Colo. P.U.C. No. 2, under suspension, the protests may be considered withdrawn.

Upon consideration it is the opinion of the Commission that a hearing is not necessary in this investigation, and that the respondent should be permitted and allowed to make effective its schedule Colo. P.U.C. No. 3 without prejudice to the right of consumers to bring formal complaint against the rates contained therein. An order will be entered in accordance therewith.

O R D E R

IT APPEARING, That on April 15, 1920, the Commission entered upon an investigation concerning the propriety of the increases and the lawfulness of the rates, charges, regulations and practices stated in the schedule designated as Town of Otis water schedule Colo. P.U.C. No. 2, and subsequently ordered that the operation of said schedule be suspended until August 28, 1920;

IT FURTHER APPEARING, That a full investigation of the matter and things involved has been had, and protestant has filed with the Commission his request that his protest be considered as having been withdrawn;

IT IS THEREFORE ORDERED, That the respondent be, and it is hereby, permitted and allowed to cancel, effective as of June 1, 1920, its schedule Colo. P.U.C. No. 2;

IT IS FURTHER ORDERED, That the respondent be, and it is hereby, permitted and allowed to file its schedule of water rates Colo. P.U.C. No. 3, effective as of June 1, 1920.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A. P. ANDERSON

F. P. LANNON

Commissioners

Dated at Denver, Colorado,
this 9th day of June, 1920.

COPY 110

Decision No. 342

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Application of The Lincoln Light and Power Company for Certificate of Public Convenience and Necessity.) APPLICATION NO. 44

June 9, 1920.

STATEMENT.

By the Commission:

It appearing that on July 30, 1919, the Commission, after a hearing on the above application, issued to the above named applicant, The Lincoln Light and Power Company, a certificate of public convenience and necessity to construct and operate an electric light and power plant in the town of Hugo.

And it also appearing that on March 30, 1920, the said, The Lincoln Light and Power Company filed with the Commission a certificate signed by its president, attested by its secretary, under its corporate seal, alleging:

> "1. That the Town of Hugo by its Ordinance No. 41 granted a franchise to C. C. Bogue, authorizing the said C. C. Bogue, his heirs, successors, administrators or assigns, to erect, construct, operate and maintain a plant for the production and distribution of electric current in the Town of Hugo.
>
> 2. That the said C. C. Bogue thereafter assigned the franchise granted by said ordinance to The Lincoln Light and Power Company.
>
> 3. That The Lincoln Light and Power Company thereafter applied to the Public Utilities Commission of the State of Colorado for a certificate of public convenience and necessity, and that on the 30th day of July, 1919, such certificate was issued by said Commission to said The Lincoln Light and Power Company.
>
> 4. That the rights granted by Ordinance No. 41 of the Town of Hugo have not been exercised by the said C. C. Bogue or by his assignee, The Lincoln Light and Power Company, and that the franchise granted by said Ordinance has expired.
>
> Wherefore, The Lincoln Light and Power Company hereby consents that the certificate of public convenience and necessity heretofore issued to it by said Commission may be cancelled.
>
> Dated at Hugo, Colorado, this 25th day of March, A.D. 1920."

O R D E R

IT IS THEREFORE ORDERED, That the said certificate heretofore issued to the said, The Lincoln Light and Power Company, be, and the same is hereby, cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

A. P. ANDERSON

(S E A L)

E. P. LANNON
Commissioners

Dated at Denver, Colorado,
this 9th day of June, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

~~COPY~~

(Decision No. 343)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Farmers' Electric & Power Company, Complainant, v. The Town of Ault, Colorado, a municipal corporation, Defendant.	CASE NO. 167 On Motion for Rehearing.

June 9, 1920.

STATEMENT

By the Commission:

On May 5, 1920, the Commission made and entered its decision and order in the above entitled cause, and thereby granted to the defendant municipality a certificate of convenience and necessity for the construction and installation of an electric light facility, plant or system by said town on the ground that the public convenience and necessity require or will require the construction and operation by said town of such electric light facility.

The complainant filed with the Commission on May 13, 1920, a paper-writing which it is stated "for want of a better name" is styled a "motion for rehearing". As a matter of fact, however, the writing filed lacks the essentials of a motion of any kind, and it particularly lacks every essential of a motion for rehearing. (Laws of 1913, Chap. 127, Sec. 51.) It might more properly be characterized as a lecture to the Commission for its alleged remission of duty in deciding the cause against complainant's contentions. However, as the complainant has styled the pleading a "motion for rehearing" it was so treated and the so-called motion for rehearing was set for hearing at the hearing room of the Commission, Capitol Building, at

11:00 o'clock A.M., June 5, 1920.

Notice of the time and place of such hearing was duly given and on said date F. R. Lilyard appeared for the defendant town, while H. E. Churchill, complainant's attorney, notified the Commission that he could not be present and consented that the hearing take place without his appearance.

The Commission has carefully considered its order of May 5, 1920, and the argument of complainant appended to and embodied in the motion for rehearing aforesaid. The real issue decided by the Commission, to-wit: that the public convenience and necessity require or will require the construction and operation of an electric light plant or facility by defendant town, as disclosed by the evidence, was not alluded to by complainant in its motion for rehearing, so-called, and the written argument in support thereof. The Commission is quite content to abide by its former decision in this cause, especially in view of this fact, and will therefore enter an order denying the motion for rehearing.

ORDER

IT IS ORDERED, That the writing filed with the Commission May 13, 1920, by complainant and styled a "motion for rehearing" be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A. P. ANDERSON

F. P. LANNON
COMMISSIONERS

Dated at Denver, Colorado,
this 9th day of June, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

PUC-2

(Decision No. 345)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of M. F. Thomas for Certificate of Public Convenience and Necessity for Operation of Motor Truck and Automobile Transportation Line between Denver, Colorado and Evergreen, via Mount Morrison and Joylan.	) ( ) ( ) ( )	APPLICATION NO. 77.

June 21, 1920.

Appearances: E. W. Henshaw, for applicant.

STATEMENT.

By the Commission:

In accordance with aforesaid application, a public hearing was held at the hearing room of the Commission at the State Capitol, Denver, Colorado, at 10 o'clock A. M., Monday, March 22, 1920.

A numerously signed petition of residents of Denver, Mt. Morrison, Joylan and Evergreen was presented, asking that the Commission grant to M. F. Thomas a certificate of public convenience and necessity for an automobile line between Denver and Evergreen via Mt. Morrison and Joylan for the transportation of express, freight and passengers between said points. The testimony taken at this hearing, under oath, showed Mr. Thomas to be a man of good character and reliable, and one who could be trusted implicitly with valuable packages and freight. His business is not incorporated and he operates as an individual. Two round trips are made daily, consuming two hours in each direction, or four hours for the round trip. Seven cars are used on this line. Four are Packards, one Chevrolet, one light Ford and a 5-passenger Hupmobile, and also a one-horse and a two-horse transfer, involving an expenditure of $18,000.00.

Including the Denver warehouse there is a total investment of approximately $30,000.00.

As required by the Commission, there has been filed a time table showing arrival and departure of busses and also a schedule of rates for both express and freight shipments.

The withholding of the issuance of the certificate asked for in this case was caused by the applicant's failure to file the required "consent, franchise, permit, ordinance or other authority" of the City and County of Denver, or of the town of Mt. Morrison, Colorado, until the 12th day of June, 1920. These, however, are now on file in the office of this Commission.

The applicant herein asks that a certificate of public convenience and necessity be given him for the operation of a motor transportation line between Denver, Colorado, and Evergreen, Colorado, via Mt. Morrison and Joylan. As there is neither a railroad nor a street railway operating between Mt. Morrison and Evergreen, the Commission is precluded from issuing a certificate applicable to the operation of an automobile transportation line as a common carrier between said points, as per Section 2 (e) Chap. 134 Session Laws of Colorado, 1915. The Commission established a precedent in this connection when it held it was without authority to require a certificate for an automobile line between Loveland, Colorado, and Estes Park, Colorado, on the ground that it had no jurisdiction, as there was no railroad or street railway operating "in competition therewith". Mills v. Rocky Mt. Parks Transportation Co.

O R D E R

It is therefore found, by the testimony presented, that a certificate of public convenience and necessity should issue, and

IT IS THEREFORE ORDERED, That a certificate of public convenience and necessity be and is hereby issued to M. F. Thomas of the city and county of Denver, Colorado, for the operation of a motor truck transpor-

tation line for the purpose of carrying passengers, express and freight between the city and county of Denver and Mt. Morrison, Colorado.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hall Ferman

D. Anderson

H. L. Lamon

Commissioners.

Dated at Denver, Colorado,
this 21st day of June, 1920.

(Decision No. 346)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of Theodore H. Webermin of the Town of Deer Trail for a Certificate of Public Convenience and Necessity.

APPLICATION NO. 87.

June 26, 1920.

STATEMENT.

By the Commission:

The above matter comes before the Commission upon a petition of applicant Webermin filed May 20, 1920, which represents to the Commission that said applicant is a resident of Deer Trail, Arapahoe County, Colorado, and that he is engaged, and expects to engage, in the operation of an electric light plant facility or system in the town of Deer Trail, to furnish electric energy for light, power and other purposes. The application further represents that applicant is the sole owner of such electric light plant; and that he expects to receive a franchise from the municipal authorities of said municipality for the operation of such electric plant.

Pursuant to notice duly given the mayor and board of trustees of Deer Trail, and to applicant, this matter was set down for hearing before the Commission at its hearing room, Capitol Building, on June 21, 1920, at 10:30 o'clock A. M.

The only appearance was that of the applicant appearing in person and by Mr. H. B. Muffley. Applicant testified in substance that he had installed an electric light plant at said town of Deer Trail some months ago, and was now engaged in supplying said town and its inhabitants with electrical current for light and power. He described in a general way the size and character of his plant, which has a capacity of 50 K. W.

per hour, and that the present demand that he is supplying approximates 25 K. W. H.; that said town has a population of about 400 and is located in the extreme northwestern end of Arapahoe county, about 40 miles northeast of Denver on the line of the Kansas City branch of the Union Pacific Railroad; that no other utility of like character or purpose exists at said place, and as a matter of fact in said county, except at Littleton, the county seat, some 50 miles away.

Applicant testified that he had received a franchise from the town of Deer Trail on June 2, 1920, for the installation, operation and maintenance of said plant for the term of twenty years from said date, and there was introduced in evidence a certified copy of said franchise so granted to applicant by said town. The copy of franchise so introduced was proven to be a true and exact copy of the original franchise by a witness, at present a member of the board of trustees of the town of Deer Trail.

At the present time there seems to be no debatable question as to the convenience and necessity of the public by the use of the modern method of light and power furnished by electricity, and inasmuch as applicant has such plant in operation, and has received from the local authorities the franchise to maintain, operate and conduct it, and there being no opposition thereto from any source, it follows that the Commission must find that the public convenience and necessity of said town of Deer Trail require and will require the operation of said electric light plant, and the Commission does hereby so find.

O R D E R.

IT IS THEREFORE ORDERED, That the public convenience and necessity of the town of Deer Trail and the inhabitants thereof require and will require the operation of an electric light plant and system in said town,

and that the applicant, Theodore H. Webermin, be, and he hereby is, granted a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN,

(SEAL)

A. P. ANDERSON,

FRANK P. LANNON.

Commissioners.

Dated at Denver, Colorado,
this 26th day of June, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

~~COPY~~

Decision No. 348

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of The Great Western Railway Company for an Order Authorizing the Construction of a Temporary Grade Crossing over Public Highway 14 S.	)	APPLICATION NO. 99

July 15, 1920.

STATEMENT.

By the Commission:

This matter comes before the Commission on application of the Great Western Railway Company for permission to construct and temporarily maintain and operate a single track of railroad across the public highway known as 14 S near Johnstown, in Weld County, Colorado. The application states that the construction of the proposed track is necessary in order to transport materials, machinery and supplies to be used in the construction of a sugar factory by the Great Western Sugar Company, which is proposed to be located in the north half of Section 9, Township 4 N., R. 67 W., 6th Principal Meridian, in said Weld county, and that the use of said track is to be confined to transporting such material and supplies, etc., during the construction and until the completion of such proposed sugar factory. The application further states that there will be trains passing over said crossing daily during construction of the sugar factory as may be necessary for such purpose, and that it is desired to construct such temporary crossing for the reason that it will be the most practicable method of delivering materials to the sugar factory site; and that applicant will install ordinary railroad warning sigh for such temporary crossing.

A map or plat showing the location of all tracks, buildings, structures, property lines and roads in the vicinity of the proposed temporary crossing and also profiles showing the ground lines and the proposed grade lines of the approaches on said public highway affected by the proposed temporary crossing, is attached to said application. The applicant proposed to

to do all the work of construction and has expressed a willingness to comply fully with the specifications prescribed by the Commission for the construction of railroad crossings at grade, as set forth in its order In re: Improvement of Grade Crossings in Colorado, 2 Colo. P.U.C. 128, and that at the completion of said sugar factory construction said temporary crossing will be taken up and the road left in good condition. Also it is understood that said applicant company agrees to maintain this temporary crossing at its own expense in a reasonably safe condition for use by the public traveling over it.

The Commission has considered the matter as presented in this application and is of the opinion that permission should be granted applicant to construct the proposed temporary track, as herein above stated.

O R D E R.

IT IS THEREFORE ORDERED, That the applicant herein, The Great Western Railway Company be, and it is hereby, permitted to construct a temporary track at grade across public highway referred to in its petition as State Secondary Highway No. 14 S near Johnstown, in Weld County, Colorado, at the place shown upon the map attached to and made a part of its application; that all expense of installation of such crossing shall be borne by said applicant or by the Great Western Sugar Company, in accordance with allegations contained in said application, and that applicant shall install at said temporary crossing the usual railroad warning sign it maintains at country road crossings, and that upon the completion of said sugar factory in the fall of 1920, said temporary crossing will be removed and the highway left in good condition; and that during the time this crossing is in use applicant shall maintain the approaches thereto in reasonably good condition to permit of free and safe travel by the public.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(SEAL)

GRANT E. HALDERMAN

A. P. ANDERSON

F. P. LANNON

Dated at Denver, Colorado,
this 15th day of July, 1920.

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~~COPY~~

Decision No. 349

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

F. G. Bonfils and H. H. Tammen, Doing Business under the Style and Firm Name of The Denver Post Coal and Iron Company and The Post Printing and Publishing Company, a Corporation,

Complainants,

vs.

Union Pacific Railroad Company,

Defendant

CASE NO. 15

Order.

July 15, 1920

It being made to appear to the Commission by the written stipulation of the above parties, by their respective attorneys, filed herein on July 12, 1920, that all claims and demands involved in the above entitled matter, having been fully compromised, settled and paid upon the basis heretofore approved by the Commission, and that said cause may be forthwith dismissed:

IT IS THEREFORE ORDERED, That the said cause be, and it is hereby, dismissed.

IT IS FURTHER ORDERED, That the secretary of the Commission cause a certified copy of this order to be served upon the attorneys for the respective parties to this cause.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDEMAN

A. P. ANDERSON

F. P. LANNON

Dated at Denver, Colorado,
this 15th day of July, 1920.

I do hereby certify that the above and foregoing is a true and copy of the original order of the Public Utilities Commission of the Colorado in the above entitled cause and now on file in this office.

(Decision No. 350)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Great Western Railway Company for an order authorizing the construction and maintenance of a permanent grade crossing over public highway 14 S.	)))))	APPLICATION NO. 98.

(July 16, 1920.)

STATEMENT.

By the Commission:

The above matter comes before the Commission upon the petition of The Great Western Railway Company, a corporation, for permission to construct and permanently maintain a single track crossing over the public highway known as secondary highway No. 14 S, near Johnstown, Weld County, Colorado.

The application states that applicant desires to install a permanent crossing at grade extending from its main line on the north side of said highway, thence southwesterly across said highway to the site of a proposed sugar factory to be located in the north half of Section nine (9), Township four (4), Range sixty-seven (67) West of the 6th P. M., in Weld County, Colorado. Attached to the petition is a map showing such permanent track and crossing, indicated by a red line, which map also shows the location of all tracks, property lines, roads, and other structures in the vicinity of such crossing.

The applicant further states that the crossing will be constructed in accordance with the provisions of the Commission's order In re Improvement of Grade Crossings in Colorado, 2 Colo. P. U. C. 128, and that the expense of constructing said crossing will be borne by applicant; that there will be such trains passing over said crossing daily as may be necessary in handling of freight consigned to or shipped from such proposed sugar factory.

The railway engineer for the Commission has inspected the site of

such proposed crossing and recommends that its installation be permitted, and Weld County, Colorado, through its Board of County Commissioners, has given its consent thereto. The engineer understands, and so reports to the Commission, that applicant will maintain the highway between the track and make such improvements thereon as may in the future be required by the state of Colorado with reference to realignment of grade, paving, etc.

The Commission has considered the matter presented in said application and is of the opinion that permission should be granted applicant to construct and permanently maintain proposed crossing upon the conditions herein and in its petition mentioned, and it will be so ordered.

O R D E R.

IT IS THEREFORE ORDERED, That The Great Western Railway Company be, and it is hereby, permitted to construct and maintain its track over and across said secondary highway No. 14 S. near Johnstown, Weld County, Colorado, at grade, at the point designated in its application and shown by red line on the map attached thereto, the same to be constructed in accordance with the specifications prescribed for construction of railroad crossings at grade as contained in the Commission's order In re Improvement of Grade Crossings in Colorado, 2 Colo. P. U. C. 128; provided, applicant shall maintain the highway across and between its track and shall at such time in the future as paving or such other improvements may be made by the state highway commission on this particular piece of road adjust, without expense to the state of Colorado, the level of such crossing to the cross section of the highway at said point, and, at its own expense, maintain and pave the road across and between its track to the outside limit of the ties, when the same shall be so required to be done by the state highway commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN,

(SEAL)

Dated at Denver, Colorado,
this 16th day of July, 1920.

FRANK P. LANNON.

Commissioners.

(Decision No 351)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In Re Advance in Water Rates of)
The Evergreen Utilities Company.) I. & S. No. 48.

(August 9, 1920.)

STATEMENT.

By the Commission:

On July 5, 1920, there was filed with the Commission, by The Evergreen Utilities Company, a schedule of water rates applicable in the vicinity of Evergreen, Colorado, numbered as Colo. P.U.C. No. 1, proposed to become effective August 5, 1920. Protests were received subsequent to the filing of the schedule and the Commission thereupon entered upon an investigation concerning the propriety of the increases and the lawfulness of the proposed rates, rules and regulations, and, pending the investigation and hearing thereon, deferred the operation of the schedule until December 3, 1920, by suspension order issued August 4, 1920.

Inasmuch as no previous schedule had been filed by the respondent herein, and the proposed rates being applicable to a vicinity primarily a summer resort, it was deemed advisable to hold a hearing in the matter at the earliest possible moment. The Commission thereupon set the cause for hearing on August 9, 1920, at Denver, Colorado. At the hearing the protestants withdrew their request for suspension and stated their willingness that the schedule become effective temporarily without prejudice to their rights to bring formal complaint against the rates in the future, as otherwise the respondent would be without any legal schedule for the present season. At the hearing, the Commission

announced that protestants would have full right guaranteed by the Public Utilities Act to be heard in regard to the reasonableness of the schedule, and that if a future schedule were filed increasing the rates over those contained in the present schedule the Commission would suspend such schedule pending the determination of the cause. The Commission therefore will issue an order vacating the suspension in the instant cause.

ORDER.

IT APPEARING, That on August 4, 1920, the Commission entered upon an investigation concerning the propriety of the increases and the lawfulness of the rates, charges, regulations and practices stated in the schedule designated as The Evergreen Utilities Company Colo. P.U.C. No. 1, and subsequently ordered that the operation of said schedule be suspended until December 3, 1920;

IT FURTHER APPEARING, That a hearing has been held in the matter at which the protestants withdrew their request for suspension of the said schedule;

IT IS THEREFORE ORDERED, That the order of the Commission heretofore entered in this proceeding, suspending the operation of the said schedule, be and it is hereby, vacated and set aside as of August 5, 1920.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN,

(SEAL)

A. P. ANDERSON,

F. P. LANNON,

Commissioners.

Dated at Denver, Colorado,
this 9th day of August, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

COPY 139

(Decision No. 352)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

THE DENVER AND SALT LAKE RAILROAD COMPANY, Complainant, v. THE CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY, Defendant.	CASE NO. 53.
THE DENVER AND SALT LAKE RAILROAD COMPANY, Complainant, v. UNION PACIFIC RAILROAD COMPANY, Defendant.	CASE NO. 55.

ORDER OF DISMISSAL.

By the Commission:

In the above entitled causes, a stipulation was filed on August 16, 1920, whereby the matters and things at issue therein have been fully compromised and settled upon the basis set forth in said stipulation, and that, by said agreement, said causes are directed to be dismissed.

The Commission having read the stipulation aforesaid, and considered the same, and now being fully advised in the premises, and the Commission approving of the basis of settlement set forth in the stipulation for dismissal filed herein as aforesaid.

IT IS ORDERED, That the above entitled proceedings be, and the same are, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT B. HALDERMAN,

(SEAL)

A. P. ANDERSON,

Dated at Denver, Colorado,
this 17th day of August, 1920.

Commissioners.

~~COPY~~

(Decision No. 357)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE DENVER AND SALT LAKE RAILROAD COMPANY, Complainant, v. THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY, Defendant.	CASE NO. 34.

ORDER OF DISMISSAL.

By the Commission:

In the above entitled cause, a stipulation was filed on August 16, 1920, whereby the matters and things at issue therein have been fully compromised and settled upon the basis set forth in said stipulation, and that, by said agreement, said cause is directed to be dismissed.

The Commission having read the stipulation aforesaid, and considered the same, and now being fully advised in the premises, and the Commission approving of the basis of settlement set forth in the stipulation for dismissal filed herein as aforesaid.

IT IS ORDERED, That the above entitled proceeding be, and the same is, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN,

(SEAL)

A. P. ANDERSON,

Dated at Denver, Colorado,
this 17th day of August, 1920.

Commissioners.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

ORIGINAL

(Decision No. 354

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Application of the town of Pierce for a certificate of public convenience and necessity for the establishment of a waterworks system.	) ( ) (	APPLICATION NO. 106.

(August 18, 1920.)

STATEMENT.

By the Commission:

The town of Pierce, Colorado, a municipal corporation, filed with the Commission July 30, 1920, an application for a certificate of public convenience and necessity to install and operate a municipal system of waterworks in and for said town of Pierce.

The application sets forth that said town has not any system of waterworks and that there is not any water utility in said municipality; that the public convenience and necessity require the construction and operation of a system of waterworks within said town and that by a majority vote of the electors of said town, duly called and held, the question of the installation of a municipal system of waterworks in said town was voted upon, together with a proposition to issue the bonds of said town in payment therefor, and that said election, so called and held, was carried by a majority of the electors of said town of Pierce.

Upon notice duly given, the matter was heard at the hearing room of the Commission at its office in Denver, Colorado, on August 16, 1920. The Mayor of the town of Pierce, W. J. Johnson, appeared in behalf of said town, there being no other appearance made. He testified that he is, and has been for a period of years past, the mayor of said town of Pierce; that there has never been a waterworks system at said town and that the inhabitants there-

of rely upon individual wells for supplying the inhabitants of said town with water, and that said town has never had adequate, or any, fire protection.

The testimony further is to the effect that the question of building and operating a municipal system of waterworks was submitted to the electors of said town, called by Ordinance No. 12, which was adopted on February 20, 1920, and that said special election was held in said town by virtue thereof on Tuesday, March 23, 1920, and that at the same time there was included the question of authorizing the Board of Trustees of said town to erect and construct a system of waterworks for fire and domestic purposes, to be owned, managed, and operated by the town, and that at said election a majority of the voters of the town of Pierce who are taxpayers under the law voting on the question at said special election voted in favor of the same.

That thereafter the Board of Trustees of said town initiated Ordinance No. 13, which was adopted on April 27, 1920, providing for the issuance of negotiable coupon bonds of said town in the principal amount of $35,000.00, for the purpose of providing funds with which to erect and install said waterworks system, which said ordinances were duly proven and certified copies thereof admitted in evidence.

A map of the town of Pierce, as pertains to the system of waterworks to be installed, was also admitted in evidence and witness testified that water to supply said system was to be derived from wells and pumped by means of electrical energy into a storage reservoir, or tank, such electrical energy to be purchased by said town from the electric utility now operating in that territory.

The voters of the town of Pierce, and its officers, having signified their desire, as aforesaid, of installing and operating a system of waterworks for supplying the citizens and inhabitants of said town with water for fire and domestic purposes, and the requisite steps having been taken therefor in accordance with law, it needs no argument to convince the Commission that public convenience and necessity require and will require that such waterworks system be provided for the inhabitants of said town of Pierce.

O R D E R.

IT IS THEREFORE ORDERED by the Commission that the public convenience and necessity of the citizens and inhabitants of the town of Pierce require and will require the installation and operation of a system of waterworks for said town to be owned, managed, and operated by said town, and that this order shall be deemed to be a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hall

A P Anderson

Commissioners.

Dated at Denver, Colorado,
this 18th day of August, 1920.

Decision No. 354

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, CHICAGO, BURLINGTON AND QUINCY RAILWAY COMPANY, THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY, THE COLORADO AND SOUTHERN RAILWAY COMPANY, A. R. BALDWIN, Receiver of the property of THE DENVER AND RIO GRANDE RAILROAD COMPANY, W. R. FREEMAN and C. BOETTCHER, Receivers of the property of THE DENVER AND SALT LAKE RAILROAD COMPANY, MISSOURI PACIFIC RAILROAD COMPANY, UNION PACIFIC RAILROAD COMPANY, THE RIO GRANDE SOUTHERN RAILROAD COMPANY, THE DENVER AND INTERMOUNTAIN RAILROAD COMPANY, THE COLORADO AND SOUTHEASTERN RAILROAD COMPANY, THE GREAT WESTERN RAILWAY COMPANY, THE SAN LUIS CENTRAL RAILROAD COMPANY, THE COLORADO WYOMING AND EASTERN RAILWAY COMPANY, THE CRIPPLE CREEK AND COLORADO SPRINGS RAILROAD COMPANY, Applicants, and THE SAN LUIS SOUTHERN RAILWAY COMPANY, THE COLORADO - KANSAS RAILWAY COMPANY, THE MIDLAND TERMINAL RAILWAY COMPANY, Intervenors.	APPLICATION NO. 91

Appearances:

Henry T. Rogers and Earl H. Ellis, for Atchison, Topeka & Santa Fe Ry., E. E. Whitted and J. Q. Dier, for Chicago, Burlington & Quincy R. R., Wm. V. Hodges, D. Edgar Wilson, Geo. W. Martin, for Chicago, Rock Island & Pac. Ry., E. E. Whitted and J. Q. Dier, for Colo. & Southern Ry., Yeaman, Gove & Huffman, for Colo. & Southeastern R. R., Charles E. Sutton, for Colorado-Kansas Ry., Gerald Hughes and E. G. Knowles, for Denver & Intermountain Ry., Charles R. Brock and Elmer E. Brock, for Denver & Salt Lake R. R., Caldwell Martin, E. R. Griffin and H. F. Lambert, for Great Western Ry., C. C. Hamlin, for Cripple Creek & Colo. Springs R. R., Fred Matthews, for Midland Terminal Ry., C. C. Dorsey and Edward G. Knowles, for Union Pacific R. R., J. G. McMurray, for Denver & Rio Grande R. R., Missouri Pacific R. R., Colo. Wyo. & Eastern Ry., Rio Grande Southern R.R., and San Luis Central Ry., and, also, appearing generally for all carriers not specially represented.

Fred Farrar, for Colorado & Wyoming Ry., and the Colorado Fuel and Iron Company.

Harry Dickinson, for The Denver Transportation Bureau, T. A. McHarg, for the Boulder Commercial Association, Albert L. Vogl, for The Consumers League of Colorado, A. W. Ward, for the Colorado Springs Chamber of Commerce.

(August 25, 1920.)

STATEMENT.

By the Commission:

This cause arises on application, filed May 19, 1920, by the carriers named as applicants herein for an order of this Commission permitting the establishment of rates on state traffic in Colorado in conformity with such increases in rates on interstate traffic as might be allowed by the Interstate Commerce Commission in connection with applications then pending before it. On July 26, 1920, a supplemental application was filed, requesting that, in event the Interstate Commerce Commission should allow additional increases in freight rates or passenger fares necessary to meet wage increases granted by the United States Railroad Labor Board, this Commission authorize corresponding increases in the intrastate freight rates and passenger fares applicable in the state of Colorado.

The applications before the Interstate Commerce Commission were filed by the carriers under section 422 of the Transportation Act, 1920, which provides a new section, 15 (a), to the Act to Regulate Commerce. Under that section the Interstate Commerce Commission is required to

> "initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: Provided, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country."

The Interstate Commerce Commission further is required to determine and make public what percentage constitutes a fair return thereon, but, during the two years beginning March 1, 1920, such fair return to be taken shall be a sum equal to 5½ per cent of such aggregate value, with a further sum added thereto, in

the discretion of the Commission, not exceeding one-half of 1 per cent to make provision for additions, betterments, equipment, etc.

Applications were filed before the Interstate Commerce Commission by the carriers located in the three classification territories: Official, Southern and Western. The application of the western carriers recited that "the revenues derived from existing rates yield less than 2 per cent upon such aggregate value and are wholly insufficient to enable them to provide and maintain an efficient service of transportation." The alleged aggregate value of the western carriers was shown as $8,963,883,753, and the claim was made that, in order to provide a return of 6 per cent on such value an increase in rates on all state and interstate freight traffic would be necessary.

Subsequent to the filing of the petitions before the Interstate Commerce Commission and this Commission the United States Railroad Labor Board, on July 20, 1920, made an award increasing the pay of railroad employes, effective May 1, 1920, the result of which, according to the estimates of the carriers, would increase the operating expenses of the carriers of the United States by approximately $626,000,000 per annum. Supplemental petitions were thereupon filed by the carriers asking that such wage award be considered in granting the necessary relief, through additional rate increases.

The hearings before the Interstate Commerce Commission were commenced on May 24, 1920, and concluded on July 6, 1920. In all 38 volumes of transcript and exhibits were submitted, numbering 10,600 pages. At the hearing before this Commission the applicants herein tendered in evidence the transcript and the same was received as Carriers' Exhibits Nos. 1 to 38 inclusive.

After consideration the Interstate Commerce Commission, on July 29, 1920, filed its opinion and order in the cause before it, Ex Parte 74, (58 I.C.C. 220-260.) That Commission found the value of the steam railway property of the western group carriers held for and used in the service of transportation, for the purposes of the particular case, to be approximately $8,100,000,000 A return of 6 per cent on such amount would be $486,000,000. The Commission divided the western territory into two groups, stating:

"The record shows that the principal railroads serving the territory west of the Colorado common points, especially the so-called transcontinental railroads as a whole, are in a substantially better financial condition than other carriers in the western territory. It also shows that the rates, generally speaking, are materially higher in the region west of the Colorado common points than in the part of the western territory lying east thereof. Considering the whole situation it is our view that the territory west of the Colorado common points and the traffic to and from that territory may properly be given separate treatment."

A line was therefore drawn from the boundary of Canada to El Paso, Texas, dividing the two groups, which were thereupon designated the Western group and the Mountain-Pacific group. By this subdivision the state of Colorado is placed within the two groups, the line describing the western boundary of the western group being as follows:

"* * * and on and east of a north and south line running as follows: Following the boundary line between the state of North Dakota and the state of Montana and the boundary line between the states of South Dakota and Wyoming and Nebraska and Wyoming to the line of the Union Pacific extending east from Cheyenne, Wyo.,; then following the line of the Union Pacific westward to Cheyenne and from Cheyenne running southward through Denver, Colorado Springs, Pueblo and Trinidad, Colo.,; then following the line of the Atchison, Topeka & Santa Fe Railway through Raton and Las Vegas, N. Mex., to Albuquerque, N. Mex.; then south along the line of the Atchison, Topeka & Santa Fe Railway to El Paso, Tex."

It is further stated, elsewhere in the order, that it is not intended that the group boundaries above described should be strictly observed in the construction of rates in accordance with the findings, but that the territorial boundaries heretofore recognized should be observed.

The division of the western territory into two groups for rate making purposes by the Interstate Commerce Commission order of July 29, 1920 results in the continental United States being divided into four groups, the Eastern, Southern, Western and Mountain Pacific, instead of the three groups heretofore existing, to-wit: Official or Eastern, Southern and Western groups, and that order authorized increased fares and rates in the four groups, as follows: 40 per cent in the Eastern, 25 per cent in the Southern, 35 per cent in the Western, and 25 per cent in the Mountain Pacific territory, on all interstate freight rates, with increase common to all groups of 20 per cent on interstate passenger fares, 20 per cent on excess baggage rates, a surcharge upon passengers in sleeping and parlor cars of 50 per cent of the charge for space used, to accrue to the rail

carriers, and 20 per cent on rates for milk and cream carried on passenger trains, besides certain additional increases in switching and special service charges. These increased rates granted the carriers of the country were for the purpose of yielding the 5½ per cent return on the aggregate value of the property of the carriers during the two-year period ending March 1, 1922, as provided in the Transportation Act, 1920, and one-half of 1 per cent for betterments, improvements and equipment to enable the carriers to render efficient transportation service to the commerce of the country.

Upon due notice to all parties and to the public the matter was heard at the hearing room of the Commission, Capitol Building, Denver, Colo., on August 12, 1920.

During the course of the proceedings several objections were filed by shippers to any increase upon certain commodity rates, but in view of the general scope of the hearing such matters will be disregarded in this proceeding, and will be made the subject of readjustment at a later date upon due application therefor.

As previously stated, at the hearing before this Commission, the applicant carriers introduced as evidence, in transcript form, the evidence presented to the Interstate Commerce Commission, pertaining to the Western and Mountain Pacific groups, and other documentary evidence. A witness for applicants gave testimony as to the interpretation placed upon certain phases of the Interstate Commerce Commission order by the carriers. Evidence also was presented as to the award of the United States Railroad Labor Board and of the effect of that award. No evidence was tendered as to the value of applicants' property held for and used in intrastate traffic in the state of Colorado nor as to operating revenues and operating expenses of the applicants in such intrastate traffic. To have done so would have been impracticable, if not impossible, within the limited time between the date of the issuance of the Interstate Commerce Commission order and the effective date thereof. The order sought is of a temporary or provisional nature in the existing emergency to harmonize intrastate rates with the interstate rates authorized by the Interstate Commerce Commission, and it is quite apparent that a final order cannot be entered herein at this time.

It is urged by applicants that unless advances of intrastate rates are permitted to become effective at substantially the same time the increased interstate rates go into effect, there will be wide discrimination between interstate and intrastate rates; that this will create a chaotic condition in transportation service and will be disastrous to the business of the country. The Commission is obliged to deal with this as an emergency application and to apply to it the rules by which it is governed in passing upon such applications. Upon an application of this character it is, therefore, impossible at this time to analyze accurately the vast volume of evidence before us as such evidence applies to the railroads within the state of Colorado. On original applications for increases in rates and fares the burden is upon the applicant to justify the proposed increases. The Interstate Commerce Commission has by its order found justification for the increase of rates and fares in the Western and Mountain Pacific groups as a whole.

The applicant carriers submitted no evidence of a satisfactory nature as to the value of their properties in Colorado or as to operating revenues and expenses in this state. The Interstate Commerce Commission, however, has had opportunity for a complete investigation of the affairs of the carriers in the different groups. In view of that fact and the further fact that in arriving at its conclusions the Interstate Commerce Commission contemplated that the revenues necessary to yield a 6 per cent return upon the aggregate value of the carriers' property would be derived from intrastate as well as interstate traffic, this Commission will authorize temporarily the same increases on intrastate traffic as have been authorized by the Interstate Commerce Commission on interstate traffic, with the exception that no increase will be allowed in rates on milk and cream carried on passenger trains. As has been stated, accurate findings by this Commission at this time as to values, operating revenues and operating expenses of the applicant carriers within the state of Colorado are impossible upon this record.

Owing to the incompleteness of the record in this proceeding as to the percentage of revenues required by applicants properly assignable to intrastate traffic in Colorado, the finding as to increases hereinafter allowed must be understood to have been made upon authority and weight of the evidence presented to the Interstate Commerce Commission, as applied to the respective groups. and the applicants and the public will understand that such increases are authorized temporarily and may be made subject to readjustment or modification at any time application is made in that behalf, and that upon such application being made the carrier or carriers will be required to justify such increase.

The Interstate Commerce Commission in Ex parte No. 74 makes the statement that "the records shows that the principal railroads serving the territory west of the Colorado common points, especially the so-called transcontinental railroads as a whole, are in a substantially better

financial condition than other carriers in the western territory. It also shows that the rates, generally speaking, are materially higher in the region west of the Colorado common points than in the part of the western territory lying east thereof."

While this may be true regarding the so-called transcontinental railroads as a whole, in the western territory, this Commission is not at all satisfied that it is true as to all of the railroads within the state of Colorado. The Commission is aware that within the state of Colorado and west of the Colorado common points there are intrastate roads which are not in as good financial condition as the average road east of Colorado common points. This will emphasize the duty of the Commission with reference to later applications by lines west of the Colorado common points as well as to specific rates being made the subject of future investigation and adjustment by this Commission.

By order of the Interstate Commerce Commission joint or through line rates from one group to another are increased 33-1/3 per cent, and by the same order, as interpreted by the carriers, rates for a movement of freight ~~or of passengers~~ upon and east of the line of the Colorado common points -- being a line from Cheyenne southward thru Denver, Colorado Springs, Pueblo, and Trinidad -- will bear a 35 per cent increase and will give a 35 per cent increase to the western group carriers instead of the 25 per cent increase granted to the Mountain-Pacific group west of the Colorado common points. This Commission is not prepared to say that the evidence presented to it justified such an interpretation, especially as applied to the fixing of rates as permanent charges for transportation within the state of Colorado, and particularly is this true as applied to certain commodity rates. Therefore the Commission would again emphasize the fact that intrastate rates may be made the subject of further investigation and adjustment as the exigencies of the respective cases may require

when the same are made to appear unequal or unjust in their application.

Heretofore the carriers have justified their failure to render adequate and efficient service through lack of revenue and the rates and fares hereinafter permitted are authorized in the expectation that the carriers shall hereafter render adequate and efficient service within the state of Colorado.

Considering the record as a whole the Commission finds that the expenses of the applicants in operating their lines have been largely increased by increased cost of materials and supplies and by advances in wages now effective, and that unless prompt relief is granted the carriers will be seriously embarrassed in providing funds with which to operate their lines; that charges for freight service, including switching and other special service now in force within this state, are insufficient and the increases hereby authorized are fair, just and reasonable temporarily to meet the emergencies and needs of the carriers; that for the purposes of this order the rates and fares hereinafter authorized are just and reasonable temporary rates and are fair to the public and to the applicants and intervenors, and they are therefore authorized to go into effect subject to such readjustment as actual experience may prove to be necessary.

In promulgating this order the conditions under which it is made, must be kept constantly in mind to the end that injustice may not be done the commerce of the state; and this idea can be no better expressed than in the language of the Interstate Commerce Commission on pages 255 and 256 of its Report in Docket Ex parte No. 74, which reads as follows:

> "Most of the factors with which we are dealing are constantly changing. It is impossible to forecast with any degree of certainty what the volume of traffic will be. The general price level is changing from month to month and from day to day. It is impracticable at this time to adjust all of the (intrastate) rates on individual commodities. The rates to be established on the basis hereinbefore approved must necessarily be subject to such readjustments as the facts may warrant. It is conceded by the carriers that readjustments will be necessary. It is expected

that shippers will take these matters up in the first instance with the carriers, and the latter will be expected to deal promptly and effectively therewith, to the end that necessary readjustments may be made in as many instances as practicable without appeal to us."

O R D E R

IT IS THEREFORE ORDERED, That the applicants, Atchison, Topeka & Santa Fe Railway Company, Chicago, Burlington & Quincy Railroad Company, The Chicago, Rock Island & Pacific Railway Company, The Colorado & Southern Railway Company, The Cripple Creek & Colorado Springs Railroad Company, A. R. Baldwin, receiver for the property of The Denver & Rio Grande Railroad Company, W. R. Freeman and C. Boettcher, receivers for the property of The Denver & Salt Lake Railroad Company, Missouri Pacific Railroad Company, Union Pacific Railroad Company, The Rio Grande Southern Railroad Company, The Denver & Intermountain Railroad Company, The Colorado & Southeastern Railroad Company, The Great Western Railway Company, The San Luis Central Railroad Company and The Colorado, Wyoming & Eastern Railway Company, and the intervenors, The San Luis Southern Railway Company, The Colorado-Kansas Railway Company and The Midland Terminal Railway Company, be and they are hereby authorized to make effective upon September 1, 1920, by the giving of not less than one day's notice to the Commission and to the public, by filing and posting in the manner prescribed in the Public Utilities Act, schedules of rates constructed in accordance with those hereinafter set forth and including the increases hereinafter specified.

The rates herein authorized shall continue in effect until the further order of the Commission, with the right hereby expressly reserved to modify the same upon its own motion or upon the application or complaint of any person or party in interest.

IT IS FURTHER ORDERED, That applicants or intervenors shall not

be permitted to file any rates in accordance with the authority herein granted to take effect at a later date than October 15, 1920.

IT IS FURTHER ORDERED, That increase in rates shall be as follows:

1. In passenger fares, an increase of 20 per cent. A surcharge upon passengers in sleeping and parlor cars amounting to 50 per cent of the charge for space in such cars; such charge to be collected in connection with the charge for space, and to accrue to the rail carriers temporarily until the further order of the Commission.

2. In excess baggage rates an increase of 20 per cent, provided that where stated as a percentage of or dependent upon passenger fares, the increase in the latter will automatically effect the increase in the excess baggage charges.

3. An increase of 35 per cent on freight rates upon intrastate traffic in that territory in the state of Colorado lying on and east of the line determined by the Interstate Commerce Commission from Cheyenne, Wyoming, running southward through Denver, Colorado Springs, Pueblo and Trinidad, then following the line of the Atchison, Topeka & Santa Fe Railway through Raton and Las Vegas, N. M.; an increase of 25 per cent on freight rates upon intrastate traffic in that territory in Colorado lying west of said line; an increase of 33 - 1/3 per cent on through freight rates applying from one territory into the other, until the further order of the Commission, subject to readjustment as hereinbefore stated.

4. The rates or charges for switching, transit, weighing, diversion, reconsignment, storage (not including track storage) and transfer where carriers provide separate charges against shippers for such service, shall be increased the same percentages as applied to freight rate increase and should be determined by the percentage applicable in the group where the service is performed. When tariffs now provide for the absorption by one carrier of another carrier's charges in specific amounts, such absorptions

should be revised in harmony with the increases herein authorized.

5. IT IS FURTHER ORDERED, That for lack of evidence the application for advance in rates for transportation of milk and cream on passenger trains be and it is hereby denied.

6. IT IS FURTHER ORDERED, That the minimum charge per shipment for less than carload traffic, the minimum charge per car on carload traffic applicable to line haul movements, the minimum class rates, and the charges for other special services not enumerated herein, shall not be increased.

IT IS FURTHER ORDERED, That for the reasons as stated in the report of the Interstate Commerce Commission, the provisions of this order shall be applicable to the original applicants and intervenors herein.

IT IS FURTHER ORDERED, That in order to simplify tariff publications, the applicants and intervenors are hereby authorized to file increase of rates authorized in blanket supplements, when found expedient, to the same extent that said carriers and intervenors have been authorized to depart from similar tariffs and regulations prescribed by the Interstate Commerce Commission in its order in Docket No. Ex parte 74, dated July 29, 1920.

IT IS FURTHER ORDERED, That in computing and applying all increased rates authorized herein, fractions will be treated as follows:

Where rates are stated in amounts per 100 pounds or any other unit, except as provided in the succeeding paragraph, fractions of less than one-fourth of a cent will be omitted. Fractions of one-fourth of a cent or greater but less than three-fourths of a cent will be stated as one-half cent. Fractions of three-fourths of a cent or greater will be increased to the next whole cent. This rule will also be followed in computing passenger fares.

Where rates are stated in dollars per carload, including articles moving on their own wheels, when not stated in amounts per 100 pounds or per ton, amounts of less than 25 cents will be dropped. Amounts of 25 cents or more but less than 75 cents will be stated as 50 cents. Amounts of 75 cents or more but less than one dollar will be raised to the next dollar.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Hall

A. P. Anderson

Commissioners

Dated at Denver, Colorado,
this 25th day of August, 1920.

ORIGINAL

(Decision No. 356)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of W. R. Freeman and C. Boettcher, Receivers of The Denver & Salt Lake Railroad Company, for increases in rates.	)))))	APPLICATION NO. 108.

(August 30,1920.)

Appearances: Charles R. Brock and Elmer L. Brock, for the applicants.

STATEMENT.

By the Commission:

The application herein was filed August 14, 1920, and alleges substantially as follows:

That applicants joined in the general petition of the railroads in the state of Colorado, which was designated as Application No. 91, for a general increase in rates in conformity with such increases as might be made by the Interstate Commerce Commission. That at the time of said application, and at all timesprior thereto, applicants' railroad had been included in what was designated the Western group of railroads, and petitioners assumed that the increases awarded to the roads in Western Classification Territory would be in all respects uniform; that petitioners were surprised that the Interstate Commerce Commission by its order in case Ex Parte 74 created a new group as the Mountain-Pacific group, and that in said order there was established an increase of 35 per cent to accrue to railroads on and east of the Colorado common point line, and 25 per cent to carriers in the Mountain group and west of the Colorado common points. That petitioners' railroad lies wholly in the Mountain-Pacific group, which the Interstate Commerce Commission found to be in a more prosperous condition than the roads operating in the Western group.

That the adoption by this Commission of a 25 per cent increase in state rates to accrue to petitioners' road will necessarily operate as a disastrous discrimination against petitioners; that to enable petitioners to continue the operation of said road, and to pay the necessary operating expenses incident thereto, and without receiving any net return whatever, it is necessary for them to have at least as high a rate of increase as that granted to carriers in the Western group.

That no Pullman cars are transported on petitioners line of railroad; that there are no milk or cream rates to be increased, and that the road of petitioners extends from Denver, Colorado, to the town of Craig, in said state of Colorado, and has no western connections whatever. That for the period beginning July 1, 1918, to June 30, 1920, inclusive, a deficit resulted from the operation of the road of petitioners in excess of two and one-half million dollars. That the application of a 35 per cent increase upon all intrastate freight rates to the same amount of business transacted during the calendar year 1919 with all other increases allowed by the Interstate Commerce Commission would still result in a deficit of more than eight hundred thousand dollars.

Petitioners pray that in addition to the relief prayed for by them in Application No. 91, a further increase upon freight traffic be allowed so as to give petitioners the same total increase thereon as provided by the Interstate Commerce Commission in application Ex Parte 74 upon freight in Western Classification Territory, or, in other words, that they be allowed such increase in freight rates in this proceeding as will, when added to any increase allowed to petitioners under Application No. 91, equal 35 per cent upon all existing intrastate freight rates.

A hearing was held by the Commission in its hearing room, State Capitol, Denver, on August 27, 1920, in the above entitled application.

The Commission, in its order in Application No. 91, provided for an increase of 25 per cent on all existing intrastate freight rates, and the same will accrue to petitioners' road.

At the time of the hearing there were introduced in evidence from the towns of Craig and Steamboat Springs resolutions recommending the proposed increases and assenting to the same.

The testimony discloses that about 85 per cent of all the traffic of this road is the carrying of coal. There was filed with the Commission a petition signed, as the evidence discloses, by the producers of over 90 per cent of the coal along this line asking the Commission to allow the increases as applied for by petitioners. The Commission also received a telegram from the Chairman and Secretary of the District Commercial Club of the Town of Kremmling which opposed the granting of the proposed increases.

The application of petitioners is that its rates, both local and joint, should be increased to the extent of 35 per cent. It appears to the Commission that many of the reasons actuating the Interstate Commerce Commission in allowing a smaller increase to the roads in the Mountain-Pacific group than in the Western group are not at all applicable to the Denver & Salt Lake Railroad. It has no western connections, carries no Pullman cars, and has no milk or cream rates. The increase allowed to the applicant company in the order in Application No. 91 on switching rates will result in no increase in revenue to the Denver & Salt Lake Railroad. The record in this case establishes fully the necessity for a further increase in the rates of petitioners' road and the Commission finds that the difficulties encountered in the operation of this road, as well as its financial condition, warrants such increase; in fact, the serious question for the Commission to decide is whether the receivers will be able to continue operation at all, even on the basis of the increase in rates sought in this application.

The testimony discloses that the result of the operation of this road from July 1, 1918, to June 30, 1920, as certified to the Interstate Commerce Commission, was that the road failed by $2,531,227.47 in meeting its operating expenses. The testimony of the auditor of the Denver & Salt Lake Railroad is to the effect that if the full increases applied for are granted by this Commission, based upon the result of the business of the road for the year 1919, there would still be a deficit of $843,167.00 in operating expenses.

The record is full and complete as a basis for the finding of the necessity for this increase. The road is now in the hands of receivers and, while the record is sufficient to establish the facts as found by the Commission, the Commission has full information or knowledge of the condition of this road, of the difficulties of its operation, the high altitudes, long snow blockades, and that it traverses a sparsely settled country.

O R D E R.

IT IS THEREFORE ORDERED, That the Receivers of The Denver & Salt Lake Railroad Company be, and they are hereby, authorized to increase, in addition to the increases authorized by order of this Commission in Application No. 91, all rates on freight traffic having origin and destination in the state of Colorado, as follows:

10 per cent of the rates on all local shipments and 1-2/3 per cent upon all traffic moving under joint rates published in tariffs issued by the Denver & Salt Lake Railroad and filed with this Commission. The increases herein authorized shall not, together with the increases authorized in Application No. 91, exceed 35 per cent of the rates in effect on the date of this order.

The rates or charges for switching, transit, diversion, weighing, reconsignment and storage shall be increased the same percentage as applied to freight rate increases.

IT IS FURTHER ORDERED, That said increase of 1-2/3 per cent on said joint rates shall accrue entirely to the Receivers of The Denver & Salt Lake Railroad Company.

The increases herein approved may be made effective upon not less than one day's notice to the Commission and to the general public.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hall Freeman

A. P. Anderson

H. D. Lawson

Commissioners.

Dated at Denver, Colorado,
this 30th day of August, 1920.

ORIGINAL

Decision No. 3[illegible]

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Citizens of the City of Longmont, Complainants	)	
v.	)	CASE NO. 187
Colorado & Southern Railway Company, Defendant.	)	

August 30, 1920.

STATEMENT.

By the Commission:

This matter comes before the Commission upon the complaint or petition of the citizens of Longmont filed January 12, 1920, and was first docketed as Informal Complaint No. 916. Subsequently the same was transferred to the formal docket and given the above number and title.

The petition sets forth the conditions surrounding the Main Street crossing in the city of Longmont with the tracks of the defendant railway company and represents that the condition then existing was dangerous to the public in that the track of the railway lay immediately north of the depot at Longmont and that by reason of the fact that practically all of said city is north of said tracks of the depot, that the public incurred hazardous and dangerous conditions in going to and from the depot and the city when departing from or arriving on passenger trains of the defendant company. It is further stated in the petition that the main street leading to Longmont is also the Lincoln Highway and carries a very large proportion of the travel leading into Longmont, and that the same adjoins the depot grounds to the west and that passenger trains and particularly the northbound trains of defendant in stopping at the depot blocked the Main Street crossing because of the length of the passenger trains,

thereby creating a dangerous condition, as well as one very inconvenient to the traveling public, both by train and vehicular traffic. While the case was being treated informally, an investigation was made by the defendant company and on April 30, 1920 it filed its formal answer in the formal case wherein it offered to correct the things complained of by extending its platform from the depot eastward, and issuing orders that all passenger trains should make stops that would not block or in any wise interfere with either foot or vehicular traffic over and across the aforesaid Main street or Lincoln Highway crossing.

On submission of this offer to the city of Longmont the same was taken under advisement and the Commission thereafter notified that such an arrangement would be satisfactory to said city at least temporarily. Thereupon defendant company was advised, with the result that on July 22, 1920 the Commission was advised by the railway company that the necessary extension to its platforms at Longmont had been completed and that effective at once passenger trains would be ordered to avoid blocking said Main street highway crossing.

On advice filed with the Commission under date of August 18, 1920, received from Mr. Jacob Sahey, City Attorney of Longmont, the Commission was advised that the arrangement is satisfactory to the city of Longmont for the present, and that the trains are being pulled beyond the Main street crossing and, though not an ideal solution, the arrangement has eliminated the blocking of said crossing and reduced danger of accidents quite materially, and also eliminates the serious inconvenience theretofore existing to travelers.

In this state of the record, the Commission will upon its own motion order a dismissal of the complaint, and in so doing it will be done without prejudice to any further complaint that may hereafter be desired to be made by the city of Longmont with reference to the matters embraced in its complaint or petition herein.

O R D E R.

IT IS THEREFORE ORDERED, That the above styled cause, No. 187, on the docket of this Commission be, and the same is, hereby dismissed.

IT IS FURTHER ORDERED That this dismissal is made without prejudice to the rights of either of the parties under said cause, with reference to any matter or thing embraced herein.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hall Chairman

A O Anderson

H. D. Lamson

Commissioners.

Dated at Denver, Colorado,
this 30th day of August, 1920

ORIGINAL

Decision No. 358

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of the Atchison, Topeka and Santa Fe Railway Company, et al, for an Order Readjusting Rates and Charges on State Traffic in Colorado.

APPLICATION NO. 91

(August 31, 1920)

STATEMENT.

By the Commission:

On August 30, 1920, an application was filed by the parties in the above proceeding for an order permitting them to establish the following rules and regulations, applicable to passenger traffic between points in Colorado:

> I. Where fractions occur in passenger rates, fares and charges, enough is to be added to make the fare end in full cent.
>
> II. Round trip tickets sold prior to September 1, 1920, upon which passage has not commenced by that date, will not be honored for passage on or after September 1, 1920, but will be redeemed at fare paid therefor.

Applicants contend that it is impracticable to make a passenger fare end in one-half cent in conformity with that part of the Commission's order in Application No. 91 which provided that: "Where rates are stated in amounts per 100 pounds or any other unit, except as provided in the succeeding paragraph, fractions of less than one-fourth of a cent will be omitted. Fractions of three-fourths of a cent or greater but less than three-fourths of a cent will be stated as one-half cent. Fractions of three-fourths of a cent or greater will be increased to the next whole cent. This rule will also be followed in computing passenger fares." And the carriers ask that in all cases when computing passenger fares, enough be added to make the fare end in full cent. A fairer method, and one that is practicable, in computing fares ending in fractions, is to omit fractions of one-half cent or less, and to add the full cent when fraction amounts to more than one-half cent.

In support of their request for permission to establish the rule designated Rule II above the applicants state that "It is deemed desirable to have tariffs quoting intrastate fares in conformity with those quoting interstate fares."

In all probability there are not many round trip tickets now outstanding as pertains to intrastate traffic, and to sanction the rule asked for within this state, would probably result in great inconvenience to such purchasers, and we think it but fair to the traveling public that the carriers be required to carry out all passenger contracts regardless of the date the same were issued.

O R D E R.

IT IS THEREFORE ORDERED, That that part of the Commission's order in this cause providing for the disposition of fractions in computing rates and fares be, and the same is, hereby amended to read as follows:

> Where rates are stated in amounts per 100 pounds or any other unit, except as provided in the succeeding paragraph, fractions of less than one-fourth of a cent will be omitted. Fractions of one-fourth of a cent or greater but less than three-fourths of a cent will be stated as one-half cent. Fractions of three-fourths of a cent or greater will be increased to the next whole cent. The rule in computing passenger fares to be followed will be that when such computation results in one-half cent or less the fraction of a cent thus derived shall be omitted, and when such computation results in more than one-half cent but less than a whole cent the fraction thus derived shall be increased to the next whole cent.

IT IS FURTHER ORDERED, That the application for permission to establish a rule providing that round trip tickets sold prior to September 1, 1920, upon which passage has not been commenced by that date, shall not be honored for passage on or after September 1, 1920, but instead will be redeemed at the fare paid therefor, be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

_____

_____

_____
Commissioners

Dated at Denver, Colorado, this
31st day of August, 1920.

ORIGINAL

(Decision No. 359)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

J. B. Dick, Complainant,	)	
vs.	)	CASE NO. 190
Chicago, Burlington & Quincy Railroad Company, Defendant.	)	

(September 8, 1920)

STATEMENT.

By the Commission:

WHEREAS the complainant in this case, on August 17, 1920, filed a motion in writing requesting that said cause be dismissed, and supported his motion with a certificate of satisfaction stating that the defendant has taken steps to remedy the conditions made subject of the complaint;

IT IS THEREFORE ORDERED, That the complaint in this cause be, and the same hereby is, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Hall Erwin

A C Anderson

Commissioners.

Dated at Denver, Colorado,
this 8th day of September, 1920.

ORIGINAL

(Decision No. 360)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Trinidad Electric Transmission Railway and Gas Company for Permission to Abandon Service on Its Line of Street Railway in the City of Trinidad on Pine Street Between Arizona Street and San Juan Street and to Take Up and Remove Its Track on Pine Street from State Street to San Juan Street.	)	APPLICATION NO. 85.

(September 8, 1920)

Appearances: E. E. Whitted, Esq., and James McKeough, Esq., for Applicant; Henry Hunter, Esq., for the City of Trinidad.

STATEMENT.

By the Commission:

The application was filed herein May 10, 1920, and recites substantially that the applicant is engaged, among other things, in the operation of a street railway in the city of Trinidad, Colorado; that for a considerable period of time it has operated said railway across the Las Animas River on Commercial Street, thence along Pine Street to the junction of Pine and San Juan streets; that there is practically no business derived from the operation of said street railway line along Pine Street and there is no necessity for a further continuance of said operation; that it is practicable for applicant, by operating the line on Arizona Avenue, Baca Street, San Juan Street, Stonewall Street and Main Street to serve the public in a satisfactory way, and that it is the opinion of applicant that the public can better be served by abandoning the line on Pine Street and rerouting the cars along Arizona, Baca and San Juan Streets, and thence across the Las Animas River to Main Street into said city; that the maintenance of the track on Pine Street is a useless expense and economic loss and that the grade of the line runs from 1 percent to 6.5 percent, making it a dangerous line to operate. Applicant prays that the Commission order the abandonment of all service over said line from Arizona Street to San Juan Street and that applicant be permitted to take

up its track thereon.

On May 24, 1920, the city of Trinidad filed its answer to the application, in which it alleges substantially as follows: It admits the operation of said street railway system and alleges that predecessors in interest of applicant herein under a franchise passed by the city council of the city of Trinidad, were granted for the term of fifty years the exclusive right to maintain and operate within the city of Trinidad a street railway system over and along the streets in said application mentioned; that under and by virtue of the agreements and covenants in said franchise contained, it became the duty of the predecessors in interest of applicant herein, or its assigns, to run and operate cars over the lines and between the points designated in said franchise; that said applicant is, among other things, the owner and engaged in the operation of a street railway line in the city of Trinidad; that in addition to, and as a part of its street railway system, it owns and operates interurban lines extending from said city to outlying towns and coal mining camps, which said lines are connected with and form a part of a general system operated by applicant as a whole, and are in no sense separate or independent lines or branches; that said applicant operates these lines and all of said branches as one system under one general gevernment and control, using in said city the same tracks, cars and employees; that that part of said system which is employed largely in interurban traffic is also employed in part in urban traffic and carries passengers within said city and particularly over the branch or portion of said line sought to be abandoned; that in addition thereto said lines are employed and used as one system in carrying freight, baggage, express and United States mail; that applicant became the owner and possessor of these valuable rights and privileges through mesne transfers, conveyances and assignments and is now exercising all the rights and privileges pertaining thereto; that applicant has not surrendered, nor does it intend to surrander, its franchise nor any of its rights and privileges thereto; that said railway system and particularly that part sought to be abandoned has become a necessity to accomodate the inhabitants of the city of Trinidad, and the abandonment would cause great inconvenience and hardship upon the inhabi-

tants of the city; that the street occupied by that portion of the line sought to be abandoned is a part of the paving district of said city; that by the terms of the franchise heretofore mentioned applicant covenanted and agreed to stand the expense of paving between the rails and two feet on each side thereof along said street railway system; that the city has made preliminary surveys, plans and specifications, including the grading and paving to be done by said applicant; that applicant seeks to abandon said line for no other reason or purpose than to avoid the assessment and payment of its share of the improvement which is being carried forward.

A stipulation was filed with the Commission containing certain facts to be considered as a part of the testimony in the case, the same being signed by the applicant and protestant. In the stipulation the main facts of interest agreed upon herein are that the city of Trinidad granted the predecessors of applicant the exclusive right for the term of fifty years to maintain and operate a street railway system over and along the streets in said application mentioned, more particularly Pine Street; that the said franchise contained the following section:

> "Section 4. It is hereby understood and agreed that the city of Trinidad in granting this right of way and franchise, expressly reserved the right to pave and macadamize and improve all or every one of said streets, etc.; that the right is hereby reserved by the city of Trinidad to order any paving or macadamizing or other improvements between the rails of said track and for two feet on either side thereof, to be done at the same time and in the same manner and of the same material by assessment, as other improvements may be done under general contract for the improvement of any street over and across which the right to construct said railroad is hereby granted. The grantee of this franchise shall pay for macadamizing or paving said roads between the rails and for two feet on either side thereof, with the same material as the city uses on the streets over which said road runs, respectively, and keep the same continually in repair, flush with streets; and provide with suitable crossings and to make the roadbed at all times conform to the established grade of the street, all repairs and grading to be made under the instructions and to the satisfaction of the city engineer of the city of Trinidad; said grantee shall have the right to excavate and remove portions of said streets necessary to properly construct and operate said railroad."

All the parties were duly notified and a hearing was held in the city hall, Trinidad, on June 17, 1920, at 10 o'clock A. M. The evidence discloses

that the lines of the Trinidad Electric Transmission Railway and Gas Company are operated as both urban and interurban lines. The interurban lines enter the city from the west. The line from the junction of Stonewall Avenue and San Juan Street continues north on San Juan Street to Pine Street, which is the west end of the Pine Street line that is proposed to be abandoned and where the Pine Street line branches off. The main line, however, continues north on San Juan Street three blocks to Baca Street, thence east on Baca Street five blocks to Arizona Avenue, thence west again on Arizona Avenue four blocks to the junction of Arizona Avenue and lower Pine Street. This point is also the east end of the Pine Street line which is proposed to be abandoned. The main line from there continues up Commercial Street, one of the main business streets of the city. It will be observed that the Pine Street line, which is proposed to be abandoned, is a cutoff extending from San Juan and Pine Streets to Arizona and Pine Streets, saving about half the distance in reaching the junction of Arizona and Pine Streets, before entering the business section. This cutoff is about 3,000 ft. in length and runs through a thickly populated section of the north side of the city of Trinidad. If the line is abandoned the patrons living along Pine Street, in order to reach the business section by street car, would be compelled to walk three or four blocks north to Baca Street, or four or five blocks south to Stonewall Avenue, which in many instances would be as much as half the distance they would be compelled to travel if they walked all the way into the business section. The evidence shows that interurban cars now entering the city use the Pine Street cutoff to reach the center of the business section, but that if the Pine Street line were abandoned the cars could be rerouted around by Baca Street with practically no added expense.

The evidence is conflicting as to the number of passengers that originate on Pine Street destined for the business section, the company contending that they are very few. However, a number of witnesses in their testimony strenuously protested that it would be a great inconvenience to them, and that rather than walk to the other lines, they would prefer to walk all the way down town. The evidence which has the greatest force with the Commission, and which has not

been contradicted by the protestant, is to the effect that the street car system as a whole is now being operated at a loss of approximately $9,000 annually. It is vigorously contended by protestant that when the present franchise was granted to the company, both the citizens and the company understood the car lines could not be operated at a profit for some time, and that for this reason valuable rights of way and valuable and liberal city lighting contracts were entered into by the citizens and the city with the company, which have all been carried out, and that with these valuable contracts the company as a whole, including electric, gas and street car service, is earning a reasonable return on its investment. The financial condition of the company as a whole, including gas and electric operations, not being in issue in this case, no evidence was introduced thereon. Unfortunately for this contention of the protestant, while it may be a reasonable and equitable contention, the Public Utilities Act requires that each public utility, such as electric, gas and street car service, as to earnings and expense, must be dealt with separately, so far as a return on the investment in each utility is concerned. A reasonable return must be allowed by the Commission on each investment.

The reason for this law becomes apparent. For instance, if it were otherwise, a user of electricity might be required to pay more for electricity than it is worth, to the end that the expense of car service might be met, when in fact he might never use the car lines. The law contemplates that rates for electricity shall be no higher than will pay the cost of operation, maintain and produce a reasonable return on the electric investment, while on the other hand, a user of street car service shall pay rates sufficient to pay the cost of operation and maintain and pay a return on the investment in this branch of the service.

The testimony of the applicant went into detail as to the manner of charging to the street car system its proper share of the expense of operating the system as a whole, including the manner of charging the street car company with electricity at cost of production for operating its cars. The earnings and expenses of the street car company as a whole is before the Commission in a detailed statement, and it is apparent that the street car system is

being operated at a considerable loss to the company at the present rate of fare.

Considerable testimony was introduced to show that a plan for paving the street occupied by the Pine Street line is under way and that if the company is not allowed to abandon this line it will be compelled to expend a large sum in paving, as provided in its franchise. The Commission does not consider this evidence material, except as it imposes an added expense upon the operation of the street car lines which are now being operated at a loss. However, this item of paving would not be a continuing charge upon the operating expenses for the future, and the company is not asking to discontinue the whole system. If the Pine Street line, however, were discontinued and the patrons using this line were to continue to ride on the other lines, the cost of operation of this line would be saved. However, the testimony of the company is to the effect that if the Pine Street line is abandoned, the only saving of expense to the company outside of the cost of paving would be the cost of maintenance of this line, which would amount to $500 or $600 per year; that there would be no saving in the cost of operation. Conceding the estimate of the cost of maintenance of the Pine Street line to be correct, this would be a comparatively small saving to the company compared with the inconvenience to the patrons along Pine Street and as compared to the total loss of operation of approximately $9,000 per annum.

After considering all the testimony, the Commission is of the opinion that it should not grant the application for permission to abandon the Pine Street line; that to grant the application would not give the company permanent relief from the condition in which it finds itself, nor relief commensurate with the injury to patrons along this line. The only real and permanent relief must come through additional earnings to the company in operating its car system. It has been heretofore announced by the Commission, and recently has been affirmed by our Supreme Court, that before permission to abandon shall be granted a common carrier, it must prove to the Commission that after a fair trial its property is unable to earn its legitimate operating expenses, and that an increase in rates commensurate with the value of the service, if permitted by the Commission, will not increase the revenue of the utility sufficient to meet its legitimate operating expenses. App. of the D. B. & W. R. R. Co. to Discontinue Service. 5 Colo.P.U.C.____

Decision No. 149; also, In Re. Denver, Laramie & Northern Railroad Co., 4 Colo. P.U.C. 316; also App. 59, Application of Durango Railway & Realty Co., to Discontinue Service.

While in these cases the application was for the discontinuance of the whole line or system, the case under consideration involves the same principle, as the main reason advanced by the applicant for a discontinuance as disclosed by the evidence is the inability of the company with its present earnings to meet the legitimate operating expenses of its street car service. There may be other reasons for allowing the discontinuance of a branch or part of a system in a case where the whole system is not paying its legitimate operating expenses when such abandonment might save the balance of the system, but in this instance the discontinuance would have very little effect, according to the company's own testimony, in relieving it from its present embarassment, other than to escape the cost of paving. The item of paving is a serious item, and in the opinion of the Commission should be given serious consideration by the city authorities, as the car system is admittedly being operated at a loss. However, it is not in the nature of such a continuing drain on the cost of operation as would warrant the abandonment of the Pine Street line.

From the financial condition of the street car system as disclosed by the present record, the abandonment of the Pine Street line is not as serious a question for the citizens to consider as the probable ultimate abandonment of the whole street car system. In view of this admitted condition, the city authorities ought to consider carefully any proposed added burdens to be placed upon the company. The testimony of all the witnesses for protestant was that there would be no protest on the part of the patrons to an increase of fares to 7 cents. The record shows that the company is entitled to this increase and the Commission will, by the company's filing an amended or a new rate schedule providing for such increase and giving the proper notice as required by law, allow the company to charge a 7 cent car fare on its urban lines.

The Commission has read and considered the briefs filed by the parties in this cause, and as to the main question raised as to its jurisdiction to grant the relief asked, it entertains no question as to its jurisdiction to grant such relief

upon a sufficient showing. The permission to abandon is refused on the ground that if granted it would have a comparatively small effect in decreasing the cost of operation or in insuring a continued operation of the street car system as a whole.

O R D E R.

IT IS THEREFORE ORDERED, That the application of The Trinidad Electric Transmission Railway and Gas Company for permission to abandon service over its line of street railway on Pine Street between Arizona and San Juan Streets in the city of Trinidad, Colorado, and to abandon and take up its track on Pine Street from State Street to a connection with its line on San Juan Street, in said city, be and the same is hereby denied;

IT IS FURTHER ORDERED, That the applicant company, by filing with the Commission an amended or a new schedule of passenger fares in the manner prescribed in the Public Utilities Act, may increase its passenger fares on all its urban lines to seven (7) cents.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado, this
8th day of September, 1920.

ORIGINAL

(Decision No. 361)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the Highway Department of the State of Colorado for Permission to Re-locate Public Highway Crossing Over the Tracks of the Denver & Rio Grande and Colorado Midland Railroad near Aspen, Colorado.

APPLICATION NO. 107

(September 9, 1920)

STATEMENT.

By the Commission:

This proceeding arises upon application of the Highway Department of the State of Colorado for permission to establish a public highway crossing at grade over the tracks of the Denver & Rio Grande and Colorado Midland Railroads in the vicinity of Aspen, Colorado.

The State Highway Department has submitted with its application a map showing that the establishment of the proposed crossing is made necessary by the construction of a new state highway along what may be described as an extension of Chipeta avenue from the town of Aspen. The road heretofore in use crosses the tracks of the Denver & Rio Grande and Colorado Midland Railroads at a point about 100 feet north of the location of the proposed new highway. This crossing is to be closed upon completion of the new crossing.

The two railroads concerned have filed statements signifying that they have no objection to the re-location of this crossing. Following an investigation the Commission's engineer has filed a report advising that, in his judgment, the proposed change will be an improvement over the present crossing and recommending that the application therefor be granted. There appearing no reason why the re-location of this crossing should not be permitted, the Commission will issue its order accordingly.

O R D E R.

IT IS THEREFORE ORDERED, That the applicant, the State Highway Department of the state of Colorado, be, and it is hereby, permitted to

construct and establish a public highway crossing at grade over the tracks of the Denver & Rio Grande and Colorado Midland Railroads at the point where the public highway along the extension of Chipeta Avenue crosses the tracks of the said railroads in the vicinity of Aspen, Colorado, as described upon the map filed with the application herein and made a part thereof;

IT IS FURTHER ORDERED, That the public highway crossing at the point above described shall be constructed and established in accordance with the requirements of the Commission's order in re Improvement of Grade Crossings in Colorado, 2 Colo. P.U.C. 128.

IT IS FURTHER ORDERED, That when a public highway crossing shall have been constructed and established at the point above described, the public highway crossing heretofore in use and located at a point approximately one hundred (100) feet north, shall be closed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant S. Stadderman

A. P. Anderson

[illegible]

Commissioners.

Dated at Denver, Colorado, this
9th day of September, 1920.

ORIGINAL

(Decision No. 362)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of the town of Williamsburg, Fremont county, Colorado, for a certificate that the present public convenience and necessity require said town to construct a pipe line for the purpose of supplying the inhabitants of said town with water.

APPLICATION NO. 93

(September 18, 1920)

Appearances: Isaac W. Ibbetson, for applicant town of Williamsburg.

STATEMENT.

By the Commission:

The town of Williamsburg, Fremont county, Colorado, filed its petition with the Commission on June 21, 1920, setting forth that it is a municipal corporation organized and existing under the laws of this state; that said town has no water supply whatever for itself and its inhabitants, either for domestic or other purposes, excepting the western portion of said town which has for sometime past been supplied with water for domestic use by a pipe line connecting with the water system of the town of Rockvale, lying to the south of the town of Williamsburg.

That the said town of Williamsburg has a population of about 500 and that its inhabitants are supplied with water for domestic purposes, other than those above mentioned, by water hauled to said town and placed at convenient points in barrels for the use of the inhabitants; that the applicant proposes to construct a two-inch water pipe line to connect with the water system of The Coal Creek Water and Light Company about one mile distant, and to procure a supply of water from The Coal Creek Water and Light Company for the domestic use of its inhabitants; that said

town has heretofore and on September 23, 1919, held an election whereat a majority of the electors of the town voted for the construction of said pipe line system and authorized the issuance of the bonds of said town in the sum of $ 3500 with which to provide funds for constructing the same.

Applicant asks that the Commission issue its certificate that the public convenience and necessity require and will require the construction of said pipe line system by said town.

The matter was set for hearing at the law office of the attorney for the applicant in the city of Canon City, Colorado, on September 9, 1920, at the hour of 2:30 p.m. upon due notice to all parties in interest, and was held before Commissioner Halderman.

The testimony submitted on the part of the applicant was that of I. W. Ibbetson, who testified that he was the attorney for the town of Williamsburg and had been its attorney for several years last past; that said town was an incorporated municipality under the laws of this state and has a pupulation of about 500; that the town has no waterworks system at all except that the western portion of said town had for sometime past been supplied with water furnished from the Rockvale water system which has supplied the use of about one-half of the population of said Williamsburg, and that the remainder of the inhabitants of said town, those resident in the eastern portion thereof, being upon higher ground, had no water supply whatever, other than such as had been hauled in by a man regularly employed and deposited in barrels at convenient places for domestic use of such citizens; that the question of constructing a two-inch pipe line to connect the town of Williamsburg with the waterworks system of The Coal Creek Water and Light Company was submitted to the qualified voters of said town at an election held therein regularly and legally called and conducted on September 23, 1919, and that a majority of the voters had voted in favor thereof; and that at said election the question of the issuance of the bonds of the said town in the sum of

$3500 for such purpose, was also voted upon and the issuance thereof for such purpose authorized; that thereafter an ordinance was duly passed and adopted by the board of trustees of the town of Williamsburg on October 2, 1919, providing for the issuance of the negotiable coupon bonds of said town in the sum of $3500, with which to provide funds for the construction of said two inch pipe line, a certified copy of such ordinance being identified and admitted in evidence. The witness also testified that no other utility of like or similar nature exists in the town of Williamsburg and that a supply of water for said town and its inhabitants for domestic and other purposes was the sole object to be attained.

It appearing to the Commission from the evidence submitted that all necessary steps taken were legally and regularly done and performed, and that a majority of the qualified voters of said municipality has voted in favor of the proposed improvement, it requires no evidence to establish the fact that a supply of water for a town and its inhabitants for domestic and other purposes is a public convenience and necessity. That is a self-evident fact.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, The Town of Williamsburg be, and it is hereby, authorized to construct the two-inch pipeline mentioned in its application and to connect with the waterworks of The Coal Creek Water and Light Company as prayed for in its application, and that the public convenience and necessity re-

quire and will require the construction thereof, and that 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.

Paul E. Hall

A. L. Gannon

A. P. Anderson

COMMISSIONERS.

Dated at Denver, Colorado,
this 18th day of September, 1920.

ORIGINAL

(Decision No. 363)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of the Town of Flagler, Colorado, for a Certificate of Public Convenience and Necessity for the Construction of a Water Works System.

APPLICATION NO. 109

September 24, 1920

STATEMENT.

By the Commission:

On August 27, 1920, the town of Flagler, Colorado, filed with the Commission its application for a certificate of public convenience and necessity for the construction of a water works system to be owned and operated by the municipality.

The application sets forth that the town of Flagler is a municipal corporation in Kit Carson county, Colorado, and that at a duly called and regularly conducted election of the qualified voters of the said town held on September 23, 1919, the question of constructing a system of water works to be owned and operated by the town, was submitted to the electors therein, and that at said election the Board of Trustees were authorized and empowered to proceed with the construction of such water works system; that thereafter, and in accordance with law, an ordinance was duly passed and adopted by the municipal board for the construction of said water works system, and also for the issuance of the negotiable coupon bonds of said town in the sum of fifty thousand dollars to provide funds with which to construct said water works system; that there is not now nor never has been any water works system in said town, and that the inhabitants thereof have heretofore been supplied with water from individual wells; and that there is not now nor never has been any water supply for fire purposes. The application is duly verified by the town clerk of Flagler.

The matter was set for hearing at the hearing room of the Commission, Capitol Building, Denver, Colorado, on September 7, 1920, at 10 o'clock A. M., Denver time. At the hearing the mayor and clerk of Flagler appeared in behalf of said applicant and offered testimony in support of the application. From the testimony adduced it appears that the question of the construction of a water works system in the town of Flagler, to be municipally owned, operated and conducted, has been duly and legally authorized by a vote of the electors of the town, and that the Board of Trustees have duly passed and adopted an ordinance, a printed copy thereof being admitted in evidence, entitled, "Ordinance No. 17," authorizing the issuance of negotiable coupon bonds of said town in the sum of $50,000.00, to provide the funds for the construction of a system of water works. Testimony was also submitted to the effect that the Board of Trustees had, by a subsequent ordinance, authorized the issuance of bonds in an additional amount of $40,000 for the construction of said water works system; that the plan to be pursued was by the installation of an electric pumping plant, the water to be derived from wells and pumped into a standpipe receptacle, and thence distributed through mains to the inhabitants of said town.

Upon examination by the Commission of the witnesses it further appeared that the town had in contemplation the installation of an electric light system or utility in connection with its water works system, and the inference to be derived therefrom is to the effect that the funds from the sale of water bonds are to be used also in the establishment of an electric facility.

The application makes no mention of anything but a water works system to be municipally owned. The election notice and the bond ordinance in no manner refer to an electric light system, and the whole matter is confined to the construction of a system of water works only, to be operated and maintained by the said town of Flagler. As was stated by the Commission at the hearing the construction of a <u>water works</u> system is one thing, while the construction of an <u>electrical plant</u> or facility is another thing, and

they may not be legally combined into one proceeding; so that in this case the Commission can only legally grant a certificate to said applicant town for the construction and operation of a water works system.

In view of the evidence, and indeed as a matter of common knowledge, a system of water works to supply the inhabitants of a town for fire protection and domestic use is not only a convenience but almost a necessity, and certainly the public convenience and necessity require, and will require, a system of water works to be constructed for any community that is financially able to construct the same.

O R D E R.

IT IS THEREFORE ORDERED, That the town of Flagler, Kit Carson county, Colorado, a municipal corporation, be, and it is hereby, authorized to construct, operate and maintain, a system of water works to be owned and operated by the municipality in accordance with its application filed herein, and that the public convenience and necessity of the inhabitants of the said town require, and will require, the construction and operation of said municipal water works system; and that this order shall be held and deemed to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That nothing herein contained, nor in the application upon which this proceeding is based, will in anywise or at all apply to or be construed to include any act or thing that said town of Flagler or its inhabitants may have done or may do, in the construction and operation of an electric light plant, facility or system; but that this certificate is and shall be limited strictly to the construction and operation of said water works facility or system in conformity with the application of said town and of the evidence adduced before the Commission

in support thereof.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hallenman

A P Anderson

Commissioners

Dated at Denver, Colorado, this
24th day of September, 1920.

ORIGINAL (Decision No. 364)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of)
The Colorado and Wyoming Railway Com-)
pany for Permission to Increase) APPLICATION NO. 91
Freight and Passenger Rates and Fares) (Supplemental)
Upon Five Days' Notice.)

September 25, 1920

Appearances: Fred Farrar for The Colorado & Wyoming Railway Company.

STATEMENT.

By the Commission:

On September 22, 1920, The Colorado and Wyoming Railway Company filed its application supplemental to Application No. 91, wherein it is set forth that the petitioner, The Colorado and Wyoming Railway Company, is a corporation organized under the laws of Colorado, and is engaged in the business of transporting persons and property by rail as a common carrier; that its business or operations are conducted in three divisions, two of which are in the state of Colorado, one in Pueblo county, and the other in Las Animas county; that the applicant is a subsidiary to The Colorado Fuel and Iron Company, and that inasmuch as said The Colorado Fuel and Iron Company had entered its appearance in protest against the increase of freight rates sought by various railroad carriers in Application No. 91, applicant for that reason did not join in said application and is not included in the order heretofore made and entered on said Application No. 91 on August 25, 1920.

Furthermore applicant shows that inasmuch as increases in rates and fares authorized by this Commission in its order on said Application No. 91 did not apply to the applicant because of The Colorado and Wyoming Railway Company not having become a party to Application No. 91, the rates and fares at present charged by applicant are out of harmony with the rates and fares charged by the other carriers in intrastate traffic

within Colorado, and that applicant desires now to become a party to said Application No. 91 and to be included within the scope and effect thereof, to the end that it may publish tariffs in harmony with those of other intrastate carriers to avoid confusion in the rates and fares of the applicant with the rates and fares of other carriers engaged in intrastate business within the state of Colorado.

Applicant prays that it may be included in the order made and entered by this Commission on August 25, 1920, in Application No. 91, and that the Commission enter its order based upon the record in the aforesaid proceeding whereby applicant may now be permitted to publish and make effective upon five days' notice tariffs for both freight and passenger traffic in intrastate business in Colorado in harmony and consistent with the order of this Commission made and entered in said Application No. 91, on August 25, 1920, aforesaid.

It appears to the Commission that the request of the applicant should be granted and that upon the record made in the original Application No. 91, the applicant should be included therein to the end that the rates and fares it desires to publish and make effective shall be in harmony with the rates and fares allowed to become effective to other intrastate carriers in and by the order of this Commission on August 25, 1920.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, The Colorado and Wyoming Railway Company be, and it is hereby authorized, permitted and allowed to publish and make effective, upon five days' notice, tariffs for both freight and passenger traffic within the state of Colorado, and that the same percentage of increases as was provided for the carriers parties to original application included and embraced in the terms of the original order made and entered upon said Application No. 91, is likewise applicable to applicant herein, The Colorado and Wyoming Railway Company, and shall be held and deemed to apply to

said company as to other carriers under the original order in said Application No. 91, to the same extent and for all purposes as though applicant had been a party to said proceeding, and that applicant, The Colorado and Wyoming Railway Company be, and is hereby included and embraced within the scope and authority of the original order of this Commission made and entered on August 25, 1920, in original Application No. 91, aforesaid.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado, this
25th day of September, 1920.

ORIGINAL

(Decision No. 365)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Monte Vista Commercial Club, et al.

v.

A. R. Baldwin, Receiver, The Denver & Rio Grande Railroad Company, et al.

CASE NO. 197

October 2, 1920.

Appearances: R. R. Mitchell, Esq. and C. H. Kohler for the Complainants.

E. N. Clark, Esq., for the receiver of The Denver & Rio Grande Railroad Company and for codefendant, The San Luis Central Railroad Co.

Fred S. Caldwell for The Monte Vista Farmers Cooperative Produce Company.

STATEMENT.

By The Commission:

For the purpose of governing the distribution of cars during periods of car shortage the defendant receiver under date of July 15, 1920, issued Circular No. 61 revised, addressed to car distributors and agents of The Denver & Rio Grande Railroad at potato loading points in Colorado, this circular to take the place of a similar set of rules issued by said railroad company for such purpose in 1919. Subsequent thereto The San Luis Central Railroad Company adopted identical rules. The revised circular No. 61 comprises six rules, Rule 6 reading as follows:

> "6. When a car is ordered and loaded by any person who fails to give billing instructions covering the shipment out and thereby evidences the fact that he is not the actual shipper, such person's name will be eliminated from the list of shippers receiving proportion of the available cars and will not be reinstated until he presents evidence showing that he is a bona fide shipper."

Embraced within the rules it is provided that each shipper will be alloted an equitable proportion of the cars available, taking into consideration the shipper's ability to ship and that cars will not be furnished in excess of the shipper's ability to load and ship promptly. The rules also

define "prompt loading" to mean that the car or cars placed for loading must be loaded and billing instructions tendered within 24 hours from the time of placement of cars, and that if not so loaded or partially loaded will be charged against such shipper's allotment when and as additional empty or empties are available to be loaded, and that shippers will be alloted cars on Mondays and Thursdays of each week upon the shipper notifying the agent of the quantity of potatoes on hand at that time which will be tendered for shipment during the following semi-weekly period.

Objection to rule 6 was made to the Commission informally by the potato shippers of Monte Vista and the territory contiguous thereto in the San Luis Valley, the claim being made that rule 6 would work a hardship and is unjust and unreasonable as against the grower in that if he had not become a shipper his name would be stricken from the list upon which cars are alloted and would not be reinstated upon such list until the grower presented evidence to the carrier that he is a bona fide shipper.

A number of conferences were held between the representatives of the growers and the carriers in the attempt to promulgate a rule in lieu of rule 6 that would give satisfaction to all parties concerned, but without result.

On September 27, 1920, the complainants filed a complaint with the Commission which sets forth the alleged unreasonable and unjust nature of said rule 6, and the gist of the complaint is embodied within three causes of action, all of which embody the same general idea as to the unreasonableness, unjustness and inequity of said rule 6; and the complaint seeks the abrogation and elimination of said rule, and to substitute in lieu thereof the following rule:

> "Any grower, owner, or other person or organization, being the owner and in possession of potatoes in carlot quantities, at the time of placing orders for cars, shall be classed as and deemed a <u>shipper</u> for the purpose of securing allotment of cars, and that in the event such grower and owner, or other person or organization sells and transfers the title to potatoes loaded in cars so alloted prior to giving billing instructions, and the actual bill of lading of such car or cars are given and made by the purchaser, such sale or transfer shall be without prejudice to the right of said grower, owner, or other person, or organization, to receive further allotment of cars under said rules."

Owing to the urgent nature of the case the defendant carriers were served with copies of the complaint upon the same day that it was filed, (September 27) and notice given to all parties that the matter would be set down for hearing and heard at Monte Vista, Colorado, on Wednesday, September 29, 1920, pursuant to which notice the hearing convened at the city hall at Monte Vista on said day.

At the hearing it was stated by the attorney for the receiver of The Denver and Rio Grande Railroad Company that inasmuch as The San Luis Railroad Company, codefendant, was dependent upon The Denver and Rio Grande Railroad Company, both for its supply of cars and for connecting carrier to transport its freight to market, he would appear for said co-defendant.

Counsel for defendants also stated that he had had no opportunity nor desire particularly to file answer to the complaint, but that the carriers' only desire was to promulgate such rules for the allotment and distribution of cars as would insure the highest duty of cars and as would be most satisfactory to the patrons of the railroads. That the carriers had no desire to invoke a rule that would be unsatisfactory, unreasonable, unjust or discriminatory.

A number of witnesses testified as to the conditions governing the allotment of cars and as to the effect thereof, particularly with reference to the effect and result rule 6 would have upon growers who had not become shippers; and such testimony was to the effect that approximately 90 per cent of the growers sold their potatoes to dealers or shippers, either at track, or warehouse and that to strike their names from the car allotment list would work great and irreparable hardship and injustice upon the grower.

Without going into great detail in a review of the testimony submitted, it appears to the Commission that said rule 6 should be abrogated and eliminated from the carriers' circular No. 61 revised, and that the rule proposed by the complainants should be substituted therefor with slight change or modification, so that rule 6 would read as follows:

> Any grower, owner, or other person or organization being the owner and in possession of potatoes in carlot quantities, at the time of placing orders for cars, shall be classed as and deemed a shipper for the purpose of securing allotment of cars, and that in the event such grower, owner, or other person or organization sells and transfers the title to potatoes loaded in cars so alloted prior to giving billing instructions, and the actual billing of such car or cars is given and made by the purchaser, within the time required by these rules, such sale or transfer shall be without prejudice to the right of said grower, owner, or other person, or organization, to receive further allotment of cars under these rules.

It was further agreed and understood that if the Commission abrogated original rule No. 6, and substituted therefor the rule substantially as suggested by the complainants that then and in that event the growers, dealers and shippers would agree upon a system of equitable distribution of cars available for the potato movement, which, when approved by the Commission, the carriers would put into effect.

The entire subject embraces many difficulties and problems and the Commission believes that if all parties will harmoniously work together with the single object of expediting potato movements in San Luis Valley, the rules embodied in circular 61 revised as amended by the substituted rule above set forth, it will result in the fixing of an established method of procedure whereby all parties in interest affected may be guided from year to year without the confusion and misunderstandings that have existed in that valley upon this subject heretofore.

O R D E R

IT IS THEREFORE ORDERED, That Rule 6 of Circular No. 61 Revised as filed with the Commission July 15, 1920, by The Denver and Rio Grande Railroad Company and subsequently by The San Luis Central Railroad Company, be, and the same is hereby abrogated and eliminated therefrom;

IT IS FURTHER ORDERED, That in lieu thereof rule 6 shall be, and hereby is promulgated to read as follows, towit:

Any grower, owner, or other person or organization, being the owner and in possession of potatoes in carlot quantities, at the time of placing orders for cars, shall be classed as and deemed a shipper for the purpose of securing allotment of cars, and that in the event such grower, owner, or other person or organization sells and transfers the title to potatoes loaded in cars so alloted prior to giving billing instructions, and the actual billing of such car or cars is given and made by the purchaser, within the time required by these rules, such sale or transfer shall be without prejudice to the right of said grower, owner, other person, or organization, to receive further allotment of cars under these rules.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hardeman

A B Anderson

M. D. Amman

Commissioners

Dated at Denver, Colorado, this
2nd day of October, 1920.

ORIGINAL

(Decision No. 366)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - -

In the Matter of the Application of The Durango Railway and Realty Company for Permission to Discontinue Service.	)))	APPLICATION NO. 59 (Supplemental Application)

October 7, 1920

Appearances: A. R. Mollett of Mollett & Clements, Durango, for The Durango Railway and Realty Company.

STATEMENT.

By the Commission:

On August 3, 1920, The Durango Railway and Realty Company of Durango, Colorado, filed application for permission to discontinue service on its electric street railway which extends from a point near the Denver & Rio Grande passenger depot in Durango through the city of Durango, Brookside Addition and North Durango and to Second Street in Animas City, comprising nearly two and one-half miles of track. This application is supplementary to a request for authority to cease operations filed by the same applicant October 1, 1919, heard at Durango November 8, 1919, and denied on December 6, 1919. Hearing upon the present application was held at the hearing room of the Commission in the State Capitol, Denver, September 17, 1920.

At the original hearing on November 8, 1919, it was shown that there was a deficit caused by operating expenses exceeding revenue from fares paid, over a period of several years, but on account of the opinion of Colorado courts affirming a previous ruling of this Commission that no public utility should cease operations until after a trial of higher rates, the Commission deemed it unwise to allow the abandonment of service until after a fair trial had been given increased fares. Accordingly applicant was permitted to increase its cash fares from five to seven cents, and to sell ten tickets for sixty-five cents.

The evidence now shows that notwithstanding an increase of two-cents in cash fares and an increase of one and one-half cents for tickets, for the eight months period up to September 1, 1920, the deficit continues. Revenue for this period was $8,325.24. Expenditures for the same time were $8,594.72, thus showing a net loss of $269.48, without any return on the investment. It is also shown there was a decrease of population in Durango of about 500 during the last ten years.

The entire force of operatives of applicant consists of four motormen and a superintendent, all working for meagre wages. The Superintendent receives but $75.00 per month, while the motormen are paid only 42¢ per hour, and even then have left part of their pay with the company to assist in the operation of the road. The testimony shows that 2,000 ties would have to be procured next year at a cost of $3,200.00. As there are no funds available, this would be impossible of accomplishment. Had the ties been supplied this year as actually needed, and a broken axle replaced on one of the cars, the total deficit for the eight months to September 1 of the present year would have been $1,869.48. Sixty thousand dollars was originally spent in building and equipping this line. The owners offered to sell it to the city of Durango for $25,000, but the proposition was not accepted.

The property is now assessed at $13,000. A reasonable return on this would be about 6 per cent. Although great depreciation has taken place in the property none has ever been charged off, and no return has been possible on the investment during the last eight months. On the contrary there is a deficit.

The condition of the tracks in 1914 was such that in the interest of safety of travel a fifteen-minute service had to be abandoned and a slower twenty-minute service established. This reduced the speed from ten to seven and one-half miles per hour.

It has been conclusively shown that this utility has been operated with the utmost economy; that if it is to continue to operate an increase must be granted its employes or the company will be confronted with a strike of its motormen; that the increasing use of the automobile is detracting from its earnings; in fact, that this company is confronted with so many irremedial conditions that it would be manifestly unfair and work an unjustifiable hardship on

The Durango Railway & Realty Company for this Commission to insist upon further operation of said railway. For the reasons stated it is thought wise that the prayer of the applicant be granted and the company allowed to discontinue service. After the most careful consideration of all the circumstances surrounding the operation of the street railway system of The Durango Railway & Realty Company the Commission therefore finds that said street railway can only be operated at a financial loss.

The testimony discloses that applicant, in the event it is permitted and authorized to discontinue its street railway service, will surrender its franchise to the city of Durango, remove its rails, ties and poles from the streets, and place such of the streets that it operates over in a reasonably safe condition for use by the public, and that such service is not proposed or desired to be discontinued until after the La Plata County fair has been held in the early part of October, 1920, as the street railway accomodates a large number of persons at such time. According to the testimony, the said fair is to be held and concluded prior to October 9, 1920, and the Commission will sanction such discontinuance of service only upon the conditions above stated, to-wit, that applicant will upon demand of the proper authorities, surrender its franchise rights to the city of Durango, and will place the streets of said city over which its cars and tracks now operate in reasonably good condition for use by the public, removing all its rails, ties, wires and poles therefrom all within a reasonable length of time after such service has been discontinued, as herein allowed and permitted; and also, that such street car service will be continued in operation till midnight of October 9, 1920, for the accomodation of patrons of the county fair to be held at the city of Durango prior to said date.

O R D E R.

IT IS THEREFORE ORDERED, That said applicant, The Durango Railway & Realty Company, be, and it is hereby, authorized and permitted to discontinue the operation of its street railway system in the city of Durango and adjoining territory at and after midnight of October 9, 1920; it being under-

stood as a condition of the effectiveness of this order that said applicant shall within a reasonable time after said date surrender its franchise to the city of Durango, remove all rails, ties, poles, wires and other obstructions owned by it from the streets of said city, and leave such streets in a reasonable good and safe condition for the use of the public.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado, this
7th day of October, 1920.

Decision No. 367

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
of the
STATE OF COLORADO

WILLIAM ATWOOD, Complainant	)	
vs.	)	Case No. 194
THE COLORADO AND SOUTHERN RAILWAY COMPANY, a corporation, et al Defendants	)	

STATEMENT

By the Commission:

On September 7, 1920, the above named complainant filed with the Commission his complaint against the above named defendants, wherein he alleged, in substance, that complainant was engaged in the coal business in the city of Longmont, and obtained his coal from the Frederick and Louisville coal fields; that said coal was transported in car load lots over the lines of some one or more of the above named defendants; that the rates on coal from said fields to Longmont as increased by the order of this Commission in Application No. 91, dated August 25, 1920, were and are unjust, unfair and discriminatory.

On September 18, 1920, defendants, Colorado and Southern Railway Company and Chicago, Burlington and Quincy Railroad Company, filed their respective answer, and on September 20th, Union Pacific Railroad Company, filed its answer to said complaint, each of said answers being a denial of the allegations of the complaint.

The Commission set said matter for hearing at the Hearing Room in the Capitol Building, Denver, Colorado, Monday, October 18, 1920 at 10 o'clock A. M., all parties in interest being duly notified of time and place of hearing.

On said day, to-wit, October 18, 1920, the complainant appeared in person and defendant corporations by their respective counsel and filed with the Commission a stipulation reciting that

all matters involved had been satisfactorily adjusted, and that it was agreed that the above cause should be dismissed.

ORDER

IT IS THEREFORE ORDERED, That by virtue of the stipulation aforesaid, the said cause be, and the same is, hereby dismissed.

Grant E. Hedderman

A. P. Anderson

Commissioners.

Dated at Denver, Colorado,
October 18, 1920.

ORIGINAL

Decision No. 368

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

AMERICAN SMELTING & REFINING CO. Complainant,	)	
vs.	)	CASE NO. 82
UNION PACIFIC RAILROAD COMPANY, Defendant.	)	ORDER

October 19, 1920

- - - - -

It being made to appear to the Commission by the written stipulation of the above parties, by their respective attorneys, filed herein on October 13, 1920, that all claims and demands involved in the above entitled matter, having been fully compromised, settled and paid upon the basis heretofore approved by the Commission, and that said cause may be forthwith dismissed:

IT IS THEREFORE ORDERED, That the said cause be, and it is hereby, dismissed.

IT IS FURTHER ORDERED, That the secretary of the Commission cause a certified copy of this order to be served upon the attorneys for the respective parties to this cause.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hall

A. P. Anderson

Dated at Denver, Colorado,
this 19th day of October, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado in the above entitled cause and now on file in this office.

Secretary.

ORIGINAL

Decision No. 369

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Frank E. Helvey, et al.,
Complainants,
v.
The Evergreen Utilities Company of Evergreen, Colorado.
Defendant.

Case No. 193.

On August 3, 1920, there was filed with the Public Utilities Commission the complaint of Frank E. Helvey, et al., complaining of the rates and service of The Evergreen Utilities Company for electrical energy and for water. Due notice of the filing of the complaint was given by the Commission, as provided by law.

On October 19, 1920, there was filed with the Commission a petition signed by the said complainant, Frank E. Helvey, and other original signers of the complaint, as well as other patrons and users of water and electric energy, stating that since the time of filing the complaint the complainants have had the situation explained to them and that they desire to withdraw their complaint, and ask that the said complaint be dismissed, and that the rules, regulations and rates of The Evergreen Public Service Company be approved by the Commission.

O R D E R

IT IS THEREFORE ORDERED, That the complaint of Frank E. Helvey and others against The Evergreen Utilities Company, filed on the 19th day of October, 1920, be, and the same is, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

By Grant E. Hall Chairman

A B Anderson

Commissioners.

Dated at Denver, Colorado,
this 25th day of October, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

ORIGINAL

(Decision No. 370)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

INVESTIGATION AND SUSPENSION DOCKET NO. 38.

In re Advance of Water Rates of
the City of Durango.

October 27, 1920.

Appearances: Jas. A. Pulliam, for protestant;
Messrs. Russell and Reese, for respondent.

STATEMENT

By the Commission:

This matter comes before the Commission by virtue of a petition of the city of Durango, filed November 29, 1919, which sets forth that petitioner is a city of the second class in La Plata County, Colorado, and that it is the owner of a system of water works supplying itself and its inhabitants with water for domestic, irrigation, manufacturing and other purposes. The petitioner further alleges that from about February 1, 1909, it has had in effect a schedule of rates for the use of water as set forth in ordinance No. 469, a copy of which ordinance is attached to the petition and marked Exhibit "A"; that the city desires to change its present schedule of rates and adopt a new schedule in lieu thereof to become effective and in operation January 1, 1920, which proposed schedule of rates is attached to said petition and marked Exhibit "B".

The petition further alleges that the city desires to change its water rates for the reason that the old rates do not afford revenue sufficient to pay expenses of operating and maintaining its water system and to pay interest on its water bonds; further, that the revenue derived by petitioner from the old schedule of rates amounts to about $22,000.00 per

annum, while it is stated that operating and maintenance expenses of the system and interest charges upon the water bonds amount to more than $30,000.00 per annum.

The petition further alleges that the old rates are in some cases too high and in others too low for the service rendered, and that the petitioner has endeavored to remedy the inequality, as well as the providing for more revenue, in the new schedule of rates. The prayer is for permission for the new schedule of rates to become effective and in operation on and from January 1, 1920.

Upon the filing of said petition, notice thereof was given to the users of water from said water system by publication in the newspapers of Durango and in the usual and customary methods, that if objections or complaints were not made by the water users, the new schedule of water rates proposed would be allowed and become effective January 1, 1920, in accordance with the prayer of said petition.

On December 19, 1919, there was filed with the Commission a protest by the town of Animas City, Colorado, which protest alleges the incorporate capacity of the town of Animas City and of the city of Durango, and that the town of Animas City is adjacent to and joins the city of Durango, and that protestant has constructed a water system at a cost of $25,000.00, and has issued water bonds of said town for such amount, which bonds are outstanding.

Protestant further alleges that it is the owner of water and water rights out of the Florida River in La Plata County, Colorado, of three-fourths of one cubic foot per second of time under three separate priorities. It is further alleged that the point of diversion of the water rights of the respondent, the city of Durango, and said protestant, town of Animas City, in and to the water of said Florida River is at an identical point on the west bank of the river, and that for the purpose of carrying and distributing to the town and its inhabitants the water of

Animas City to a point on the pipe line of the city of Durango, the said city under date of August 16, 1910, made and entered into an agreement with the said town to carry said water through its pipe line, and the protest sets forth said contract and agreement in full in the sixth paragraph thereof.

Said contract so entered into states that the town of Animas City is the owner of a water right and priority to the use of water of the Florida River in a quantity sufficient to supply said town and its inhabitants with water, and that there is no means of carrying the water of said town from said river to Animas City, and that the town desired to carry its water through the pipe line owned by the city of Durango to what is known as the upper reservoir on the mesa above said town. The contract aforesaid was entered into upon authority of a resolution attached thereto and made a part thereof. The contract also provides that said town may have turned into the pipe line of said city at the headgate on the Florida River whatever is owned by the town of the water of the Florida River as is necessary to supply said town and its inhabitants with water for irrigation, fire and domestic uses; that the town is to take the necessary steps to authorize whatever officer may be charged with the duty of apportioning the water of Florida River under the law to turn the water belonging to the town into said headgate, and that the city of Durango shall not be liable in any event for a failure of said water officer to turn said water into said headgate. The contract provides that Animas City at its own expense shall take said water from the pipe line at some point agreed upon by the water committee of Durango and the board of trustees of Animas City, such point to be above the lower reservoir of said city, and the town shall be at the whole expense of tapping said pipe line and carrying its water from the pipe line to the town and its inhabitants, and that the town shall, at its own expense, procure and place at such point at or near where the town takes its water from said pipe line, a water meter of such kind and size as may be selected by said

City, through which to measure the water carried by said pipe line for said town.

It is further agreed that the town shall pay the city for carrying the said water at the rate of 3¢ per thousand gallons for the amount carried, as measured by said water meter, payment to be made quarterly; and it is agreed that the water meter shall be under the control of the city and that the readings of the meter to determine the amount of water carried to said town shall be made by the water superintendent of said city, and that said town shall exercise no jurisdiction or control over said water meter whatever.

The sixth paragraph of the contract further safeguards the city from liability for failure to carry the water of said town on account of any leakage, seepage through or by said pipe line or other matters pertaining to the damage of the pipe line, whereby it is made necessary to cut off the water from the pipe line in order to rebuild or repair the same. The same paragraph provides in substance that if at any time the pipe line should prove to be of insufficient size to carry all water needed by the city, as well as the water of said town, the city shall have the right to the use of the town's space in said pipe line for carrying the city's water supply, and in that event, the amount of water to be delivered to the town shall be determined by a board of arbitration chosen as therein specified.

The eighth paragraph of the contract expressly disclaims the sale of water or any agreement of Durango to sell water to Animas City, and only agrees to carry such water belonging to Animas City as Animas City may have a right to have turned into Durango's pipe line under said agreement; and the ninth paragraph prevents the town from claiming any right to any of the water or priority of said city as they then existed. The tenth paragraph of the contract sets forth the duty of the city as to the carriage of the town's water from the headgate to the water meter, and the eleventh paragraph provides that the city shall have the right to the use of the pipe lines of said town free of expense in case of necessity or emergency.

The twelfth paragraph provides that unless the carriage charge made to said town is paid promptly, and if said town fails to pay such charges for two successive quarters, then the city shall have the right, without notice, to terminate the agreement, to turn off the water at the meter and refuse longer to carry the same. The thirteenth paragraph fixes the term of the agreement for a period of twenty years from its date.

There are many other features in the contract, but the foregoing are the important and salient ones with respect to the matter in controversy.

The seventh and eighth paragraphs of the protest of Animas City allege that the city of Durango by virtue of ordinance No. 565, adopted and approved December 2, 1919, abrogates and sets aside the foregoing contract and seeks to compel protestant town to pay a charge for the carrying of its water in an amount equal to one-half of the meter rates to be paid by the water users of the city of Durango; that said rate fixed in ordinance No. 565 as applied to the charge for carrying the water of said town is excessive and burdensome, and if allowed to be put into effect by said city will work great hardship and damage to water users in the said town.

The protestant asks that the respondent be required to live up to and perform the terms and conditions of the aforesaid contract, and to carry the water of said town at the price or charge fixed in said contract, to-wit: 3 cents per thousand gallons, based upon the amount carried as indicated by said water meter.

On December 22, 1919, the respondent filed its answer which admits the allegations of the first and second paragraphs of the protest; admits that protestant is the owner of water rights it claims out of the Florida River, and admits that the point of diversion of the water rights of the town and city are the same; admits said town joins the city of Durango, and admits said town owns a water system costing $25,000.00, and further admits the entering into by said city and said town of the contract set forth in the sixth paragraph of the protest hereinabove referred to.

Respondent city also admits the passage of ordinance No. 565 by the city of Durango on December 16, 1919, whereby the charges proposed to be imposed upon protestant town for the carrying of said town's water through the pipe line of the city are fixed as one-half the meter rates set forth in ordinance No. 565 to be paid by water users in the city of Durango.

Respondent denies the rates attempted to be fixed by the city of Durango in ordinance No. 565 are excessive and burdensome, or that it will work any hardship or damage to water users of protestant, and avers said rates are reasonable and no more than the town should pay, and that they will not produce sufficient revenue to pay the city a just proportion of the maintenance and upkeep of its pipe line used jointly by said city and town.

For a second defense the answer alleges the entering into of the contract set forth in the sixth paragraph of complainant's protest, and alleges a further contract entered into by said city and said town on July 12, 1916, which was to supercede the contract originally entered into in 1910, from July 12, 1916, to and including May 1, 1919; and that at its expiration the terms of the original contract of 1910 became and were in full force and effect as though the second contract had not been entered into. The third paragraph alleges that by the terms of the second contract the city agreed to carry in its pipe line the water of said town from its headgate on the Florida River tosaid town, such water as was necessary for the domestic and other needs of Animas City, for the sum of $9.00 per month, payment to be made on or before the 10th day of July, October, January and April of each year; and further alleges that in event said town fails to pay promptly for the carriage of said water for two successive quarters, the city has the right, at its option and without notice to the town, to terminate the agreement and turn the water off from said meter and refuse to further carry the same. It is further alleged that the town has failed to pay any compensation whatever to the city under the second agreement since August 12, 1919, and that more than two quarters had

elapsed before ordinance No. 565 was adopted, and more than two full quarters will have elapsed between then and the time said ordinance goes into effect, to-wit: January 1, 1920. Respondent city avers that in passing the ordinance it only exercised the rights given it under said contract of August 16, 1910. It alleges that the town by its said failure to make the payments as required by the contract has forfeited its right to rely upon the same, and that said contract is now void and of no effect.

For a third defense it is alleged that the laws of the state of Colorado and the rules of the Public Utilities Commission of the state of Colorado supercede and render void any and all contracts between the city of Durango and all persons taking or using water from the water system of said city, so far as they conflict with or are discriminatory against said rights; and it is alleged that the contract of Animas City aforesaid is discriminatory and conflicts with the rights given by the city of Durango to other water users and the same ought not to be enforced as against the city of Durango.

On January 8, 1920, protestant filed its replication to the answer of respondent which alleges that the water rights owned by the town and said city in the waters of the Florida River are amply sufficient to supply both protestant and respondent with water for domestic and other uses. It admits entering into the contract of July 12, 1916, but alleges that it has expired, and was entered into only because of the failure of the meter to properly register the flow of water. It is further alleged that the town paid to the city the sum of $27.00 on April 8, 1919, which is in full payment for carrying the town's water to and until July 1, 1919; and that by virtue of the contract first entered into, the city is to furnish the town readings of said water meter showing the amount of water carried to the town, and that the city is to furnish the town with statements of the amount due for carrying its water, but that said city has neglected, failed and refused to furnish said town with the readings of the meter and of the amount due for carrying its water, though requested by said town so to do; and that about October 1, 1919, the town made demand,

and again on December 27, 1919, demanded that it be furnished a statement showing the amount due for the carrying of its water, but that respondent has neglected, failed and refused to render any statement to the town showing the amount due, or to furnish readings of meter showing the amount carried by the city. Then follows an allegation that the town is willing, ready and able to pay the city the sum due for carrying its water, as per the 1910 contract, and alleges that said contract is in full force and effect, and further that the town has offered to pay the city for carrying the town's water, but that the city has refused and still refuses to accept payment. It denies that the laws of the state of Colorado supercede or render void said contract, and denies that said contract is discriminatory and conflicts with the rights given by the city of Durango to other water users. Protestant asks that the defendant carry water to the town of Animas City as provided for in its said contract.

On December 22, 1919 the Commission entered its order suspending the effective date of the schedule of rates filed by the city of Durango November 29, 1919, which is designated as said city's Colo. P. U. C. No. 2 in the following particular only: As to the meter rates to be charged Animas City set forth in said schedule as follows, "Animas City to be charged 50 per cent. of city rates." In all other respects the schedule of rates filed by the city on November 29, 1919, became effective January 1, 1920.

The matter was set for hearing at the city of Durango, June 2, 1920, upon due notice to all parties, and was heard upon that day at the District Court room of the Court House in said city before Commissioners Anderson and Halderman. Much testimony was submitted at the hearing, a considerable portion of which, in the view of the matter taken by the Commission, was and is irrelevant to any issue involved. Subsequently briefs were filed by the parties in support of their respective contentions.

At the outset, the controversy arose from the filing with the Commission by the city of Durango of a schedule of rates proposed to be charged for the use of water to the inhabitants of the respondent city

and other users of the Durango water system, included among which, from the city's standpoint is the town of Animas City; and it was proposed in the schedule to charge the town of Animas City 50 per cent. of the rate charged metered water users in the city. Subsequently and in April, 1920, there was filed with the Commission a new schedule of meter rates which were to supercede those specified in ordinance No. 565, as included in the first schedule filed, the new schedule being approved by the city under ordinance No. 568 passed by the city May 18, 1920. In ordinance No. 568 the meter rates were changed and the rate to Animas City was fixed at 75 per cent. of the rate charged metered water users of the city of Durango.

From the pleadings, and from the admissions, which the testimony fully sustained, it is established that the contract entered into by the town of Animas City and the city of Durango on August 16, 1910, as set forth in the sixth paragraph of the protest of Animas City, provides for the carriage of the water belonging to Animas City in the pipe line owned by the city of Durango from the city's headgate to a point on said pipe line adjacent to the town of Animas City, there to be measured through a water meter to Animas City; which said contract was to continue for a period of twenty years; and for such service Animas City was to pay at the rate of 3 cents per thousand gallons for water carried by Durango in its pipe line to Animas City.

This being true, the first question that arises is this: Is the carriage of water by one utility for another utility such a service as is contemplated in the terms of the Public Utilities Act, so as to make such service the subject of regulation and control by the Public Utilities Commission? The testimony discloses, and in fact it is conceded by all parties, that the water carried to Animas City through the Durango pipe line is water belonging to Animas City, and that provision is made for the measuring of all such water through a measuring meter to Animas City, the city of Durango having no further control over it. It then becomes the duty of Animas City to distribute its own water to its own consumers

through its own water distributing system in such manner as Animas City desires, without any regard to the city of Durango. Durango has no more power or right to dictate the price charged consumers or the manner or method of distributing the water in Animas City than has Animas City the power to regulate the manner or method of the city of Durango in distributing its water, or the price charged its water consumers, in and adjacent to, the city of Durango.

The whole purview of the Public Utilities Act, lodges generally, and gives to the Commission the power to regulate rates, charges, fares, etc., of public utilities when engaged in serving the public. Can it be said that the city of Durango is performing a public utility service when it is carrying water for and to the town of Animas City when such water is owned by Animas City? We think not. In carrying water for Animas City the city of Durango is performing a private service for Animas City, using a surplus of plant not dedicated to public use, as distinguished from its duty to serve its patrons as a public utility.

Much stress has been laid upon the duty of the Commission under Section 28 of the Act, which reads: "Whenever the Commission after a hearing had upon its own motion or upon complaint of a public utility affected, shall find that the public convenience and necessity require the use by one public utility of the conduits ****pipes **** or any part thereof, on, over or under any street or highway, and belonging to another public utility, and that such use will not result in irreparable injury to the owner or other users of such conduits **** pipes **** or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the Commission may by order direct that such use be permitted, and prescribe reasonable compensation and reasonable terms and conditions for the joint use, etc." (Public Utilities Act, 1913, Section 28.)

The above section of the Act, it will be observed, requires as a condition precedent to the exercise of the power or jurisdiction of the Commission, that the public convenience and necessity require such joint

use, and that the joint use will not result in irreparable injury to the owner of such conduits **** pipes **** etc. and that the public utilities involved have failed to agree upon such use, and have failed to agree upon the terms and conditions and compensation for the same. But in the case under consideration, as it appears by the contract of August 16, 1910, if said contract be in full force and effect, the public utilities involved, to-wit: the city of Durango and the town of Animas City, have agreed upon the use and the terms and conditions and compensation to be paid for the same. Whether or not the contract, under which all these things are agreed upon by these two municipalities, has become void and of no effect because of the default of the town of Animas City to comply with the terms and conditions of said contract, or for any other cause, is a question to be submitted to a court of competent jurisdiction for determination, this Commission having no power under the Act creating it, or any amendment thereto, to entertain and determine such question.

It will be noticed that the protestant prays that "said city of Durango be required to live up to and perform the terms and conditions of its said contract of August 16, 1910, and to carry the water of said town of Animas City from the headgate on the Florida River to the point from which said water is taken by said town, for the price of 3 cents per thousand gallons based upon the meter readings." In effect this is seeking the enforcement of a specific performance of the contract between Durango and Animas City -- a purely equitable procedure.

The Commission has not been granted equitable power and jurisdiction by any act of the Legislature, and hence it might properly dismiss the protest of complainant for want of jurisdiction and power to grant the relief asked. But in view of the distinction drawn between the service rendered in the instant case -- that of engaging to carry the water of Animas City for a given term and for a specified compensation, instead of the city of Durango carrying and distributing its own water to Animas City and its inhabitants -- it is entirely proper for the

Commission to decide the case on the facts as established at the hearing rather than upon the prayer of the complaint. The facts as established at the hearing preclude the Commission from exercising jurisdiction to fix such rate.

As to whether or not the contract of August 16, 1910, is void and of no effect because of the default of Animas City to comply with its terms and conditions, no opinion is expressed. The evidence on that point is conflicting, and besides, that is a question to be submitted to a court having jurisdiction.

As to the allegation in respondent's third defense, so-called, which embraces a question of law only, the Commission readily concedes the law to be as so stated. Such is the decision of the United States Supreme Court in a late case in language so decisive that the question is no longer an open one. Union Dry Goods Co. v. Georgia Public Service ~~Commission~~ Corporation, 248 U. S. 372.) P.U.R. 1919C, 60.

The trouble with defendant's contention is that the principle of law does not apply to the facts of this case. Were the defendant city furnishing its own water to the inhabitants and city of Animas City under a contract the regulatory body, upon a proper showing, undoubtedly would have the power to fix a fair and reasonable rate for such service in disregard of the rate fixed by contract. But, as before stated, that principle does not control or govern where, as in this case, the municipality is carrying out an obligation under a private contract.

Without further enlarging on the subject matter of the issues as presented by the pleadings and testimony disclosed, the Commission concludes that it is without power or authority to sanction the meter rates to be charged by the city of Durango for the water carried by it to Animas City, as proposed in the schedule filed with the Commission and suspended pending a hearing and investigation; and it follows that such rate should be permanently suspended by the order of this Commission.

In the event the contract between the parties to this cause, dated August 16, 1910, is by agreement of the parties or by judgment and

decree of a court having jurisdiction abrogated, and thereafter a proceeding shall be instituted before the Commission by either or both parties under the provisions of said Section 28 of the Act, the Commission will, of course, undertake to have a full and complete valuation of the respective water systems of Durango and Animas City made by its engineering and statistical forces, and reinforced by such other evidence as may be submitted, it will, if the facts so justify, order that such use be permitted, and prescribe reasonable compensation and reasonable terms and conditions for such joint use, in compliance with the express provisions of said Section 28.

O R D E R

IT IS THEREFORE ORDERED, That that portion of schedule Colo. P.U.C. No. 2 filed with the Public Utilities Commission of the state of Colorado by the city of Durango, November 29, 1919 marked to become effective January 1, 1920, and stating an advance in the rate for water service to the town of Animas City as follows: "Animas City will be charged, by meter, 50 per cent. of the city rates," which said rate was suspended by order of this Commission dated December 22, 1919, until April 29, 1920, and further suspended and deferred to October 29, 1920, shall be, and hereby is, permanently suspended, and the said rate shall be considered by virtue of this order stricken and expunged from said water rate schedule Colo. P. U. C. No. 2 of the city of Durango.

IT IS FURTHER ORDERED, That said respondent city of Durango shall file no schedule providing for an increased charge to Animas City for carrying the water of said Animas City in its pipe line, under the terms and conditions of said contract of August 16, 1910, until the further order of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grace E. Hallerman

A. J. Anderson

Dated at Denver, Colorado,
this 27th day of October, 1920.

ORIGINAL

Decision No. 371

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

INVESTIGATION AND SUSPENSION DOCKET NO. 39

In re. Reduction in Discount on
Commercial Lighting at Brush

October 27, 1920

STATEMENT

By the Commission:

On December 2, 1919, The Brush Light and Power Company filed 3rd Revised Sheet No. 3 of its schedule Colo. P.U.C. No. 3 providing for a reduction of from ten to five per cent in discount on bills for commercial lighting paid on or before the tenth day of the month. Upon complaint and protest by consumers at Brush, on December 22, 1919, the Commission issued its order suspending until April 29, 1920, the effective date of the schedule, and on April 28, 1920, the Commission issued a second order further deferring the effective date of the schedule until October 29, 1920.

On October 25, 1920, The Brush Light and Power Company requested the Commission that it be permitted to withdraw 3rd Revised Sheet of its schedule Colo. P.U.C. No. 3, stating that since the change in discount was proposed, operating costs have increased materially and that instead of seeking only a change in discount the respondent company will later request the Commission for permission to revise all its rate schedules.

O R D E R.

IT IS THEREFORE ORDERED, That the respondent company, The Brush Light and Power Company, be, and it is hereby permitted upon one day's notice to file and make effective 4th Revised Sheet No. 3 to its schedule Colo. P.U.C. No. 3 canceling 3rd Revised Sheet No. 3 of Colo. P.U.C. No. 3 and providing for a ten percent discount on bills for

commercial lighting paid on or before the tenth of the month.

IT IS FURTHER ORDERED, That in addition to the discount, 4th Revised Sheet Colo. P.U.C. No. 3 shall contain rates in all respects similar to those contained in 2nd Revised Sheet No. 3 Colo. P.U.C. No. 3, which schedule is now in effect.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hardman

A. P. Anderson

Commissioners

Dated at Denver, Colorado,
this 27th day of October, 1920.

ORIGINAL (Decision No. 372)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the American Railway Express Company for Authority to Increase Express Rates and to Change its Classification on State Traffic in Colorado.) Application No. 94.

November 3, 1920.

Appearances: A. B. Roehl, for the applicant.

STATEMENT

By the Commission:

This cause arises on the application filed on June 21, 1920, by the American Railway Express Company for an order of this Commission authorizing it to increase its express rates and charges on intrastate triffic within the state of Colorado, in conformity with such increases in the rates on interstate traffic as might be authorized by the Interstate Commerce Commission in proceedings then pending before it in I. C. C. Docket No. 11326.

On August 23, 1920, a supplemental application was filed reciting that on August 11, 1920, the Interstate Commerce Commission had issued its report and decision in the said proceedings and had authorized applicant to increase its rates and charges applicable to interstate traffic 12½ per cent., except that it had been authorized to make its rates on milk and cream the same as the rates contemporaneously applied thereon by the railroad lines between the same points.

A hearing was held in the hearing room of the Commission, Capitol Building, Denver, Colorado, on August 30, 1920, due notice to all parties and the public being given. No protestants appeared at the hearing and no objections to the granting of the application had been

filed. The applicant submitted at that time a copy of the petition made to the Interstate Commerce Commission, an abstract of the evidence relied upon and its brief before that commission, as well also as the exhibits introduced in evidence in that proceeding.

After the hearing of August 30, 1920, and before the case was decided, a second supplemental application for an additional and further increase in its rates was filed by applicant on October 4, 1920. This second supplemental application sets forth as a justification for an additional increase the following: That on August 30, 1920, at the hearing before this Commission in the above entitled application the applicant introduced in evidence the exhibits relied upon by it before the Interstate Commerce Commission in Docket No. 11326 in support of its application to increase its rates 12½ per cent., as well as also a copy of the report and decision of the Interstate Commerce Commission. In the said report and decision authorizing the applicant to increase its rates 12½ per cent. the Interstate Commerce Commission did not take into consideration the increased expenses resulting from the wage awards made by the United States Railroad Labor Board in its decisions Nos. 2 and 3 of July 20, 1920, and August 10, 1920, as appears from the statement in the Interstate Commerce Commission's order as follows: "Further wage demands estimated to aggregate $73,835,679.00 now pending before the United States Railroad Labor Board are not taken into account in the proposed rate increase." Thereafter the Interstate Commerce Commission on September 21, 1920, issued its supplemental report and decision in Docket No. 11326 authorizing applicant to further increase its interstate rates throughout the United States 13½ per cent., excepting rates on milk and cream which were allowed to be increased 20 per cent.; that this additional increase was allowed to enable applicant to secure sufficient additional revenue with which to meet the increased wages allowed to its employes by decisions 2 and 3 of the said labor board; that applicant

estimates that the additional expense on account of the said awards heretofore referred to will amount to $42,296,340.00 annually; that a statement showing in detail the effect of said awards based on applicant's pay roll was attached and marked "Exhibit G."; that for the six months ending June 30, 1920, applicant sustained an operating deficit of $21,097,132.27; that attached "Exhibit H." is a statement showing gross earnings, operating expenses and the ratio of expenses to earnings during the six months ending June 30, 1920, compared with the six months ending June 30, 1919; that a copy of the supplemental report and decision of the Interstate Commerce Commission in Docket No. 11326, of September 21, 1920, is attached and marked "Exhibit I."; that the decisions of the United States Labor Board herein referred to apply to employes of applicant engaged in handling intrastate as well as interstate business, and that the Interstate Commerce Commission in estimating the increases necessary to meet said increased wages took into consideration both state and interstate business; that it is therefore essential that increases be authorized in applicant's intrastate rates corresponding to the increases authorized in interstate rates. Applicant prays for a further hearing and that an order be made authorizing applicant to increase its express rates and charges on intrastate traffic within the state of Colorado in the aggregate of 26 per cent., except that the rates on milk and cream be not increased in excess of 20 per cent.

A further hearing on the second supplemental application was held in the hearing room of the Commission at Denver, Colorado, on October 4, 1920. From the record herein it appears that the Interstate Commerce Commission on August 11, 1920, in Docket No. 11326 granted the applicant an increase of 12½ per cent., but in that decision stated: "Further wage demands estimated to aggregate $73,835,679.00 now pending before the United States Railroad Labor Board are not taken into account in the proposed rate increase." At that time there was pending before

the said labor board an award to be made in Dockets Nos. 4, 5 and 6 on which was rendered Decision No. 3 - - Brotherhood of Railroad and Steamship Clerks, Freight Handlers, Express and Station Employes, Brotherhood of Teamsters, Chauffeurs, Stable Men and Handlers of American Railway Express, Drivers, Chauffeurs and Conductors, Local No. 20, Chicago, Illinois, Order of Railway Expressmen v. the American Railway Express Company, R. M. Barton, Chairman and Horace Barker, et al.

The decision of the Interstate Commerce Commission in said Docket No. 11326 had already been drafted without taking into consideration the award of the labor board then pending. Thereafter, and after duly considering the award of said labor board, the Interstate Commerce Commission granted applicant an additional increase of 13½ per cent. on interstate rates for the purpose of taking care of and providing further for the increase in wages due to the labor board award.

At the hearing on the supplemental application before this Commission applicant introduced its "Exhibit G." which was the results of the increases in the pay rolls of the company for one year based upon the month of March, 1920, as to decisions Nos. 3 and 2 applied to that pay roll and which shows that the aggregate effect of the increases in applicant's pay rolls to be $42,296,340.00 annually. Applicant also introduced its "Exhibit H," being a comparative statement of operating revenues, operating expenses and operating ratios for the six-month periods ending June 30, 1919, and 1920, six months of 1919 being contrasted with six months of 1920, as reported to the Interstate Commerce Commission. Applicant also introduced its "Exhibit I." being the report of the Interstate Commerce Commission on further hearing and dated September 21, 1920, in Docket No. 11326. "Exhibit J." was also introduced, which is a statement showing the actual revenue, expenses and income from domestic express transportation operations for the year ending December 31, 1919. There was also shown an estimate of the same for the year of 1920, including the 26 per cent. increase, made in accordance

with the decision of the Interstate Commerce Commission in said Docket No. 11326 of September 21, 1920.

It appears from one of the exhibits, that the express transportation business of the United States sustained annual deficits in 1917, 1918 and 1919 of $5,473,694.78, $31,639,047.20 and $21,819,488.22, respectively. These large deficits it appears arose from several different causes, including large increases in wages paid to employes and changes in their working conditions which have increased the current pay roll of the company since July, 1918, approximately $40,000,000.00. It appears also that from 1911 to 1919, inclusive, wages were increased 209.06 per cent.; that in addition the recent decision of the labor board has increased the wages of petitioner's employes $42,296,340.00. It further appears that another contributing cause to the increase in operating expenses is the increase in the cost of all articles of supplies and equipment essential to operation, and that the average increase in the price of said supplies and equipment since 1916 is approximately 75 per cent., and in some instances the increase has been as high as 443 per cent. It also appears that another cause contributing to the enormous increase in operating costs is the fact that in 1915 the average claim payment was approximately $5.14, whereas in 1919 the average claim payment was $14.20.

The testimony of the applicant before the Interstate Commerce Commission shows that the enormous increase in loss and damage payments resulted from increased cost of commodities, a more vigorous prosecution of claims, a large expansion of the volume of traffic, loss of experienced operatives and replacement by less efficient working forces, inadequate terminal facilities, necessary use of box car equipment with slower service and added difficulties in the matter of stowage and policing. The testimony also shows that in addition to the large deficits resulting from operation the applicant is confronted with the necessity of immediately securing additional facilities and equipment, and that

before additional capital can be secured with which to acquire the same the express business must be placed on a paying basis and in a position to attract the necessary capital. In the proceedings before the Interstate Commerce Commission applicant's president testified that approximately $31,000,000.00 was needed immediately for this purpose.

The testimony presented to this Commission includes testimony presented to the Interstate Commerce Commission in the proceedings on applicant's petitions to increase its interstate express rates, and upon the record before it the Interstate Commerce Commission on August 11, 1920, authorized applicant to increase such rates 12½ per cent. and on September 21, 1920, an additional 13½ per cent. was allowed, or a total of 26 per cent on interstate rates, except that on milk and cream it was authorized to establish the same rates as those contemporaneously applied by the railroad lines between the same points.

The need and desirability of uniformity in transportation rates is obvious; indeed, the Transportation Act of 1920 seemed to contemplate that intrastate rates shall bear their just proportion of increases, and in view of the fact that the Interstate Commerce Commission, after due consideration of all matters herein referred to, authorized an increase in applicant's interstate rates of 26 per cent., except as specified, this Commission is of the opinion and finds that applicant has sustained large deficits in its operations by reason of increased operating expenses, and that unless the relief requested is granted the applicant will be seriously embarassed in providing funds with which to operate its express service; that express rates and charges applicable to intrastate traffic within the state of Colorado are insufficient, and that the increases hereby authorized are fair, just and reasonable to meet the emergency and needs of the applicant.

The applicant requests that this proceeding be held open for the purpose of considering its application to make changes in its classification, if and after the Interstate Commerce Commission author-

izes the changes in the proceedings seeking that relief, now pending before it.

O R D E R

IT IS THEREFORE ORDERED, That the American Railway Express Company be, and it is hereby, authorized to increase its express rates and charges applicable to intrastate traffic within the state of Colorado 26 per cent. on one day's notice to the Commission and to the public by filing and posting, in the manner prescribed in the Public Utilities Act of Colorado, schedules of rates containing the same, excepting on milk and cream, which increase is hereby denied.

IT IS FURTHER ORDERED, That this order and the increases herein allowed shall not apply to applicant's rates on the line of the Denver and Salt Lake Railroad, which rates are established in a separate order.

IT IS FURTHER ORDERED, That in order to simplify and expedite tariff publications applicant is hereby authorized to file the increased rates and charges herein authorized in blanket supplements, if it finds it expedient, to the same extent that it has been authorized so to do by the Interstate Commerce Commission in its decisions in Docket No. 11326.

IT IS FURTHER ORDERED, That in computing the increased rates and charges hereby authorized, applicant shall follow the rule prescribed for the disposition of fractions by the Interstate Commerce Commission in its decisions in Docket No. 11326.

IT IS FURTHER ORDERED, That this proceeding be held open for the purpose of considering applicant's petition to make certain changes in its classification upon the filing by applicant of a supplemental petition herein, if and after the Interstate Commerce Commission authorizes the said changes.

IT IS FURTHER ORDERED, That the foregoing increases are authorized on the express condition that this Commission may, either upon its own motion or upon complaint after due notice and hearing,

change, alter or amend any or all rates increased in pursuance of this order. In the event that it hereafter finds that any or all of said rates are unjust, unreasonable or discriminatory, and in the event such inquiry is initiated by the Commission or arises on complaint, the applicant herein will be held to justify any rates under investigation.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Hall Erman

A O Anderson

Commissioners.

Dated at Denver, Colorado,
this 3rd day of November, 1920.

ORIGINAL

(Decision No. 373)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

INVESTIGATION AND SUSPENSION DOCKET NO. 45

In re. Advance in Water Rates of The
Crested Butte Light and Water
Company.

November 3, 1920

Appearances: C. L. Ross and W. H. Whalen for The Crested Butte Light and Water Company.

STATEMENT

By the Commission:

This case arises by the respondent, The Crested Butte Light and Water Company, filing with the Commission as provided by law a schedule of rates for water, which proposed rates represented a considerable advance over the schedule of rates then in force. The proposed rates were to go into effect in 30 days. The Commission, after considering the schedules, and realizing this was a considerable advance therein, suspended the same and set the case for hearing on September 1, 1920, at Crested Butte. In the meantime the Commission directed its hydraulic engineer to make an inventory and appraisement of the property of the respondent in use and useful in its water service. This was done and a report filed with the Commission containing such an inventory and appraisement, together with a statement showing estimated cost of operation and revenues, based on the new schedule. An examination of the books and accounts of respondent was made by the Commission's statistician and report of such examination filed and made a part of the record in this case.

The respondent company is engaged in operating both electric light and power and water utilities. Only that part of the property in use and useful in the water system was inventoried, as the rates proposed were for water only.

At the public hearing held at Crested Butte on September 1, 1920, witnesses for respondent were examined and all other evidence in the way of

exhibits on the part of the company were received and filed with the record in the case. The five members of the board of trustees of the town of Crested Butte were present at the hearing. No formal protests against an increase in rates were entered. The reports of the Commission's engineer and statistician, including the engineer's valuation of respondent's property, were introduced in evidence.

Respondent introduced its exhibit 1 consisting of sheets A, B, F and G, being its inventory and appraisal of its property in use and useful in its water plant. The total value placed on the property by respondent and which it asks the Commission to fix as the value of the property now in use and useful in its water system, including engineering and superintendence, interest during construction, legal expenses and taxes, was $49,606.28. The total valuation as fixed by the Commission's engineer was $42,750. The valuation of the property as fixed by the Commission is based on an inventory of the physical property. It is believed to be reasonably accurate and fairly representative of the property now in use by the Company. The inventory is compiled and classified according to the uniform classification of accounts as prescribed for water utilities. The fixed capital accounts prescribed by the Commission, under which the property of this company would be classified, are as follows:

Account No.	Classification
105	Lands and water rights
107	Boiler Plant Equipment
115	Intake and Supply Mains
125	Mains
141	Miscellaneous Equipment

It is probable that Account No. 101, "Organization", should have been included, but as no organization expense could be located, it probably is insignificant, and it will not be necessary to consider it. The cost of the reproduction of the physical plant under accounts 107, 115, 125 and 127 has been reached by applying a reasonable unit price to the different units as shown in the inventory. The unit cost of the pipe line as applied includes all labor and material necessary to put the pipe in place ready for use. No direct use has been made of present prices except to establish a reasonable basis as between present and pre-war prices. The prices which have been applied to this inventory are nearer the pre-war than the present

prices and it is an attempt on the part of the Commission to fix a price that will in the near future be a reasonable value. For instance, the price of sheet steel made into pipe on pre-war basis was about 6¢ per pound in this locality. The present price is about 12¢ per pound. This inventory was figured on a price of 8¢ per pound. Other prices were reached through somewhat similar processes, and the resulting valuation, while somewhat higher than pre-war prices, reflects a reasonable base for present rates.

The value of the plant of The Crested Butte Light and Water Company is fixed by the Commission for rate-making purposes at $40,000.

Annual Depreciation Requirement.

The average life and salvage value of the different units of the physical plant have been used in arriving at the amount necessary to meet annual depreciation. In the engineer's report the figure 3-3/4 percent is used as the average depreciation. This has been computed by taking into account the cost of reproduction, salvage value and the expected life of the different units. By applying 3-3/4 percent to the value of $40,000 for rate-making purposes the annual depreciation requirement for this water system would be $1,500 per year.

Operating Expenses.

Inasmuch as the two plants have been operated together for some time past it is difficult to do other than estimate a reasonable operating expense. In the Commission's judgment the following items are proper:

Superintendence and collection	$1,600
Maintenance, minor leaks, etc.	500
Total	$2,100

Taxes

From the statistician's report it appears that taxes should be allowed at $1,100 a year. This excludes income taxes from operating expenses.

On the basis of the above figures the following is the income necessary to meet the foregoing items of expense, annual depreciation requirement and return on the investment.

Operating expenses	$2,100
Annual depreciation requirement	1,500
Taxes	1,100
7½% return on the rate-base of $40,000	3,000
Total income necessary	$7,700

Income Account.

In the schedule of rates filed by the company no charge is made to the electric part of the plant for water used by it. In the schedule of rates herein approved there has been inserted an item of power water for the light plant of $1,200 per year. This rate is based on an estimate of $8,000 as the increased cost of the plant made necessary to deliver power water over and above the estimated cost of the plant necessary to deliver water for domestic and commercial uses. Taxes, annual depreciation and return figure on this part of the plant about 15 percent. Operating expense is not materially affected. In other words this item is figured at 15 percent of $8,000 which is $1,200.

In the schedule filed by respondent and now under suspension, no increase is made in the rate charged the Colorado Fuel and Iron Company for water. This company, although a large user, should pay an increase for the use of water in proportion to the increase to other users. The old rate of $90 per month was made about 1917 at which time the company was operating coke ovens at Crested Butte. These were discontinued about November, 1918. Since that time a new mine has been opened and water is used for boilers and other uses.. From the data at hand it appears that there is considerable waste of water at the old mine known as the Crested Butte property. From meter readings taken in 1919 it appears that the actual use of the Colorado Fuel and Iron Company is slightly in excess of 2,000,000 gallons per month. A reasonable rate for this use would be six cents per one thousand gallons. On this basis the rate of $125 per month has been fixed as shown in the schedule herein approved. This charge is a reasonable charge and will continue until the first day of July, 1921. Thereafter the rate should be based on a meter rate of six cents per thousand gallons. The company in the meantime will have had time for the installation of meters. This will also allow it ample time to make such provisions as will be necessary to insure the economical use of water. The schedule of rates herein set forth and approved will show a gross income, as found upon a survey of consumers made by the engineer, as follows:

Resident rates	$2,456
Commercial rates	1,264
C. F. & I. Co. rate	1,500
Electric plant (power water)	1,200
Hydrant rental, town Crested Butte	1,280
Gross income	$7,700.

O R D E R

IT IS THEREFORE ORDERED, That the following schedule of rates as fixed by the Commission is fair, just and reasonable, and the same shall be adopted by The Crested Butte Light and Water Company.

IT IS FURTHER ORDERED, That the following schedule of rates, fixed and established by the Commission, shall be filed in the manner prescribed in the Public Utilities Act of Colorado, and that the respondent, The Crested Butte Light and Water Company, may and it is hereby permitted to file such schedule upon one day's notice to the Commission and the public:

ANNUAL RATES

Bakeries, first oven	$ 10.00
each additional oven	5.00
Banks	12.00
Barber Shops, first chair	14.00
each additional chair	6.00
Billiard or pool rooms per table	3.00
" " " " minimum charge	24.00
Blacksmith shop, first forge	16.00
each additional forge	8.00
Boarding House, see Hotel rate	
Bottling Works	20.00
Brick Work, building purposes per 1000 kiln count	.20
Butcher Shop	20.00
Cigar Store	24.00
Confectionary Store or Ice Cream Parlor	20.00
Concrete per cubic yard	.20
Cow, per head	2.00
Drug Store, (soda fountain extra)	20.00
Fountain, soda	20.00
Fountain, vegetable	30.00
Fountain, drinking, continuous flow	40.00
Fire Hydrants rental, as per franchise from town,	
for the first twelve hydrants	1200.00
each additional hydrant	80.00
Garages, public, equipped for washing, per car, based on total car capacity	3.00
public, without washing facilities, per car, based on total car capacity	2.00
Private	2.00
Halls	12.00
Horse, per head	2.00
Hotels and boarding houses, 10 rooms or less	24.00
each additional room	2.00
dining room, per table chair	1.50
Laundry	40.00
Lawn sprinkling or garden irrigation per lot 25' x 125' per season	3.00
Lodging houses, 10 rooms or less	24.00
each additional room	2.00
Livery Stable, stalls for 15 head or less	24.00
each additional stall	2.00
Offices, dentist	10.00
doctors or surgeon	7.50
not otherwise specified	5.00

Photograph gallery	$24.00
Plastering, per square yard	.01
Printing office	20.00
Railroad use	420.00
Residence, rate for each family one to four rooms	12.00
four to six rooms	13.00
each additional room over six	.50
per rented room	1.50
Restaurant, each table chair	1.50
each stool at counter	2.00
Minimum charge	24.00
School, per student enrolled	.15
Soft drink parlors	24.00
Steam Boilers per H. P.	1.00
Stores or Shops not otherwise specified, per front foot	.60
Minimum charge	12.00
Stone Work, per perch, Mason measures	.05
Tailor and cleaning shop	20.00
Motor Washing machine	6.00

In addition to the foregoing flat rates the following additional charges will be made for bath tubs, urinals and water closets.

Bath tubs, private residence each	6.00
Hotels, boarding and rooming houses	12.00
Barber shop and public use	18.00
Urinals, private each	6.00
public	15.00
Water closets, private, residences each	6.00
business houses private use	8.00
Hotels, boarding and rooming houses and business blocks	12.00
Soft drink parlors, billiard or pool rooms and cigar stores, each	18.00
Coal mining use by Colorado Fuel & Iron Co., and other consumers similarly situated	1500.00
Electric Plant for power water	1200.00

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 3rd day of November, 1920.

(Decision No. 3737)

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the matter of the application of The white Way Transportation Company for a certificate to operate freight service by automobile truck between Denver and Greeley; between Greeley and Fort Morgan; between Denver and Fort Morgan, via Greeley and all intermediate points; between Denver and Pueblo, via Colorado Springs and all intermediate points; between Denver and Fort Collins via Lafayette and Longmont and all intermediate points.	)	APPLICATION NO. 66

(November 4, 1920)

STATEMENT

By the Commission:

The above named applicant filed with the Commission December 22, 1919, its application for a certificate of public convenience and necessity to engage in operating a freight automobile truck line between Denver and Greeley, Colorado; subsequently and on April 22, 1920, applicant filed its amended application for such certificate, but to operate such automobile truck line not only between Denver and Greeley but also between Greeley and Fort Morgan and Denver and Fort Morgan via Greeley and between Denver and Pueblo via Colorado Springs and between Denver and Fort Collins via Lafayette and Longmont.

Notices of such application were given to the Union Pacific Railroad Company, The Colorado & Southern Railway Company, The Atchison, Topeka & Santa Fe Railway Company and The Denver & Rio Grande Railroad Company and to other parties in interest.

The application was set for hearing upon two different occasions during the spring and summer of 1920, but upon each occasion the applicant requested the hearing order be vacated and the matter continued to some future date. In the meantime attorneys representing applicant,

The White Way Transportation Company, withdrew their appearances and the matter has stood upon the calendar of the Commission in such manner until and on October 29, 1920, the same was set for hearing at the Hearing Room of the Commission, Capitol Building, at 10:00 A.M. of said date, notice of such hearing being sent to the attorneys for said railroad carriers and also by registered mail to C. E. Roper, who verified the application of the applicant for such certificate, as its president.

Upon said date, October 29, 1920, each of said railroad carriers were represented but no appearance was made by applicant, The White Way Transportation Company, by attorney or otherwise, and the record of the cause discloses that the notice sent by registered mail to the President of said transportation company at his last known and usual Post Office address was not delivered, and was returned by the Post Office department for failure to locate Mr. Roper, the President of said applicant company.

Each said railroad carrier in due time filed exception and objection and answer to said application under oath, and it would appear therefrom that there is no real foundation for the making of said application upon the ground of public convenience and necessity therefor. At any rate for the failure of applicant to appear and prosecute its said application for such certificate its said application will be dismissed.

O R D E R

IT IS THEREFORE ORDERED, That the application of The White Way Transportation Company for a certificate of public convenience and necessity, filed December 22, 1919, and amended application filed April 22, 1920, being Application No. 66 on the Docket of this Commission, be, and the same is, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Hall Ernest

A. P. Anderson

H. D. Lamson

Commissioners.

Dated at Denver, Colorado, this
4th day of November, 1920.

(Decision No. 374)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the Yuma-Joes Telephone Company for a Certificate of Convenience and Necessity for the Construction of a Telephone Line Between Yuma and Joes, in Yuma County, Colorado.

APPLICATION NO. 83

November 10, 1920

Appearance: Joe A. Fowler, for applicant.

STATEMENT.

By the Commission:

On May 25, 1920, there was received by this Commission an application from M. A. Higgins, H. F. Higgins and H. W. Jackson, temporary trustees for the Yuma-Joes Telephone Company, for the construction of a telephone system from the corporate limits of Yuma, to and including the town of Joes, and including the territory between said points, and asking that a certificate of convenience and necessity be granted.

A hearing on said application was held at the hearing room of this Commission June 21, 1920. The testimony showed there is no telephone system, either public or private, in the territory to be served and no competition whatever or objection from either the Wray or Mountain States Telephone Companies.

The certificate of incorporation of the Yuma-Joes Telephone Company was filed with the Secretary of State September 27, 1920.

July 8, 1920, the County Commissioners of Yuma county issued a certificate to the Yuma-Joes Telephone Company authorizing them to construct lines in the streets and alleys of the unincorporated village of Joes, also along and on the right of way of the public highway known as state secondary road No. 5, being about thirty-six miles in length. This certificate, however, was not filed with this Commission until October 7, 1920, thus greatly delaying the issuance of the certificate asked for.

In pursuance of the foregoing facts, this Commission finds that there is great need for telephone service between Yuma and Joes and the district between these points, and that the public convenience and necessity demand the building of said line.

O R D E R.

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity require, and will require the construction and operation by the applicant of a telephone system between the town of Yuma and Joes, and in the territory adjacent thereto. This order shall be deemed a certificate therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. McClennan

H. D. Lamson

Commissioners

Dated at Denver, Colorado,
this 10th day of November, 1920.

(Decision No. ~~376~~ 377)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Citizens of Hasty, Complainants,	)	
vs.	)	CASE NO. 192
The Atchison, Topeka & Santa Fe Railway Company, Defendant.	)	

(November 13, 1920)

STATEMENT

By the Commission:

WHEREAS the complainants in this case, on November 12, 1920, filed a motion in writing requesting that said cause be dismissed, for the reason that the defendant had complied with the request of the complainants;

IT IS THEREFORE ORDERED, That the complaint in this case be, and the same is, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Maddeman

Commissioners.

Dated at Denver, Colorado,
this 13th day of November, 1920.

(Decision No. ~~377~~ 378)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of the American Railway Express Company for authority to increase Express Rates and to change its classification.	)	APPLICATION NO. 94

In Re Proposed Increase in Express Rates on the Line of The Denver and Salt Lake Railroad.	)	I & S NO. 49

Appearances: A. B. Roehl of San Francisco, for the American Railway Express Company; Elmer E. Brock of Denver, for the Denver and Salt Lake Railroad Company.

11/16/20

STATEMENT

By the Commission:

This cause is before the Commission as a result of an application filed on June 21, 1920, by the American Railway Express Company, for an order of this Commission authorizing it to increase its express rates and charges on intrastate traffic within the State of Colorado, and by virtue of a supplemental application filed by said the American Railway Express Company on July 30, 1920, which supplemental application specifically pertains to increase of express rates on the line of the Denver and Salt Lake Railroad within the State of Colorado.

The application of the Express Company for increased rates throughout the state generally, designated as Application No. 94, has been made the subject of investigation by this Commission, and an order entered therein, dated November 3, 1920, and for the purpose of hearing, was consolidated with the supplemental application pertaining to the Denver and Salt Lake Railroad, which was docketed under the title of Investigation and Suspension Docket No. 49. On August 21, 1920, the

schedules of rates filed by the American Railway Express Company pertaining to the line of the Denver and Salt Lake Railroad, were suspended by order of this Commission, and embraced the following schedules:

Supplement No. 3 to Colo. P. U. C. No. 6
Supplement No. 3 to Colo. P. U. C. No. 7
Supplement No. 4 to Colo. P. U. C. No. 8
Supplement No. 4 to Colo. P. U. C. No. 15
Supplement No. 5 to Colo. P. U. C. No. 16

The hearing on the matters embraced in I. & S. No. 49 was set for September 27, 1920, at the hearing room of the Commission, State Capitol Building, Denver, Colorado, and due notice thereof was given all parties in interest. Upon application of the attorney for the Express Company, said hearing was continued to October 4, 1920, and was held at the Commission's hearing room aforesaid, due notice of said continuance having been given to all parties, and to the patrons of the Express Company along the line of the Denver and Salt Lake Railroad.

No protests or objections to said application were filed, and at the hearing, by leave of the Commission, the Denver and Salt Lake Railroad filed its petition in intervention, in which petition it is alleged that the Express Company had theretofore filed its application, in Application No. 94, for authority to increase its express rates and charges applicable to intrastate traffic within Colorado to the same extent that the Interstate Commerce Commission authorized increases in the express rates and charges on interstate traffic within Colorado, in a proceeding then pending before said Interstate Commerce Commission, and designated as I. C. C. Docket No. 11326; that thereafter, and on or about July 27, 1920, said Express Company issued supplements to its express tariffs providing rates and charges applicable to traffic originating and destined to points on the line of the Denver and Salt Lake Railroad, which said supplements were filed on July 30, 1920, to become effective August 31, 1920; that the suspended tariffs and rates therein proposed were filed by the Express Company with this Commission

at the instance and request of the Denver and Salt Lake Railroad for the purpose of restoring the relationship existing between express rates and the first-class freight rates, applicable to traffic moving to and from points on the line of said railroad.

The petition in intervention further alleges that after an analysis and study of said tariffs and rates, as so filed, intervenor became convinced that the rates and charges proposed in the said tariffs were insufficient and did not restore or establish the proper relationship between the express rates and freight rates on the line of said the Denver and Salt Lake Railroad.

Attached to said petition in intervention is a statement marked "Exhibit 1" which purports to show the trend of the relationship between the freight and express rates on the line of said railroad since the year 1913; and also attached thereto and marked "D. & S. L. Exhibits 2, 3 and 4," are statements purporting to show the present freight and express rates, the proposed increase in express rates as suspended by order of the Commission, and the express rates which intervenor proposes and requests to be established on the line of said the Denver and Salt Lake Railroad, in lieu of the present express rates applying between points upon said railroad, and also in lieu of any general increase in express rates on the line of said the Denver and Salt Lake Railroad which American Railway Express Company had theretofore applied for.

The petitioner further alleges that the first-class express rates in some instances, and the second-class rates in most instances, are now less than the freight rates applying on said road, with the result that many commodities usually moving by freight have been moving by express, which results not only in a loss of revenue to intervenor railroad to a considerable extent, but also results in delay of the passenger service in the handling of said express matter.

Intervenor further alleges upon information and belief, that the first-class express rate should be approximately 200 per cent. of the first-class freight rate, and the second-class express rate should be not less than 150 per cent. of the first-class freight rate, and that the rates proposed by intervenor are designed to establish such a relationship.

The intervenor prays that upon hearing in this matter an order be made authorizing American Railway Express Company to increase its express rates and charges applying between points on the line of the Denver and Salt Lake Railroad as proposed in its Exhibits 2, 3 and 4 hereinabove referred to, with the exception that American Railway Express Company be authorized to increase its rates and charges applicable to the transportation of milk and cream to and from points on the line of said railroad 20 per cent. in excess of the rates in effect thereon on August 31, 1920; and intervenor also prays that American Railway Express Company be authorized to increase interline express rates applying to and from points on the line of said Denver and Salt Lake Railroad to the same extent and by the same amounts as intervenor herein proposes that the local express rates applicable to express traffic on its said railroad be increased, in order that said rates be made to conform with the long and short haul clause of the Public Utilities Act of this state. What is meant, no doubt, is reference to the long and short haul clause provided in the Act of Congress to regulate interstate traffic, there being no such provision in the Public Utilities Act of the State of Colorado. The closing paragraph of the prayer sets forth that the specific increase proposed by intervenor is in lieu of any general increase which has been applied for by the American Railway Express Company, or as heretofore contemplated by the tariffs filed by said Railway Express Company and suspended by this Commission.

At the hearing, held as aforesaid, testimony was submitted

verifying and explaining Exhibits 1, 2, 3 and 4 of the Denver and Salt Lake Railroad.

Exhibit 1 is a tabulated statement showing the trend of relationship between freight and express rates on the Denver and Salt Lake Railroad since the year 1913; it shows the ratio of percentage of the express rate in 1914, compared to the freight rate, to average more than 200 per cent., with a gradual diminishing of said ratio, until on September 1, 1920, the percentage ratio had decreased to an average percentage of about 100 per cent. This is accounted for, according to the testimony, from the fact that freight rates were increased by order of the Director General of Railroads, and subsequently as to interstate traffic by order of the Interstate Commerce Commission, and as to intrastate traffic by order of this Commission, without any corresponding increase in the express rates.

Exhibit 2 is a comparative statement showing freight and express rates in cents per hundred pounds, both actual and proposed, between Denver and stations on the line of the Denver and Salt Lake Railroad as of September 1, 1920. This is explained by the testimony to the effect that the ratio of percentage which the express rates bear to first-class freight rates on September 1, 1920, average about 100 per cent., while the ratio of percentage between said rates as proposed by the American Railway Express Company in its application for increase, averages about 150 per cent., and the ratio of percentage between said rates, if the same be increased to a scale nearest 200 per cent of first-class freight rates as proposed by intervenor railroad, averages 200 per cent. as to first-class freight and express rates and averages 150 per cent. as to second class rates.

Exhibit 3 is a comparative statement of freight and express rates showing the rates both actual and proposed between points in different blocks on the Denver and Salt Lake Railroad, and Exhibit 4 is a

comparative statement showing freight and express rates in cents per hundred pounds, both actual and proposed, between points on said railroad in the same block. According to the testimony explanatory of said Exhibits 3 and 4, the same ratio of increase as between first-class freight rates and express rates will result as is shown by Exhibit 2, in the event the increase herein applied for is allowed.

Testimony was introduced as to the unusual situation prevailing on the line of the Denver and Salt Lake Railroad as pertains to the relationship between first-class freight rates and express rates to the effect that it exists in no other section of the United States. At present, because of the similarity of such rates, many articles are moved by express over said railroad which are generally, if not entirely, moved by freight. As an illustration of this anomalous condition, witness Robbinson, the agent for the Denver and Salt Lake Railroad Company at Denver, testified that since about the 1st of July, 1918, freight shipments outbound from Denver on certain classes of commodities noticeably diminished, and the articles theretofore moving by freight were being moved by express; that a number of articles are moved by express that are usually considered legitimate freight, such as fresh or salt meats, lard, vegetables, household goods, steel cables, cooking ranges, rocking chairs, tables, bath tubs, heavy castings, pipes and other similar articles. This witness also testified that prior to 1918, a refrigerator car was carried on the line of this railroad to accomodate freight shipments of fresh meats, vegetables, fruits and other similar perishable articles, but that under present conditions no refrigerator cars were in service, and that by virtue of the increased number of unusual articles moving by express an additional car is necessary to be attached to the passenger train, which results in an extra engine over the steeper grades on the line and great delay in passenger service in unloading such a large volume of express matter.

Testimony further shows that such conditions are unjustifiable,

unnecessary and almost unheard of in the realm of express and freight business; and that no other community in this state has the privilege of so low an express rate as compared with freight rates as those communities along and upon the line of the Denver and Salt Lake Railroad.

In short, it appears by the testimony and to the Commission that the existing rates and charges of the American Railway Express Company on the line of the Denver and Salt Lake Railroad are unreasonable, and that the proper measure of relief to be afforded the intervener railroad can not be gained by an allowance of the same rate of increase in express rates as applied for by said Express Company and as suspended by this Commission. It further appears, and the Commission finds from the entire showing in this case, that the rates and charges proposed by intervenor in its petition, and under all the facts and circumstances surrounding the operation of the Denver and Salt Lake Railroad, are just and reasonable and that such rates shall be allowed to go into effect upon one day's notice, providing the American Railway Express Company cancels upon one day's notice the schedule of rates heretofore filed by it increasing rates to and from points and between points on the line of the said railroad, on or before December 1, 1920.

O R D E R

IT IS THEREFORE ORDERED, That the American Railway Express Company be, and it is, hereby authorized to increase its express rates and charges applicable to intrastate traffic within the State of Colorado, except traffic to or from points, or between points on the Denver and Salt Lake Railroad, 26 per cent., as provided and ordered in Application No. 94, provided its rates and charges on the transportation of milk and cream within the state of Colorado shall not be increased in excess of 20 per cent.

IT IS FURTHER ORDERED, That said Express Company be, and it is, hereby authorized to increase its express rates and charges applicable to intrastate traffic between points on the Denver and Salt Lake Railroad within the State of Colorado, as proposed in the petition in

intervention filed herein by W. R. Freeman and C. Boettcher, Receivers of the Denver and Salt Lake Railroad, and as set out in Appendix "A" attached to this order.

IT IS FURTHER ORDERED, That said Express Company be, and it is, hereby authorized to increase its express rates and charges applicable to intrastate traffic between points on the line of the Denver and Salt Lake Railroad and points on other lines within the state of Colorado to the same extent as it is hereby authorized to increase its rates applicable to intrastate traffic between points on the line of said Denver and Salt Lake Railroad.

IT IS FURTHER ORDERED, That said Express Company be, and it is, hereby authorized to increase its express rates and charges applicable to the transportation of milk and cream within the state of Colorado, between points on the Denver and Salt Lake Railroad and between points on the Denver and Salt Lake Railroad and points on other lines of railroads in Colorado, not to exceed 20 per cent. in excess of the rates applicable to the transportation of such class of traffic on August 31, 1920.

IT IS FURTHER ORDERED, That said Express Company be, and it is, hereby authorized to make effective the increased rates and charges hereby authorized on one day's notice to the Commission and the public, by filing and posting tariffs containing the same with the Commission, in the manner prescribed by Section 16 of the Act.

IT IS FURTHER ORDERED, That said Express Company be, and it is, hereby notified and required to cancel on one day's notice, on or before December 1, 1920, the schedules of rates heretofore filed by it increasing the rates to and from points, and between points on the Denver and Salt Lake Railroad, which rates were suspended by this Commission under its order dated August 21, 1920, in I. & S. No. 49, and particularly described as follows:

Supplement No. 3 to Colo. P. U. C. No. 6
Supplement No. 3 to Colo. P. U. C. No. 7
Supplement No. 4 to Colo. P. U. C. No. 8
Supplement No. 4 to Colo. P. U. C. No. 15
Supplement No. 5 to Colo. P. U. C. No. 16.

IT IS FURTHER ORDERED, That in order to simplify and expedite tariff publication said Express Company is hereby authorized to file the rates and charges herein authorized in blanket supplements, if it desires so to do, to the same extent that it has been authorized to do so by the Interstate Commerce Commission in Docket No. 11326, dated August 11, 1920.

IT IS FURTHER ORDERED, That in computing the increased rates and charges herein authorized, applicant shall follow the rule prescribed for the disposition of fractions by the Interstate Commerce Commission in its said decision in Docket No. 11326.

IT IS FURTHER ORDERED, That this proceeding be held open for the purpose of considering applicant Express Company's petition to make certain changes in its classification upon the filing by applicant of a supplemental petition herein, if and after the Interstate Commerce Commission authorizes said changes.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Commissioners.

Dated at Denver, Colorado,
this 16th day of November, 1920.

Appendix "A"

BETWEEN AND	Denver 1st	Denver 2nd	Rollinsville 1st	Rollinsville 2nd	Tolland 1st	Tolland 2nd	Arrow 1st	Arrow 2nd	Fraser 1st	Fraser 2nd	Tabernash 1st	Tabernash 2nd	Granby 1st	Granby 2nd	Sulphur Springs 1st	Sulphur Springs 2nd	Kremmling 1st	Kremmling 2nd	McCoy 1st	McCoy 2nd	Yampa 1st	Yampa 2nd	Phippsburg 1st	Phippsburg 2nd	Oak Creek 1st	Oak Creek 2nd	Steamboat Springs 1st	Steamboat Springs 2nd
Rollinsville	137	103																										
Tolland	154	115	77	58																								
Arrow	253	190	165	124	165	124																						
Fraser	253	190	165	124	165	124	77	58																				
Tabernash	264	198	165	124	165	124	77	58	77	58																		
Granby	286	214	198	148	198	148	93	70	93	70	93	70																
Sulphur Sp.	319	240	236	178	236	178	121	91	121	91	121	91	93	70														
Kremmling	379	285	280	211	280	211	176	132	176	132	176	132	121	91	93	70												
McCoy	407	306	357	268	357	268	258	195	258	195	258	195	214	162	187	141	137	103										
Yampa	511	384	467	351	467	351	335	252	335	252	335	252	297	223	275	207	225	169	132	99								
Phippsburg	511	384	467	351	467	351	335	252	335	252	335	252	297	223	275	207	225	169	132	99	77	58						
Oak Creek	522	393	495	372	495	372	390	294	390	294	390	294	341	256	313	235	275	207	187	141	110	82	110	82				
Stmb.Spgs.	539	405	495	372	495	372	390	294	390	294	390	294	341	256	313	235	275	207	187	141	110	82	110	82	93	70		
Mt. Harris	555	417	555	417	555	417	495	372	495	372	495	372	462	346	390	294	330	247	258	195	176	132	176	132	121	91	121	91
Hayden	561	421	561	421	561	421	495	372	495	372	495	372	462	346	407	306	357	268	280	211	198	148	198	148	154	115	154	115
Craig	572	429	561	421	561	421	495	372	495	372	495	372	462	346	462	346	407	306	308	231	253	190	253	190	198	148	198	148

BETWEEN AND	Mt. Harris 1st	Mt. Harris 2nd	Hayden 1st	Hayden 2nd
Hayden	110	82		
Craig	110	82	93	70

(Decision No. ~~378~~ 379)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the Board of County Commissioners of Washington County, Colorado for the Establishment of a Public Highway Crossing over the Tracks of the Chicago, Burlington and Quincy Railroad Company on the Section Line one Mile West of the Town of New Hyde, Colorado.

APPLICATION NO. 86

(November 18, 1920)

STATEMENT

By the Commission:

On May 15, 1920, the Board of County Commissioners of Washington County, Colorado, made application to the Commission for the establishment of a public highway crossing across the tracks and right of way of the Chicago, Burlington and Quincy Railroad Company on the section line one mile west of the Town of New Hyde, Colorado.

The matter was made the subject of investigation by the Railway Engineer for the Commission, who, on October 22, 1920, reported that the view of approaching trains is good in all directions, and that the crossing, when opened, will not be objectionable; also that the grade had been completed, in accordance with the Commission's order in re improvement of grade crossings in Colorado, 2 Colo. P. U. C. 128. The Engineer was informed by the railroad company that as soon as the order is issued by the Commission the necessary crossing plank, cattle guards, fencing, etc. will be installed, and the crossing opened to public travel.

The Board of County Commissioners of Washington County agreed to assume the cost for grading the proposed crossing, amounting to about $86.00, and maintain same in proper condition for public use.

The Board of County Commissioners of Washington County, through its clerk, has made it satisfactorily to appear to the Comm-

ission that the proposed crossing is not within the incorporated limits of any town or city, but is upon the public highway of the County of Washington, Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the crossing over the Chicago, Burlington and Quincy Railroad tracks on the section line one mile west of the Town of New Hyde, Colorado, is hereby declared to be a public highway crossing for the use and accomodation of the public.

IT IS FURTHER ORDERED, That said railroad company be, and it is, hereby required to open and install a crossing over and across its tracks and right of way on the section line one mile west of the Town of New Hyde, Colorado, in conformity with the rules and regulations adopted by the Commission in re improvement of grade crossings in Colorado, 2 Colo. P. U. C. 128; and that such crossing shall be installed within ninety days from this date.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Hall Ernest

W. D. Lamson

Commissioners.

Dated at Denver, Colorado,
this 18th day of November, 1920.

(Decision No. 879)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of)
American Railway Express Company for)
an Order Authorizing it to Discontinue)
its Express Service on the Line of The) APPLICATION NO. 119
Midland Terminal Railway Company and)
to Cancel its Rates Therefor.)

November 18, 1920

Appearances: F. O. Reed for applicant express company;
C. C. Hamlin and F. C. Matthews for The
Midland Terminal Railway Company.

STATEMENT.

By the Commission:

On November 9, 1920, applicant, American Railway Express Company, filed with the Commission its application in the above matter setting forth therein that it is a corporation engaged in the express transportation business on railroad lines within the state of Colorado, among which is The Midland Terminal Railway Company; that said railway company operates a line of railroad between Colorado Springs and Cripple Creek, Colorado, and intermediate points over which applicant has been and is now operating an express transportation business for hire at the rates shown in and by its tariffs on file with this Commission.

That heretofore and on or about October 16, 1920, said railway company notified applicant express company that it, the railway company, had filed a tariff with this Commission to become effective November 11, 1920, under which tariff said railway company proposed to establish and render a preferred freight service by passenger trains upon its line of railway, for the transportation of such commodities and traffic as are now handled by applicant on said railway at rates named in the tariffs filed by said railway company with the Commission, and requested that the express service heretofore operated by applicant on said railway be discontinued.

Applicant express company seeks an order of the Commission authorizing it to discontinue its express service on the line of the said The Midland Terminal Railway Company, and authorizing it to cancel its rates between points and to and from points, on said line of railway concurrently with the establishment by said railway company of the proposed preferred freight service by passenger trains, as aforesaid.

Upon the filing of the application of said express company for permission to discontinue its express service on the line of said railway company, the same was set for hearing at the hearing room of the Commission, 315 Capitol Building, Denver, Colorado, at 10 o'clock A. M., Wednesday, November 17, 1920, and notice thereof was duly given to the Mayor and City Council, of the cities of Victor and Cripple Creek, and also notices of such application were sent to the Times-Record, and the Record, newspapers published at Cripple Creek and Victor, respectively.

No protest or objection from any source has been received by the Commission, and at the hearing the testimony submitted was to the effect that the railway company was in need of all revenue possible to be obtained by it in order that said railway company might continue its operations; that owing to the gradual decrease in business, both freight, passenger and express, to and from the Cripple Creek district for the past few years, said railway company, if it continued to operate, could not afford to further contract with said express company to operate its express service over its line of railway; that the express rates as compared with first class freight rates between Colorado Springs, Victor and Cripple Creek, were relatively so similar that many commodities have been moved by express, that ordinarily and legitimately ought to move by freight, and for that reason the further continuance of the express transportation business over the line of said railway would further depress its operating revenue.

On October 11, 1920, said The Midland Terminal Railway Company, filed with this Commission its tariffs for the establishment of its proposed "preferred freight service" over its line of railway from Colorado Springs to Victor and Cripple Creek, and intermediate points. Notice thereof was

given in the usual way by the Commission, to the communities of Victor and Cripple Creek and no objections or protests having been filed thereto, such preferred freight service tariffs and schedules were allowed to become effective at the expiration of thirty days from the filing of the same, on to-wit: November 11, 1920, though the establishment of such preferred freight service has not yet been inaugurated, and will not be until and unless the express company is permitted to discontinue its service over said line of railway.

The evidence discloses that the rates filed by said railway company for its preferred freight service are somewhat higher than the express rates now in effect, but that after the express rates are increased by 26 per cent, as recently authorized by order of this Commission in Application No. 94, such preferred freight service rates and the express rates will be approximately the same, with the exception that the preferred freight service to be established by the railway company does not provide for the free pickup and delivery service of the express company.

The testimony further discloses that the principal source of revenue derived by said railway company is from the shipment of coal into the Cripple Creek district, and of ore out of said district, and a comparative statement of tonnage of those two commodities was submitted as Exhibits 1 and 2. Exhibit 1 is a statement of ore tonnage shipped out of the district for the years 1916 to 1919, both inclusive, and for nine months in 1920. The tonnage for 1916 averaged 52,234 tons per month, while that for 1919 averaged 25,200 tons per month, and for the first nine months of 1920, averaged 21,194 tons per month. The comparative statement of coal tonnage shipped to the Cripple Creek district for said years, and for the ten month period, January 1 to November 1, both inclusive, 1920, shows an average of 7,622 tons per month during 1916, and of 4,167 tons per month during 1919, while the average tonnage per month during the first ten months of 1920 is shown as being 2,383 tons. It will be observed from these two exhibits the greatly decreased amount of business said railway company is now doing as compared with four and five years ago.

From other sources of investigation that have heretofore been conducted by this Commission, with reference to other utilities in the Cripple Creek district, it is a matter of knowledge that not only has the business of the Cripple Creek district diminished to a deplorable extent, but also the population as well, this being accounted for, in a large measure, by the inactivity of gold mining by virtue of the high costs entering into the conduct of such business during the period of the war, while the price of gold has remained at the same level as before the war.

It is apparent, therefore, that under all the circumstances there is not sufficient demand upon the part of the public for a further continuance of the express transportation business, at present, over the line of The Midland Terminal Railway Company, and the application of said American Railway Express Company to discontinue its service over said line of railway will be granted pending the further order of this Commission.

O R D E R.

IT IS THEREFORE ORDERED, That the applicant, American Railway Express Company be, and it is, hereby permitted to discontinue express service over and upon the line of The Midland Terminal Railway Company so far as the same pertains to intrastate traffic, upon the giving of one day's notice to the Commission and the public, in the manner prescribed by the Act, to become effective Sunday, November 21, 1920.

IT IS FURTHER ORDERED, That said American Railway Express Company cancel its rates and schedules now on file with this Commission, between points and to and from points on said line of railway, such cancellation to be effective as to intrastate rates only, upon Sunday, November 21, 1920.

IT IS FURTHER ORDERED, That the permission to discontinue express service by applicant on and over the line of said railway company is hereby limited to such time as the Commission may, on its own motion or upon complaint, find that the resumption of such express service over the line of said railway will be reasonably necessary to meet the needs of the commu-

nities affected.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 18th day of November, 1920.

Decision No. 381 ~~380.~~

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of the Denver and Salt Lake Railroad Co., W. R. Freeman, Receiver, for Permission to Close Rollinsville Station as an Agency Station.) APPLICATION NO. 118

November 19, 1920

Appearances:
For Denver & Salt Lake Railroad Co., Elmer L. Brock;
for Protestants, Geo. A. Carlson, L. D. Wurtz, William C. Blair.

STATEMENT

By the Commission:

On November 3, 1920, there was received from the Denver & Salt Lake Railroad, through W. R. Freeman, its Receiver, an application for permission to close its Rollinsville Station as an agency station, November 15, 1920, alleging that the business of the station was so small as to not justify the expense of maintenance.

In accordance with this application, notice was duly given to the Community effected, and the Commission set the matter down for hearing at its hearing room, 315 State Capitol, Monday, Nov. 15, 1920, at 10 o'clock, A. M.

In response to the Receiver's request, there was presented to the Commission a vigorous protest from the Gilpin County Metal Mining Association, and another protest signed by thirty-three shippers, alleging that as consignees of merchandise shipped in to them, and as occasional shippers of ore and other materials, the discontinuance of agency service at Rollinsville would work great hardship and risk of loss through deterioration and freezing of perishable merchandise, and as by irregular train service they would have no means of knowing when goods arrived and in consequence thereof, they could not be at the station to receive and take care of shipments which would be absolutely necessary to prevent damage and loss through thievery, vandalism and

damage by freezing.

It was shown that Rollinsville had a population of 150 and Eldora, distant 7 miles; Cardinal, 6 miles; Nederland 3½ miles; Gilpin, 2 miles, also Pine Cliff, were all deeply interested in maintaining the agency for the convenience of the public in the sale of passenger tickets and the receipt and dispatch of both freight and express.

The testimony presented showed this station cost the Railroad company, account of agent's salary, $153.73 and for coal $19.53 making a total monthly expense of only $173.26 during the winter time, - and a somewhat smaller amount in the summer season.

A statement of the business transacted at Rollinsville for the year 1919, shows there was collected for freight, $5,398.09; for passenger fares, $1,512.29; telegraph service, $21.56; express, $620.19, or a total business for the year for this station of $7,552.13.

It was also shown that if the agent was dispensed with at this point all business would have to be transacted through the agency at Tolland, five miles distant. Testimony also showed that the road between Rollinsville and Tolland was almost wholly impassable in winter months. To further aggravate the conditions under which business would have to be carried on, the evidence showed that only an intermittent and wholly unsatisfactory telephone service is operated between these points and this is often for days wholly out of commission, so that the loss of this agency would reduce the people of Rollinsville and contiguous towns and mining camps to a state of helplessness and isolation in the transaction of their business with the outer world.

No doubt the railways of Colorado as well as the rest of the country have had a just complaint that they were not receiving rates sufficiently high to meet their fixed charges, or to meet the enormously increased cost of labor, equipment, etc. To meet this situation and to not withhold from the railroads the necessary receipts to meet their obligations, great increases aggregating $1,500,000,000. have been allowed by the Interstate Commerce Commission and the various state commissions.

These increases as applicable to freight rates east of Colorado common points amounted to 35%. West of Colorado common points a 25% raise was allowed. In addition to the raise in freight tariffs, 20% increase in passenger fares was granted, 26% increase in express rates and 20% increase in baggage rates. The above are in addition to the 25% freight increase allowed during Federal control. These raises, while of staggering proportions, were met by the great American public in a magnificent spirit of magnanimity and willingness to not longer withhold the revenue the railroads were so manifestly entitled to.

These great increases were predicated not only on the theory that they were necessary to meet the exigences the carriers were confronted with, but also that they might be enabled to meet the demands of the public for better and more adequate service.

The Denver and Salt Lake Railroad was only entitled to a 25% raise on freight traffic under the Interstate Commerce Commission ruling. The Colorado Public Utilities Commission, however, recognizing the great difficulties imposed by nature in operating this road through a sparsely settled region and over the highest mountain passes of any standard gauge railway in this country, and taking into consideration the fact that this roads activities are confined to Colorado, it seemed that the Denver and Salt Lake should be allowed an increase at least equal to those enjoyed by roads extending east from Colorado common points. In consideration of these facts and wishing to foster this commendable Colorado enterprise, this Commission granted to this road an additional 10% charge in its freight rates, making the increase for this service 35% over the previous classification in the hope and expectation that it would be reflected in giving increased rather than decreased service to its patrons.

The proposal to make Rollinsville a non-agency station does not comport with the theories advanced for the raising of the various railway rates. In view of the fact that the Rollinsville station serves quite an extensive country, and taking everything into consideration, it seems man-

ifestly unfair for this Commission to sanction or allow the agency at Rollinsville to be discontinued.

ORDER

IT IS THEREFORE ORDERED, That the petition of W. R. Freeman, Receiver of the Denver and Salt Lake Railroad, for permission to close the Rollinsville station as an agency station is hereby denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Commissioners.

Dated at Denver, Colorado, this
19th day of November, 1920.

(Decision No. 382)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Frank Titter,
Complainant

v.

T. J. McClintock,
Defendant

CASE NO. 162

November 19, 1920

O R D E R.

WHEREAS, Applicant filed complaint with the Commission October 8, 1918, against the defendant above named, and whereas, no steps have been taken by complainant to prosecute said cause:

IT IS HEREBY ORDERED, That the above entitled cause be, and the same is, hereby dismissed for want of prosecution.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado, this
19th day of November, 1920.

(Decision No. 383)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Morse Brothers M. & S. Co., Complainant	)	
v.	)	CASE NO. 173
Denver & Salt Lake Railroad Co., Defendant	)	

November 19, 1920

O R D E R.

The above named complainant filed its complaint or petition on March 17, 1919. Upon the filing of said complaint, order to satisfy or answer was duly served upon the defendant above named. At the request of the attorneys for the defendant, time was extended to thirty days within which to answer or satisfy the complaint. It is the understanding of the Commission that in the meantime the matters involved herein have been adjusted by the parties hereto. At any rate, no further steps having been taken therein by any of the parties interested, said cause will be dismissed without prejudice.

IT IS THEREFORE ORDERED, That the above entitled cause be, and the same is, hereby dismissed without prejudice for failure to duly prosecute the same.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado, this
19th day of November, 1920.

(Decision No. 384)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Citizens of Lakewood)
)
v.) CASE No. 171.
)
Denver & Intermountain Railroad Co.)

November 19, 1920

ORDER

The above matter was brought before the Commission by citizens of Lakewood, filed February 8, 1919, which concerned train service of the Denver and Intermountain Railroad between Lakewood and Denver. The matters involved herein were made the subject of investigation, and inasmuch as no steps have been taken or requested in said matters by any party in interest for more than twelve months, the same will be dismissed.

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

PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 19th day of November, 1920.

(Decision No. 385)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In Re. Advance in Electric and Gas Rates at Grand Junction, Colorado, by the Grand Junction Electric, Gas & Manufacturing Company.) I. & S. NO. 31

November 19, 1920

ORDER.

This matter is before the Commission upon the filing of a schedule of rates of the above company for electric and gas service within the city of Grand Junction, to become effective December 1, 1918. The Commission by its order of November 22, 1918, suspended such rates, pending an investigation thereof, and on March 24, 1919 issued its subsequent order of suspension. In the meantime, the jurisdiction of this Commission became involved, by virtue of the decision of the Supreme Court of Colorado, in what is commonly designated as the "telephone case", with the result that the Commission has no longer jurisdiction in so-called home rule cities within the state of Colorado; for that reason, this case will be dismissed for want of jurisdiction.

IT IS THEREFORE ORDERED, That the above entitled matter be, and the same is, hereby dismissed for want of jurisdiction.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado. this
19th day of November, 1920.

(Decision No. ~~387~~ 386)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In re. Advance in Electric and Gas Rates at Colorado Springs by The Colorado Springs Light, Heat and Power Company.) I. & S. NO. 26.

November 19, 1920

ORDER.

This matter is before the Commission by virtue of the filing of certain schedules of the above named company for an advance in the rates of electric and gas service at Colorado Springs, contained in certain tariffs to become effective December 1, 1918, which schedules were suspended by order of the Commission dated August 16, 1918. The question involved in above case has been since determined adversely to the jurisdiction of the Commission concerning utilities doing business in the home rule cities, so-called, of the state, and for that reason the same will be dismissed for want of jurisdiction.

IT IS THEREFORE ORDERED, That the above cause be, and the same is, hereby dismissed for want of jurisdiction.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado, this
19th day of November, 1920.

(Decision No. 387)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of J. H. Franklin and M. C. Coffey for Certificate to operate Auto Truck Line between Denver, Frederick, Firestone and Fort Lupton, Colorado.	)))))	APPLICATION NO. 47

November 19, 1920

STATEMENT.

By the Commission:

On June 13, 1919, J. H. Franklin and M. C. Coffey of Denver, Colorado, filed their petition for a certificate of public convenience and necessity for the operation of an automobile truck line between Denver, Frederick, Firestone and Fort Lupton, Colorado.

The matter was heard at the hearing room of the Commission on August 14, 1919. Upon such hearing a certificate was granted. Subsequently M. C. Coffey notified the Commission that he had withdrawn from the applicant partnership and thereupon the remaining partner, Franklin, was notified that the certificate would issue upon payment of the fee therefor as provided in the Public Utilities Act. Notices have been sent to Mr. Franklin to comply with the request of this Commission, which he has ignored. Under these circumstances the certificate issued will be cancelled and the application dismissed, for failure of applicant to comply with the request of the Commission and of the provisions of the Act.

ORDER.

IT IS THEREFORE ORDERED, That the certificate heretofore, and on October 11, 1919, granted to applicants Franklin and Coffey be, and the same is hereby cancelled and for naught held, and the said application be and the same is hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Frank E. Hall

Commissioners

Dated at Denver, Colorado,
this 19th day of November, 1920.

(Decision No. 388)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of Colorado Springs and Interurban Railway Company for Permission to Increase its Street Railway Fares.) APPLICATION NO. 32

November 20, 1920

ORDER.

This matter is before the Commission by virtue of the application of the above named company filed December 12, 1918 for the establishment of rates, fares and charges within the city of Colorado Springs. From the files in said cause, it appears that nothing has since been done, except correspondence between the Commission and the parties in interest, so that the same will be dismissed for want of prosecution. The decision of the Supreme Court in the telephone case divests this Commission of jurisdiction to determine such charges, and that probably has been the reason for nothing having been done herein.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 20th day of November, 1920.

(Decision No. 389)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of The Arkansas Valley Railway, Light and Power Company for Permission to Increase its Street Railway Fares in Pueblo, Colorado.

APPLICATION NO. 29

November 20, 1920

O R D E R

This matter is before the Commission by virtue of petition of the above named company to increase its rates and fares in the city of Pueblo, filed November 6, 1918. Certain steps were taken therein, the files disclosing that the same was set for hearing at the city of Pueblo on January 21, 1919, which order of hearing was subsequently vacated and the matter has been allowed to rest in abeyance. Inasmuch as the jurisdiction of the Commission to proceed in this matter no longer exists, by virtue of the decision of the Supreme Court of Colorado affecting home rule cities, so-called, of which Pueblo is one, said application will be dismissed.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hall

Commissioners

Dated at Denver, Colorado, this
20th day of November, 1920.

(Decision No. 390)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of Robert W. Logan and Herbert E. Wells for Permission to Operate Auto Freight Line between Denver and Colorado Springs.

APPLICATION NO. 71

November 20, 1920

ORDER.

This matter is before the Commission upon application of Robert W. Logan and Herbert E. Wells, filed January 17, 1920, for a certificate of public convenience and necessity to engage in the transportation business by motor truck between Denver and Colorado Springs. The matter was set for hearing at the hearing room of the Commission for Tuesday, March 16, 1920, notice thereof being given to applicant, Robert W. Logan, and to H. W. Hartman, General Manager of the Denver and South Platte Railway Company, Applicants, nor neither of them appeared before the Commission on the date of hearing and nothing further having been heard concerning same, said cause will be dismissed for want of prosecution.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado, this
20th day of November, 1920.

Decision No. 391

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In re Advance in Electric Rates at Fruita, Colorado.) I. & S. No. 32.

November 22, 1920.

- - -

STATEMENT

By the Commission:

This matter involves the filing by The Grand River Valley Railway Company of a rate schedule, designated Original Sheet No. 3A to Colo. P. U. C. No. 2, providing for a surcharge of fifteen per cent upon electric rates at Fruita, Colorado. The effective date of the schedule was suspended pending investigation and hearing. On March 17, 1919, the respondent requested the Commission to defer action thereon, and on July 26, 1919, asked for and was granted permission to withdraw the schedule. This matter therefore no longer being at issue an order of dismissal will be issued.

ORDER

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E HALDERMAN

(SEAL)

A. P. ANDERSON

P. P. LANNON Commissioners.

Dated at Denver, Colorado, this
22nd day of November, 1920.

(Decision No. 39?)

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

APPLICATION OF THE RECEIVER OF THE)
)
DENVER AND INTERURBAN RAILROAD COM-) APPLICATION NO. 116
)
PANY TO INCREASE PASSENGER FARES.)

(November 29, 1920)

Appearances: E. E. Whitted and J. Q. Dier, Esqs., for Receiver of The Denver and Interurban Railroad Company; W. F. Hynes, Esq., for certain patrons of said railroad; J. B. Jenks, C. E. Seehorn and J. G. Edgworth for Motormen, Conductors, Flagmen and other employes; John H. Gabriel, Esq., for patrons of the road living at Westminister; T. A. McHarg, Esq., for the Boulder Commercial Association.

STATEMENT

By the Commission:

The above matter is before the Commission on an application filed October 30, 1920, by the Receiver of The Denver and Interurban Railroad Company to increase passenger fares upon said line of railroad.

The application sets forth that W. H. Edmunds was heretofore and on June 11, 1918, appointed Receiver of said The Denver and Interurban Railroad Company, by order of the United States District Court for the District of Colorado, in the case of Guaranty Trust Company of New York, as Trustee, v. The Denver and Interurban Railroad Company, which was a mortgage foreclosure suit pending in said federal court; that said receiver qualified, and that since said date he has been, and now is, acting as such Receiver and in possession of all the property of said The Denver and Interurban Railroad Company, and

has been, and now is, operating the lines of said railroad company, which consist of an interurban railroad between Denver and Boulder and Eldorado Springs, Colorado.

It is further alleged, that the revenues of said railroad are at the present time entirely inadequate to meet the cost of operation of the property and to pay the necessary increases in wages of employes, to meet additional maintenance charges, taxes and other expenses and provide proper and adequate service for the public; that the present fares on said railroad, one way and round trip, are based upon a charge of 3¢ per mile and that commutation fares in the form of 50 and 25 ride tickets, respectively, are based upon a rate of 1.9¢ and 2.2¢ per mile, which said fares when considered by themselves, as well as by way of comparison of fares prevailing on steam lines of railroad for similar service, are inadequate, unreasonable and insufficiently remunerative to the petitioner.

The third paragraph of the application alleges that present steam fares between Boulder and Denver and intermediate points are based upon a rate of 3.6¢ per mile; and that such rate of 3.6¢ per mile was put into effect on all steam lines of railroad by order of the Interstate Commerce Commission entered July 29, 1920, as to interstate fares, and by order of this Commission of August 25, 1920, as to intrastate fares; that applicant renders the same service in the carriage of passengers between Denver, Boulder and Eldorado Springs, and intermediate points, by means of The Denver and Interurban electric railroad service as do the steam railroads, and inasmuch as the same service is rendered by applicant in the transportation of passengers over said The Denver and Interurban Railroad, urges that he is entitled to the same compensation for the carriage of passengers as the steam lines of railroads.

In the fourth paragraph of the application it is alleged that on September 6, 1920, a collision of two trains occurred upon said The Denver and Interurban Railroad, which resulted in the death of a number of persons and in personal injuries to a large number of others, and that by reason of damage claims and damage to equipment caused thereby, applicant

has incurred and will incur a large expense, which, it is alleged, is a property charge against operating revenue; that by reason of the low rate for carriage of passengers now and in the past in effect upon said line of railroad, in order that further operation of said railroad be continued and the expense of said accident and the increased cost of operation be met, it will be necessary for applicant to have granted additional revenue.

The fifth paragraph of the application shows to the Commission that the employes in the train and other service of the company have made requests upon applicant for increased wages, which amounts to the sum of approximately $20,000.00 per year. Applicant alleges that he is desirous of increasing the compensation of such employes in the above sum, but that in order to do so, it will be necessary for applicant to have additional revenue to meet these charges; and that he believes that if additional revenue can be secured through the increase of fares, it is just and proper that the employes have such increases in their compensation, and urges that the requests of these employes be given consideration by the Commission in the granting of any increase in passenger fares.

In the sixth and closing paragraph of the application it is alleged that by careful operation applicant has so far been able to maintain and operate said railroad reasonably commensurate with the needs of the public within the limits of the present rates of fare which were authorized by this Commission by order of August 7, 1918; but that due to the above mentioned causes and the increased operating expenses and charges alleged, unless applicant is given some substantial relief in the way of increased fares, it will be necessary that he abandon the operation of said railroad. Attached to the application and marked "Exhibit A" is a schedule of such increased fares which applicant desires to put into effect, and which it is alleged applicant believes will afford the necessary relief and justify the continued operation of said railroad.

The prayer of the application is that upon hearing and in view of the emergency alleged to exist, an order be made and entered by this Commission authorizing the receiver to put into effect the fares proposed in said Exhibit A on one day's notice.

Exhibit A is a schedule of the new passenger rates desired and asked for by applicant as follows:

1. Local one way fares, between all points, three and five-tenths cents per mile; minimum fare in any one case ten cents.

2. Round trip, between all points, ten per cent. less than double the local one way fare.

3. 25-ride commutation tickets, between all points, two and four-tenths cents per mile; minimum charge for any 25-ride book $2.00.

4. 50-ride commutation tickets, between all points, two and one-tenth cents per mile; minimum charge for any 50-ride book $4.00.

5. Special train rates, two and nine-tenths cents per mile; minimum guarantee $60.00, except as between Denver and Eldorado Springs and return, and between Boulder and Eldorado Springs and return round trip fares are $1.25 and $ .50, respectively.

6. Round trip fares, good only on Sunday, between May 15 and October 31, Denver and Eldorado Springs $1.55; Denver and Boulder $1.55.

Special charge of five cents extra to the regular ticket fare in all cases where passenger has failed to purchase a ticket at such stations as have agents where tickets may be procured.

Upon the filing of the above application, the same was set for hearing before the Commission on Wednesday, November 10, 1920, at 9:30 o'clock A. M., at the hearing room of the Commission, 315 Capitol Building, Denver, Colorado, and notice thereof given by the usual method on November 1, 1920, to the Boulder Commercial Association, the Lafayette Commercial Association, the Louisville Commercial Association, and also by the posting of notices of such application in the depots of said Interurban Railroad at Boulder, Marshall, Superior, Louisville and Lafayette, and by publication of notice in the newspapers of Boulder, Denver, Louisville and Lafayette, it being the desire of the Commission to have all patrons of the road that might be interested to have due notice of this application for increased fares.

At the hearing no person or association whatever appeared in opposition to the increased rates asked for, and such appearances as were made, aside from that of the Receiver himself, appear to have been made for either assurance of a more efficient service being maintained, or

that the employes of the company be assured of an increase in their wages as a result of any increased fares granted.

The Receiver, W. H. Edmunds, was the sole witness for applicant, and his testimony comprised most of the evidence submitted. He testified that The Denver and Interurban Railroad was never at any time taken over by the United States Railroad Administration, and had, therefore, never receiver any benefits of increased rates as allowed to steam carriers by the Railroad Administration, or as allowed to such of the electrically operated carriers of the country as were taken over by the Railroad Administration, of which only such electric roads as carried freight as well as passengers were made subject to the jurisdiction of the United States Railroad Administration. His testimony further disclosed that in April of 1918, an application for increased rates had been made to this Commission, but the same had been substantially denied, so that whatever increase had been allowed at the April, 1918, hearing made no appreciable difference in the operating revenues of the company. That proceeding was known as Investigation and Suspension Docket No. 17. Subsequently a second application was made to this Commission docketed as Application No. 23, in July, 1918, which was allowed and became effective August 7, 1918, and which rates are the basis for the present rates now in effect upon said line of railroad. The witness further testified that much of the benefit that would otherwise have been derived from the increase of August, 1918, was rendered abortive until the spring of 1919, for the reason that the ravages of the Spanish influenza depressed traffic to such an extent that operations were at a loss during several months of the epidemic period. Thereafter, the operating costs for materials and supplies increased to such an extent as compared with prior costs that any benefits that would otherwise have been derived from such increased fares were practically overcome. To demonstrate the comparative cost of supplies and materials entering into the maintenence of the railroad property in 1920 compared with 1916, the witness identified as being correct a comparative statement of such costs. Such statement is somewhat voluminous, so that the record will not be encumbered with it in detail, but a number of items may be

cited to show the general trend of increased cost, as testified to by the witness, as follows:

Material	Cost 1916	Cost 1920	Increased Per Cent.
Steel tires	$22.00	$45.70	128
Steel axles	19.00	61.59	208
Window glass	.47	1.27	167
Castings	25.00	74.91	200
Paints	1.42	2.85	100
Copper wire	.30	.59	97
Steel wire	.12	.33	172
Ties	.81	1.71	112

The above items are fairly indicative of a long list shown in Exhibit 4, and it may be safely stated therefrom that the general average of per cent. in increased cost will approximate 125 per cent. as the increase of cost of supplies and materials in 1920 over the cost of the same in 1916.

The Receiver further testified that the year 1919 was the banner year, so far as operating revenue is concerned, within the history of the road, the total operating revenue for that calendar year being $276,344.59, all of which was derived from passenger fare revenue save $1,964.71, which was derived from excess baggage charges, station and train privileges, mail contracts and several other smaller items. The operating expense, as shown by said Exhibit 2 for the calendar year 1919, amounted to $177,104.47, which comprised maintenance of way and structures, maintenence of equipment, transportation and traffic expense and transportation, traffic and general expense, of which sum the transportation expense amounted to $107,788.02. The total operating expense deducted from the operating revenue gives a net operating revenue of $99,240.12, from which is deducted railway tax accruals of $10,150.00, leaving a net operating income for the year 1919 of $89,090.12. To this net operating income is added $2,978.91 of non-operating income, which is interest from unfunded securities and accounts, which gives a grand total of net income for the calendar year 1919 of $92,069.03; from this total net income there are chargeable, according to the testimony, the following items:

Interest on unfunded debt.....	$28,726.50
Interest on funded debt.....	64,740.00
Rent for leased roads.....	2,585.04
Miscellaneous rents.....	19,684.92
Total deduction.....	$115,736.40

This shows a deficit between net income for 1919 and the above items of deductions therefrom for the calendar year 1919, of $23,667.43.

The Receiver's testimony explains in detail the various items set forth in Exhibit 2, but as will be observed therefrom, the most serious charge against the operation of this road is the interest charge upon its funded and unfunded debt, which in 1919 amounted to $93,466.50. The debt of the company upon which interest is paid, according to the testimony, is $1,079,000.00, of which $480,000.00 is unsecured or unfunded, which represents the money borrowed by The Denver and Interurban Railroad Company to pay interest upon its bonded debt, all of which, according to the testimony, bears interest at 6%. No account has been taken in the figures submitted for depreciation or return upon invested capital, so it is apparent that under conditions at the present time applicant company is entitled to an increase in its fares in approximately the same ratio as increases have been granted to steam carriers throughout the country by the Interstate Commerce Commission, and the various state commissions,if it shall longer continue to operate and give reasonably adequate service to the public and pay to its employes something near to a fair schedule of wages.

The witness testified without objection in support of the allegations contained in the fourth paragraph of the application, that is, as to the collision of September 6, 1920, and the liability thereby incurred by the Railroad Company for damage claims and property loss. Such allegations, and the testimony in support thereof, have been entirely disregarded by the Commission as being matters not properly chargeable to operating revenue and thus to be paid by the traveling public. That the patrons of a utility cannot legally be required to bear the burden caused by the negligent act of the utility and its agents, servants and employes, is, the Commission believes, self evident if not axiomatic.

The witness' testimony further disclosed that the operating revenue of the applicant company was greatly decreased during the months of August, September and October, 1920, by reason of the following facts:

As now and heretofore operated, the Interurban cars operate over the tracks of the Denver Tramway Company from Globeville into Denver, to the loop at Fourteenth and Arapahoe Streets and return to Globeville, for which service the Tramway Company collect a city fare of six cents from each passenger in either direction; such cars are operated over the tramway tracks by tramway employes, the regular employes of The Denver and Interurban operating same from Boulder to Gloveville only. On August 1, 1920, a strike was declared by the employes of the Denver Tramway, which, as a matter of common knowledge, grew into a very serious menace to industrial conditions in the city of Denver. No cars were operated by the tramway for several weeks at all, and for a period of more than two months, very irregularly. During this period of time The Denver and Interurban Railroad Company operated its cars into Denver by means of its own employes to what is termed the car barns at Twenty-third and Market Streets, this point being distant from the Interurban loop about nine blocks; the Interurban Company was unable to operate its cars into the Interurban loop at that time because of its having no agreement to use tramway tracks for its cars further into the city than the car barns, and for the additional reason of its working agreement with its employes to operate cars between Boulder and its car barns. For a period of three months, August, September and October, passengers into the city were carried only to Twenty-third and Market Streets, and passengers from the city were required to take the Interurban at Twenty-third and Market Streets, so that the revenues of the Interurban were thereby decreased in the month of August, 1920, as compared with August, 1919, $5,632.19; September, 1920 less than September, 1919, $3,919.86; revenues

for October, 1920, were not stated but estimated as being considerably less than October, 1919. On November 1, 1920, the Interurban cars were operated as before the strike, that is, by tramway crews from Globeville to the Interurban loop and return to Globeville, but by new and inexperienced men, which has caused more or less disruption of a punctual service.

The Receiver testified that in the event the increased fares are granted by this Commission, as asked for in his application, he will undertake to do three specific things: First, increase the wages of his train service and other employes to the level of increases granted by the Railroad Labor Board created by the Transportation Act of 1920, which granted an approximate increase of 21 per cent to practically all classes of railroad employes effective in the summer of 1920. Second, that arrangements will immediately be made with the Denver Tramway Company whereby the cars of The Denver and Interurban Railroad will be brought into the Interurban loop at Fourteenth and Arapahoe Streets in the city of Denver by the train crews of said railroad company, and that the passenger ticket from Boulder and intermediate points will convey the passenger to said Interurban loop in Denver without payment of the six cents street car fare as has heretofore been done, Third, that within a reasonable time, which the receiver estimates will be within twelve months from this date, The Denver and Interurban Railroad Company will construct a link of road from Modern to Utah Junction, and thence use the tracks of the Chicago, Burlington & Quincy Railroad from Utah Junction to West Thirty-sixth Avenue, and thence construct its road about a block southerly to connect with the tracks of the Denver Tramway Company at a point just north of the Twenty-third Street viaduct, and thence operate over the tracks of the Denver Tramway Company into the Interurban loop at Fourteenth and Arapahoe Streets; by this means to eliminate and abandon the existing Interurban tracks from Modern around through Gloveville to the Twenty-third Street viaduct, which will save about three and one-third miles of distance through a circuitous and dangerous part of its track, and will result in the saving of about ten minutes time in landing its passengers at the Interurban loop in Denver.

With reference to the first propostion, it may be said that the Commission is in hearty accord. The testimony discloses, and we think it is conceded by all parties concerned, that the employes of The Denver and Interurban Railroad Company, and especially those in the train service, are of that type of railroad employes that usually are found upon American railroads, courteous, accomodating and faithful. An additional factor also is that the operation of the Interurban cars between Boulder and Denver for half the distance is over the leased lines of the Colorado and Southern Railway Company, so that The Denver and Interurban employes in the train service must possess and require the same degree of railroad technical skill and ability as is required of the employes of a steam rail carrier. The motormen and conductors now receive pay at the rate of 56 cents per hour and the flagmen or brakemen at the rate of 42 cents per hour, which approximates $144.00 a month for the former two classes of employes and $107.00 a month for the flagmen. The receiver proposes to increase wages to a scale of 67 cents per hour for motormen and conductors and 50 cents per hour for flagmen, which will approximate $180.00 per month for the two first named classes of employes and $135.00 per month for flagmen. These wages are none too great under existing conditions. The applicant asks for an increased fare which will yield approximately $20,000.00 per year to inure to its employes. The United States Labor Board granted increases of approximately 21 per cent and the increase of applicant to its employes will be, as the Commission understands it, upon the same basis, that is, 21 per cent increase to its employes which comprise trainmen, linemen, brakemen and all others of its employes. From the testimony in this case, and indeed from the common knowledge of present day conditions, the Commission is quite satisfied that no objection to an increased fare will be made by the traveling public in the event such increased fares accrue to the employes of the company.

As regards the second proposition of the receiver, the Commission

is equally satisfied that this will inure to the benefit of the traveling public, and the increased fares hereby allowed are made upon the understanding that this arrangement will be forthwith inaugurated. Not only is the collection of a city fare upon an Interurban car a nuisance to the public, but the operation of the Interurban cars by tramway crews is to a large extent responsible for many vexatious delays and misunderstandings. With the elimination of this factor, a passenger boarding an Interurban car, outbound or inbound, will be landed upon the same ticket and with the same train crew at his destination and without additional annoyance, bother or misunderstanding. This change ought to be, and we feel will be, appreciated by the patrons of The Denver and Interurban Railroad.

The third proposition of the receiver to eliminate the roundabout and dangerous trackage through Globeville is equally meritorious in the interest of the patrons of this road, and in the interest of the road itself, in saving upwards of three miles in distance and of about ten minutes of running time, to say nothing of the dangerous curves that will be eliminated thereby and of the disagreeable sections of the city that will be avoided in entering the city, which are matters well calculated to be of advantage to the traveling public and to the railroad itself, and when this condition shall have been brought about, The Denver and Interurban Railroad Company will have accomplished a betterment that will prove to be a material asset.

The increased fares hereby allowed upon the basis asked for by applicant in its peition must be understood to be upon the conditions named hereinabove, and upon the further condition that a reasonably adequate and efficient service shall be maintained by the company, for it is a notorious fact, though not being specifically testified to, that the service now furnished is far from being satisfactory or efficient, and particularly since the inauguration of the strike upon the Denver tramway

of last August 1st, since which time the service to and from Denver in the morning and evening hours has been more frequently off of schedule time than on time.

As before stated, the increase in fares hereby allowed is made with the express understanding that unless conditions are improved as hereinabove indicated, and unless the propositions made by the receiver in his testimony in this case are fulfilled as therein stated, this order may be made the subject of further consideration upon complaint of any patron affected or on the Commission's own motion.

O R D E R

IT IS THEREFORE ORDERED, That applicant, the Receiver of The Denver and Interurban Railroad Company, be, and he hereby is, authorized to establish and to put into effect upon one day's notice to the public and the Commission in the manner prescribed by the Act, the fares, rates and charges as set forth and specified in Exhibit A, hereinabove referred to and attached to his said application.

IT IS FURTHER ORDERED, That the above authority is hereby granted upon condition that the wages of his employes be increased approximately 21 per cent contemporaneously with the going into effect of such increased fares.

IT IS FURTHER ORDERED, That the said applicant shall inaugurate within a reasonable time a system of operating his cars into and out of the city of Denver by means of his own employes, and without any additional city fare being charged.

IT IS FURTHER ORDERED, That within a reasonable time, which is hereby designated as within twelve months from this date, said Receiver shall establish a line of track and operate the cars of the Denver and Interurban Railroad from Modern to Utah Junction, and thence over the line of the Burlington Railroad from Utah Junction to West Thirty-sixth

Avenue, Denver, and thence southerly to the tracks of the Denver Tramway Company to a point near the north end of the Twenty-third Street viaduct and thence over said tramway tracks to the Interurban loop in the city of Denver.

IT IS FURTHER ORDERED, That all outstanding tickets, one-way, round-trip and commutation, be honored by said Railroad for transportation within limit of sale, without additional charge.

IT IS FURTHER ORDERED, That the failure, neglect or refusal of the Receiver of said railroad company to comply with the terms of this order as hereinabove stated will be cause, on complaint of any person affected or upon motion of the Commission, to reopen this cause and modify or amend the terms of this order as the Commission may then term to be just.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

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Commissioners.

Dated at Denver, Colorado,
this 29th day of November, 1920.

Decision No. 393

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

In the Matter of the Application of the Colorado & Wyoming Railway Company for Permission to Discontinue Tercio as an Agency Station.) APPLICATION NO. 117

November 30, 1920

Appearance: Fred Farrar, for Applicant,

STATEMENT

By the Commission:

October 28, 1920, the Colorado & Wyoming Railway Company, through its Vice President and General Manager, R. L. Hearon, filed its application for permission to discontinue its agency at Tercio, and to install a caretaker at said station in lieu of an agent.

The application was heard at the hearing room of the Commission, 315 State Capitol, Denver, Colorado, November 26, 1920 at 10 o'clock, A. M.

Notice of the application to discontinue the Tercio agency was served on parties interested, by publication in Trinidad newspapers and also by posting the subject matter of the application in the depot at Tercio, so as to give the widest publicity possible. To this no response or protest was filed with the Commission from any source.

The testimony shows that the Colorado & Wyoming Railway is composed of three divisions: the northern division located in Wyoming; the central division at Minnequa, Colorado, and the southern division extending from Jansen to Tercio, west from Trinidad, Colorado. Trains are operated into Trinidad, the entire distance being thirty miles, but are operated over the tracks of the Santa Fe railroad between Jansen and Trinidad, a distance of

two miles.

Tercio is located in the Las Animas river valley with only small settlements in its immediate vicinity. It is within the confines of the Maxwell Land Grant, but is owned by the Rocky Mountain Coal and Iron Company, a subsidiary of the Colorado Fuel and Iron Company. The owners of this district at one time operated extensive coal mines on either side of the valley at this point. In connection with their mining, they also operated 600 bee-hive coke ovens and employed a large force of men until a few years ago, when operations ceased and mines and ovens were dismantled. The testimony shows that cessation of operations was caused by two things, the coal was of poor quality, and secondly, the Colorado Fuel and Iron Company had constructed 130 modern by-product coke ovens at Pueblo, and by reason of the great saving of the important elements that formerly were wasted, it was no longer economical to operate the bee-hive ovens; hence the discontinuance of both the coal mines and the manufacture of coke at Tercio. As a consequence several hundred men were thrown out of work and had to give up their homes and seek employment elsewhere.

The receipt of freight at Tercio during the last twenty months was 1,035 tons, or an average of 52 tons per month. Outbound freight amounted to 9,558 tons, or an average of 478 tons per month. Excluding cattle shipments, which occur only twice each year, representing shipments by the Adams Cattle Company, the freight handled at this point is almost exclusively timber, consisting of mine props and railway ties and is the product of the Rocky Mountain Coal and Iron Company which furnishes nearly all the business done by the Colorado and Wyoming Railway going from and into Tercio.

The evidence presented by the witness, vice president of the Colorado and Wyoming Railway, shows that the road's ex-

penses exceeded operating revenues by $180,000.00 for only nine months of 1920.

Owing to the greatly reduced business done at Tercio and the fact that the Colorado and Wyoming Railway is sustaining very large losses in operating its road, the nedessity for curtailing its operating expenses is in accord with good business principles. For these reasons, the Commission considers the discontinuance of the railroad agency at Tercio justified, and it will therefore be allowed.

There is practically no telegraph business at this point. Tercio will be connected with Weston by telephone and all business formerly performed at this station can and will be performed through the Weston agency. A caretaker will be installed at Tercio, who will attend the fires at the Tercio depot, and perform such services as are usually performed by caretakers.

ORDER

IT IS THEREFORE ORDERED, That the application of the Colorado & Wyoming Railway be and is hereby granted, and the station of said company at Tercio, Colorado, is hereby permitted to be discontinued as an agency station, effective December 1, 1920, and that thereafter a caretaker shall be provided for said station.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Commissioners.

Dated at Denver, Colorado,
this 30th day of November, 1920.

ORIGINAL

(Decision No. 394)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

The Western Light and Power Company, a Corporation, Complainant, v. The City of Loveland, a Municipal Corporation, Defendant.	Case No. 144 In the Matter of the Petition of the City of Loveland.

(December 2, 1920)

Appearances: Pershing, Nye, Fry and Tallmadge and Ab. H. Romans for the City of Loveland; Paul W. Lee and George A. Shaw, Attorneys for the Western Light and Power Company.

STATEMENT.

By the Commission:

The petition in this case was filed with the Commission on August 11, 1920, and an answer was filed August 30, 1920. A hearing was held October 11, 1920. The question to be determined is whether an order entered in the above entitled case on the 31st day of December, 1917, prohibits the city of Loveland from acquiring by purchase by proceedings before this Commission or by eminent domain proceeding in any court having jurisdiction over said matter, the distribution system of the Western Light and Power Company in the city of Loveland.

The original action in this cause, on which the said order of December 31, 1917, was entered, was commenced by the Western Light and Power Company for determination by this Commission of the question whether under subdivision b, Section 35, Chapter 110, Session Laws, 1917, of Colorado, the defendant, the city of Loveland, had,

before the effective date thereof, to-wit: July 16, 1917, begun actual construction work on its proposed electric light plant and had prosecuted such work in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise, permit, ordinance, vote or other authority heretofore granted, but not heretofore actually exercised, or whether a certificate of public convenience and necessity was required. After due consideration by the Commission the said order of December 31, 1917 was entered, which is as follows:

> It is therefore ordered, that the Public Utilities Commission of the State of Colorado finds that the municipality of Loveland had begun actual construction of its electric light plant prior to the enactment of the amendment to the Public Utilities law of the State of Colorado, known as Section 35, and at the date of this hearing was prosecuting the work in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking.
>
> It is further ordered, that the municipality shall not proceed further to build and complete the proposed municipal electric light plant and system until such time as the municipality shall again appear before the Commission and show to the Commission that it is ready to proceed in the interest of the municipality, or until such time as the Commission, on its own motion, shall authorize the municipality to resume work under more normal conditions.
>
> It is further ordered, that no public utility, tax payer or person may appear before the Commission for the purpose of showing that the municipality of Loveland is not prosecuting the work of constructing and completing its proposed municipal electric light plant and system in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking until the further order of this Commission.

In this decision and order the Commission first found that the municipality of Loveland had begun actual construction of its plant prior to the enactment of the amendment to the Public Utilities law, and was prosecuting the work in good faith, uninterruptedly and with reasonable diligence. In the second part thereof, which is the part of the order which seems to be under contention, the Commission ordered that the municipality should not proceed further to build and complete

the proposed municipal electric light plant until such time as the municipality should again appear before the Commission and show to the Commission that it was ready to proceed in the interest of the municipality, or until such time as the Commission, on its own motion, authorized the municipality to resume work under more normal conditions. The reasons which prompted the Commission to include the second part in its order are set out in its statement of facts, as follows:

> Today the United States is in a state of war, and, as a consequence, there is insufficient labor and material to carry on economically the work and industries necessary to a satisfactory termination of the war. Largely on this account, there has been brought about a great scarcity of both labor and materials necessary to the successful termination of the same. The federal authorities at Washington are continually advocating the conservation in every way possible of man-power and materials, requesting that all unnecessary construction at this time be deferred, and that sacrifices be generously made in order that all power and energy may be directed in a united effort to bring the war to a satisfactory and successful conclusion. It is the policy of this Commission to cooperate with the National Government in every way possible, and this also should be the policy of the state and municipalities. The Commission has sufficient knowledge of the scarcity of labor and material, and is also informed that many kinds of material can not be immediately obtained at any price; it is equally true that the cost of labor and material today exceeds by more than 100 per cent. the cost of a year ago.

From the above it plainly appears why the Commission, after finding that the city of Loveland had begun actual construction and had prosecuted the work uninterruptedly and with reasonable diligence, included the second paragraph in its order; namely, for the purpose of conserving in every way possible man-power and material for the successful prosecution of the war, and to prevent the unnecessary dissipation of the funds of the municipality in being compelled to construct its system at a time of extraordinary high prices of material and labor.

It is evident from the order itself that the Commission did not intend to prevent the city of Loveland from purchasing the plant of the Western Light and Power Company by a proper proceeding before this Commission, as on Page 9 of the original order of December 31, 1917, the Commission says: "If the municipality desired to appear before the Commiss-

ion and purchase the properties of the Western Light and Power Company serving the city of Loveland, in accordance with the terms of the Public Utilities Act, that would be its privilege."

As to the question of the city of Loveland proceeding by an action to condemn, there is nothing in the order to indicate that the Commission intended in its said order to thereby restrain the city of Loveland from proceeding by an action of eminent domain in a court of law of competent jurisdiction to condemn any part of the property of the Western Light and Power Company. The right to proceed by eminent domain is reserved to the city by the Public Utilities Act, and were it not so reserved, it is indeed a doubtful question whether this Commission would have the jurisdiction to restrain the city from proceeding in court to enforce a remedy provided by law.

O R D E R

IT IS THEREFORE ORDERED, That it is the opinion of the Commission that nothing in the said order of December 31, 1917, in any way prevents the said city of Loveland from proceeding in a proper action before this Commission to acquire the property of the said Western Light and Power Company in the city of Loveland, and that the said order in no way prevents or restrains the said city of Loveland from proceeding in a court of competent jurisdiction to acquire said property by condemnation.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Commissioners.

Dated at Denver, Colorado,
this 2nd day of December, 1920.

(Decision No. 395)

~~BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO~~

The Golden Cycle Mining and Reduction Company, Complainant	)	
v.	)	CASE NO. 147
The Colorado Springs Light, Heat & Power Company, Defendant	)	

December 6, 1920

O R D E R.

WHEREAS, a writ of review was sued out of our honorable Supreme Court of the state of Colorado, by The Golden Cycle Mining and Reduction Company, a corporation, petitioner, v. The Colorado Springs Light, Heat & Power Company, respondent, to reverse the decision and order of this Commission made and entered on July 31, 1917, in said cause No. 147, and,

WHEREAS, a decision has heretofore been rendered in our said Supreme Court upon June 7, 1920, in cause docketed in said Supreme Court No. 9416, in which a rehearing was denied by said Supreme Court on June 7, 1920, in and by which said decision of our Supreme Court, in review of the order of this Commission was held to be invalid, by virtue of the decision in re. City of Denver v. Mountain States Telephone & Telegraph Company, 184 Pac. 604, wherein this Commission was denied jurisdiction in home rule cities, so-called, of which class of cities the city of Colorado Springs is one; and said decision ordered and directed this Commission to vacate its order rendered in said Case No. 147.

IT IS THEREFORE ORDERED, by virtue of the direction of the Supreme Court in the cause aforesaid, that the order of this Commission made and entered in Case No. 147 July 31, 1917, be, and the same is hereby

vacated and the same for naught held.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S E A L

[redacted]

[redacted]

[redacted] E.P. LANNON
Commissioners

Dated at Denver, Colorado,
this 6th day of December, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

COPY

(Decision No. 396)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

The Golden Cycle Mining and Reduction Company, Complainant	
v.	CASE NO. 157
The Colorado Springs Light, Heat and Power Company, Defendant.	

December 6, 1920

O R D E R.

WHEREAS, a writ of review was sued out of our honorable Supreme Court of the state of Colorado, by The Golden Cycle Mining and Reduction Company, a corporation, petitioner, v. The Colorado Springs Light, Heat & Power Company, respondent, to review the decision and order of this Commission made and entered on May 25, 1918, in said cause No. 157, and,

WHEREAS, a decision has heretofore been rendered in our said Supreme Court upon June 7, 1920, in cause docketed in said Supreme Court No. 9825, in which a rehearing was denied by said Supreme Court on June 7, 1920, wherein The Golden Cycle Mining and Reduction Company was respondent, in and by which said decision of our Supreme Court, in review of the order of this Commission, was held to be invalid, by virtue of the decision in re. City of Denver v. Mountain States Telephone & Telegraph Company, 192 Pac. 495, wherein this Commission was denied jurisdiction in home rule cities, so-called, of which class of cities the city of Colorado Springs is one; and said decision ordered and directed this Commission to vacate its order rendered in said Case No.157.

IT IS THEREFORE ORDERED, by virtue of the direction of the Supreme Court in the cause aforesaid, that the order of this Commission made and entered in Case No. 157 May 25, 1918, be, and the same is hereby

vacated and the same for naught held.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDEMAN

S E A L

A. P. ANDERSON

F. P. LANNON

Commissioners

Dated at Denver, Colorado,
this 6th day of December, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the state of Colorado entered in the above entitled cause and now on file in this office.

Secretary

COPY

297

(Decision No. 397)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Application of Citizens of Peetz for opening of highway crossing at grade over tracks of Chicago, Burlington & Quincy Railroad at Peetz.

APPLICATION NO. 52

December 6, 1920

ORDER.

WHEREAS, a writ of review was sued out of our honorable Supreme Court of the State of Colorado by Chicago, Burlington and Quincy Railroad Company, petitioner, v. the Public Utilities Commission of the state of Colorado, Grant E. Halderman, A. P. Anderson and Frank P. Lanman, Commissioners, respondents, which said cause was docketed in our said Supreme Court and entitled as above under Docket No. 9787, and

WHEREAS, such proceedings were therein had as that a decision was handed down by our said honorable Supreme Court on, to-wit: Monday, the 8th day of November, A. D. 1920, reversing the decision and order of this Commission in said cause, Application No. 52, with directions to this Commission to vacate the order aforesaid, and holding the said order to be invalid.

IT IS THEREFORE ORDERED, That in compliance with the direction of our said Supreme Court in said cause No. 9787, the order of this Commission in said Application No. 52 made and entered therein on October 1, 1919, be, and the same is, hereby vacated and same shall be for naught held.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

SEAL

GRANT E. HALDERMAN

A. P. ANDERSON

F. P. LANMON
Commissioners

Dated at Denver, Colorado,
this 6th day of December, 1920.

I do hereby certify that the above is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

(Decision No. 398)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

The Cripple Creek District Citizens and Mining Interests, Petitioners,		
v.		CASE NO. 166.
The Cripple Creek & Colorado Springs Railroad Company, et al., Defendants		

ORDER.

WHEREAS, on September 25, 1919, the above entitled cause was brought before the Commission on petition of the above named petitioners v. The Cripple Creek and Colorado Springs Railroad Company, The Colorado and Southern Railway Company, The Denver and Rio Grande Railroad Company, The Atchison, Topeka and Santa Fe Railway Company and The Chicago, Rock Island and Pacific Railway Company, defendants, and such proceedings were had therein that answers were made to said petition by each of said respondents, and said matter was set for hearing before this Commission on April 4, 1919, at its hearing room, Capitol Building, Denver, and subsequently the order fixing the date of hearing was vacated and said matter continued, and,

WHEREAS, on November 4, 1920, there was filed before the Commission a cause entitled "Cripple Creek District Citizens and Interests, plaintiff, v. Midland Terminal Railway Company, et al, respondents, Docket No. 200," which said petition in cause No. 200 contains inter alia the allegation that "this petition is to supercede previous petition (your Case No. 166) filed asking for the same relief because of the change in management of the railroads," whereby it appears to be necessary and inadvisable to continue any further procedure with reference to the above entitled cause No. 166, for as much as the petition in said Cause No. 200 involves a determination of practically the same question.

IT IS THEREFORE ORDERED, That the above entitled Cause No. 166 be and the same is, hereby dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(S E A L)

GRANT E. HALDERMAN

A. P. ANDERSON

P. P. LANNON
Commissioners

Dated at Denver, Colorado,
this 6th day of December, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

(Decision No. 399)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Colorado State Board of Stock Inspection Commissioners and Colorado Stock Growers Association, et al.,
Plaintiffs

v.

The Atchison, Topeka and Santa Fe Railway Company, et al.,
Defendants.

CASE NO. 20

December 6, 1920.

ORDER.

WHEREAS, on June 1, 1915, there was filed by the above named complainants a complaint against the railroad carriers within Colorado, defendants, which involved a determination of the enforcement of the fencing statutes of Colorado through the jurisdiction of this Commission, and,

WHEREAS, such proceedings were had therein that on May 18, 1916, this Commission rendered its order and decision overruling demurrers and motions filed therein by said defendants, the closing paragraph of which order recites that: "Plaintiffs may appear before the Commission, upon a date to be set by the Commission, and make such showing as they desire as to the subject matter contained in their complaint; "and whereas no further steps have been taken in said cause by any party thereto, or by this Commission on its own motion, and more than four years have elapsed since the order above named was entered herein, and,

WHEREAS, on September 15, 1920, a complaint was filed before this Commission by J. N. Miller, plaintiff, v. The Denver and Rio Grande Railroad Company and A. R. Baldwin, Receiver, docketed as Case No. 195, which involves the same questions concerning the fencing statutes of this state as were involved in Case No. 20, aforesaid, and no reason exists why said Case No. 20 should be further continued upon the dockets of the Commission.

IT IS ORDERED, That the above entitled cause No. 20, be, and the same is, hereby dismissed for want of prosecution, but without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

(S E A L)

A. P. ANDERSON

F. F. LANNON

Commissioners

Dated at Denver, Colorado,
this 6th day of December, 1920.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

ORIGINAL

(Decision No. 399½)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

- - - - - - - - - - - - - - - - - - -

In the Matter of the Application of The Liberty Transportation and Express Company for a certificate in accordance with Section 35 of the Public Utilities Act, for the operation of freight and express service by automobile truck between Denver and Greeley, Colorado.

Application No. 58

- - - - - - - - - - - - -

December 13, 1920

- - - - - - - - - - - - - -

STATEMENT

By the Commission:

On September 22, 1919, The Liberty Transportation and Express Company of Denver, Colorado, filed their petition for a certificate of public convenience and necessity for the operation of an automobile truck line between Denver and Greeley, Colorado.

The matter was heard at the hearing room of the Commission on September 26, 1919. Upon such hearing a certificate was granted. Applicant was notified that the certificate would issue upon payment of the fee therefor as provided in the Public Utilities Act. Notices have been sent to applicant to comply with the request of this Commission, which have been ignored. Under these circumstances the certificate issued will be cancelled and the application dismissed for failure of applicant to comply with the request of the Commission and of the provisions of the Act.

ORDER

IT IS THEREFORE ORDERED, That the certificate heretofore, and on October 11, 1919, granted to applicant, The Liberty Transportation and Express Company be, and the same is hereby cancelled and for naught held, and the said application be and the same is hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Frank E. Waldo
Chairman

A. P. Anderson

COMMISSIONERS.

Dated at Denver, Colorado, this
13th day of December, 1920.

400

(Decision No.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Steamboat Springs Commercial Club, et al.,	
v.	Case No. 206
W. R. Freeman and O. Boettcher, Receivers of The Denver and Salt Lake Railroad Company.	

December 14, 1920.

APPEARANCES: Charles Lenkeuby, Rev. Carl Wild and F. L. Tobin, for complainants; Charles R. Brock and Elmer L. Brock, for defendants.

STATEMENT

By the Commission:

On November 15, 1920, The Denver and Salt Lake Railroad Company, by its Receiver, W. R. Freeman, filed its notice with the Commission that in compliance with General Order No. 7 of the Commission it proposed to issue a new passenger train schedule, effective 12:01 A. M., Sunday, November 28, 1920, in which its passenger service would be changed as follows:

> "Establish triweekly train between Denver and Craig instead of daily each way as at present. The westbound train will operate on Mondays, Wednesdays and Fridays on the same schedule as at present. The eastbound train will operate on Tuesdays, Thursdays and Saturdays, leaving Craig 6:00 A. M., one hour later than at present, arriving Denver 7:45 P. M., one hour later than at present. The reasons for this are: We will obtain the release of one-half the engines now used in passenger service, enabling us to utilize them in the transportation of coal and other freight. This relief is particularly desired at this time on account of the recent loss of our principal machine shop by fire, which also seriously damaged three of our large locomotives, thus placing us under an additional handicap. As will be readily understood, the destruction of this shop greatly retards our work in making repairs to our power, which, during the winter, is always in greater need of repair than at other seasons. Further, we will be relieved of the need of operating one passen-

ger train per day over Rollins Pass during the heavy storms to which we are subjected. This, indirectly, will enable us to concentrate our equipment, such as rotary snow plows, etc., to the movement of freight. During the winter the passenger travel is very light, and from indications so far as the season has advanced, it promises to be lighter than usual."

It is further alleged that on some occasions in past years similar and like practices were adopted, for instance, during the winter of 1915 and 1916, and the winter of 1916 and 1917.

Notice of the proposed change of The Denver and Salt Lake Railroad Company from a daily to a tri-weekly passenger service was given to the towns and citizens along the line of the railroad. Thereafter protests were filed with the Commission by the Steamboat Springs Commercial Club, the Craig Commercial Association, the Oak Creek Chamber of Commerce, the Tabernash Commercial Association, the Kremmling District Commercial Club, the Grand County Commercial Club, the Grand Lake Improvement Association, the Hayden Commercial Club and other commercial bodies, business firms and persons, protesting against the proposed discontinuance of daily passenger service. There was also filed with the Commission a petition from Fraser, Colorado, signed by many business firms and citizens in favor of the proposed change, the reason for such action being to advise the Commission that they had confidence in the management of the road, and that on account of extreme weather conditions they believed the proposed restricted service to be justifiable, and that they were in hearty accord with the same. A petition was also filed by coal operators along said line of railroad, stating that they represented about 95 per cent. of the mines producing coal along said railroad, which traffic also represents about 87 per cent. of the entire tonnage moved on The Denver and Salt Lake Railroad, requesting that the said proposed change in service be granted by this Commission until May 1, 1921. In this petition it is alleged that passenger travel is below normal and that passenger service can be reduced without any material inconvenience to the public; that such change will release several locomotives for freight service; that increased coal production will result in more working time for mine em-

players, consequently more remuneration and steadier work; that the towns along said line will profit by the increase in working time at the mines, and there will be more money spent by the employes in these towns; that the coal operators themselves will be injured more by the reduction in passenger service than other patrons of the road, but that they are willing to sacrifice this advantage to increase the production of so vital a necessity; that there are employed in the coal mines in Routt County 1,082 men, which means a population of 3,276 by using a multiple of only three; that the mines have been working only one and two days per week; that they therefore appeal to the Commission to grant the relief requested by the Denver and Salt Lake Railroad.

After these protests were filed, the Commission, on November 24, 1920, duly notified The Denver and Salt Lake Railroad Company that a hearing would be held on the 6th day of December, 1920, at 10:00 o'clock A. M., at the hearing room of the Commission, Capitol Building, Denver, Colorado, and until the further order of the Commission, to make no change in the present passenger train schedule. The date of said hearing thereafter was changed to Thursday, December 2, 1920, at the same hour and place.

The cause came before the Commission for hearing on the 2nd day of December, 1920, at the hearing room of the Commission, Capitol Building, at the hour of 10:00 o'clock A. M. At the hearing the petitions filed by persons residing in the vicinity and along the line of railroad operated by the defendant objecting to a reduction of passenger train service, as proposed by the defendant carrier in its notice to the Commission, were received by the Commission and introduced into the record. A number of shippers and citizens residing and doing business along the line of the railroad appeared and testified before the Commission, opposing the proposed change. From the testimony at the hearing, it is very evident that it is a considerable inconvenience to the residents along this line of railroad to receive mail only every

second day rather than every day of the week for a number of months during the winter season. The record is clear that it will also be a considerable inconvenience to many people and patrons of the road, especially during the holiday season, in traveling between their homes and the city of Denver, as well as in mail and express business. There was also introduced in the record the testimony of a number of witnesses residing and doing business along the line of railroad, who appeared and testified before the Commission favoring the proposed schedule of the defendant carrier. A number of petitions from citizens and business men along said line who favored the proposed train schedule were also introduced.

M. L. Phelps, Superintendent of The Denver and Salt Lake Railroad was called as a witness and detailed reasons supporting the petition of the railroad, among which was the loss by fire, on November 6, 1920, of the roundhouse, machine shops, machinery and supplies at Utah Junction which entailed a monetary loss to the railroad of approximately $90,000.00, exclusive of insurance thereon, which also seriously handicapps the railroad in the making of repairs to its motive power and rolling stock, with no reasonable expectation of the damage to shops, etc., being replaced until about March, 1921. Witness Phelps explained fully the difficulties encountered in operating the defendant carrier's line of railroad. His testimony also disclosed that, by inaugurating the proposed system of passenger service, three additional locomotives would be released from the passenger service and that such locomotives could be used in freight service for the hauling of coal; that the coal mines along the road have plenty of coal which would engage these locomotives; that there is always cars of coal standing loaded ready to be moved. It appears from the testimony that with these engines released, approximately five cars of coal per day additional could be moved from the mines into the city of Denver; that the rate allowed per ton for

hauling coal is $3.25, which would amount to $162.50 a car, or for five cars $812.50 per day, or $24,000.00 per month additional gross revenues that would be received by the carrier.

The line of The Denver and Salt Lake Railroad is operated between Denver and Craig, Colorado, a distance of 255.18 miles. It crosses the continental divide at Corona Pass at an altitude of 11,660 feet. The road was commenced in 1906, and was completed as far as Steamboat Springs; it was completed from Steamboat Springs into Craig in the year 1915.

From the testimony before the Commission it is apparent that the officials of the defendant railroad cope with operating difficulties which at times are beyond control; that many times during the months of December, January, February and March, trains are delayed and stalled because of unusual snow fall and terrific blizzards; that for a distance of 44 miles over the continental divide the grade is approximately 4 per cent., 27 miles ascending from the west and 17 miles descending. On the other portions of the road the grades reach 2 per cent. It is doubtless true that no other standard gauge railroad in the United States encounters the difficulties of operation which this railroad contends with throughout the year.

The original corporation operating this line of railroad was the Denver, Northwestern and Pacific Railway Company, which was placed in the hands of receivers on May 2, 1912. The road was then operated by the receivers until May 9, 1913, on which date it was sold at foreclosure sale and reorganized under the name of The Denver and Salt Lake Railroad Company. On August 17, 1917, the road was again placed in the hands of receivers and at present is being operated by the receivers. This line of railroad since the beginning of its operation has never paid any net return; indeed, the losses are so extraordinary that the Commission is unable to understand how it has been kept in operation at all. A summary of the operation of this road for the year 1919, according to the testimony, showed a total deficit of $845,157.00, notwithstanding that on December 27, 1917, an increase of 25 cents per ton freight on coal (which constitutes about 85 per cent. of the freight business) was allowed. On June 25, 1918, the

United Stated Railroad Administration, by General Order No. 28, gave a general increase of 25 per cent. on its freight business. On August 25, 1920, in Application No. 91 in conformity with Interstate Commerce Commission decision an increase of 25 per cent. on freight on all railroads in the Mountain Pacific group in Colorado was allowed, and 20 per cent. on passenger fares. This Commission on intrastate business allowed an increase of 25 per cent. to apply on freight of the Denver and Salt Lake Railroad, instead of 25 per cent as allowed by the Interstate Commerce Commission on interstate rates in that territory.

As before stated, the road has a total length of approximately 255 miles, and serves a population throughout the territory traversed estimated at only 20,000 to 25,000 people. The testimony in this case shows that there are employed in the coal mines in Routt County and stations along this line of railroad 1,092 men, which, figuring three to a family, would make 3,276 men, women and children who are dependant upon the continued working of the coal mines for their livelihood. The record also discloses that at times these mines have been working only two days per week; that in some cases one or two mines have been fortunate enough to get in three part days per week; that the additional engines released from passenger service should result in the mines receiving at least one additional working day per week. When the mines are working, the merchants and business men are receiving the benefits therefrom.

The Denver and Salt Lake Railroad is a common carrier, existing and doing business under the laws of the state of Colorado, and, as a common carrier, should give adequate and reasonable service. The Commission realizes that a curtailment of passenger service is bound to work considerable hardship upon the patrons of the road. There are, however, some very important questions to be considered in determining the present case. The Commission is aware that it should not allow an unreasonable curtailment of service on any part of a road which part is

failing to earn its operating expenses, when the whole system is earning a reasonable return on the money invested. However, in this case, the operation of the whole system is entailing the enormous loss of over $600,000.00 per year. The question then is to determine in the present case what is an adequate and reasonable service, taking into consideration all of the facts in this case. There is a question in the minds of the Commission, considering the present losses sustained in the present operation of the road, how long The Denver and Salt Lake Railroad Company will be able to give any service. It goes without saying that with reasonable freight service and the operation of a passenger train every other day, the citizens along this line will be better off than if the defendant should be unable to operate at all. The evidence in this case discloses that the defendant railroad encounters exceptional difficulties in operating its daily passenger train service during the months of December, January, February and March, and that the operation of these trains on a daily schedule is practically impossible at times during the months named. The testimony shows that many large shippers on the line of the defendant are coal operators, lumber men and dealers in merchandise. The testimony also discloses the fact that freight trains are operated under difficulties during the winter months because of the operation of daily passenger train service. It appears that the reduction of passenger train service from one train each day to one every other day is objected to largely on account of the inconvenience in the mail and express service. It has been no certain thing in the past for mail and express to be delivered every day during the winter season.

It is the duty of a public utility to provide an adequate service to the public. However, the Commission will, by order, only require such service as is reasonably adequate after carefully considering all of the facts and circumstances in the case. The Commission owes a duty to

the general shipping and traveling public along this line of railroad, and it is of great and controlling importance to the general public and the business and social welfare of the people of the great undeveloped territory served by defendant carrier, to continue the future operation of this railroad. It is not the intention of the defendant to make the proposed change in passenger service permanent. It has been stated repeatedly by defendant that it has no desire to reduce train service at other periods of the year than this, and it must be understood that the Commission is not now allowing the defendant to reduce its passenger service from daily to triweekly service during the winter months in the years to follow.

Considerable testimony was produced tending to show the inconvenience to the people in the way of mail and express, should the triweekly service be installed prior to or during the holiday period.

It is the opinion of the Commission that the proposed triweekly service of The Denver and Salt Lake Railroad Company should be allowed, beginning January 3, 1921, with a passenger train leaving Denver on Mondays, Wednesdays and Fridays, and on the time schedule as at present; the eastbound trains leaving Craig Tuesdays, Thursdays andSaturdays of each week, this service to continue not later than April 1, 1921; that this is adequate and reasonable service under the peculiar conditions existing at this time, and that it is for the best interest of the people served by the railroad company that such temporary service be permitted.

It is the contention of the Denver and Salt Lake Railroad that the installation of this change in passenger service will not only eliminate a considerable expense in the operation of an unnecessary passenger train, but that by so doing, a number of engines will be released which may be used in freight service in the handling of coal, and that revenues derived therefrom will be very considerable and will reduce the operating loss of the railroad. It is the belief of the Commission that by allowing the change in the operation of defendant's passenger trains this

result will be obtained. However, should a test of operation prove that this result will not be obtained, the Commission reserves the right, at any time prior to the 1st day of April, 1921, to alter or amend this order. Should it appear to the Commission that the benefits to the road are not as are now anticipated, and that the result is no addition to the revenues of the road, then the Commission will not permit a triweekly service to be continued with the attendant inconvenience to the patrons thereof.

O R D E R

IT IS THEREFORE ORDERED, That the receivers of The Denver and Salt Lake Railroad may operate passenger trains Nos. 1 and 2 between Denver and Craig, upon a triweekly basis, leaving Denver on Mondays, Wednesdays and Fridays, and returning Tuesdays, Thursdays and Saturdays of each week, beginning January 3, 1921, and continuing not later than April 1, 1921.

IT IS FURTHER ORDERED, That in the meantime and during the continuance of the triweekly service, the receivers of The Denver and Salt Lake Railroad Company shall make monthly reports to the Commission containing the following information.

1 - The number of passengers carried during each month compared with the number of passengers carried during the same month of the preceding year, together with the amount of passengers fares received.

2 - The number of tons of coal hauled or moved each month and the amount of money received therefrom as compared with the amount of coal hauled during the immediate preceding month, together with the amount of money received therefrom.

3 - The total amount of operating revenue received from both freight and passenger services for each month compared with the same month of the preceding year.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

A. P. ANDERSON

(S E A L)

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 16th day of December, 1920.

ORIGINAL (Decision No. 401)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Application of The Colorado Springs Light, Heat & Power Company for Permission to Increase Rates Outside the Municipal Limits of the City of Colorado Springs.) APPLICATION No. 90.

December 15, 1920.

STATEMENT.

By the Commission:

This application was filed March 24, 1920, for an order permitting increases in electric and gas rates in the territory outside the municipal limits of the city of Colorado Springs. Subsequently applicant advised that it desired to have only the matter of gas rates considered, and accordingly on July 22, 1920, filed a schedule of gas rates, its Colo. P.U.C. No. 5, marked to become effective August 21, 1920. This schedule provided for the following rates: First 10 M. cu. ft. of gas consumed per month $1.60 net per M.; next 20 M. $1.50 net per M.; all consumption over 30 M. $1.35 net per M. The schedule to be superseded provided for the following rates: First 5 M. cu. ft. of gas consumed per month $1.25 net per M.; next 15 M. $1.00 net per M.; next 30 M. 90¢ net per M.; next 50 M. 80¢ net per M.; all over 100 M. 75¢ net per M. The increase also provided for an advance from 50¢ to $1.00 in the minimum monthly guarantee to consumer.

Due notice of the proposed advance in rates was given. No protests having been received and the Commission being satisfied that the proposed rates were justified, the schedule was permitted to become effective on August 21, 1920. When the new rates went into effect it became unnecessary to consider the company's application or to hold a hearing thereon.

O R D E R.

IT IS THEREFORE ORDERED, That the application herein be, and

the same is, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Halderman

A P Anderson

[illegible]

Commissioners

Dated at Denver, Colorado,
this 15th day of December, 1920.

(Decision No. 403)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of American Railway Express Company for Authority to Increase Express Rates and to Change its Classification.	APPLICATION NO. 94
In re. Proposed Increase in Express Rates on the Line of The Denver and Salt Lake Railroad.	I. & S. NO. 49.

December 21, 1920.

SUPPLEMENTAL ORDER.

Since the Commission issued its order in I. & S. Docket No. 49, American Railway Express Company has filed its schedule No. 5, Colo. P.U.C. No. 4, establishing rates authorized by the Commission in Application No. 94, upon the basis of the block system heretofore established in this state. The Express Company has now discovered that it is impossible to comply strictly with the original order herein and at the same time maintain the block system for the publication of said express rates.

It was not the intention of the Commission to establish any other or different method than the block system in the publication of rates, and it now appearing to the Commission from the showing made by the Express Company that rates can be established in accordance with the block system which will be in substantial conformity to the rates authorized by the original order herein, - in certain instances on local business the rates will be two or three cents more and in other instances two or three cents less, - and will not result in a greater variation from the rates heretofore authorized; and it appearing to the Commission that the original order herein should be modified accordingly, the same is hereby amended to read as follows:

IT IS THEREFORE ORDERED, That American Railway Express Company be, and it is hereby authorized to increase its express rates and charges applicable to intrastate traffic within the State of Colorado, except traffic to or from points or between points on the Denver & Salt Lake

Railroad, 26 percent as provided and ordered in Application No. 94, provided its rates and charges for the transportation of milk and cream within the State of Colorado shall not be increased in excess of 20 percent.

IT IS FURTHER ORDERED, That said Express Company be, and it is hereby authorized, to increase its express rates and charges applicable to intrastate traffic between points on the Denver & Salt Lake Railroad, within the state of Colorado, as proposed in the petition in intervention filed herein by W. R. Freeman and C. Boettcher, Receivers of the Denver & Salt Lake Railroad, as set out in Appendix A attached to this order; provided, however, that in order to conform to the block system of rates now in effect, American Railway Express Company in the publication of said rates may, and it is hereby authorized to, state the same in scale numbers representing the rate scales nearest approximating the rates set out in said Appendix A;

IT IS FURTHER ORDERED, That said Express Company be, and it is hereby authorized to cancel its express rates and charges applicable to intrastate traffic between points on the line of the Denver & Salt Lake Railroad and points on other lines within the State of Colorado, and thereafter to apply a combination of local rates to and from Denver on such interline traffic, provided, however, that such combinations be published in conformity with the block system of rates, and filed with this Commission;

IT IS FURTHER ORDERED, That said Express Company be, and it is hereby, authorized to increase its express rates and charges applicable to the transportation of milk and cream within the State of Colorado between points on the Denver & Salt Lake Railroad and between points on the Denver & Salt Lake Railroad and points on other lines of railroad in Colorado not to exceed 20 percent in excess of the rates applicable to the transportation of such class of traffic on August 31, 1920;

IT IS FURTHER ORDERED, That said Express Company be, and it is hereby, authorized to make effective the increased rates and changes hereby authorized on one day's notice to the Commission and to the public, by filing and posting tariffs containing same with the Commission in the manner prescribed by Section 16 of the Act;

IT IS FURTHER ORDERED, That said Express Company be, and it is hereby notified and required to cancel on one day's notice, on or before January 1, 1921, the schedules heretofore filed by it increasing the rates to and from points and between points on the Denver & Salt Lake Railroad, which rates were suspended by this Commission under its order dated August 21, 1920, in I. & S. No. 49, and particularly described as follows:

Supplement No. 3 to Colorado P.U.C. No. 6;
Supplement No. 3 to Colorado P.U.C. No. 7;
Supplement No. 4 to Colorado P.U.C. No. 8;
Supplement No. 4 to Colorado P.U.C. No. 15;
Supplement No. 5 to Colorado P.U.C. No. 16;

IT IS FURTHER ORDERED, That in order to simplify and expedite tariff publication said Express Company is hereby authorized to file the rates and charges herein authorized in blanket supplements, if it desires so to do, to the same extent that it has been authorized to do so by the Interstate Commerce Commission in Docket No. 11326, dated August 11, 1920;

IT IS FURTHER ORDERED, That in computing the increased rates and charges herein authorized, applicant shall follow the rule prescribed for the disposition of fractions by the Interstate Commerce Commission in its said decision in Docket No. 11326;

IT IS FURTHER ORDERED, That this proceeding be held open for the purpose of considering applicant Express Company's petition to make certain changes in its classification upon the filing by applicant of a supplemental petition herein, if and after the Interstate Commerce Commission

authorizes said changes.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Grant E. Hall Chairman

O P Anderson

W. D. Lamon

Commissioners

Dated at Denver, Colorado,
this 21st day of December, 1920.

~~COPY~~

331

Decision No. 404.

~~BEFORE THE PUBLIC UTILITIES COMMISSION~~
~~OF THE STATE OF COLORADO.~~

Neff Brothers Brewing Co., Complainant,	)	CASE NO. 48 (Railroad Commission Docket)
v.	)	CASE NO. 204 (Public Utilities Commission Docket)
Union Pacific Railroad Co., Defendant.	)	

December 23, 1920

It being made to appear to the Commission by the written stipulation of the above parties, by their respective attorneys, filed herein on October 18, 1920, that all claims and demands involved in the above entitled matter, having been fully compromised, settled and paid upon the basis heretofore approved by the Commission, and that said cause may be forthwith dismissed;

IT IS THEREFORE ORDERED, That the said cause be, and it is hereby, dismissed.

IT IS FURTHER ORDERED, That the Secretary of the Commission cause a certified copy of this order to be served upon the attorneys for the respective parties to this cause.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(SEAL)

~~GRANT H. HALDERMAN~~

A. P. ANDERSON

Dated at Denver, Colorado,
this 23rd day of December, 1920.

F. P. LANNON

Commissioners.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 496)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

The Colorado Fuel and Iron Company, a Corporation,
Complainant

vs.

Union Pacific Railroad Company, a corporation,
Defendant

CASE NO. 61

January 6, 1921.

It being made to appear to the Commission by a stipulation filed January 4, 1921, of the parties to the above entitled cause, that all matters involved therein have been heretofore compromised and settled on the basis heretofore approved by this Commission,

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(S E A L)

GRANT E. HALDERMAN

A. P. ANDERSON

F. P. LANNON

Commissioners

Dated at Denver, Colorado,
this 6th day of January, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

(Decision No. 407)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

The Summit Grain and Coal Company, a Corporation, Complainant	)	
v.	)	CASE NO. 63
Union Pacific Railroad Company, a Corporation, Defendant.	)	

January 6, 1921

It being made to appear to the Commission by a stipulation filed January 5, 1921, of the parties to the above entitled cause, that all matters involved therein have been heretofore compromised and settled on the basis heretofore approved by this Commission,

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(S E A L)

G. E. HALDERMAN

A. P. ANDERSON

F. P. LANNON
Commissioners

Dated at Denver, Colorado,
this 6th day of January, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

(Decision No.408)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Town of Animas City, an Incorporate Town in La Plata County, Complainant, v. The City of Durango, Defendant.	I. & S. DOCKET NO. 38.

On motion for rehearing - Rehearing denied.

January 13, 1921.

STATEMENT

By the Commission:

On October 27, 1920, the Commission made and entered its order herein whereby that portion of defendant's schedule of water rates designated as Colo. P. U. C. No. 2, filed November 29, 1919, as pertains to the meter rates to be charged by defendant to complainant town was permanently suspended, and the particular rate in question was ordered stricken and expunged from the said water rate schedule, Colo. P. U. C. No. 2; and it was further ordered that defendant city of Durango should file no schedule providing for an increased charge to Animas City for carrying the water of Animas City in Durango's pipe line under the provisions of the contract of October 16, 1910, between the said city and town.

On November 9, 1920, the defendant city of Durango filed its motion to grant a new hearing as to the aforesaid decision and order, and embraced as grounds therefor twelve reasons. A number of these reasons were predicated upon the statement that the Commission had no jurisdiction or authority or power to render its said decision

and order, on the theory that the Commission held that the carriage of water which belonged to Animas City by the city of Durango in its pipe line was not such a service as was contemplated to be brought under the supervision of this Commission under the Public Utilities Act. In other words, that the rendation of such service under contractual obligation was not such service as brought Durango within the status of a public utility as defined in the act with reference to the particular service it contracted to perform for the town of Animas City.

Others of the reasons assigned for rehearing were that the town of Animas City in its prayer asked the Commission to enter an order requiring the defendant town to carry said water of the town of Animas City as provided in its said contract, and inasmuch as that was an action for the specific performance of the contract and the Commission had no equitable power or jurisdiction to entertain the same, it, therefore, had no power to do other than to dismiss the complaint.

Such matter might and probably should have been raised by demurrer to the complaint. Not having been so done and the schedule of water rates filed by Durango containing the specific rate for the carrying of Animas City's water in Durango's pipe line and a protest having been made thereto by the town of Animas City, the Commission was required to and did suspend such rate, pending an investigation of the merits thereof.

Upon investigation, if the rate complained of was such a rate as the Commission had power and jurisdiction to regulate, the suspension order against such rate would have been raised and the rate become effective as filed, or the same would have been modified by order of the Commission.

The motion was set for hearing before the Commission at its

hearing room in Denver on January 7, 1921, upon due notice to interested parties, they theretofore having filed briefs in support of and in opposition to the motion for rehearing. Upon said date both parties advised the Commission that they could not be present and expressed a desire that the Commission decide the motion upon the briefs theretofore filed.

In the brief filed by defendant city of Durango the chief complaint seemingly is that the Commission, though denying its jurisdiction of the subject matter, yet entered its order permanently suspending the particular rate; and complaint is made that the terms of the order permanently suspending the rate essays to assume jurisdiction as to what such rate should be, and, therefore, places Durango at a disadvantage and disturbs the status quo of the parties in submitting the controversy to a tribunal having jurisdiction for its determination.

As to that condition the Commission can not agree, particularly in view of the fact that the order reads that said rate "shall be, and hereby is, permanently suspended and the said rate shall be considered by virtue of this order stricken and expunged from said water rate schedule, Colo. P. U. C. No. 2 of the city of Durango." If the order had ended with the words "shall be, and hereby is, permanently suspended," there might have been some ground upon which defendant could reasonably have complained, but when that language is followed by the language "and the said rate shall be considered by virtue of this order stricken and expunged from said water rate schedule, Colo. P. U. C. No. 2 of the city of Durango," there can be no difference of opinion as to the interpretation of such language to mean that the Commission regarded the Animas City rate as being a rate not properly embodied in said Durango's schedule P. U. C. No. 2, and that being so improperly embodied therein the Commission ordered it stricken therefrom, and the words "permanently suspended" merely explains and shows logically the action of the Commission in temporarily suspending said rate, pending investigation and hearing.

It is now expressly stated for the information of the par-

ties to this record that the intent, purpose and object of the order made and entered herein November 27, 1920, was to strike the Animas City water meter rate from the city of Durango's schedule, Colo. P.U.C No. 2 as being a rate improperly contained therein, for the reason that this Commission, as it interprets the law, has no jurisdiction or power to regulate or control the same, thus leaving the parties to this controversy in identically the same position as they would have been had such rate not been embodied in Durango's schedule, Colo. P.U.C. No. 2, and leaving the parties to litigate and adjudicate their rights in a court of competent jurisdiction for the specific enforcement of the contract in question as though the proceeding before this Commission had never been brought.

Entertaining this view and without going further into explanatory detail, the Commission adheres to its former decision herein and the motion for rehearing will, therefore, be denied.

ORDER

IT IS THEREFORE ORDERED, That the motion for rehearing filed by the city of Durango on November 9, 1920, be, and the same is, hereby denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT. H. HALDERMAN

SEAL

A. P. ANDERSON

P. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 15th day of January, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

Decision No 409

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Crystal River & San Juan Railroad Company for permission to discontinue operations temporarily.) APPLICATION NO. 5

January 15, 1921

STATEMENT

By the Commission:

May 26, 1920, an order was made and entered in the above entitled application, granting applicant, The Crystal River and San Juan Railroad Company permission to discontinue train service and operation of its road for a period expiring December 31, 1920. Prior to the rendition of said order, orders had been entered from time to time to take effect and run from period to period.

Applicant filed on January 8, 1921 its petition for an order granting it authority to discontinue the operations of its said railroad for a further period from January 1, 1921 to July 1, 1921. As grounds for said request, it is shown to the Commission by said petition that conditions have not changed from those heretofore in effect, and further, that the railroad connects at Placita with The Crystal River Railroad Company in the county of Pitkin, State of Colorado, and that said The Crystal River Railroad connects at Carbondale, Colorado, with the Denver & Rio Grande Railroad Company; that said Crystal River Railroad Company, upon application, had heretofore and on or about May 19, 1920, been permitted by order of this Commission to discontinue operations of its said line of railroad until June 1, 1921, and that petitioner herein cannot operate its said line of railroad until said The Crystal River Railroad resumes its operations, and that petitioner has been unable as yet to commence work of necessary repairs on its railroad to permit it being operated, due to the severity of weather conditions in

the mountainous country through which the line of the petitioner's railroad is constructed and cannot commence such work until the severe storms of winter shall have ceased.

The prayer of the petitioner is that an order be entered by the Commission extending the time of the discontinuance of operations of said The Crystal River and San Juan Railroad from December 31, 1920, until July 1, 1921, unless in the meantime conditions should change to such an extent as to justify the resumption of operations of said railroad.

The petition being duly verified and having been fully considered and the Commission now being duly advised in the premises, an order in conformity with the prayer of the petitioner will be granted.

ORDER

IT IS THEREFORE ORDERED, That the applicant, The Crystal River & San Juan Railroad Company be, and it is hereby, granted permission to further discontinue the operations of its said line of railroad from December 31, 1920, to and until July 1, 1921, providing, however, that if conditions are shown prior to said last mentioned date as will justify the resumption of service upon said railroad before July 1, 1921, modification of this order may be made.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E HALDERMAN

A? P. ANDERSON

F. P. LANNON Commissioners.

(SEAL)

Dated at Denver, Colorado
this 15th day of January, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

ORIGINAL

Decision no. 409½

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of changing the office or effecting any change in the service afforded the public by The Western Union Telegraph Company at the City of Victor, Colorado.	)))))	CASE NO. 207.

January 17, 1921

Upon information and informal complaint made to the Commission to the effect that The Western Union Telegraph Company has heretofore and on January 15, 1921, substantially changed the character of telegraph service afforded the public at the City of Victor, Colorado, which will render the same inadequate and inefficient;

And it appearing that no application to the Commission has been made with reference to such change of telegraph facilities by said The Western Union Telegraph Company and that such change has been made wholly without warrant or authority of the law regulating public utilities in the State of Colorado, the Commission upon its own motion does, therefore, deem it to be advisable and proper to enter upon an investigation of the complaint made with reference to said matter and that in the meantime the kind and character of facilities and service maintained by said Telegraph Company at Victor on and prior to January 15, 1921, be forthwith reinstated by said Telegraph Company pending such hearing and investigation and until the further order of the Commission.

O R D E R

IT IS THEREFORE ORDERED BY THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO, That the facilities and service maintained at

Victor, Colorado, by said The Western Union Telegraph Company on and prior to January 15, 1921, be immediately reinstated to the status and extent such facilities and service were maintained on and prior to January 15, 1921;

IT IS FURTHER ORDERED, That the Commission enter upon a hearing and investigation of the facilities and service necessary to be rendered to the public at Victor, Colorado, the said hearing to be held on January 20, 1921, at 10:00 o'clock A. M. at the hearing room of the Commission, Capitol Building, Denver, Colorado;

IT IS FURTHER ORDERED, That no change in the character of service or the facilities afforded the public at Victor, Colorado, as the same existed on and prior to January 15, 1921, be made in any manner by said The Western Union Telegraph Company until the further order of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Hall Duncan

A. J. Anderson

F. D. Lawson

Commissioners

Dated at Denver, Colorado, this
17th day of January, 1921.

(Decision No.410)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of the Ovid Light & Power Company (a partnership between Robert A. Marshall and The Julesburg Cooperative Grain Company, both of Ovid, Sedgwick County, Colorado) for a Certificate of Public Convenience and Necessity.) APPLICATION NO. 120.

January 18, 1921.

Appearances: Robert A. Marshall and G. W. Myers for Applicant.

STATEMENT

By the Commission:

On November 22, 1920, there was received by the Commission an application from Robert A. Marshall and George W. Myers of the Julesburg Cooperative Grain Company for a certificate of public convenience and necessity for the Ovid Light & Power Company, a copartnership formed for the construction and operation of an electric light and power line from the Julesburg-Sedgwick power line, one-half mile south of the unincorporated town of Ovid, up to and through the streets and alleys of the said town.

In connection with this matter a hearing was held at the hearing room of the Commission at the State Capitol, Denver, Colorado, January 12, 1921.

The testimony showed that construction of this line has not as yet been started. It was also shown that there were no other competing electric lught or power lines in the territory sought to be covered by the distributing system of the Ovid Light & Power Company; that the line will be what is known as a three-phase line to the elevators, after which the current will be reduced by transformers for domestic and com-

mercial lighting. A meter is to be placed at the junction of the Julesburg-Sedgwick line, where it will connect with the Ovid Light & Power system, in accordance with a map showing the line of its distributing system filed with the Commission.

In accordance with the aforesaid facts it is found that the application should be allowed.

ORDER

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity require and will require the construction and operation by the applicant of an electrical power and lighting system for the town of Ovid and contiguous territory. This order shall be deemed a certificate therefore.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A? P. ANDERSON.

F. P. MANYON

Commissioners.

Dated at Denver, Colorado,
this 18th day of January, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 411)

COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

- - - - - - - -

Town of Fleming, Logan County, Colorado,
Plaintiff,

vs.

Chicago, Burlington & Quincy Railroad Company,
Defendant.

CASE NO. 186

- - - - - - - - -

January 27, 1921

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STATEMENT

By the Commission:

WHEREAS the plaintiff in this case, on January 21, 1921, filed a motion in writing requesting that the order setting the above entitled cause for hearing be vacated and said cause be dismissed.

IT IS THEREFORE ORDERED, That the order setting the above entitled cause for hearing be, and the same is, hereby vacated and that this case be, and the same is, hereby dismissed without prejudice to the bringing of a similar action in such manner as plaintiff may decide upon.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A? P. ANDERSON

F. P. LARSON
Commissioners.

Dated at Denver, Colorado,
this 27th day of January 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 412)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

In re. Advance in Rates of The Fleming Telephone Exchange.	)	INVESTIGATION AND SUSPENSION DOCKET NO. 47

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January 31, 1921

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STATEMENT.

By the Commission.

On May 17, 1920, The Fleming Telephone Exchange of Fleming, Colorado, filed with the Commission its rate schedule Colo. P.U.C. No. 2 proposing to cancel its schedule P.U.C. No. 1. The schedule proposed certain increases in rates and, pending investigation and hearing into the reasonableness of the proposed increases, the Commission issued its order suspending the effective date of the schedule until October 28, 1920. It being impossible to complete the investigation on or before October 28, 1920, the Commission on October 27, 1920, further suspended the effective date of the schedule until April 28, 1921. Hearing upon the reasonableness of the proposed new rate was set for Fleming on January 31, 1921. However, on January 3, 1921, the Fleming Telephone Exchange by its manager, D. Grant, advised the Commission in writing that owing to the fact that the cost of labor and materials had experienced some decline since the filing of the new schedule, the respondent desired to make no change in its rate at this time.

ORDER.

IT IS THEREFORE ORDERED, That rate schedule P. U. C. No. 2 of The Fleming Telephone Exchange, filed to become effective June 1, 1920, the effective date of which, pending investigation and hearing,

had been suspended until April 28, 1921, be, and the same is, hereby permanently suspended.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

(S E A L)

A. P. ANDERSON

E. P. LANNON
Commissioners

Dated at Denver, Colorado,
This 31st day of January, 1921.

I do hereby certify that the foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

(Decision No. 414)

[redacted]

The City of Sterling, Colorado, by the Chamber of Commerce of said City,

Plaintiff,

v.

Union Pacific Railroad Company and The Chicago, Burlington and Quincy Railroad Company,

Defendants.

CASE NO. 184.

February 1, 1921.

APPEARANCES: Coen and Sauder of Sterling for Plaintiff, G. C. Harvey and E. C. Knowles for Union Pacific Railroad Company, and E. E. Whitted and J. Q. Dier for Chicago, Burlington and Quincy Railway Company.

STATEMENT

By the Commission:

On April 24, 1920, the plaintiff above named filed its complaint against the defendants concerning alleged inadequacy of passenger depot facilities in the city of Sterling maintained by the two railroads jointly, setting forth in said complaint a number of reasons alleged why the depot facilities afforded said city and the patrons of said railroads were inadequate, and asking the Commission, upon hearing and investigation, to order the defendants to erect a passenger station at said city, commensurate with the needs of said community.

On April 30, 1920, copies of said complaint were served upon each of said railroads, and thereafter and on June 22, 1920, each of said railroads filed its motion to dismiss and answer in said cause.

On December 30, 1920, the above cause was set for hearing at Sterling, Colorado, on Tuesday, February 1, 1921, due notice thereof

being given to each of the parties in interest.

Thereafter, and on January 25, 1921, by written stipulation filed in said cause by and between the parties thereto by their respective attorneys, it was agreed that the Commission may enter an order dismissing the above entitled cause without prejudice.

ORDER

IT IS THEREFORE ORDERED, That the above entitled cause, being Case No. 164 on the docket of this Commission, be, and the same is, hereby dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT H. HAIDEMAN

A. P. ANDERSON

SEAL

E. P. LANDON
Commissioners.

Dated at Denver, Colorado,
this 1st day of February, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 415)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The City of Sterling, Colorado, by the Chamber of Commerce of said City, Plaintiff, v. Union Pacific Railroad Company and The Chicago, Burlington and Quincy Railway Company, Defendants.	CASE NO. 185.

February 1, 1921.

Appearances: Coen and Sauter of Sterling for Plaintiff, G. C. Dorsey and E. G. Knowles for Union Pacific Railroad Company, and E. E. Whitted and J. Q. Dier for Chicago, Burlington and Quincy Railway Company.

STATEMENT

By the Commission:

On April 24, 1920, the plaintiff above named filed its complaint against the defendants concerning alleged inadequacy of freight depot facilities in the city of Sterling maintained by the two railroads jointly, setting forth in said complaint a number of reasons alleged why the depot facilities afforded said city and the patrons of said railroads were inadequate, and asking the Commission, upon hearing and investigation, to order the defendants to erect a freight station at said city, commensurate with the needs of said community.

On April 30, 1920, copies of said complaint were served upon each of said railroads, and thereafter and on June 22, 1920, each of said railroads filed its motion to dismiss and answer in said cause.

On December 30, 1920, the above cause was set for hearing at Sterling, Colorado, on Tuesday, February 1, 1921, due notice thereof

being given to each of the parties in interest.

Thereafter, and on January 25, 1921, by written stipulation filed in said cause by and between the parties thereto by their respective attorneys, it was agreed that the Commission may enter an order dismissing the above entitled cause without prejudice.

O R D E R

IT IS THEREFORE ORDERED, That the above entitled cause, being Case No. 185 on the docket of this Commission, be, and the same is, hereby dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDEMAN

A. P. ANDERSON

F. P. LANNON

Commissioners.

S E A L

Dated at Denver, Colorado,
this 5th day of February, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The City of Sterling, Colorado, by the Chamber of Commerce of said City, Plaintiff,		
v.		CASE NO. 186.
Union Pacific Railroad Company and The Chicago, Burlington and Quincy Railway Company, Defendants.		

February 1, 1921.

APPEARANCES: Coen and Sauter of Sterling for Plaintiff, C. C. Dorsey and R. G. Knowles for Union Pacific Railroad Company, and E. E. Whitted and J. Q. Dier for Chicago, Burlington and Quincy Railway Company.

STATEMENT

By the Commission:

On April 24, 1920, the above named plaintiff filed a complaint against the above named defendants alleging that the defendant Union Pacific Railroad Company was the owner of certain railroad facilities within the limits of the city of Sterling, and, upon information and belief, alleged that the defendant Chicago, Burlington and Quincy Railway Company leased and used the facilities of the Union Pacific Railroad Company, aforesaid, and by pertinent allegations therein described a crossing over the tracks and lines of the defendants from the east, known as the Chestnut Street Crossing, and alleged the danger to the public of using said crossing and that the protection afforded said crossing was inadequate and unsafe, and asked the Commission, upon hearing, to enter an order requiring the defendants to construct a suitable viaduct over the whole of said Chestnut Street railroad crossing.

On April 30, 1920, copies of said complaint were served upon each of said railroads, and thereafter and on June 22, 1920, each of

said railroads filed its motion to dismiss and answer in said cause.

On December 30, 1920, the above cause was set for hearing at Sterling, Colorado, on Wednesday, February 2, 1921, due notice thereof being given to each of the parties in interest.

Thereafter, and on January 25, 1921, by written stipulation filed in said cause by and between the parties thereto by their respective attorneys, it was agreed that the Commission may enter an order dismissing the above entitled cause without prejudice.

O R D E R

IT IS THEREFORE ORDERED, That the above entitled cause, being Case No. 186 on the docket of this Commission, be, and the same is, hereby dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDEMAN

A. P. ANDERSON

P. P. LANNON.

Commissioners.

S E A L

Dated at Denver, Colorado,
this 1st day of February, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 417)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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In the Matter of the Application of the Silverton Northern Railroad Company for Permission to Discontinue Service Temporarily.) APPLICATION NO. 122.

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February 3, 1921.

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Appearances: James R. Pitcher, Jr. for Applicant Railroad Company; George L. Nye, Esq. for the Sunnyside Mining and Milling Company.

STATEMENT

By the Commission:

The applicant, the Silverton Northern Railroad Company, on January 8, 1921, filed its application before the Commission wherein it represents that it is a corporation organized under Colorado law with its principal office and place of business in Silverton, San Juan County, Colorado, and also an office in the Jacobson Building, Denver; that applicant owns a railroad in San Juan County, Colorado, and has been operating a portion thereof known as the Silverton Northern Railroad of about seven and one-half miles of main track and two miles siding, the termini of which are Silverton and Eureka in San Juan County; that said railroad connects at Silverton with the main line of the Denver and Rio Grande Railroad, and at Eureka it serves and connects with the mill and mine tramway of the Sunnyside Mining and Milling Company; that practically all of the freight hauled by said railroad during the past few months has been production of said Sunnyside Mining and Milling Company and the supplies and materials hauled in for the said mining company; that the general mining industry has become dormant in the

sections served by said railroad, and that practically all of the mining operations of the properties located in that region have been discontinued, except said the Sunnyside Mining and Milling Company and the Black Prince Mining Company.

The fifth paragraph of the application alleges that the Sunnyside Mine has been compelled recently to discontinue its operations and that such shut down occurred about December 24, 1920, for the lack of market for its metals and the uncertainty of metal prices, and that said Sunnyside Mine is uncertain as to when operations will be resumed, and that the Sunnyside Mining and Milling Company will not object to the temporary discontinuance of the operations of the said applicant railroad.

The application alleges that the Black Prince Mine's operations consist of development work and that all of its supplies have been hauled in to its mine for the ensuing winter and spring, and that should any additional supplies be needed the same could be transported by teams or sleds from Silverton and that said Black Prince Mine has assured the applicant it has no objection to the temporary discontinuance of operations of applicant railroad.

The eighth, ninth and tenth paragraphs of the application set forth the scarcity of population served by said applicant railroad; that there are good wagon roads so that those who in need of being furnished with supplies of any kind will not be prevented from obtaining supplies by virtue of this temporary discontinuance; that the line of said railroad is at a very high altitude and that in the winter months because of snowstorms, snowslides and other obstacles consequent upon such altitude a very heavy expense is incurred in keeping the road in operation; that the expense of operating the line amounts to about $100.00 a day and that to continue its operation under these circumstances through the winter

months would entail a heavy loss upon said railroad. Applicant therefore prays for an order from this Commission authorizing it to discontinue service upon its said Silverton Northern Railroad until July 1, 1921.

Upon the filing of said application notice thereof was given to the Sunnyside Mining and Milling Company, the Black Prince Mine and by publication in the Silverton newspapers of the pendency of the application, and that the same had been set down for hearing and would be heard at the hearing room of the Commission, Capitol Building, Denver, on Friday, January 21, 1921, at 2:30 o'clock P. M. of said day.

Atnthe hearing it was agreed by and between the applicant railroad and said the Sunnyside Mining and Milling Company that the application be amended to the effect that the permission for discontinuance of said railroad be until May 1, 1921, instead of July 1, 1921, so that the record shows that the petition as amended asks for permission to discontinue operation until May 1, 1921.

James R. Pitcher, Jr., vice president and general manager of the Silverton Northern Railroad Company was the only witness. His testimony shows that the loss to the company would approximate about $100.00 a day or about $3,000.00 per month, and in a general way he substantiated the allegations of the application which the Commission does not think is necessary to be set out at length. The witness also estimated the receipts of the company not to exceed $15.00 per day at the present time.

At the request of the Commission, the witness had prepared, and same was filed on January 26, 1921, a statement of the operating expense and revenue of said railroad from December 24, 1920 to January 21, 1921, inclusive, from which it is shown that the total operating and other expense for the period named amounted to $4,503.12. During the same period

the total revenue received from freight, passengers and mails amounted to $1,249.03, thus showing a loss for the period of approximately one month of $3,254.09.

Without going into further detail as to the showing made by said statement, which is verified by Joseph E. Dresback, Auditor of said Silverton Northern Railroad Company, and prepared from the books and records of said company in his possession, it is obvious that permission for discontinuance should be granted and particularly in view of the fact that no person protests or objects thereto in the territory served by said railroad company.

O R D E R

IT IS THEREFORE ORDERED, That applicant, The Silverton Northern Railroad Company, be, and it is hereby authorized and permitted to temporarily discontinue all service over and upon the said line of railroad from the date of its application therefor, January 8, 1921, until May 1, 1921, subject to such further order or direction of the Commission as conditions and circumstances at the expiration of that period may prove to be just upon showing made.

(SEAL)

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 3rd day of February 1921.

Grant E. Halderman

A. P. Anderson

Frank P. Lannon

Commissioners

~~COPY~~

(Decision No. 418)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - - - -

J. N. Miller
Complainant.

vs.

The Denver and Rio Grande Railroad, a Corporation and A. R. Baldwin, Receiver.
Defendants.

CASE NO. 195.

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February 7, 1921.

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STATEMENT

By the Commission:

WHEREAS the complainant in this case, on January 29, 1921, filed a motion in writing requesting that the above entitled cause be dismissed for the reason that the defendants have fully and entirely remedied the matters and things concerning which the complainant has herein heretofore complained.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

(SEAL)

A. P. ANDERSON

Dated at Denver, Colorado,
this 7th day of February 1921.

F. P. LANNON

Commissioners.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

COPY 366 Decision No 419

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

- - - - - - - -

THE NORTH POUDRE IRRIGATION COMPANY, a corporation,
Complainant,

v.

THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, a corporation, and H. V. BEIDLEMAN,
Defendants.

CASE NO. 189.

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February 9, 1921.

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Appearances: R. W. Fleming, Esq., Ft. Collins, for Complainants; Milton Smith and L. J. Williams, Esqs., of Denver, for Defendants.

STATEMENT

By the Commission:

The above entitled cause having been at issue before the Commission for a number of months, was set for hearing by the Commission for Monday, February 28, 1921, and all parties in interest duly notified thereof.

On February 5, 1921, there was filed with the Commission a stipulation for a dismissal of said cause signed by the attorneys for the respective parties in and by which said stipulation it is agreed that the complaint should be dismissed, "with prejudice to any further action by complainant with reference to the subject matter thereof." Accordingly an appropriate order will be entered herein.

O R D E R

IT IS THEREFORE ORDERED, That the above entitled cause shall be, and hereby is, dismissed with prejudice to any further action by complainant with reference to the subject matter embraced in its said alleged cause of action.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

A. P. ANDERSON

FRANK E. LANNON
Commissioners

(SEAL)

Dated at Denver, Colorado, this 9th day of February 1921.

(Decision No. 420)

~~BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO~~

Citizens of Erie and Vicinity)
v.) CASE NO. 205
Union Pacific Railroad Company)

February 10, 1921

Appearances: J. S. Schay, Esq., of Longmont, for Complainants;
G. C. Dorsey, Esq., of Denver, for Union Pacific Railroad Company.

STATEMENT.

By the Commission.

The above matter is before the Commission upon petition of complainant for the establishment of additional train service by defendant railroad between Erie, Colorado, and the Puritan Mine, by means of its motor car service.

The matter was set for hearing by the Commission at Erie, Colorado, for Tuesday, February 15, 1921, at 10 o'clock A. M., and all parties in interest notified thereof.

On February 7, 1921, there was filed with the Commission by the representative of the petitioners a request that their petition be withdrawn for the present and that no hearing be held in this matter. Such request amounts practically to a motion of dismissal and will be so considered and treated by the Commission. Accordingly an order will be entered to that effect.

ORDER.

IT IS THEREFORE ORDERED, That the petition of the Citizens of Erie and Vicinity, complainants in above entitled cause, be and the same

is hereby dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDEMAN

(S E A L)

A. P. ANDERSON

P. P. LANNON

Commissioners

Dated at Denver, Colorado, this
10th day of February, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

(Decision No. 421)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Lafayette Commercial Association,
Complainant,
v.
The Colorado & Southern Railway Company,
Defendant

CASE NO. 206

February 10, 1921

Appearances: R. J. Radford of Lafayette for Complainant;
E. H. Whitted and H. A. Johnson, for Defendant.

STATEMENT.

By the Commission.

The above matter is before the Commission upon application of defendant for permission to change and reduce its passenger train service between Lafayette, Louisville, and Louisville Junction, filed September 10, 1920. Upon the filing of such application, notice thereof was given to the citizens of Lafayette, with the result that the commercial association entered its protest and objection to any curtailment of the existing passenger service.

The matter was set for hearing by the Commission in the Town Hall, Lafayette, Colorado, for Monday, February 14, 1921, at 10 o'clock A. M.

On February 5, 1921, there was filed with the Commission a letter signed by H. A. Johnson, Traffic Manager of defendant railway company, advising the Commission that operating conditions have now so changed as that the request for a curtailment of passenger service as above stated was no longer desired to be made and that the hearing upon the merits of such application should be cancelled.

This letter will be treated as in the nature of a motion to dismiss the request of defendant railway for the change and curtail-

ment of its passenger train service between the points above mentioned as it originally requested it be permitted to do, and an appropriate order will therefore be entered herein.

O R D E R.

IT IS THEREFORE ORDERED, That the application or request of the defendant, The Colorado & Southern Railway Company for a change in curtailment of passenger service between Lafayette, Louisville and Louisville Junction, Colorado, as filed September 10, 1920 be, and the same is, hereby dismissed without prejudice, however, to said railway company in renewing such application at such time as it shall be advised.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRAHAM E. HALDEMAN

(S E A L)

A. P. ANDERSON

P. P. LANNON
Commissioners

Dated at Denver, Colorado,
this 10th day of February, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary

(Decision No. 424)

INVESTIGATION AND SUSPENSION DOCKET NO. 56.

Investigation and Suspension of Advance in Minimum Carload Weight on Sugar on Missouri Pacific R. R.

February 18, 1921

By the Commission:

This investigation involves the reasonableness of a proposed increase in the minimum carload weight on sugar on Missouri Pacific Railroad from 33,000 pounds to 60,000 pounds.

The tariffs under investigation in this proceeding were filed by respondent to become effective December 31, 1920, but their effective date was suspended by the Commission until April 30, 1921.

On February 7, 1921, respondents filed with the Commission a request that the schedules naming the proposed increases be cancelled, which will have the effect of continuing the present minimum weights. Accordingly, an order requiring their cancellation will be issued.

O R D E R

IT APPEARING, That by order dated December 22, 1920, the Commission entered upon an investigation and hearing concerning the propriety of the increases and the lawfulness of the regulations and practices stated in schedules enumerated and described as Supplement 5 to Missouri Pacific Tariff Colo. P.U.C. No. 36; items 1045A and 1047A Supplement 20 to Missouri Pacific Tariff Colo. P.U.C. No. 19, and ordered that the operation of said schedules be suspended until April 30, 1921.

IT IS ORDERED, That the respondent carrier herein be, and it is, hereby notified and required to cancel said

schedules on or before April 29, 1921, and that this proceeding be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado, this
18th day of February, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the state of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 425)

INVESTIGATION AND SUSPENSION DOCKET NO. 52.

Investigation and Suspension of Advance in Demurrage Rates.

March 2, 1921

By the Commission:

This investigation involves the reasonableness of a proposed increase in demurrage rates published in schedules issued by J. E. Fairbanks, agent.

The tariff under investigation in this proceeding was filed by respondent to become effective December 1, 1920, but the effective date was suspended by the Commission until March 31, 1921.

On January 24, 1921, respondent filed with the Commission a schedule withdrawing and cancelling the proposed increases effective February 10, 1921. Accordingly, an appropriate order will be entered.

ORDER

IT APPEARING, That by order dated November 28, 1920, the Commission entered upon an investigation and hearing concerning the propriety of the increases and the lawfulness of the regulations and practices stated in schedules enumerated and described as Item 9A, Rule 7; Item 10A, Rule 8; Item 11A, Rule 9; Supplement 4 to J. E. Fairbanks, Agent, Tariff Colo. P.U.C. No. 6, and ordered that the operation of said schedules be suspended until March 31, 1921; and,

IT FURTHER APPEARING, That respondent has withdrawn and cancelled the proposed increases;

IT IS THEREFORE ORDERED, That this proceeding be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(SEAL)

GRANT E. HALDERMAN

A. P. ANDERSON

P. P. LANNON

Commissioners.

Dated at Denver, Colorado, this
2nd day of March, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 426)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the matter of the Application of the Board of County Commissioners of Logan County for the establishment of a public highway crossing at grade over the right of way of the Chicago, Burlington & Quincy Railroad Company on the section line between Sec. 24 T 7 N, R 55, and Sec. 19 T 7 N, R 54.) Application No. 115.

(March 12, 1921)

STATEMENT

By the Commission:

This proceeding arises upon the application of the Board of County Commissioners in and for the County of Logan, in the State of Colorado, for an order permitting and requiring the establishment of a public highway crossing at grade over the right of way of the Chicago, Burlington & Quincy Railroad Company on the section line between Section 24, Township 7 North, Range 55 West and Section 19, Township 7 North, Range 54 West, at a point approximately one mile east of Willard, in Logan County.

An investigation into the necessity for the opening of a public highway crossing at this point was made by the Commission's engineer, who has recommended that the crossing be established. The Commission is advised by the Chicago, Burlington Railroad Company that it is agreeable to the

establishment of the proposed crossing providing the county bears the expense of grading and filling. In its application for the establishment of the crossing the Board of County Commissioners agrees to assume the expense of grading and filling. The Commission being fully advised in the premises an order will issue, granting permission for the establishment of a crossing as requested.

O R D E R

IT IS THEREFORE ORDERED, That in accordance with Section 29 of the Public Utilities Act of Colorado, as amended, a public highway crossing at grade be, and the same is hereby, permitted to be opened and established over the right of way of the Chicago, Burlington & Quincy Railroad Company on the section line between Section 24, Township 7 North, Range 55 West, and Section 19, Township 7 North, Range 54 West, in Logan County, Colorado.

IT IS FURTHER ORDERED, That the crossing at the point above described shall be constructed in accordance with plans and specifications prescribed in the Commission's order In re Improvement of Grade Crossings in Colorado, 2 P.U.C. 128.

IT IS FURTHER ORDERED, That the Chicago, Burlington & Quincy Railroad Company shall open and establish said crossing and shall bear the expense necessary thereto, except that the County of Logan, Colorado, shall perform, or bear the expense of having performed, the work of grading, including such drainage as may be necessary to the estab-

lishment of proper approaches to said crossing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL) A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 12th day of March, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 427)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the matter of the Application of)
The Denver, Boulder & Western)
Railroad Company for Permission) Application No. 12.
to Discontinue Service, Remove)
its Tracks and Withdraw from the)
Public Service.)

(March 14, 1921)

ORDER

By the Commission:

WHEREAS, In the above entitled application an order was duly made and entered on July 23, 1919, after hearing upon the application, whereby the applicant, The Denver, Boulder & Western Railroad Company, was permitted to discontinue its service, withdraw from the public service and cease to operate its line of railroad and remove, dismantle and dispose of its property effective Sept. 15, 1919, upon giving due notice as prescribed by Sec. 16 of the Public Utilities Act, reported in 5 Colo. P.U.C. 742-755, and,

WHEREAS, The above order was modified by the order of this Commission made August 19, 1919, as a result of an application by said railroad company filed August 6, 1919, for permission to discontinue its service as of August 6, 1919, instead of September 15, 1919, by reason of serious damage to its tracks and right-of-way occasioned by a cloudburst in Boulder Canon on the night of July 31, 1919, and upon hearing after due notice to all parties to said pro-

ceeding, the order was so modified, 5 Colo. P.U.C. 788-792, and,

WHEREAS, On September 9, 1919, the Commission made and entered its order herein, denying a rehearing to the protestants, and such proceedings were had therein that a writ of review was sued out of our Honorable Supreme Court of the State of Colorado in the said matter, and the same was docketed therein as Case No. 9706, and,

WHEREAS, Such proceedings were had in our Honorable Supreme Court that on the 6th day of July, 1920, an order was made and entered in said cause No. 9706, which said order vacated and set aside the order of this Commission entered herein in said Application No. 12 on July 23, 1919, with directions to the Commission to enter an order requiring said railroad to be operated, and to make a fair test of its ability to earn the necessary income to justify its further operation, and,

WHEREAS, On the 9th day of March, 1921, a remittitur was issued out of and under the seal of our said Supreme Court directed to this Commission, which said remittitur, inter alia, is in the words following:

> "This cause having been brought to this Court by writ of review to review an order of the Public Utilities Commission, and having been heretofore argued by counsel and submitted to the consideration and judgment of the Court upon the matters assigned as constituting error in the proceedings and order of said Commission, and it now appearing to the Court that there is manifest error in the proceedings and order of said Commission:
>
> IT IS THEREFORE ORDERED, That the order of said Commission herein be vacated and set aside; with directions to the Commission to enter an order requiring the road to be operated, and make a fair test of its ability to earn the necessary income to justify its further operation."

NOW THEREFORE, By virtue of the order of our said Honorable Supreme Court so entered and directed to this Commission, as aforesaid, the following order is hereby made and entered herein:

O R D E R

IT IS ORDERED, That the orders of this Commission made and entered herein on July 23, 1919, and August 19, 1919, be, and the same are, hereby vacated and set aside.

IT IS FURTHER ORDERED, That the applicant, The Denver, Boulder & Western Railroad Company be, and it is hereby, required to resume the operation of its line of railroad and that applicant shall continue the operation thereof until it shall have made "a fair test of its ability to earn the necessary income to justify its further operation."

IT IS FURTHER ORDERED, That the Secretary of this Commission shall immediately certify this order and serve the same upon the applicant, The Denver, Boulder & Western Railroad Company, and to its attorneys, E. E. Whitted and J. Q. Dier; to John R. Wolf, attorney for protestants; to Frank L. Morehead, city attorney of Boulder, Colorado; to Harry Cassidy, for the Boulder Commercial Association; and to Bardwell, Hecox, McComb and Strong, attorneys of record of said applicant, The Denver, Boulder & Western Railroad Company, in our said Supreme Court in the above numbered cause 9706.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

(S E A L) A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 14th day of March, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 428)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Investigation by the Public Utilities Commission of the State of Colorado, on its own Motion, into the Reasonableness of the Rates, Charges, Rules and Regulations of the Mountain States Telephone and Telegraph Company, as Established and Approved by the Postmaster General.	CASE NO. 180.

March 29, 1921

ORDER

By the Commission:

WHEREAS, In the above entitled matter an order was duly made and entered on November 29, 1919, after hearing, whereby the Mountain States Telephone and Telegraph Company were granted certain increased rates throughout the State of Colorado, in and by which order the rates for telephone service in the City of Fort Collins were affected, and,

WHEREAS, On December 15, 1919, the said City of Fort Collins filed its petition for a rehearing in said matter with the Commission, wherein the said City of Fort Collins represented to the Commission that said city was a city of the class denominated a "Home Rule City," and that, therefore, this Commission had no jurisdiction over the rates and rules of said telephone company within the City of Fort Collins, and,

WHEREAS, On December 17, 1919, by its order duly made and entered in said matter, the Commission denied said petition for rehearing on the ground that the Commission had jurisdiction over the City of Fort Collins, and the said matter was, by stipulation and agreement of the

City of Fort Collins, of this Commission and of the said Mountain States Telephone and Telegraph Company, certified to the Supreme Court of this State for the purpose of submitting to said Supreme Court the sole jurisdictional question raised by the petition for a rehearing, and,

WHEREAS, Such proceedings were had in our honorable Supreme Court that said cause was docketed therein under Docket No. 9748 and entitled City of Fort Collins, Petitioner, v. the Public Utilities Commission of the State of Colorado and the Mountain States Telephone and Telegraph Company, Respondents, and the said Supreme Court, on February 7, 1921, duly made and entered in said cause its order whereby the aforesaid order of this Commission was vacated and set aside and,

WHEREAS, On the 19th day of March, 1921, a remittitur was issued out of and under the seal of our said Supreme Court directed to this Commission, which said remittitur inter alia is in the words and figures following:

> "This cause having been brought to this court by writ of review to the Public Utilities Commission, to review an order of said Commission, and having been heretofore argued by counsel and submitted to the court upon the matters assigned as constituting error in the proceedings and order of said Commission, and it now appearing to the court that there is manifest error in the proceedings and order of said Commission,
>
> "It is therefore ordered and adjudged that the order of said Commission be, and the same is hereby reversed, annulled and altogether held for naught; and that this cause be remanded to said The Public Utilities Commission which is directed to annul its order of November 29th, 1919, entered in this matter, and dismiss the proceedings before it so far as the same concern the telephone rates between points within the City of Fort Collins.
>
> "It is further ordered and adjudged that said petitioner do have and recover of and from the respondent, The Mountain States Telephone and Telegraph Company, its costs in this court expended, to be taxed."

NOW, THEREFORE, By virtue of the order of our said honorable Supreme Court so entered and directed to this Commission as aforesaid, the following order is hereby made and entered herein.

ORDER

IT IS ORDERED, That the order of this Commission of November 29, 1919, insofar as the same relates to and affects the rates, rules

and regulations of said telephone company within the limits of the City of Fort Collins, Colorado, be, and the same is, hereby annulled, set aside and for naught held and the said proceeding be, and the same is, hereby dismissed insofar as the same concerns the telephone rates between points within the City of Fort Collins.

IT IS FURTHER ORDERED, That the Secretary of this Commission immediately certify this order and cause the same to be served upon Hilton Smith, Esq., Attorney for the Mountain States Telephone and Telegraph Company; upon Frank J. Annin, City Attorney, Fort Collins, Colorado, and upon Frank L. Moorhead, City Attorney, Boulder, Colorado, a party to said proceeding on the brief.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT H. HAIDEMAN

SEAL

A. P. ANDERSON

F. P. LARSON.

Commissioners.

Dated at Denver, Colorado,
this 29th day of March, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original Order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 429)

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

The National Fuel Company, a Corporation, Complainant, v. Union Pacific Railroad Company, Defendant.	CASE NO. 40

March 30, 1921

ORDER

By the Commission:

On March 19, 1921, complainant and defendant above named filed a written stipulation with the Commission providing that the above action shall be dismissed.

ORDER

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

S E A L

A. P. ANDERSON

F. P. LANNON
Commissioners.

Dated at Denver, Colorado,
this 30th day of March, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 430)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

William H. Russell, Plaintiff, v. Union Pacific Railroad Company, a Corporation, Defendant.	CASE NO. 69

March 30, 1921

By the Commission:

On March 19, 1921, complainant and defendant above named filed a written stipulation with the Commission providing that the above action shall be dismissed.

ORDER

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT H. HALBRUHAN

SEAL

A. P. ANDERSON

F. P. LANDON

Commissioners.

Dated at Denver, Colorado,
this 30th day of March, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 431)

[redacted]

In the Matter of the Application of Clyde B. Spangler and H. L. Thompson for a Certificate of Public Convenience and Necessity for the Construction of an Electric Light and Power System in the San Luis Valley.

APPLICATION NO. 79.

March 30, 1921.

[redacted]

By the Commission:

WHEREAS, On March 25, 1920, the above named applicants filed a petition with the Commission for a certificate of public convenience and necessity for the construction of an electric light system and works in the San Luis Valley and the territory adjacent thereto, as described in said petition, and,

WHEREAS, On May 4, 1920, the protest and complaint of the Colorado Power Company was filed in the said matter, and such proceedings were had therein that the same was set for hearing before the Commission at its hearing room, Capitol Building, for Monday, March 14, 1921, at 10:00 o'clock AM, and,

WHEREAS, By written stipulation filed herein on March 11, 1921, by applicants and protestants, by their respective attorneys, to the effect that the above application be dismissed without prejudice, the following order is hereby made and entered herein.

ORDER

IT IS THEREFORE ORDERED, In pursuance of the terms of said stipulation that the above application be, and the same is, hereby dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

A. P. ANDERSON

F. P. LANNON

Commissioners.

S E A L

Dated at Denver, Colorado, this 30th day of March, 1921.

 Decision No. 432

[redacted]

[redacted] COMMISSION
OF THE STATE [redacted]

- - - - - - - -

The Steamboat Springs Commercial Club, et al.,

v.

W. B. Freeman, and C. Boettcher, Receivers of The Denver and Salt Lake Railroad Company.

CASE NO. 208.

MARCH 31, 1921.

APPEARANCES

By the Commission:

On March 26, 1921, the Receivers of The Denver and Salt Lake Railroad Company, defendants above named, filed with the Commission, a supplemental petition wherein is sought permission to continue the tri-weekly passenger train service over said line of railroad for the month of April, 1921.

The Commission on December 14, 1920, after a hearing in the above entitled matter involving such tri-weekly passenger service between Denver and Craig, made and entered its order herein, authorizing the Receivers to establish and maintain such tri-weekly passenger service, beginning January 3, 1921, and continuing until April 1, 1921; and this supplemental petition is for authority to continue such tri-weekly passenger service between Denver and Craig during the month of April, 1921.

The supplemental petition, supported by affidavit, gives as reasons for such request that all the conditions as affected said railroad which were presented at the original hearing herein continue to exist, and will exist, throughout the month of April to the same extent and as fully as

it has existed since January, 1921; in addition it is shown by reports made by said Receivers to the Commission as requested in the original order herein, that the total number of passengers carried in January, 1921, was 5705 as compared with 6171 carried in January, 1920; that passengers carried in February, 1921 was 4011 as compared with 6295 in February, 1920 and that so far as the data available indicates, March, 1921, will show a similar decrease compared with March, 1920. These decreases in passenger travel during January, February and March, 1921, is attributed to general business conditions that it is alleged prevails throughout the country, and that it is in no substantial respect chargable to the tri-weekly passenger service.

That the mining companies operating along the line of said railroad have practically ceased operations due to slack business conditions and to the cancellation of orders and that the resumption of coal traffic cannot reasonably be expected with anything like a normal basis within the next few months; that the decrease in transportation of coal shows that 35940 tons were moved in February, 1921, as compared with 98021 tons moved in February, 1920.

The supplemental petition further represents that the tri-weekly passenger service has been adequate to take care of all reasonable requirements of the communities served; that passenger traffic anticipated during April under the conditions now existing, and which it is alleged will continue to exist during April, will not justify the additional expense involved in the reestablishment of daily passenger service during said month, and that no additional revenue would result thereby during said month and that the additional expense to be incurred, should daily passenger service be re-established during April, would exceed the sum of $15,000 and thereby would increase the operating deficit of said company in that amount.

That the Receivers have used every possible economy in the operation of said road, but that the operating deficit continues approximately in the same monthly amount as was shown upon the original hearing, to be in excess of $50,000 a month; that one of the chief obstacles in the way of reducing operating expenses is the existing rules and rates of pay governing

employees of the Receivers on the line of said road, and that every effort has been made to effect an adjustment of the same with the employees, but without success, and that petitioners have been compelled to file, and have filed, with the United States Railroad Labor Board, an application for readjustment of said rules and rates of pay upon a just basis; that petitioners expect in the near future, through said Railroad Labor Board, to obtain substantial relief in the matter of rules and rates of pay so that a material reduction in operating expenses will result therefrom; that if such result is obtained and the additional $15,000 of expense incurred by petitioners if they are compelled to reestablish daily train service during April, may be avoided, and if the coal mines along the line of the railroad resume operations within a short time, then with the anticipated summer traffic service over said road, the petitioners believe it will be possible to continue the operation of the road.

Several citizens and residents of the territory through which said railroad operates made verbal objection and protest to a further continuance of the tri-weekly passenger train service, and the Commission seriously considered the ordering of a formal hearing upon such supplemental petition; but it being obviously apparent that no new matter could likely be presented, aside from the inconvenience of the people of that territory for another thirty days and that the operating deficit would be increased by a substantial sum, the Commission has felt that a formal hearing would not result in giving the Commission much further enlightenment on this vexatious subject.

While it is not directly alleged in this proceeding, it has been the subject of common knowledge to those interested in the operation of said line of railroad, that unless every person interested in its continued operation, may be content to suffer more or less inconvenience and hardship to the extent at least, of a tri-weekly passenger service for another thirty days, the culmination of the matter will inevitably be to ask permission of the Commission for a permanent abandonment and discontinuance of the public service, faulty though it may be, that has been and is now being furnished to the territory served.

When this step is found necessary to be taken, the Commission will meet the situation as it is its duty to do under the law; but in common with

most citizens of this state and we believe of most of the citizens of the territory through which this line of railroad operates, the Commission would view with great concern the prospective abandonment and discontinuance of the Moffat Railroad. "Hope springs eternal in the human breast", and it is this hope that impels the Commission to aid said railroad in every reasonable way within its power to continue serving the public in a limited way rather than of a condition of no service at all; and the Commission is hopeful that the sober reflection of the people affected in the territory through which this railroad operates will concur herein.

Under all the circumstances shown in and by said supplemental petition, and taking into consideration the showing made upon the original hearing in this matter on December 2, 1920, the Commission is of the opinion that the relief now asked for should be granted. In reaching this conclusion, the Commission is fully aware of the displeasure, it will incur of some of the people who reside upon and along the line of said Moffat Railroad.

O R D E R.

IT IS THEREFORE ORDERED, That the Receivers of The Denver and Salt Lake Railroad, petitioners herein, may operate, and they hereby are authorized to operate, passenger trains numbers one and two, between Denver and Craig, Colorado, from April,1, 1921, to and until May 1, 1921, upon the same schedule as said trains have been operated subsequent to the order of December 14, 1920.

IT IS FURTHER ORDERED, That said railroad shall file with the Commission, a statement containing the information required by the order of December 14, 1920, for the month of March, 1921, not later than April 15th, and that a report containing such information for the month of April, 1921, shall be filed not later than May 15, 1921.

IT IS FURTHER ORDERED, That beginning Sunday, May 1, 1921, daily passenger train service shall be reestablished by the Receivers of said railroad as the same existed prior to January 3, 1921, with such modification of the train schedules running time as will best accomodate the convenience of the passenger travel of said railroad.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALVERSON

(SEAL)

A. P. Anderson

Dated at Denver, Colorado,
this 31st day of March, 1921.

E. P. Lennon
Commissioners

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

COPY (Decision No. 434)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Citizens of Costilla County, Colorado,
Petitioners,

v.

A. R. Baldwin, Receiver, of The Denver & Rio Grande Railroad Company,
Defendant.

In the Matter of the Application of Citizens of Costilla County, Colorado, for the Construction of a Depot at Fort Garland, Colorado.

CASE [illegible] NO. 196

April 19, 1921

Appearances: W. S. Parrish and D. Salazar for Petitioners; E. N. Clark, General Solicitor for A. R. Baldwin, Receiver of The Denver & Rio Grande Railroad Company; R. E. McMullin, Assistant Attorney General, representing the Attorney General's Office, for the State of Colorado.

STATEMENT

By the Commission:

April 11th, 1919, an application for the construction of a new depot by The Denver & Rio Grande Railroad Company at Fort Garland, Colorado, was presented to this Commission signed by about one hundred citizens of San Luis, Chama, Lavalley and San Pablo, Costilla County.

The depot at this point was destroyed by fire December 29th, 1917. Owing to the fact that the United States Government took over the possession, operation and control of the Denver & Rio Grande Railroad the day following the fire, and for the reason that the patrons of this station did not wish to hamper the government or railway, but desired to assist them in every way possible during the pendency of the war, they very patriotically decided to forego the convenience and

necessity of a station until the exigencies of the war period has passed.

After filing the application, this Commission took up the matter with Mr. W. E. Green, Assistant General Manager of the Denver & Rio Grande Railroad and under date of April 21st, 1919, he advised that if request for a new freight and passenger station at Fort Garland were deferred until the season of 1920, the matter could be handled in a manner resulting to the better satisfaction of all concerned. Nothing having been done in the meantime, this Commission set this application down for a formal hearing at its hearing room in the State Capitol, Friday, January 21st, 1921, at 10 o'clock A. M.

The testimony showed that the railroad station at Fort Garland is the clearing house for about three thousand people, through which the incoming and outgoing merchandise, express and passenger traffic of eastern Costilla County passes. It is also through this gateway that the products of the surrounding country, consisting of grain, live stock, flour and produce finds its way to the various markets.

The evidence also showed that the unloading of car loads and less than car loads, on account of absence of depot facilities in which to store freight, subjects all shippers to heavy penalties for demurrage in both loading and unloading freight. To obviate this the only alternative is to immediately haul same, which is often impossible on account of long distances, or else transfer same to a freight car or pile on ground beside track subjecting shipment to both theft and damage from the weather.

A narrow gauge coach is all the provision there is at this point for a depot. Into this is placed all the agents equipment -- telephone, telegraph instruments and office furniture. Some space is occupied for express packages and a very limited space is reserved for the traveling public when car is open.

Great inconvenience is caused owing to the limited space for freight and express. Owing to the congestion, it often happens that shipments are at the bottom of a pile of freight and are overlooked or not found for several days, necessitating an extra trip of many miles to secure what should have been delivered to the consignee previously.

The testimony also shows no perishable articles can be shipped into Fort Garland during the winter months as they would be almost sure to be frozen. Illustrating the chaotic condition, a Mr. Salazar ordered a casting by wire last August, and while it was delivered at station promptly it was not found until January 3rd and then at the bottom of a stack of freight.

As the agent's home is at a distance from the station, the so-called depot is always locked during his absence. This is especially true between five and nine each evening, when it is impossible for the traveling public to gain admittance and they are in consequence exposed to the rigors and inclemency of the weather.

The inconvenience to the traveling public is greatly enhanced at this station by the fact that both the north and south bound passenger trains arrive at somewhat unseemly hours; No. 15, going south, arriving at 5:14 A. M., and No. 116, Denver bound, arriving at 9:32 P. M. As the agent locks up the coach at 5:00 o'clock P. M., it leaves no place of shelter for passengers until at least 9 P. M., when it is again opened.

Owing to only the interposition of a flimsy partition between the agent's office and express matter it is unsafe for agent to leave car open when he is absent, and this causes people doing business at this agency to frequently bring their autos along in order to have some need of shelter and comfort while awaiting trains. The testimony also shows that it is common practice of patrons of the railway in this section to gather grass, brush, etc., and build camp fires to keep from suffering or freezing, and hover around these awaiting belated trains. An

instance is related where a patron who was shipping some lambs had this to await his train until one o'clock in the morning.

The people of the country tributary to Fort Garland have been lacking even moderate station facilities since the depot was destroyed December 29th, 1917.

Under date of September 28th, 1920, E. N. Clark, General Solicitor, representing A. R. Baldwin, Receiver of the Denver & Rio Grande Railroad Company, assured this Commission:

> "That the Receiver and his representatives fully appreciate the necessity for a station at Fort Garland, and are in hearty accord with the desire of the citizens of Costilla County for the erection of a station, and the only reason why a station building has not heretofore been erected has been the lack of funds incident to the present receivership and the inability of the Receiver, under existing conditions, to make large capital expenditures out of receivership funds."

After full consideration of the complaint and evidence introduced, it is the opinion of this Commission that the depot facilities at Fort Garland are insufficient, improper and inadequate to meet the reasonable requirements of the public. A decent regard for the health, safety and business interests of about three thousand people in southern and eastern Costilla County precludes further procrastination in the building of a suitable freight and passenger depot.

O R D E R

IT IS THEREFORE ORDERED, That the Defendant, A. R. Baldwin, Receiver of The Denver & Rio Grande Railroad Company, in order to promote the security and convenience of the public, and to secure adequate service and facilities, shall erect, or cause to be built or constructed at Fort

Garland, Costilla County, Colorado, a good and sufficient freight and passenger depot, of sufficient dimensions to conveniently and adequately care for all the passenger, freight and express business handled at that point.

IT IS FURTHER ORDERED, That said new depot be constructed, of wood, brick, or other suitable material, and be erected at the site of the old depot at Fort Garland, Colorado, by the said defendant, within ninety days of the issuance and service of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado, this
19th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY

Secretary.

(Decision No. 435)

[redacted]

In the Matter of the Application of the Board of County Commissioners of Adams County for the Opening of a Crossing at Grade over the Main Line of the Union Pacific Railroad on the Section line between Sections 24 and 25, T. 2 S., R. 68 W.

APPLICATION NO. 115.

April 19, 1921

Appearances: J. Paul Hill of Brighton, Colorado, County Attorney of Adams County, for applicant; Edward G. Knowles of Denver, Colorado, Attorney, Union Pacific Railroad for respondent.

STATEMENT

By the Commission:

This matter comes before the Commission on an application filed September 30, 1920, by the Board of County Commissioners of Adams County whereby it is sought to open a public highway crossing at grade over the main line track of the Union Pacific Railroad on the Section line between Sections 24 and 25, T. 2 S., R. 68 W.

In the application it is stated that the crossing is necessary to public convenience; that there is no other crossings within a reasonable distance and that the increase of population in this locality makes it a hardship to make the long detours now necessary.

Service of said application was made upon the Union Pacific Railroad, and on October 22, 1920, the railroad filed its answer and stated that the management of the Union Pacific Railroad had no objection to the proposed crossing "providing the entire expense of the construction of said crossing is borne by Adams County." The railroad company further stated that "In case the County Commissioners of Adams County refuse to bear the entire expense of the construction

of the aforesaid crossing, Union Pacific Railroad Company hereby enters its objection to the granting of the crossing asked for in Application No. 115, and requests a hearing on the merits of said application." To this stipulation the county did not agree.

The above matter was set down for hearing by the Commission for Monday, March 21, 1921, at 10 o'clock A. M., in the hearing room of the Commission in Denver, Colorado, and was heard on that day, all parties to the preceding having been given notice of the time and place of hearing.

Before the introduction of testimony the respondent railroad company objected to the granting of this application on the grounds that the proposed crossing is on a curve of the railroad; that the same is not safe and that the same is not necessary for the convenience of the public.

The issue involved is simply whether or not the opening of this grade crossing will be a just and reasonable requirement and would promote the convenience of the public, having due regard for the safety of the users of such crossing and the expense, inconvenience and hazard to the railroad by its establishment.

It appears from the testimony and also from respondents Exhibit 1 that the proposed crossing is about 1600 feet north of what is known as the Paul Crossing on the River Road; that from the Paul Crossing north to the proposed crossing there is a public highway on either side of and parallel to the railroad.

Mr. Peter J. Gleason, County Commissioner of Adams County, testified that the Paul Crossing being in a cut makes it difficult and dangerous to cross; that the proposed crossing would be in open country on level ground; that the principal use to be made of the proposed crossing would be by boat haulers enroute to the Quinby dump from that portion of the community lying west of the railroad. He also testified that the Paul Crossing could not be abandoned if the proposed crossing was established.

Mr. Willis M. Lowther, Division Engineer of the Union Pacific Railroad Company testified that the proposed crossing is only 1600 feet north of the present Paul Crossing; that the present crossing must be maintained and that it was put in at considerable expense; that while the present crossing is in cut it is protected by bell signal; that the proposed crossing would be dangerous on account of it

being on a curved track which is in cut just south of the site of this proposed crossing. He also testified that travel appeared to be light on the road coming from the west to the proposed crossing.

On January 11, 1921, the Railway and Hydraulic Engineer for the Commission rendered a report wherein he stated that the proposed crossing is in close proximity to the present crossing on the River Road and that under present conditions the public is more safely served than if the proposed crossing be established. If the highway on the west of the railroad between the proposed crossing and the Paul Crossing were abandoned, parties living west of the railroad that use this highway would be compelled to make two dangerous crossings of the track where at present they do not make any crossing. His report and testimony supports the contention of the railroad that the proposed crossing is on a curve just north of a cut on the railroad, and that the crossing would be considered dangerous. His report concludes with the statement that, "From the point of public safety, this crossing should not be installed. It would contribute little if any to public convenience."

Immediately after the hearing Commissioner Lennon visited the site of the present and proposed crossings in order that the Commission might have first hand information on the subject.

The only objection of County Commissioner Gleason was that the present crossing was in cut and that it was difficult for beet haulers to make the grade on the sharp turn from the present crossing going to the Quinby beet dump. While there is at present a rather steep grade at this point, it is the opinion of the Commission, that it would cost less to remedy this condition by doing some grading than it would to install the proposed crossing even were it feasible to do so.

From all the testimony and evidence in the case it appears to the Commission that the proposed crossing would be in close proximity to the present Paul Crossing; that it is practically impossible to abandon the present crossing; that the travel on the highway from the west leading to the site of the proposed crossing is fairly served by a highway on the west of and parallel to the railroad and that the installation of the proposed crossing would increase the hazard both to the traveling public and to the railroad.

In view of these facts Application No. 115 to establish a grade crossing across the Union Pacific Railroad on the section line between Sections 24 and 25, T. 2 S., R. 68 W, will be denied and the application dismissed.

O R D E R

IT IS THEREFORE ORDERED, That the application herein for the opening of a public highway crossing at grade over the main line track and right-of-way of the Union Pacific Railroad on the Section line between Sections 24 and 25, T. 2 S, R. 68 W, in Adams County, Colorado, be, and the same is hereby denied, and the application therefor filed herein be and the same is hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT H. HALLIBURTON

(SEAL)

A. P. ANDERSON

Dated at Denver, Colorado,
this 19th day of April, 1921.

E. E. LAWSON
Commissioners

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 436)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Application of Edward L. Garing for Certificate of Public Convenience and Necessity for Establishment of an Automobile Truck Carrier of Freight between the Town of Fruita and the City of Grand Junction, Colorado. | APPLICATION NO. 124.

APRIL 19th, 1921.

Appearances for the Grand River Valley Railway Company; S. G. McMullin, Attorney, and A. E. Anderson, Superintendent of the Grand River Railway Company.

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STATEMENT

By the Commission:

February 1st, 1921, there was received by this Commission, from Edward L. Garing, application No.124, for a Certificate of Convenience and Necessity for the operation of a single automobile freight truck line for the haulage of freight only, between Fruita and Grand Junction.

The hearing on this matter was set for 10:30 AM., March 9th, 1921, at the City Hall, Glenwood Springs, Colorado. All parties hereto were duly notified of said hearing.

Applicant did not appear either in person, by attorney, letter or in any manner whatsoever. On account of absence of applicant, the hearing was adjourned from 10:30 to 11:00 AM., when the hearing was begun. The protestant's evidence was all submitted before 12:00 o'clock noon. For four the applicant might have been unavoidably delayed, and to give him further opportunity to be heard, the Commission took a recess until 4:35 PM. As no further appearance was then made, the case was closed without any evidence having been presented in support of applicant's application.

The testimony of the protestants showed that the Grand River Valley Railway Company had three passenger cars on its line between Grand Junction and Fruita; that they operate seven trains in each direction daily; that their motive power is electricity; that their cars run through the main wholesale and retail business districts of Grand Junction; that the cars stop in front of the wholesale establishments and take on and discharge both baggage and freight for Fruita. This line also runs within one and one half blocks of the business district of Fruita and furnishes the American Railway Express facilities for carrying on their express business between the two terminals and all intermediate points, the front end of the passenger cars being fitted up with spaces for packages, baggage and freight. In addition to the facilities enumerated, this line has a motor locomotive and fourteen cars which are used in freight service between the points named.

The evidence adduced shows that the Denver & Rio Grande Railway operates several passenger and freight trains daily between Fruita and Grand Junction, carrying passengers, miscellaneous freight and express.

The testimony disclosed that said Garing has been in the freight business for the past few months and that he hauls practically the same class of commodities hauled by the railroads and that he does not haul freight of any character that can not be transported just as well by the railway facilities already provided.

It was shown that the Grand River Valley Railway Company has an aggregate investment of about one million dollars. They have operated about eleven years and their reports filed with this Commission shows that they have for years been doing a profitless business and up to the time of the advent of the Garing competition no complaints whatsoever had ever been made as to the adequacy of the service of the traction company.

To the casual observer, the addition of one freight auto truck would seem so infinitesimally small as to be of no great importance, still the evidence shows that this respondent, with an investment of $1,000,000.00, and now doing an unprofitable business would be subject to an actual financial loss if applicant were granted a certificate to operate.

Keeping in view the large investment of capital in a substantial and permanent railway and having a purpose single to the best interests of both the

investors and the welfare of the people of the Grand Valley, this Commission believes that it would be unwise and a retroversion to concur in the request of the applicant for a Certificate of Convenience and Necessity.

This Commission feels that the territory between Fruita and Grand Junction is more adequately served now by its two railway lines than many more populous sections of the country and that to grant the certificate asked for would surely jeopardize the existence of the electric railway and might possibly do great and irreparable damage to a splendid territory and populous district with but very little if any compensatory advantage to the people served.

In view of all the facts presented, this Commission is fully convinced that not only Grand Junction and Fruita, but intermediate points as well are adequately provided for the movement of freight and the allowance of further competition might result in the abandonment of the splendid facilities now enjoyed for not only freight movement but passenger service as well.

O R D E R

IT IS THEREFORE ORDERED, That Public Convenience and Necessity does not require the operation of an auto truck freight line between Grand Junction and Fruita, Colorado.

IT IS THEREFORE ORDERED, THAT a Certificate of Convenience and Necessity be, and the same is hereby denied, to Albert L. Gering for the operation of a motor freight line between Grand Junction and Fruita, Colorado.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(SEAL)

GRANT B. HALDERMAN

A. P. ANDERSON

Dated at Denver, Colorado, this
19th day of April, A.D., 1921.

F. P. LANNON
Commissioners

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

Decision No. 437

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The National Fuel Company, a Corporation,

Plaintiff

v.

The Colorado and Southern Railway Company, a Corporation,

Defendant.

CASE NO. 59

April 20, 1921

ORDER OF DISMISSAL

By the Commission:

By stipulation filed in the above entitled cause April 16, 1921, signed by Ralph W. Hartsell, Attorney for National Fuel Company, and R. E. Whitted, Attorney for Colorado and Southern Railway Company, it is stipulated and agreed that the above cause may be dismissed, each party to pay its own costs, all matters and things involved therein having been settled and disposed of.

ORDER

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT M. HAILEMAN

SEAL

A. P. ANDERSON

F. F. LANNON
Commissioners.

Dated at Denver, Colorado,
this 20th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

Decision No. 438

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

The Western Pottery Manufacturing Company, a Corporation, Complainant, v. The Colorado and Southern Railway Company, Defendant.	CASE NO 77

April 20, 1921

ORDER OF DISMISSAL

By the Commission:

There was filed on April 15, 1921, a stipulation by Ralph Marshall and W. R. Eaton, Attorneys for complainant, and E. E. Whitted, Attorney for defendant, that the above entitled cause be dismissed with prejudice, all matters and things involved therein having been compromised, adjusted and finally settled.

ORDER

IT IS THEREFORE ORDERED, That the above entitled cause be, and the same is, hereby dismissed, with prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT H. HALDERMAN

SEAL

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 20th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

 Decision No. 439

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

American Smelting and Refining Company,
Complainant,
v. CASE NO. 81.
The Colorado and Southern Railway Company,
Defendant.

April 20, 1921

ORDER OF DISMISSAL

By the Commission:

The parties to the above entitled cause have filed a stipulation under date of April 16, 1921, by Dubbs and Vidal, Attorneys for complainant and H. B. Whitted, Attorney for defendant, whereby it is agreed that the above entitled cause may be dismissed and that settlement of the matters involved therein have been made upon the basis approved by this Commission on July 2, 1920.

ORDER

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT B. HAIDEMAN

A. P. ANDERSON

SEAL

F. P. LANNON.
Commissioners.

Dated at Denver, Colorado,
this 20th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 440)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of the Application of The Hair and Ballie Transportation Company for a Certificate of Public Convenience and Necessity to Operate a Freight and Passenger Service by Automobile, Between Walden, Northgate and a Point in Colorado, on Road to Wyocolo, Wyoming.

APPLICATION NO. 97.

April 21, 1921.

Appearance for Applicant: James W. Kelley.

S T A T E M E N T

By the Commission:

July 1st, 1920, this Commission received from the Hair and Ballie Transportation Company, an application for a Certificate of Public Convenience and Necessity for the operation of an automobile transportation line between Walden, Northgate and a point near Wyocolo, on the border between Colorado and Wyoming.

This matter was set down for hearing, and was heard at the hearing room of this Commission at the State Capitol Building at 2:00 o'clock P. M., Thursday, March 24th, 1921.

The testimony showed that the applicant had resided in the locality of the proposed operations for fifteen years; that a stage line operated along this line before the advent of the Laramie, Hahn's Peak and Pacific Railway, (now called the Colorado, Wyoming and Eastern Railway) was built, and that the stage line is still operating; that the steam road operates a combination tri-weekly service consisting of one passenger coach and freight cars.

The testimony shows that applicant has two "Reo Speed Wagons" of one and one quarter tons, and a capacity of ten passengers each, and proposes to run a daily service between Laramie and Wyocolo, Wyoming and Northgate and Walden, Jackson County, Colorado, during the spring, summer and fall months of each year.

The principal business during the summer and fall months is the hauling in and out of the North Park, of men employed in the harvesting of the hay crop of the district and a few tourists, together with small packages and green fruits and vegetables. The evidence as to volume of passenger business shows there were about fifteen hundred people who paid fares to this automobile line during the season of 1920.

The notice of this hearing was filed with the Colorado, Wyoming and Eastern Railway Company and they neither put in an appearance or filed any objections to applicant's application.

O R D E R

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity requires and will require the operation of an automobile bus line for the carrying of passengers, light packages, green fruits and vegetables between Walden and Northgate in Jackson County, Colorado, and a point on the main highway on the northern line of Colorado near Wyocola, Wyoming.

IT IS FURTHER ORDERED, That a certificate be allowed over and along the route and for the purposes indicated, to the Hair and Ballie Transportation Company and this shall be deemed a certificate therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Frank E. Gardiner

A C Anderson

Dated at Denver, Colorado,
this 21st day of April, 1921.

Commissioners.

(Decision No. 441)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the matter of the Application of John T. Donovan, C. L. Perry, Geo. H. Swerer, E. L. Williams, and F. W. Swerer, a co-partnership doing business under the firm name and style of The Paradox Land and Transport Company, for a certificate of Necessity and Public Convenience.

Application No. 125.

Order.

(April 23, 1921)

Appearances: H. A. Lindsley and George H. Swerer, for applicant; E. E. Whitted and J. L. Rice for The Colorado & Southern Railway Company and Chicago, Burlington & Quincy Railroad Company.

STATEMENT

By the Commission:

On February 16, 1921, application was filed by the above named applicants as co-partners under the firm name and style of The Paradox Land and Transport Company for a certificate of public convenience and necessity for the operation of an auto bus for the transportation of passengers between Denver and Fort Collins over the main traveled highway between said cities, passing through Broomfield, Lafayette, Longmont, Berthoud and Loveland into Fort Collins.

Applicants propose to operate an auto bus to accomodate 15 passengers, comfortably, and heated and lighted when necessary, twice each day between Denver and Fort Collins, of the latest approved type adapted to such service.

Notice of the filing of said application was given to the railway carriers operating in the territory effected, with the result that the Union Pacific Railroad filed a motion objection and answer on March 5, 1921, and The Colorado & Southern Railway and the Chicago, Burlington & Quincy Railroad filed objection and answer to said application on March 1, 1921. Thereafter, the Commission set the matter for hearing at its hearing room, Capitol Building, Denver, Colorado, for 10:00 o'clock A. M., Wednesday, March 23, 1921, at which hearing some testimony was taken and, upon request, the hearing was continued for one week and until March 30, 1921.

The issues involved are quite simple, it being alleged on the part of applicants that the public convenience and necessity require and will require the inauguration of an auto bus passenger line between said cities and towns, while the railway carriers objectthereto upon several grounds, the principal one being that the public convenience and necessity does not require any additional facilities between said cities or towns than they now enjoy by means of passenger trains operated by the railway carriers.

On behalf of applicants, there was introduced in evidence its schedule of fares and that of the railway carriers between said cities and towns, whereby it appears that but little difference in fares is charged; in some instances it being a little less by railway and in others a little less by the proposed auto bus line. The applicant also submitted the proposed schedule of busses showing a service by auto bus northbound leaving Denver at 9:30 o'clock in the morning to arrive at Fort Collins 12:45 o'clock P. M., and leaving Denver at 4:00 o'clock in the afternoon to arrive at Fort Collins at 7:15 o'clock P. M; southbound service proposed leaving Fort

Collins at 9:30 o'clock A. M. to arrive at Denver at 12:45 P. M. and leaving Fort Collins at 4:30 P. M. to arrive at Denver at 7:45 P. M.

The railway carriers submitted evidence showing that the passenger service over The Colorado & Southern Railway between Denver and Fort Collins, as at present, leaves Denver at 8:00 o'clock A. M., 2:30 and 6:00 o'clock P. M. arriving at Fort Collins 11:00 A. M., 5:42 and 8:47 o'clock P. M; over the Union Pacific Railroad leaving Denver at 8:00 o'clock A. M. and 4:30 P. M. arriving at Fort Collins 10:25 A. M. and 6:45 P. M. Southbound The Colorado & Southern Railway trains leave Fort Collins at 7:10 and 8:40 A. M. and 3:20 P. M. and arrive at Denver 10:15 and 11:30 A. M. and 6:30 P. M; Union Pacific leaves Fort Collins at 7:45 A. M. and 2:35 P. M. arriving at Denver at 10:00 A. M. and 5:00 P. M. The Burlington service effects none of the towns involved except Lafayette and Longmont while Union Pacific service effects no towns outside of Denver but Fort Collins of those proposed to be served by the auto bus line.

From this statement of existing train schedules and the proposed auto bus schedule, it will be seen that the auto bus line proposes to leave Denver northbound twice daily, at 9:30 o'clock in the morning, an hour and thirty minutes later than the Colorado & Southern Railway, and at 4:00 o'clock in the afternoon, an hour and thirty minutes later than the Colorado & Southern, to arrive at the cities and towns effected at such times as approximately to be midway between arrivals and departures of the Colorado & Southern trains; and the same is true of the auto bus schedule southbound.

Much of the matter injected into the hearing by the testimony had to do with matters entirely foreign to the

issue, such as the objection of the carriers that the auto bus line was a detriment to the highway, paid but little if any taxes, and would quite often not be able to operate during stormy weather, all of which are not involved in applications of this character.

The sole issue as the Commission understands the law is, whether public convenience and necessity requires and will require the operation of the proposed auto bus passenger line. Whether or not the auto bus line can be operated at profit is not involved, that being the risk undertaken by the applicant; whether or not the railway carriers will be effected is not involved except as to whether the public convenience and necessity is adequately served by the existing means of transportation.

At the conclusion of the hearing, time was given for the filing of briefs, with the result that the Colorado & Southern Railway and the Chicago, Burlington & Quincy Railroad filed an exhaustive brief in support of their position that no sufficient showing was made by applicant to warrant the issuance of the certificate applied for. Applicant in its reply brief urgently insists that public convenience and necessity requires an additional means of transportation between the towns and cities effected and largely because of the fact that the service afforded by the present railway carriers to passengers to the cities and towns named is a morning and afternoon service in either direction, by the Colorado & Southern Railway, the principal rail carrier, one train in the forenoon out of Denver serving the communities named, while two trains in the afternoon at 2:30 and 6:00 P. M. are operated; southbound two trains leave Fort Collins in the morning and one in the afternoon. The result is the passen-

ger who is not destined for Denver, and desires to travel from one town to another is not able to leave without a long period of waiting and it is contended by applicant that the bus line proposed will afford such traffic a convenient and necessary method of traveling without such long delay.

The carriers insist that if the rail service being operated does not suit the public convenience, then the trains may be "scattered" through the day. One train operated by the Colorado & Southern is an interstate train, so that its schedule is determined for other than local travel. A carrier operates its service according to its best judgment, but the regulatory authority may order additional service to meet the reasonable requirements of the public, if the schedule of trains as operated fails so to do.

The Public Utilities Act of this state is rather obscure concerning what condition is necessary to be shown to exist to entitle an applicant to a certificate of public convenience and necessity, and the instant case is the first time that the railway carriers have opposed the issuance of such certificate to an applicant for the transportation of either passengers or freight, and a number of such certificates have heretofore been granted by this Commission.

In Application No. 62, decided January 17, 1920, the Overland Motor Express Company applied for a certificate of public convenience and necessity for the transportation of freight by auto truck between Denver and Boulder. This application was resisted by an existing auto freight truck carrier who had theretofore been granted a certificate, but no railway carrier made objection or appeared in opposition to such application. In the course of that decision, this Commission undertook to construe the legislative meaning of the phrase "public convenience and necessity" as used in the

Public Utilities Act, and based largely upon the interpretation of the New York Act by the New York Public Service Commission in re Troy Auto Car Company, Inc., 1917-A, P.U.R. 700-707, wherein it was held that the words "convenience and necessity" could not be split in two; that a thing necessary would always be convenient and that to show a strict necessity was not required. In other words "convenience" and "necessity" must be construed together to mean such a state of facts exists as show a reasonable necessity to meet a convenience of the public. As stated in the New York case, supra, "taking the phrase 'convenience and necessity' as an entity, it does not mean to require a physical necessity or an indispensable thing."

Re Overland Motor Express Co. 1920-B, P.U.R. 551.

So, in the instant case, it does not require that applicant shall show such a condition to exist as is indispensable to the necessity of the public, but merely that a reasonable necessity exists as will add to the convenience of the public; which can not be disputed under the evidence in this case. A traveler between Longmont and Loveland, for example, northbound may travel by existing passenger trains but once in the forenoon and twice in the late afternoon, while southbound he may travel twice in the early forenoon and but once in the late afternoon. With the establishment of the auto bus line, such traveler would be enabled to travel between Longmont and Loveland about noon northbound and in mid-forenoon southbound while the afternoon service would give such traveler the privilege of traveling north and southbound between said cities in the late afternoon.

The Commission concludes, therefore, that a sufficient showing has been made by applicant to justify the issuance of the certificate applied for, it having exhibited and

filed with the Commission a showing by the respective towns and cities through which it proposes to operate, that no license fees are required for the operation of such auto bus line.

O R D E R.

IT IS THEREFORE ORDERED, That the public convenience and necessity require, and will require, the operation of an auto bus passenger line upon substantially the schedule filed herein by The Paradox Land and Transport Company, applicant above named, between the cities of Denver and Fort Collins, Colorado, over the main highway and passing through the towns and cities of Broomfield, Lafayette, Longmont, Berthoud and Loveland, and that this statement and order shall be held and deemed 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 23rd day of April, 1921.

Dissenting opinion of Commissioner Lannon to majority decision No. 441.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

- - -

In the matter of the Application of John T. Donovan, C. L. Perry, Geo. H. Swerer, E. L. Williams, and F. W. Swerer, a co-partnership doing business under the firm name and style of The Paradox Land and Transport Company, for a certificate of Necessity and Public Convenience.	Application No. 125.

April 23, 1921

This is a case wherein the applicants asked in their original petition for a certificate of public convenience and necessity for the operation of an auto bus line between Denver, Fort Collins and intermediate points, for the hauling of freight, passengers and express. At the hearing, however, they dropped the matter of freight and express and confined themselves exclusively to that of hauling passengers.

The time table first presented by applicants was so nearly identical with that of the Union Pacific and Colorado and Southern that the whole scheme of the applicants showed conclusively that the proposed operation of the auto bus line was being launched under a subterfuge and was an attempt to secure a certificate for doing a transportation business with an eye single to their own interests, and not in any sense to serve as either a public convenience or a necessity. This is perfectly obvious when one takes into consideration the fact that the section of country in which this auto bus line proposes to operate is served by the Denver and Interurban Railroad between Denver and Broomfield, and likewise Lafayette by means of Colorado and Southern connections and from Denver to Fort Collins by the Colorado and Southern and the Union Pacific Railroads, the latter being considered one of the leading and best railroads of the United States. In addition to this, the Burlington also

serves Longmont and Lafayette with a train each way daily.

With the Denver and Interurban reaching Broomfield with an hourly service, the Union Pacific running two trains daily, one in the morning and one in the afternoon, in each direction between Denver and Fort Collins, with the Colorado and Southern running three trains each way, leaving Denver at 8:00 AM, 2:30 PM and 6:00 PM northbound, and departing from Fort Collins at 7:10 AM, 8:40 AM and 3:20 PM southbound, for Denver, and also with the Burlington leaving Denver at 2:45 PM for Lafayette and Longmont and arriving at Denver from these places at 11:15 AM, certainly with such a plethora of train service it would seem there could scarcely be an excuse, much less a need, for the proposed bus line.

Such service as the aforesaid is far more adequate than is furnished in many more populous sections of our country. If, perchance, the service furnished the section between Denver and Fort Collins is thought to be insufficient, the proper remedy is not to license another common carrier in the district and thereby deplete the vanishing revenues of the steam roads that are now operating at a loss. The legislature has very wisely provided for the production of efficient train service so that this Commission, if there is any dereliction in this respect, has ample power to compel the railways to modify their schedules to meet the needs of the public, as provided in the laws of Colorado relating to Public Utilities in the following section:

> Section 26. "Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that any railroad corporation or street railroad corporation, or person operating any such railroad or street railroad does not run a sufficient number of trains or cars, or does not possess or operate sufficient motive power, reasonably to accommodate the traffic, passenger or freight transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not stop the same at proper places or does not run any train or trains, car or cars, upon a reasonable time schedule for the run, the commission shall have the power to make an order directing any such railroad corporation or street railroad corporation to increase the number of its trains or of

> its cars or its motive power or to change the time of starting its train or car or to change the time schedule for the run of any train or car, or to change the stopping place or places thereof, or to make any other change the commission may determine to be reasonably necessary to accomodate and transport the traffic, passenger or freight, transported or offered for transportation."

It will be seen by Section 2 (e) of Chapter 134, revised laws of 1915, provides that certificates for automobile lines are only required where they come in competition with a railway line. To my mind, this means that the act contemplates the protection of the railways of Colorado against onslaughts on their business by either freight or passenger automobiles, in any case where the railway or railways are furnishing the public an adequate service and one that meets with the reasonable requirements for convenience and necessity of the people in the communities served.

The public utilities acts of the various states are the last word in the control of utilities, and were designed to prevent cut-throat competition. It also has a salutary effect, where enforced, in preventing large aggregations of capital from infringing upon or putting out of business weaker institutions that are giving effective public service. In fact, the law ignores the aphorisms that "might makes right" or"that competition is the life of trade," and proceeds on the theory that capital wisely and judiciously invested in a public utility shall be protected by the public, by and for the uses of the public, not that it may be allowed rates so high as to work a hardship on the people, neither must they be so low as to not bring a fair return on the investment. To bring about such a state of affairs, our legislature enacted the public utilities act and wisely provided such safeguards as would have a tendency to invite capital to this much needed field, and while demanding reasonable rates for the public, at the same time threw a bulwark around the utility, thus preventing the wiping out of honest investments and injury to the public by undue competition, a thing that, in public service, leads only to chaos and destruction.

While the respondent railway companies have to pay large amounts for taxes upon their lines and equipment, which said taxes are used for general county and state purposes including the upkeep of many country schools that could not exist without the said railway taxes, they are also compelled to keep up their own rail highways at their own expense and at the same time contribute very largely through taxes paid to the construction and maintenance of county and state highways in all counties in which their lines are located. Where the railroads are giving adequate service, as they are in this case, to grant a certificate of public convenience and necessity to an auto bus line using the public highways paralleling the railways to which the auto line has not contributed to either the building or upkeep, is manifestly unfair to the railways. To give an auto bus line a certificate under such circumstances is compelling the railways to contribute funds to help build up and maintain highways for the benefit of their rivals in the transportation business.

Owing to the vast investment of capital by the respondents herein, and the fact of their prior entry into this field, and the great benefits these railroads have bestowed in helping to build up the commerce, industries and educational institutions along their lines, should at least entitle them to fair play and a modicum of justice instead of subjecting them to a loss of business without in any sense giving recompense therefor to the people served. With the side tracks of the various railroads in this state lined with thousands of idle cars the applicants herein can not even plead shortage of equipment, and with this alarming state of affairs confronting these respondents, to grant the certificate asked for is but to invite financial disaster to the railroads.

If the railroads are allowed to be broken down by allowing auto bus lines to invade their territories and skim off the cream of their business during the summer months, then it will be possible to put the railways out of business. This would be a calamity, as none of our light paved roads, much less the dirt roads, could withstand the haulage of even

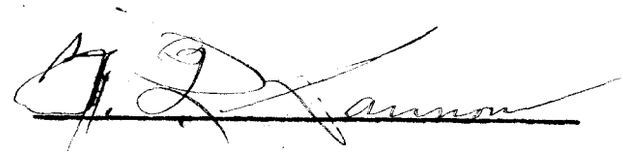
a small portion of one train load of heavy freight. The operation of just a few trucks, hauling three or four tons each, after a rain or snow storm would convert our boasted fine highways into ploughed fields, making their further use worthless for not only freight traffic, but impossible for all other vehicles.

To my mind, communities like those between Denver and Fort Collins, served by two splendid systems of steam railways and in part by two other systems, operating numerous trains each day in the year be the weather good or bad, rendering excellent and adequate service, should not be jeopardized by the issuance of a certificate to a more or less temporary concern that can cease operations during storms, or permanently, at any time they may see fit to move their equipment to other fields.

If this Commission is to use wisdom in administering its regulatory powers, this is a case where it should be done, and to my mind if the intent of the law is to be carried out, the request for the certificate asked should be denied.

If certificates asked for operation of auto bus passenger lines are to be granted where there are two or more railways affording frequent and adequate train service, then and in that case we are giving away the substance for the shadow and there is absolutely no use for the law in this respect. The law becomes impotent to function in the realm in which it was intended to operate, namely, to effectuate adequate public service by the elimination of ruinous competition. I am unable to see in this record any proof adduced by the applicants of any inadequacy in the present steam road service. On the other hand, it appears beyond question, it seems to me, that such service is not only adequate, but indeed excellent. I doubt if its equal can be found in the state.

For the aforesaid reasons, I most respectfully dissent from the majority opinion as expressed in this case.



Dated this 23rd day of April, 1921.

(Decision No. 442)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the matter of the application of)
The Silverton Northern Railroad) Application No. 122.
Company, for permission to dis-)
continue service temporarily.) Supplemental Order.

(April 23, 1921)

STATEMENT

By the Commission:

The applicant above named, The Silverton Northern Railroad Company, filed its supplemental application with the Commission, April 21, 1921, wherein it sought an order of the Commission permitting and allowing said railroad to discontinue operation thereof from May 1., 1921, until June 1, 1921.

Said supplemental application is duly verified and sets forth that the same conditions continue to exist as existed when the original application was made on January 8, 1921 for permission to discontinue operation of said railroad to and until May 1, 1921; and that no additional inconvenience will be suffered by persons dependent upon the operation of said railroad, were it allowed to discontinue operation for the additional thirty days.

With the application is filed a letter from The Sunnyside Mining & Milling Company of Eureka, Colorado, upon whose business this Silverton Northern Railroad Company in large measure depends, stating that it had no objection to the continuance of cessation of operation of said railroad to and

until June 1, 1921.

There appearing to the Commission to be no reasonable objection to the further discontinuance of operation of said railroad for the month of May, 1921, it is of the opinion that such a request should be granted.

O R D E R.

IT IS THEREFORE ORDERED, That applicant, The Silverton Northern Railroad Company be, and it is hereby, authorized and permitted to continue cessation of all service over and upon the said line of railroad, from May 1, 1921 until June 1, 1921, for the reasons given in the original order herein, dated February 3, 1921, and in the supplemental application herein, filed April 21, 1921.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

(S E A L)

A. P. ANDERSON

F. P. LANNON

Commissioners

Dated at Denver, Colorado,
this 23rd day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY
Secretary.

(Decision No. 443)

INVESTIGATION AND SUSPENSION DOCKET NO. 55.

In Re Advance in Minimum Charge on Carload Shipments Sugar Beets on The Atchison, Topeka & Santa Fe Railway.

(April 26, 1921)

By the Commission:

This investigation involves the reasonableness of a proposed increase in minimum charge on carload shipments sugar beets published in schedules issued by The Atchison, Topeka & Santa Fe Railway Company.

The tariff under investigation in this proceeding was filed by respondent to become effective January 15, 1921, but the effective date was suspended by the Commission until May 15, 1921.

On April 25, 1921, respondent filed with the Commission a schedule withdrawing and cancelling the proposed increases effective April 27, 1921. Accordingly, an appropriate order will be entered.

O R D E R.

IT APPEARING, That by order dated December 13, 1920, the Commission entered upon an investigation concerning the propriety of the increases and the lawfulness of the regulations and practices stated in schedules enumerated and described as Supplement 1 to the Atchison, Topeka & Santa Fe Railway Tariff, Colo. P.U.C. No. 858, and ordered that the operation of said schedules be suspended until May 15, 1921; and,

IT FURTHER APPEARING, That respondent has withdrawn and cancelled the proposed increases;

IT IS THEREFORE ORDERED, That this proceeding be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(S E A L)

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 26th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY.
Secretary.

COPY (Decision No. 444)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - -

In re Train Service between Denver, Eastonville and Falcon, Colorado, on Application of the Colorado and Southern Railway Company, Petitioners.	CASE NO. 129 Supplemental Order CASE NO. 252

April 27, 1921

Appearances: J. Q. Dier, for the Colorado and Southern Railway Company; Harry C. Riddle, for Citizens of Elizabeth and Falcon.

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STATEMENT

By the Commission:

On May 25, 1917, the petitioner herein filed an application for authority to discontinue passenger trains Nos. 39 and 40 operating between Denver and Eastonville, Colorado, effective June 3, 1917. By the terms of an order of this Commission entered June 18, 1917, the petitioner's petition herein was denied, and they were required to maintain the operation of its said passenger trains Nos. 39 and 40 between Denver and Eastonville.

The applicant company again appeared before this Commission December 5, 1919, and prayed for a discontinuance of trains Nos. 39 and 40, alleging the reason therefor to be on account of coal shortage. In conformance with this plea, this Commission, under date of December 8, 1919, allowed the said discontinuance only until the emergency which caused this order had ceased. December 18, 1919, the emergency for discontinuance having passed, this Commission rescinded its order of December 8, 1919, and ordered the immediate restoration of trains 39 and 40.

The petitioner's petition presented in reopening this case was filed March 15, 1921, and this Commission assigned said case for hearing for Wednesday, April 6, 1921, which said hearing was thereafter continued until Thursday, April 14, 1921, at 10:00 o'clock AM; applicants asked for a discontinuance of its daily passenger trains Nos. 39 and 40. They also asked that they be allowed to put in a mixed daily service, except Sunday, to leave Falcon with train No. 17 and 6:00 o'clock AM, arriving at Denver at 10:00 o'clock AM; returning, leave Denver with train No. 18 at 5:00 o'clock PM, arriving at Falcon at 7:35 PM.

The evidence submitted to this Commission shows that there was a deficit on this branch for the year ended December 31, 1920, of $303,540.25. It was also shown that by taking off trains Nos. 39 and 40 and substituting therefor trains Nos. 17 and 18, that this road would make approximately a saving of $5,600.00 a month as follows: Engine house expenses, repairs of locomotives and the like $1892.94; locomotive fuel $1241.63; locomotive supplies $43.41; wages saved $266.82; repairs to cars, train service supplies and other items $214.66, making a total of $3,656.56, or a net saving for one year of $43,902.72.

The testimony also showed that by taking off trains 39 and 40, and operating with a mixed train in each direction each day would not, in this case, even make the operation profitable.

One of the witnesses in this case who had a great many years of railroad experience testified that he did not know of any place where double daily train service was maintained serving a territory like that served by the Denver-Falcon line of the Colorado and Southern with its light density of traffic, and that there were many cases where one train per day carried passengers and freight where the traffic is many times as great as that of the Denver-Falcon line.

O R D E R

IT IS THEREFORE ORDERED, That effective May 1, 1921, the petitioner, the Colorado and Southern Railway Company, be, and it is, hereby permitted

and allowed to discontinue passenger trains Nos. 39 and 40 between Denver and Falcon until the further order of the Commission.

IT IS FURTHER ORDERED, That the applicant, the Colorado and Southern Railway Company, be, and it is, hereby directed to substitute therefor trains 17 and 18 as requested and to give good, efficient and prompt service with its said trains Nos. 17 and 18, and that they maintain a regular service in all cases excepting where an emergency exists.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT H. HALLENBAN

SEAL

A. P. ANDERSON

F. P. LARMON

Commissioners.

Dated at Denver, Colorado,
this 27th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

COPY

(Decision No. 446)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In re Application of The Colorado and Southern Railway Company to close the Agency Station at Black Hawk.	)	CASE NO. 230

APRIL 29, 1921

Appearances: E. E. Whitted, J. Q. Dier and J. E. Buckingham, Assistant General Freight and Passenger Agent, for the applicant; James N. Seright, for protestants.

STATEMENT

By the Commission:

On March 14, 1921, in accordance with General Order No. 7, there was filed with the Commission a notice of the Colorado and Southern Railway Company that, effective March 25, 1921, the said railway company would discontinue the agency at Black Hawk station on the Clear Creek Division, assigning as a reason therefor "the revenue does not warrant the expense of maintaining an agent at this point." It also alleged that the business can be properly taken care of at Central City. Notices were posted by the Company at the Black Hawk station, of the proposed closing of said station.

Protests were filed by the City Council and Mayor of Black Hawk, and the Gilpin County Metal Mining Association, on November 17, 1921. After the filing of said protests the Commission placed the same on its formal docket and set the hearing of the case for April 11, 1921, at its hearing room and notified all interested parties of the hearing. The company was, also notified to make no change with

reference to the agency until the matter was heard and an order issued.

At the hearing on April 11, the testimony of witnesses for the applicant disclosed that the reason why the company desires to obtain the permission of the Commission for closing the Black Hawk station was on account of the continued falling off of the traffic into and out of Black Hawk station, which has shown a varying amount of loss of business for a number of years, and which condition does not justify the further expense of maintaining the agency; that for years this has not been needed for the proper conduct of the business. It is also necessary to consolidate the work of the Black Hawk station with Central City, but the volume of business does not more than justify the maintenance of more than one consolidated office at Central City, and that all of the business can be done there. It is proposed to make Black Hawk a non-agency station; that the distance between Black Hawk and Central City is approximately four miles by railway; that the distance by wagon road is approximately one mile; that the difference in altitude between Black Hawk and Central City is approximately 500 feet; that there is a wagon road between the towns in fairly good condition; that the population of Black Hawk in the immediate city is approximately 125; that the immediate population in Central City is approximately 225; that the station at Black Hawk has been maintained for approximately 35 years and about the same time at Central City; that the business has gradually fallen off until at the present time the net revenue for that station averages about $1200.00 per month; that the amount of business at Central City is approximately the same; that during the month of February, 1921, the shipments of ore from both stations averaged about four carloads, the lowest in their history; that metal mining is the principal industry at these stations and that in years gone by, upwards of 300 carloads a month were shipped from one station alone; that the expense of maintaining

the Black Hawk station is approximately $275.00 per month; that the prospect of business in the near future in tonnage coming to its trains in that territory is not encouraging; that although there is no application to discontinue the agency station at Central City, it would be better to close the Black Hawk station rather than Central City on account of the maintenance of train service, Central City being the end of the line.

It was further disclosed by the evidence that the towns of Apex, Hughesville and other communities were closely connected with Black Hawk station, and that there are farmers and others who live within a radius of five or six miles of this station; the station of Black Hawk does the most business for the reason that shippers in Central City go to Black Hawk to transact their business, going down hill; that if the agency was discontinued, Black Hawk would be handled as a non-agency station, freight and express coming in prepaid, and arrangements made with the conductor to pick up freight when the train comes. It would be necessary to make arrangements to pay at Central City or have shipments prepaid from Black Hawk. Witnesses submitted testimony that to not consider the business at Central City from an operating standpoint, it might be better to close the station at Central City rather than Black Hawk. No application, however, is made in this action for closing the Central City station.

The evidence on the part of the protestants discloses that Black Hawk is the largest shipping point in Gilpin County.

From a careful consideration of the testimony, the Commission finds that Black Hawk is the largest station in point of earnings on the applicant's line in Gilpin County; that its earnings at the present time are approximately $1200.00 per month; that the cost to applicant of maintaining this station is approximately $275.00 per month; that it is the principal point from which ore is shipped; that Black Hawk is

approximately four miles by rail from Central City, the county seat of Gilpin County; that by wagon road the distance is approximately one mile, but that the elevation of Central City above Black Hawk is approximately 500 feet; that if the agency station at Black Hawk were closed it would cause a considerable inconvenience to the patrons who have for the past 35 years or more enjoyed these conveniences; that the evidence of earnings and expenses in this case is confined to the Black Hawk station; that considering the earnings of the station and the expense of operation, together with the inconvenience to the patrons, permission to discontinue should be denied. The Commission has heretofore, in other applications of this character, denied permission for discontinuance when the inconvenience resulting would be less, and the net earnings of the company in that particular case would be less.

This is a critical time in the history of mining in this part, as well as all other parts, of the state. The high cost of material and labor and the high cost of freight rates has caused a condition which is reflected in mining operations in this state, until mining is at its lowest ebb. At the present time, from the evidence of protestants, there is a tendency on account of the lowering of prices toward increasing activities. Should these activities continue to increase, the earnings of the road will increase. If not, it is probable that many changes in the operation of railroads will be necessary, but at this time when the life of mining is hanging in the balance, it seems that nothing should be done to precipitate a worse condition. It is claimed by protestants that at this time the development of various mining properties is awaiting the determination of many questions, including applications for curtailment of service and lower freight rates.

ORDER

IT IS THEREFORE ORDERED, That the permission of this Commission to the Colorado and Southern Railway Company to discontinue the agency station at Black Hawk be, and it is, hereby denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 29th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY,

Secretary.

(Decision No. 447)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the matter of the Application of the Board of County Commissioners of Adams County for the establishment of a public highway crossing at grade over the main line track of the Union Pacific Railroad on the line between Sections 12 and 13, T. 2 S., R. 68 W., Adams County, Colorado.) Application No. 112.

(April 29, 1921)

Appearances: J. Paul Hill, Brighton, Colorado, County Attorney of Adams County for applicants; Edward G. Knowles, Denver, Colorado, Attorney, Union Pacific Railroad for respondent.

STATEMENT

By the Commission:

On September 30th, 1920, application was made by the Board of County Commissioners for the opening of a public highway crossing at grade over the main line track of the Union Pacific Railroad on the section line between sections 12 and 13, township 2 south, range 68 west, near Gallup Siding in Adams County, Colorado. The application states that this crossing is necessary for the convenience of the traveling public, and especially to the farmers, as there are several hundred tons of beets to be hauled across the railroad at the above designated point to be delivered to the beet dump at Gallup Siding.

Notice of said application was served upon the Union Pacific Railroad and on October 22nd, 1920, the railroad filed its answer, wherein it stated that the railroad

had no objection to the proposed crossing, provided the entire expense of the construction of said crossing is borne by Adams County. To this, the Board of County Commissioners of Adams County did not agree.

On January 7th, 1921, an inspection was made of this crossing by the railway engineer for the Commission, and in his report, made January 11th, 1921, he states that "this crossing is a necessity and should be declared a public crossing. The view of approaching trains is good in all directions." He furthermore says: "This is, however, a case of where a public highway has been practically established without an order from this Commission. At the time of my visit to this place, the grading had been done, the gates removed, and to all purposes it is already being used as a public highway."

The above matter was set down for hearing by the Commission for Monday, March 21, 1921, at 10:00 o'clock A. M., at Denver, Colorado, and was heard on that day at the Hearing Room of the Commission in the Capitol Building, all parties to the proceeding having been given notice of the time and place of hearing.

The issue involved as to the necessity and convenience of the crossing being a just and reasonable requirement is very simple. The fact, however, of this crossing being practically constructed and opened to public travel, contrary to the Commission's General Order No. 29, is quite embarrassing and so complicates matters that it is difficult for the Commission to enter an order, insofar as it may apply to the division of the expense of work performed and paid for.

The testimony for the applicants by County Commissioner Oleson was to the effect that this was a case of making a private crossing a public crossing. That the urgent

necessity of the crossing was created on the installation of a beet dump at Gallup last fall. That parties living west of the railroad must use this crossing in order to deliver their beets.

The report of the railway engineer of the Commission, which was confirmed by the engineer of the railroad, sustains the testimony of the County Commissioners as to the necessity of this crossing. In fact, the testimony of both the county and railroad was to the effect that if an error had been made in regard to the opening of the crossing prior to the issuance of an order by this Commission, it was due to the urgent necessity of this crossing during the beet campaign last fall.

The Commission hesitates to think that either the railroad or the county officials would intentionally violate the law or any of the General Orders of this Commission. It seems, however, in this case the proper procedure has not been followed. Inasmuch as the railroad has control over its own property, the fences could not have been removed, making this a public highway crossing without at least tentative consent of the railroad officials in charge.

The testimony is not clear as to who actually did the grading or as to whether or not the cattle guards, etc. had been installed at the time of the hearing. The Commission considers that whatever work was done on the construction, prior to the date of the hearing, was voluntarily done whether by the railroad, county or beet company, and that the party doing this work should themselves bear the expense already incurred. The Commission is also of the opinion that any future expense necessary to change this crossing from a private crossing to a public highway crossing and to make it conform to specifications provided for in the Commission's

order In re Improvement of Grade Crossings in Colorado, 2 Colo. P.U.C 128, should be borne by the Union Pacific Railroad Company.

The Commission will, therefore enter an order that the private crossing on the line between sections 12 and 13, township 2 south, range 68 west, be made a public crossing and that any expense necessary, from and after this date, to make the change or to make it conform to standard as prescribed by this Commission shall be borne by said Union Pacific Railroad Company.

O R D E R.

IT IS, THEREFORE, ORDERED, That the private crossing over the main line track of the Union Pacific Railroad, on the line between sections 12 and 13, township 2 south, range 68 west, be made a public highway crossing.

IT IS FURTHER ORDERED, That any and all expense, from and after the date of this order, necessary to change this crossing from a private crossing to a public highway crossing and to make it conform to specifications, provided for in the Commission's Order In re Improvement of Grade Crossings in Colorado, 2 Colo. P.U.C. 128, shall be borne by said Union Pacific Railroad Company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

(S E A L)

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 29th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 448)

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, for a Road Crossing over the U.P. Railroad Tracks on South Side of Section 32, T. 5. 4, North of Range 66 W. of the 6th P. M., Weld County, Colorado.

APPLICATION NO. 84.

April 20, 1921

Appearances: Ira L. Sikes, Deputy County Clerk for Petitioners; Edward G. Knowles, Attorney for Union Pacific Railroad Company.

STATEMENT

By the Commission:

This application was set down for hearing and was heard before the Commission at the State Capitol Building, at Denver, Colorado, Tuesday, March 22nd, 1921, at 10 A. M.

On May 7th, 1920, the Board of County Commissioners of Weld County filed its application for construction of a crossing over the Union Pacific Railroad tracks on the south side of section 32, township 4, N. of R. 66 W, of the 6th P. M., Weld County, Colorado, where road 76A of Weld County intersects said railroad tracks, about one and one half miles south of Gilcrest.

May 18, 1920, the railroad asked for a continuance of twenty days. In the meantime the County Attorney and Board of County Commissioners of Weld County and the U . P. officials began negotiations and finally entered into a contract August 6, 1920, for the construction of the said crossing in violation of Section 20, of the Public Utilities Act, and General Order No. 28, issued by the Commission under authority of Section 20, without the knowledge or consent of this Commission.

In the matter of the installation of railway and highway crossings at grade or above or below grade, General Order No. 52 of this Commission, effective July 24, 1917, is as follows:

> "Whereas, On the 16th day of April, 1917, Section 59 of the Public Utilities Act was amended, granting to the Public Utilities Commission the power to determine, order and prescribe in accordance with plans and specifications to be approved by it the just and reasonable manner including the particular point of crossing at which the tracks or other facilities of any public service company may be constructed across the tracks or other facilities of any other public service company at grade, or above or below grade, or at the same or different levels; or at which the tracks or other facilities of any railroad corporation or street railway corporation may be constructed across the tracks or other facilities of any other railroad corporation or street railway corporation or across any public highway at grade, or above or below grade; or at which any public highway may be constructed across the tracks or other facilities of any railroad corporation or street railway corporation at grade, or above or below grade; and to determine, order and prescribe the terms of installation and operation, maintenance and protection of all such crossings which may now or hereafter be constructed including the watchman thereat or the installation and regulation of lights, block, interlocking or other system of signalling, safety appliance devices or such other means or instrumentalities as may to the Commission appear reasonable and necessary, to the end, intent and purpose that accidents may be prevented and the safety of the public promoted; and
>
> Whereas, The amendment provides that the Commission after hearing shall have the power to order any crossing aforesaid now existing or hereafter constructed at grade or at the same or different levels to be re-located or altered or to be abolished according to plans and specifications to be approved and upon just and reasonable terms and conditions to be prescribed by the Commission, and to prescribe the terms upon which the separation should be made, and the proportion in which the expense of the alteration or abolition of the crossing, or the separation of the grade, shall be divided between the railroad or street railway corporation affected or between the corporation or corporations and the state, county, municipality or public authority in interest."

In addition to aforesaid, General Order No. 15 reads as follows:

> "No public highway shall be constructed across the tracks or other facilities of any railroad corporation or street railway corporation at grade, or above or below grade; until the plans and specifications therefor have been filed with this Commission and the written approval thereof obtained."

The legislature has vested in the Commission the authority to adequately protect all railway crossings at grade within the state of Colorado, and if necessary, to eliminate all grade crossings. The law and orders of this Commission provide that crossings may be installed on order of the Commission, after a hearing

only; that the railways shall file plans and specifications of crossings; that Commission shall divide expense between parties, and that they shall have power to compel the installing of audible and visual signals; defining the width and grade at crossings and generally to have the power to promote the safety, convenience and well being of the traveling public.

In this case, however, no notice was served on the Commission of the intent of either of the interested parties that they intended installing the crossing. The Union Pacific seems, in this case, to have been infused with the thought that if the county wanted a crossing and was willing to put up the expense of installation, they would not object. Grade crossings at best are dangerous and the legislature of Colorado has very wisely delegated and made it the duty of the Commission to see that life and property is safeguarded by preventing the construction of crossings that might be considered extra hazardous on account of cuts, curves, obstructions, etc.

The testimony presented by the deputy county clerk of Weld County shows that his county probably acted under a misapprehension of the laws regarding the construction of highway crossings and the authority of the Public Utilities Commission in such matters both as to installation and distribution of construction expense. For fences, wing fences, cattle guards, track and crossing signs, telegraph poles, raising telegraph wires, etc., Weld County paid the Union Pacific Company $486.92. In addition to aforesaid, the county also did, at its own expense, the grading which entailed a large expense, as it required an extensive fill. The written agreement under which this expense was incurred was executed August 6, 1920, and provided that the county should pay to the railroad company, the entire cost and expense incurred for all labor and material used in construction of said public road crossing and all expense subsequently incurred by the railroad company in connection with the maintenance, repair and renewal of said crossing.

While the construction of this crossing was entirely illegal and without the sanction of law, or authority of this Commission, it now looks upon it as a necessary public convenience. This is concurred in by Chas. D. Vail, the Commission's Railway and Hydraulic Engineer, who reported "that the view of approaching trains is good and from what I learned, there was a necessity of the crossing being opened."

ORDER

IT IS THEREFORE ORDERED, That the crossing over the Union Pacific Railroad track on south side of section 32, township 4, North of range 66 W, of the 6th P. M. be and the same is hereby approved and declared a public highway crossing.

IT IS FURTHER ORDERED, That the approval of the aforesaid crossing is to be in no wise considered or construed as this Commission giving assent or in any wise acknowledging in any way the provisions of the agreement entered into between the County Commissioners of Weld County and the Union Pacific Railroad Company, or in any of the irregular or illegal practices connected with this transaction by either the county or the railway company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(SEAL)

FRANK E. HALTERMAN,

A. P. ANDERSON,

E. P. LANDON,
Commissioners

Dated at Denver, Colorado,
this 30th day of April, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

(Decision No. 449)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - -

In re Proposed Increase in Power Rates of The Colorado Power Company

I. & S. DOCKET NO. 40.

ORDER

May 2, 1921.

STATEMENT

By the Commission:

A stipulation having been filed April 30, 1921, with the Commission in the above entitled matter, signed by the attorneys for the Colorado Power Company and by attorneys for protestants heretofore having appeared herein, that the order of the Commission heretofore entered setting the above proceeding for further hearing on May 9, 1921, may be vacated, and that the said matter be reset for further hearing on May 17, 1921, at 10:00 o'clock AM, at the hearing room of the Commission, Capitol Building, for the purpose only of the cross-examination of witness George H. Walbridge and redirect examination of said witness; and that upon the conclusion of such cross-examination and redirect examination of said witness Walbridge, the further hearing of said cause be continued until and resumed on May 25, 1921, at 10:00 o'clock in the forenoon at the place aforesaid.

ORDER

IT IS THEREFORE ORDERED, That the order heretofore entered continuing the hearing in said matter to and until May 9, 1921, be, and the same is, hereby vacated.

IT IS FURTHER ORDERED, That the hearing in said cause be, and the same is, hereby continued to May 17, 1921, at 10:00 o'clock AM at the hearing room of the Commission, Capitol Building, Denver, Colorado, for the purpose only of the cross-examination and redirect examination of the witness George H. Walbridge, heretofore testifying on behalf of said the Colorado Power Company.

IT IS FURTHER ORDERED, That upon conclusion of the cross-examination and redirect examination of said witness Walbridge that the further hearing of said cause shall be, and hereby is, continued to and until May 25, 1921, at 10:00 o'clock AM, at the hearing room of the Commission, when said hearing shall continue from day to day until concluded, unless it shall be mutually agreed upon between said Power Company and protestants to further continue the said hearing to a day certain.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

SEAL

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 2nd day of May, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

Secretary.

ORIGINAL

(Decision No. 450)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Application of W. A. Shideler and Son for a Certificate of Public Convenience and Necessity for the establishment of an automobile line as a Common Carrier between Fruita and Mack, Colorado.

APPLICATION NO. 123

(May 6, 1921)

Appearance: Lawrence A. Shideler, for the Applicants.

STATEMENT

By the Commission:

January 25, 1921, the petitioners filed their application for a Certificate of Public Convenience and Necessity to operate an auto stage line between Fruita and Mack, Colorado.

Hearing in the above entitled cause was held at Glenwood Springs, March 9, 1921.

The applicants are engaged in the garage business in Fruita and operating as an unincorporated company. They have an investment of $3,000.00 in two Studebaker, six cylinder, seven passenger autos. They have filed a rate of $1.00 each way for passengers, and in addition propose to carry parcels, satchels, grips and bundles.

The evidence showed that a considerable business is done by the people of Fruita with the various towns along the Uintah Railway; that the Uintah passenger train leaves Mack at 8:15 A. M. and arrives at Watson at 12:30 P. M.; leaves Watson at 12:30 P. M., arrives at Mack at 4:40 P. M.; that proposed stage is necessary because the Denver & Rio Grande train No. 1 leaves Grand Junction at 1:30 A. M. and does not stop at either Loma or Fruita and arrives at Mack at 2:04 A. M. more

than six hours before the leaving time of the Uintah train; that Rio Grande train No. 4 leaves Mack at 6:11 P. M., compelling passengers from the Uintah country for the east to wait one hour and thirty-one minutes, and much longer when eastbound train is late.

It was also shown that No. 1 Denver & Rio Grande train not stopping at Fruita, compels the citizens of this place to go to Grand Junction and spend the greater part of the night in order to take this train for Mack at 1:30 in the morning, which makes it unduly inconvenient and expensive.

In view of the inadequacy of the steam road to meet the demands of the traveling public between Fruita and Mack and from the fact that the Denver & Rio Grande did not offer any protest to this application, the Commission is of the opinion the prayer of the petition should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity requires and will require the operation of an automobile passenger bus line for the transportation of passengers, bundles, satchels and grips between Fruita and Mack, Colorado.

IT IS FURTHER ORDERED, That a Certificate of Public Convenience and Necessity be allowed for the operation of said auto bus line over and between Fruita and Mack, Colorado, to W. A. Shideler and Son for the purposes aforementioned, and this shall be deemed and be a certificate therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Grant E. Hall Emeritus
A. P. Anderson
H. D. Lamson
Commissioners.

Dated at Denver, Colorado, this
6th day of May, 1921.

(Decision No. 451)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Application of Jefferson County Power & Light Company, of Golden, Colorado, for Certificate of Public Convenience and Necessity.

APPLICATION NO. 132.

(May 7, 1921.)

Appearance: E. A. Phinney, for Applicant.

STATEMENT

By the Commission:

This application was filed with this Commission April 13, 1921, and was set down for hearing at the hearing room of the Commission in the State Capitol Building, Denver, Colorado, Friday, April 29th, and asked for a Certificate of Public Convenience and Necessity for the operation of an electric light and power plant and distribution system in the city of Golden under a franchise granted to them by the city council of Golden, Colorado, March 4th, 1921, and which said ordinance, together with their certificate of incorporation was filed with their said application.

The testimony showed that in addition to the city of Golden they serve the greater portion of Jefferson County west of the Denver County line, and extending south nearly to the Morrison road and north on the 44th Avenue Boulevard, exclusive of the territory served by the Arvada Electric Company. This system also extends north to the Golden Fire Brick Company's plant, on to Lookout Mountain and throughout the Mountain Parks system, exclusive of Evergreen.

The testimony shows the Jefferson County Power and

Light Company are wholesaling current to the Evergreen Utilities Company; that they were incorporated with a capital stock of $50,000.00, and that they now have invested in their plant between $65,000.00 and $75,000.00

ORDER.

IT IS THEREFORE ORDERED, That the present and future public convenience and necessity requires and will require the operation of The Jefferson County Power and Light Company in the city of Golden, Colorado, and also in the territory adjacent and now occupied by said applicant herein.

IT IS FURTHER ORDERED, That a certificate of Public Convenience and Necessity be, and is, hereby allowed for the operation and carrying on of the business of The Jefferson County Power and Light Company in the field in which they are now operating and this order shall be deemed a certificate therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT B. HALDERMAN

(S E A L)

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 7th day of May, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY
SECRETARY

(Decision No. 452)

INVESTIGATION AND SUSPENSION DOCKET NO. 58

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In re Advance in Minimum Charge on Carload Shipments Sugar Beets on Union Pacific Railroad.

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May 9, 1921

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By the Commission:

This investigation involves the reasonableness of a proposed increase in minimum charge on carload shipments sugar beets published in schedules issued by Union Pacific Railroad Company.

The tariff under investigation in this proceeding was filed by respondent to become effective April 20, 1921, but the effective date was suspended by the Commission until August 18, 1921.

On May 4, 1921, respondent filed with the Commission a schedule withdrawing and cancelling the proposed increases effective June 18, 1921. Accordingly, an appropriate order will be entered.

ORDER

IT APPEARING, That by order dated March 19, 1921, the Commission entered upon an investigation concerning the propriety of the increases and the lawfulness of the regulations and practices stated in schedules enumerated and described as Supplement 4 to Union Pacific Railroad Tariff, Colo. P.U.C. No. 129, Item No. 10-A, and ordered that the operation of said schedules be suspended until August 18, 1921; and,

IT FURTHER APPEARING, That respondent has withdrawn and cancelled the proposed increases:

IT IS THEREFORE ORDERED, That this proceeding be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT H. HALDEMAN

(S E A L)

A. P. ANDERSON

F. P. LANNON
Commissioners.

Dated at Denver, Colorado,
this 9th day of May, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. Lindsay
Secretary

(Decision No. 453)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Driscoll Coal & Wood Company, et al, Complainants,	
v.	CASE NO. 215.
The A. T. & S. F. Ry. Company, et al, Defendants.	

May 9, 1921

Order of Dismissal

By the Commission:

The complainants in the above entitled cause have filed through their Traffic Manager a request, dated April 30, 1921, that the above case be dismissed by reason of the fact that the carriers agreed to file with the Commission rates on coal which are agreeable to complainants. An exception is made that "Graybeal and Cline withdrew their complaint without prejudice for such individual action as they may take regarding the adjustment to what is called Minnequa, Colorado, and reparation during the period the higher rates were in effect."

The rates referred to in the preceding paragraph have been filed by the carriers to become effective May 6, 1921, and are, in cents per ton of 2000 pounds as follows:

	Slack or Run Coal	Coal, other than slack or Run
Canon City Group to Pueblo	115	175
" " " " Minnequa	127½	187½
Walsenburg " " Pueblo	127½	195

O R D E R

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

IT IS FURTHER ORDERED, That the dismissal of said cause be without prejudice as to complainants Graybeal and Cline regarding adjustment of rates to Minnequa, Colorado, and reparation claims while the higher rates were in effect.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDEMAN

A. P. ANDERSON

(S E A L)

F. P. LARSON

Commissioners.

Dated at Denver, Colorado,
this 9th day of May, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. Lindsay
Secretary.

(Decision No. 454)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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In the Matter of the Application of the Board of County Commissioners of Adams County for the establishment of a public highway crossing at grade over the main line track of the Union Pacific Railroad on the section line between Sections 55 and 56, T. 3 S., R. 66 W., in Adams County, Colorado.	Application No. 102.

(May 11, 1921)

Appearances: J. Paul Hill, Brighton, Colorado, County Attorney of Adams County for applicants; Edward G. Knowles, Denver, Colorado, Attorney, Union Pacific Railroad, for respondent.

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STATEMENT

By the Commission:

On July 19, 1920, application was made by the Board of County Commissioners of Adams County for the opening of a public highway crossing at grade over the main line track of the Union Pacific Railroad, on the section line between sections 55 and 56, township 3 south, range 66 west, a short distance west of Kess Siding, in Adams County, Colorado. The application states that there are no other crossings within a reasonable distance, and that with the increase of population in this locality, it is a hardship to make the long detours now necessary.

Service of said application was made upon the Union Pacific Railroad and on August 17, 1920, the railroad filed its answer, wherein it stated that the railroad had no objection to the proposed crossing, provided the entire expense of the construction of said crossing is borne by Adams County. To this, the Board of County Commissioners of Adams County did not agree.

The above matter was set down for hearing by the Commission for Monday, March 21, 1921, at 10:00 o'clock A. M., at Denver, Colorado, and was heard on that day in the hearing room of the Commission at the Capitol Building, all parties to the proceeding having been given notice of the time and place of the hearing.

The issue involved, as to the necessity and convenience of the crossing being a just and reasonable requirement, is very simple and is not disputed. Section 29 of the Public Utilities Act, as amended April 14, 1917, applicable to the crossing under consideration says:

> "The Commission shall have power to determine, order and prescribe in accordance with plans and specifications to be approved by it, the just and reasonable manner including the particular point of crossing---at which any public highway may be constructed across the tracks or other facilities of any railroad corporation---at grade---and to determine, order and prescribe the terms and conditions of installation, operation, maintenance and protection of all such crossings, which may now or hereafter be constructed, etc."

The authority to prescribe the terms and conditions of installation of the crossing, includes the right to apportion the cost of constructing the crossing.

The testimony of Messrs. Tiffany and Flanders, County Commissioners of Adams County, was to the effect that residents to the north and east of the point of the proposed crossing were now greatly inconvenienced, and were compelled to make long detours to reach the market with their products. That about 100 families would make use of the crossing if opened to public travel; that the proposed crossing is on a highway that is now open to travel for the entire width of the county, with the exception of this proposed crossing of the Union Pacific Railroad.

No testimony was introduced by the respondent railroad company other than a statement by its attorney, Mr. Edward G. Knowles, that: "We have no particular objection to the granting of this crossing, other than the objection that, if the county does not pay all expenses pertinent

to this crossing, we resist the granting of the same, on the policy the county is to pay for these crossings as heretofore."

The report and testimony of the railway engineer for the Commission showed that there was a crossing about two miles west of this proposed crossing, but that there was no crossing east of this point for several miles.

After viewing the site of this proposed crossing and considering the testimony in this case, the Commission is of the opinion that permission for a crossing at grade, over the main line track of the Union Pacific Railroad, on the section line between sections 35 and 36, township 3 south, range 66 west, should be granted, and upon the terms and conditions that all expense of grading of the approaches, including the necessary drainage therefor, be borne by Adams County, and that all other expense incident to the installing of said crossing be borne by the respondent Union Pacific Railroad.

ORDER

IT IS THEREFORE ORDERED, That a public highway at grade be constructed and installed over the main line track of the Union Pacific Railroad, on the section line between sections 35 and 36, township 3 south, range 66 west, in Adams County, Colorado, conditioned, however, that prior to the opening of said crossing to public travel, it shall be constructed in accordance with plans and specifications prescribed in the Commission's Order In Re Improvements of Grade Crossings in Colorado, 2 Colo. P.U.C. 126.

IT IS FURTHER ORDERED, That the expense of grading the highway at the crossing, including the necessary drainage therefor, be borne by Adams County, and that all other expense in the manner of installation and maintenance of said crossing, as herein provided, shall be borne by the respondent, Union Pacific Railroad Company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT. E. HALDERMAN

A. P. ANDERSON

F. P. LANNON

Commissioners

SEAL

Dated at Denver, Colorado,
this 11th day of May, 1921.

(Decision No. 455)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the matter of the Application of the Board of County Commissioners of Adams County for the establishment of a public highway crossing at grade over the main line track of the Union Pacific Railroad on the line between Sections 25 and 26, T. 3 S., R. 64 W., Adams County, Colorado.) Application No. 103.

(May 11, 1921)

Appearances: J. Paul Hill, Brighton, Colorado, County Attorney of Adams County for applicants; Edward G. Knowles, Denver, Colorado, Attorney for respondent, Union Pacific Railroad.

STATEMENT

By the Commission:

On July 19th, 1920, application was made by the Board of County Commissioners of Adams County for the opening of a public highway crossing at grade over the main line track of the Union Pacific Railroad on the section line between sections 25 and 26, township 3 south, range 64 west, a short distance east of Manilla Siding in Adams County, Colorado. The application states that there are no other crossings within a reasonable distance, and that the increase of population in this locality makes it a hardship to make the long detours now necessary.

Service of said application was made upon the Union Pacific Railroad and on August 17th, 1920, the railroad filed

its answer, wherein it stated that the railroad had no objection to the proposed crossing, provided the entire expense of the construction of said crossing is borne by Adams County. To this, the Board of County Commissioners of Adams County did not agree.

On January 6th, 1921, an inspection was made by the railway engineer for the Commission, and in his report made January 17th, 1921, he states that the crossing will be of special benefit to Messrs. McKenzie and Huhn who have recently expended considerable money on improvements lying just east and north of the proposed crossing. He further states; "In general, I do not favor the establishing of a grade crossing for one person or party. However, there are one or two other reasons for this crossing. In the first place, if the crossing is opened, parties living north and east of this point and west of Bennett can use the crossing for travel toward Denver, without going additional mileage, via Bennett. Furthermore, if an elevator is built at Manilla Siding, it will furnish access from the east for hauling grain, provided a road is permitted on the north side of the right-of-way through section 26, township 3 south, range 64 west." His report also states: "This crossing will be slightly in cut, and Mr. Huhn informed us that if necessary they would remove any hill so that the view of approaching trains would be unobstructed. With this objection removed and in view of all the facts above stated, I am of the opinion that permission for this grade crossing should be granted."

The above matter was set down for hearing by the Commission for Monday, March 21, 1921, at 10:00 o'clock A.M. at Denver, Colorado, and was heard on that day in the hearing room of the Commission at the Capitol Building, all parties

to the proceeding having been given notice of the time and place of hearing.

The issue involved as to the necessity and convenience to the public of the crossing being a just and reasonable requirement is very simple and is not disputed. The topography of the county at the site of the crossing is such that the Commission must prescribe the terms and conditions of installation as may appear to the Commission reasonable and necessary, to the end, intent and purpose that accidents may be prevented, and the safety of the public promoted.

No testimony was introduced by the respondent railroad, but a statement was made by its attorney that there was no objection on the part of the Union Pacific Railroad except as to the matter of expense as stated in their letter of August 17, 1920.

Mr. Tiffany, Chairman of the Board of County Commissioners testified that he did not think the county should bear all the expense of the crossing.

The Commission, after viewing the site and considering all the testimony is of the opinion that an order should be entered, establishing the crossing asked for in Application No. 103 under certain terms and conditions as will be stated in the order.

O R D E R.

IT IS THEREFORE ORDERED, That a public highway crossing at grade be constructed, and installed over the main line of the Union Pacific Railroad on the section line between sections 25 and 26, township 3 south, range 64 west, in Adams County, Colorado; conditioned, however, that prior to the

opening of said crossing, sufficient grading must be done on the hill, to the east thereof, so that the view of approaching trains will be unobstructed. It is understood that this grading will be done by Messrs. McKenzie and Huhn, under the supervision of the Union Pacific Railroad and to the satisfaction of the railway engineer of this Commission. It is further conditioned, that all expense of grading, including the necessary drainage for the highway, be borne by Adams County, and that the grading will be done prior to the opening of said crossing to public travel, and in such manner as to make the crossing, when constructed, in accordance with plans and specifications 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 all other expense of installation and maintenance of said crossing, not herein provided, shall be borne by the respondent, Union Pacific Railroad Company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

(S E A L)

A. P. ANDERSON

P. P. LANNON

Commissioners

Dated at Denver, Colorado,
this 11th day of May, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY
Secretary

(Decision No. 456)

INVESTIGATION AND SUSPENSION DOCKET NO. 57.

IN RE ADVANCE IN COAL AND COKE RATES ON THE DENVER & RIO GRANDE R.R. FROM AND TO CANON CITY GROUP.

June 9, 1921

By the Commission:

This investigation involves the reasonableness of a proposed increase in coal and coke rates published in schedules issued by The Denver & Rio Grande Railroad, A. R. Baldwin, Receiver.

The tariff under investigation in this proceeding was filed by respondent to become effective January 30, 1921, but the effective date was suspended by the Commission until May 30, 1921.

On May 27, 1921, respondent filed with the Commission a schedule withdrawing and cancelling the proposed increases effective May 30, 1921. Accordingly, an appropriate order will be entered.

ORDER

IT APPEARING, That by order dated January 24, 1921, the Commission entered upon an investigation concerning the propriety of the increases and the lawfulness of the regulations and practices stated in schedules enumerated and described in said order, and ordered that the operation of said schedules be suspended until May 30, 1921; and,

IT FURTHER APPEARING, That respondent has withdrawn and cancelled the proposed increases;

IT IS THEREFORE ORDERED, That this proceeding be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALLENBECK

(S E A L)

A. P. ANDERSON

F. P. LANDON

Commissioners.

Dated at Denver, Colorado,
this 9th day of June, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. Lindsay

(Decision No. 457)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Application of A. A. Rust, of Dolores, Colorado, for a Certificate of Public Convenience and Necessity, for the Construction and Operation of an Electric Light, Heat and Power Plant in the Town of Dolores, Montezuma County, Colorado.	APPLICATION NO. 131.

June 10, 1922

Appearance, S. W. Carpenter, Attorney, Mancos, Colorado, for Applicant.

STATEMENT

By the Commission:

On April 11th, 1921, application was made to this Commission by A. A. Rust, of Dolores, Colorado, for a Certificate of Public Convenience and Necessity for the construction and operation of an electric light, heat and power plant and distribution system in the town of Dolores, Colorado.

This application was set down for hearing at the hearing room of the Commission at the State Capitol, Denver, at 2 o'clock P. M., May 16th, 1921.

The testimony presented showed that the authorities of the Town of Dolores had, by ordinance, granted to the said A. A. Rust, Authority to occupy all streets and alleys for the erection of poles, the stringing of wires and the doing of all necessary things in connection with the construction, maintenance and operation of said electric system.

The evidence further showed that the town has a population of 465 and that it has never had an electric plant of any nature for serving the public. It is expected the installation will cost Mr. Rust nine thousand dollars. The construction is already under way and the electricity

will be generated by an internal combustion engine.

ORDER

IT IS THEREFORE ORDERED, That public convenience and necessity requires and will require the construction and operation of an electric light, heat and power plant and distribution system in the town of Dolores, Montezuma County, Colorado.

IT IS FURTHER ORDERED, That a Certificate of Public Convenience and Necessity be, and is hereby granted to A. A. Rust for the construction and operation of the aforesaid plant and this shall be deemed and be a certificate therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT H. HALDEMAN

(SEAL)

A. P. ANDERSON

F. P. LANNON.

Commissioners.

Dated at Denver, Colorado,
this 10th day of June, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. DUNCAN,

Secretary.

(Decision No. 459)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

City Council and Citizens of Golden

v.

The Denver & Intermountain Railroad Company.

CASE NO. 122.

(June 22, 1921)

STATEMENT

By the Commission:

On October 16, 1920, the Commission received a protest filed by the City Council and Citizens of Golden, Colorado against the 20% increase in passenger fares of The Denver & Intermountain Railroad Company, between County Line and Golden, Colorado, authorized by the Commission in its decision in Application No. 91, dated August 25, 1920. This is in its nature a petition to reopen the case.

Answer of defendant, received November 8, 1920, denies each and every allegation in said complaint; requests that it be authorized to cancel and annul the interchangeability of tickets on The Denver & Intermountain Railroad Company and The Denver Tramway Company, between County Line and Golden, Colorado; and prays that the complaint of the plaintiff be dismissed. On February 28, 1921, defendant requested permission to withdraw that portion of its answer in which application was made to cancel the interchangeability referred to above. This interchangeability of tickets has the effect of depriving the Denver & Intermountain Railroad of the 20% increase in passenger fares, as the decision in Application No. 91 did not authorize The Denver Tramway Company

to make any increase.

This cause came on for hearing before the Commission in Denver, on April 21, 1921, due notice having been given to all interested parties. The protestants did not put in an appearance and were not represented.

The evidence submitted by the defendant showed that by reason of the interchangeability of tickets as above it was being deprived of the increase in passenger fares which the Commission authorized in Application No. 91, and in view of all the facts and circumstances, the Commission is of the opinion that this cause should be dismissed.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT H. HALDERMAN

(S E A L)

A. P. ANDERSON

F. P. LANNON

COMMISSIONERS.

Dated at Denver, Colorado,
this 22nd day of June, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY
SECRETARY.

Decision No. 461

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Crystal River & San Juan Railroad Company for Permission to discontinue operations temporarily.) APPLICATION NO. 5.

(July 5, 1921)

STATEMENT

By the Commission:

On June 29, 1921, the above named applicant, The Crystal River & San Juan Railroad Company filed its petition with the Commission, asking permission for an extension of time of the discontinuance of operations of said railroad from July 1, 1921, the date of the prior authority therefor under order of this Commission of January 15, 1921.

The petition sets forth that conditions have not changed since the issuance of said prior order of January 1921, and that petitioner's connecting line, The Crystal River Railroad Company, which had heretofore had authority to temporarily discontinue operations, has not resumed service, and that until its said connection does resume, petitioner could not resume operations even though it had sufficient business to earn revenue to maintain its operations; that at the present time there is no prospect for the early resumption of business in

the territory served by petitioner sufficient to earn its operating expenses. The prayer of the petition is that the Commission make and enter its order extending permission for discontinuance of operations indefinitely or until conditions change to such an extent as to justify the resumption of operation of said railroad or until such time as this Commission may order such operations resumed.

Upon an ex parte application of this character it has not been the policy or practice of the Commission to authorize an indefinite discontinuance of operation of any public utility, and this mode of procedure will not be varied from in this instance.

In view of the allegations of the petition, however, and of the facts and circumstances surrounding the case of which the Commission has knowledge, permission will be granted for applicant to continue the discontinuance of its operations for a reasonable time, which the Commission believes in this case would be for a period of one year, unless operations of said railroad should be sooner ordered to be resumed by the Commission, either upon complaint or upon its own motion.

O R D E R

IT IS THEREFORE ORDERED, That petitioner, The Crystal River & San Juan Railroad Company be, and it is, hereby granted permission to further discontinue the operations of its said line of railroad from July 1, 1921, to and until July 1, 1922,

providing that should an earlier resumption of such service be shown to be necessary upon complaint or upon the Commission's own motion, an earlier resumption of operations thereof may be ordered by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDERMAN

(S E A L)

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 5th day of July, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

E. J. LINDSAY
SECRETARY

Decision No 462

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Crystal River Railroad Company for permission to discontinue service indefinitely.

APPLICATION NO. 33

Extension Of Order.

July 5, 1921.

STATEMENT

By the Commission:

On June 29, 1921, the above named applicant The Crystal River Railroad Company, filed its petition with the Commission praying that it may be permitted by order of this Commission to continue the discontinuance of service upon said line of railroad from the first day of June, 1921, as authorized by Order entered herein on May 19, 1920, for an indefinite time and until conditions change to such an extent as to justify the resumption of operation of said railroad or until such time as the Commission may order such operation resumed.

The petitioner represents that conditions concerning the operation of said railroad, and that the territory which it has heretofore served, have not changed in any wise since the order of May 19, 1920, was issued and that at the present time there is no prospect for the early resumption of business in the territory served by said railroad, nor any business in prospect which will enable said railroad to earn sufficient revenue to maintain its operations.

ORDER

IT IS THEREFORE ORDERED, That petitioner, The Crystal River

Railroad Company be, and it is, hereby granted permission to further discontinue the operations of its said line of railroad from June 1, 1921, to June 1, 1922, providing that should an earlier resumption of such service be shown to be necessary upon complaint or upon the Commission's own motion, an earlier resumption of operations thereof may be ordered by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT H. HALDEMAN

(S E A L)

A. P. ANDERSON

FRANK P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 5th day of July, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY
SECRETARY.

~~COPY~~ (Decision No. 463)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Star Investment Company, a Corporation, Plaintiff, The Town of Aurora,

Intervenor,

v.

The City and County of Denver and Board of Water Commissioners of the City and County of Denver,

Defendants.

CASE NO. 176

July 6 1921

Appearances: Thos. R. Woodrow, for the Complainants; Norton Montgomery and J. A. Marsh, for the City and County of Denver and Board of Water Commissioners of the City and County of Denver; Thos. R. Woodrow and E. N. Babin, for Intervenor, the Town of Aurora.

STATEMENT

By the Commission:

The original complaint was filed in this case May 28, 1919, by The Star Investment Company against the Defendant, and prayed for an investigation and order fixing a reasonable charge for the use of water by the applicant company, and for reparation for any sum overpaid. The defendant filed a motion to dismiss the complaint for want of jurisdiction on the part of the Commission to fix any rates for the use of water in the town of Aurora, for the reason that the defendant's water plant is owned by the City and County of Denver, which said city is a "home rule" city.

On December 30, 1919, the Commission issued its order denying the motion and determining all of the legal questions raised therein. It further ordered the defendant to answer the

complaint.

This order, Colo. P.U.C. No. 314, is published in Volume V, Page 928, of the Commission's reports, and in the order will be found a comprehensive statement of all the issues herein.

After this decision, the petition of intervention of the town of Aurora was allowed to be filed, in which is asked the determination by the Commission of reasonable rates for the town of Aurora, and the defendant thereafter filed answer to this petition as well as to the original complaint.

The case was thereafter set for hearing on its merits on February 9, 1921, and was heard in the Hearing Room of the Commission on said day.

At this hearing the defendants did not introduce any testimony. After the introduction of testimony on the part of the plaintiff there was a stipulation entered into by and between all the parties hereto, which said stipulation was dictated to the reporter and placed in the record herein. Said stipulation is as follows:

"It is hereby stipulated and agreed by and between the respective parties in this case that the defendants, the City and County of Denver and Water Commissioners will file with the Public Utilities Commission of the State of Colorado, on or before March 15, 1921, the report which is required by the Public Utilities Commission to be filed formally by all public utilities in general, which report will include the furnishing of water to the town of Aurora, including the petitioner in this case, The Star Investment Company; that the said City and Board of Water Commissioners will also file with the Public Utilities Commission of the State of Colorado, a schedule of its rates, rules, bylaws, regulations, etc., outside of the City and County of Denver as apply to the towns,

particularly as applied to the town of Aurora, and also file with the Public Utilities Commission of the State of Colorado a statement with reference to the particular matters involved in this case with reference to The Star Investment Company, and the defendant City and Water Commissioners hereby agree that upon the filing of such statement and reports, that the Public Utilities Commission may rule upon the question of the charges against The Star Investment Company and that the defendant City of Denver and Water Commissioners thereof will submit to the jurisdiction of the Public Utilities Commission of the State of Colorado in the premises; that the testimony so far given in this case may be considered by the Public Utilities Commission of the State of Colorado in arriving at its determination of the matters involved, as well as an agreed statement of facts which it is proposed now will be submitted to the Public Utilities Commission of the State of Colorado by the attorneys in this case; and whether said joint agreed statement of facts is filed or not, the Public Utilities Commission of the State of Colorado shall have the authority and power to make an order with reference to the matters now at issue before it.

It is also understood and agreed that the town of Aurora, Intervenor in this case, shall have determined by the Public Utilities Commission of the State of Colorado, the question as to the rates charged said town and the inhabitants of said town, and that the rates determined by the Public Utilities Commission of the State of Colorado, not only for the petitioner in this case, but also the town of Aurora and the inhabitants thereof also shall be subject to the rights of either parties hereto to make appeal from the decision of the Public Utilities Commission of the State of Colorado in the event that such appeal would properly lie; that the rates as shall be fixed by

the Public Utilities Commission of the State of Colorado shall be rates to be applied to complainant and intervenor, Town of Aurora. Of course, subject to appeal if either party desires to do so; that the Public Utilities Commission of the State of Colorado shall determine at the final hearing hereof the reasonableness of the practice of the Board of Water Commissioners in requiring a deposit of $40.00 from The Star Investment Company, and if such requirement should be found by the Public Utilities Commission of the State of Colorado to be unreasonable, that said Public Utilities Commission of the State of Colorado may include in its order a requirement that the Board of Water Commissioners of Denver shall refund such deposit together with any overcharges which the Public Utilities Commission may find to have existed between the amount actually paid by said Star Investment Company and a fair and reasonable rate."

FINDINGS OF FACT

From all the evidence in this case, the Commission finds that a minimum charge of $5.00 per month, as charged The Star Investment Company, is excessive, and that not more than a charge of $1.00, minimum, per month should be charged hereafter; that for the period involved in the complaint herein, the proper charge of the Board of Water Commissioners to The Star Investment Company should have been $6.61, and as the said Star Investment Company paid the amount of $16.00 under protest for this service, they are entitled to reparation for the difference, amounting to $9.39.

No advance charge or deposit should be required, and the $40.00 advance charge paid by The Star Investment Company should be returned.

As to the Intervenor, the town of Aurora, the Commission finds that the schedule of water rates hereinafter set forth are fair and reasonable, and should be charged and collected

by the Board of Water Commissioners of the City and County of Denver in the town of Aurora.

ORDER

IT IS THEREFORE ORDERED, That as to the petitioner, The Star Investment Company, the defendants herein make reparation to it in the sum of $9.59, as an overcharge for the period involved in the complaint; that as to the $40.00 paid as an advance deposit charge petitioners, that defendant make reparation of this amount and return the same to the complainants, or apply the same on future water charges, as the parties may agree; that defendants shall file with the Colorado Public Utilities Commission, the following schedule of rates, and shall charge and collect from the date of this order in the town of Aurora, the rates as set forth in said schedule.

Semi-Annual Water rates of the Board of Water Commissioners of the City and County of Denver payable in advance on the 1st day of May and November in each year and applicable in the town of Aurora, Colorado.

Automobile filling station	$2.00	to	$30.00
Automobile, each car	1.00	"	
Automobile wash rack	16.00	"	40.00
Automobile sprinkler connection or system	30.00	"	150.00
Air pump	5.00	"	30.00
Baker, each oven	4.00	"	20.00
Barber shop, first chair			5.20
Barber shop, each additional chair			1.20
Barber baths, each			6.00
Bath, in private house, with heating apparatus, first bath tub			2.00
Each additional tub			1.20
Bath, private house, without heating apparatus			.80
Bath in boarding or tenement house of 15 rooms or less			2.00
Bath in boarding or tenement house of over 15 rooms			4.00
Bath, public, hotel, restaurant or club house not less than			4.00

Billiard tables, each			$1.20
Boarding or tenement house, per room			.60
But no license less than			4.00
Bottling works, $10.00 to			16.00
Brick work, per 1,000 kiln count			.08
Butter Mfg.	$4.00	to	18.00
Builders' and Contractors' rates:			
Boring for service pipe, per lin. ft.			.01
Cement block work, per cubic yard			.02½
Excavation work, per M. cubic yards			.50
Roller for highway paving work, per M. Sq. yards			.50
Settling highways by impounding with dams, per yard			.06
Sinking artesian wells			25.00
Tile work, per cubic yard			.02½
Tile work veneer, per cubic sq.yds			.40
Wetting-backfilling water and gas mains and service trenches, per lin. ft.			.01
Wetting-backfilling telephone conduit trench, per lin.ft.			.01
Wetting-backfilling sewer trench, per lin.ft. from	0.01	to	.02
Wetting-for excavations, per M. cubic yards	2.50		
Church	2.00	"	6.00
Concrete, per cubic yard	.08		
Cow	.40		
Cows, over five head, each	.30		
Corral, not less than	5.00		
Cooling tank, dairy	2.00	"	18.00
Drinking fountain, continuous flow	15.00	"	60.00
Developing room	8.00	"	40.00
Dairy, washing cans and bottles for each 10 cows or fraction thereof	2.00		
Emergency, when city water is not used for all purposes on the premises	50.00	"	600.00
Fountain, vegetable	6.00	"	10.00
Fountain, fish	20.00	"	32.00
Fountain in drug store, opening not to exceed 1-8 inch diameter			52.00
Gas engine, not less than	5.00		
Hall	2.00	"	12.00
Horse in private stable			1.20
Hose, for livery or sale stable not less than			16.00
Hotel, per room			.60
Hose for poultry	4.00	"	18.00
Hose for wetting coal	6.00	"	30.00
Ice cream mfg	4.00	"	150.00
Laundry	6.00	"	120.00
Livery stable, per stall			.80
Residence, occupied by one family only			
1 to 4 rooms			2.00
5 to 6 rooms			2.40
7 to 8 rooms			2.80
9 to 10 rooms			3.20
11 to 12 rooms			3.60

Residence used as boarding house or tenement house of 10 or more rooms, per room			.60
Residence used as boarding or tenement house, of less than 10 rooms			4.00
Rooms, in blocks or over business houses			.60
Restaurants	10.00	to	100.00
Soft drink parlor	6.00	"	50.00
School,not less than	5.00		
Soda generator	9.00	"	18.00
School, every scholar			.06
Store rooms and shops	2.00	"	120.00
Store rooms and shops:			
12½ ft. front or less			2.00
Over 12½ feet front to 18 ft front			3.20
Over 18 feet front to 25 ft. front			4.80
Over 25 feet front to 37½ feet front			6.00
Over 37½ feet front to 50 feet front			8.00
Over 50 feet front, special rates			
Undertaker	10.00		
Urinal basin or trough	2.00	"	8.00
Vulcanizing	2.00	"	10.00
Washing vehicle in private stable, not less than			2.00
Water closet, private house, first bowl			2.00
Water closet, private house, each addl. bowl			1.20
Water closet in boarding or tenement house of 15 rooms or less			2.00
Water closet in boarding or tenement house of over 15 rooms			4.00
Water closet in hotel, club room, restaurant, barber shop			4.00
Water closet for use of two or more stores or houses			4.00

SPECIAL RATES

Irrigation of lots, including sidewalks and trees, only through hose with nozzle not to exceed one-quarter of one inch in diameter, to be used only within the hours specified in the license and never during a fire or conflagration, 22 cents per front foot for the season. Irrigation in parking 8¢ per run foot. Where irrigation is used outside of property line along the side of irrigated corner lots, the frontage is counted to include one-half lot additional. No license for irrigation will be issued for less than the season rate.

METER RATES					per 1,000 gal.
1,000	to	15,000 gals.	per	month	.17
15,000	"	30,000 "	"	"	.16
30,000	"	60,000 "	"	"	.15
60,000	"	150,000 "	"	"	.13
150,000	"	315,000 "	"	"	.12
315,000	"	637,500 "	"	"	.11
637,500	"	20,000,000 "	"	"	.10
Over 20,000,000 gals. per month					.08

THE PUBLIC [illegible] OF THE STATE OF COLORADO.

GRANT E. HALDERMAN

(SEAL)

A. P. ANDERSON

E. P. LANNON

Commissioners

Dated at Denver, Colorado,
this 6th day of July, 1921.

(Decision No. 465)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Amherst Farmers Elevator Company, by O. G. Dunn, Amherst, Colorado; The Farmers Educational and Co-operative Union, by E. W. Wagner, Amherst, Colorado; The Citizens of the Town of Amherst, Colorado, represented by H. W. Romer. Complainants. vs. The Chicago, Burlington & Quincy Railroad Company, Amherst, Colorado. Defendant.	FORMAL COMPLAINT AND REQUEST FOR NEW DEPOT. CASE NO. 210 (Consolidated with No. 209 for hearing)
The Chicago, Burlington & Quincy Railroad Company. Notification of closing agency at Amherst, Colorado.	CASE NO. 209 (Consolidated with No. 210 for hearing)

(July 18, 1921)

Appearances: R. G. Osman and O. E. Dunn, for Complainants.
J. L. Rice for The Chicago, Burlington and Quincy Railroad Company, Defendant.

The American Railway Express Company, Intervenor,
By F. O. Reed, Superintendent.

STATEMENT

By the Commission:

There were no objections, and it was agreed by counsel and others that these cases be consolidated for trial or hearing.

January 31st, 1921, this Commission received Complaint No. 210 from the aforesaid complainants, representing that the depot facilities at Amherst were inadequate, and asked that a new depot be erected. This case was set down for hearing at Amherst April 25th, 1921, but owing to a severe storm previous to this date, and other pressing matters engaging the time of this Commission, this hearing was postponed until

May 19th, 1921, at which the several matters in Cases 218 and 229 were heard at the Auditorium School House, Amherst, commencing at 10:00 A. M.

Previous to this hearing, namely April 18th, 1921, in Case No. 229, The Chicago, Burlington & Quincy Railroad Company, in compliance with General Order No. 7 of the Public Utilities Commission, gave notice that it would close its agency at Amherst, Colorado, on April 25th, 1921, alleging that the town had only about 89 inhabitants, and that there had been such a falling off of business at this point as not to justify the keeping of an agent.

In response to aforesaid notice a protest, dated April 16th, 1921, and signed by 77 resident users of the Amherst depot, was filed, asking this Commission to compel the defendant Chicago, Burlington & Quincy Railroad Company to maintain an agency at the Amherst station.

April 15th, 1921, The American Railway Express Company (probably in connection with the railway's request for an abandonment of its agency) asked for an order that it might close its express office at Amherst.

The evidence disclosed the fact that while Amherst of itself is a very small town, still it is surrounded by a thriving farming country, and has within a radius of five miles a population of about 500, with land selling at $75.00 to $150.00 per acre. The population and business affords the railroad company a constantly increasing revenue. As an evidence of this fact the receipts of the railroad company at its Amherst station for the twelve months, March, 1920, to February, 1921, inclusive, show that ticket receipts amounted to $1,332.37, while the freight receipts were $50,226.08, or a total of $51,514.37 for the year, and were larger than any previous similar period.

Amherst has a hardware and two general mercantile stores,

a lumber yard, creamery, hotel, restaurant, blacksmith shop, etc. It also has a $30,000.00 public school, with an attendance of 115 pupils. The elevator at this point shipped in one year 167 cars of grain. A good deal of civic pride is shown. Considering the size of this town there is quite a volume of business done, and this Commission feels that the agency should be maintained. Taking into consideration the present high costs for both material and labor that the railroad company has to pay, and also the marked reduction in railway earnings during the past few months, this Commission, after weighing all the evidence presented, feels it would be putting an undue and unnecessary burden on the railroad company to compel it to construct a new depot at this place at the present time.

Inasmuch as the agency at Amherst is a joint agency between the railroad company and the American Railway Express Company, it also follows that the express agency must also be maintained.

-O R D E R-

IT IS THEREFORE ORDERED, That the Chicago, Burlington & Quincy Railroad Company keep open and maintain its agency at Amherst, Colorado.

IT IS FURTHER ORDERED, That the application for a new depot at Amherst be, and the same is, hereby denied.

IT IS ALSO FURTHER ORDERED, That the application of the American Railway Express Company, for the privilege of retiring from the express business at Amherst, Colorado, be, and the same is, hereby denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT B. HALLENBECK

(S E A L)

A. P. ANDERSON

E. P. LANDON
Commissioners.

Dated at Denver, Colorado,
this 18th day of July, 1921.

(Decision No.467)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Citizens of Willard, Colorado, Complainants,	
v.	CASE NO. 241
Chicago, Burlington & Quincy Railroad Company, Defendant.	

August 2, 1921

Appearances: Coen & Sauter, by Raymond L. Sauter, for Complainants; J. L. Rice, for Defendant.

STATEMENT

By the Commission:

On April 15th, 1921, the Chicago, Burlington and Quincy Railroad Company notified this Commission it would close its agency at Willard, Colorado, a station sixteen and three-fourths miles west of Sterling, on its Sterling-Cheyenne line, on April 25th, 1921.

The reasons given for the discontinuance of this agency were that there had been such a falling off of business at that point as to not justify keeping an agent, and in lieu thereof, proposed to install a custodian who would meet trains and render such service as might be necessary.

That the citizens of Willard and surrounding country be advised of the intended closing of this agency, this Commission caused the following bulletin to be conspicuously posted at Willard:

"IMPORTANT NOTICE

"The Chicago, Burlington & Quincy Railroad Company has made application to the Public Utilities Commission of the State of Colorado to close its agency at Willard, Colorado, on April 25, 1921.

"Providing there are any protests or objections to the proposed closing of this agency, such protests and objections should be made immediately to the Public Utilities Commission of the State of Colorado, Capitol Building, Denver, Colorado."

In response to the foregoing notice, a protest signed by eighty citizens of Willard and surrounding country was sent to this Commission, asking that no action be taken in this matter until after a hearing and thorough investigation. They also alleged "They were quite sure that the receipts of Willard station would exceed some of the other points on this line." It was also alleged that the Willard agent handled the freight and express for not only Willard but for Logan as well, and that the closing of the agency at this point would seriously affect both of the aforesaid points.

In view of the Railroad's application and the citizens' protest, this case was set down for hearing and was heard at 2:30 P.M., at the District Court Room of the County Court House of Logan County, at Sterling, Colorado, on Friday, May 20th, 1921.

The testimony adduced at this hearing showed that Willard of itself, is more or less inconsequential, but that the actual and potential possibilities lie in the surrounding agricultural country, which, for the number of inhabitants, makes a very creditable showing indeed in the volume of traffic handled at this station. This section is strictly a dry farming country, with about four-fifths of the land planted in corn, wheat and oats. At this time there are in the district adjacent to Willard about 32,000 acres of wheat in splendid condition, that will supply a very large tonnage to the Chicago, Burlington and Quincy Railroad this season.

The evidence disclosed that Willard has a population of ninety-two. It has twenty-one dwelling houses and twelve business houses, made up of two general merchandise stores, one hardware store, a lumber yard, creamery, rooming house, pool hall, garage, two blacksmith shops and three elevators.

This section is very prosperous and growing quite rapidly. The business done by the lumber company is an exemplification of this. During the year 1920 they did a business of $300,000.00 and paid the Chicago, Burlington and Quincy Railroad Company for freight alone $13,861.50. Willard has an assessed valuation of $100,000.00. It also has a $45,000.00 high school building built in 1920, and has $10,000.00 invested in automobile trucks for the transportation of pupils. The school district is six miles square and there are six teachers and 125 scholars enrolled who reside in Willard and the surrounding district. The assessed valuation of the district is $1,800,000.00.

The following statement is taken from the Applicant Company's exhibit No. 11, and reflects the operating income of the system for the calendar years 1919 and 1920, and for the three months period January 1st to March 31st, both inclusive, for the years 1920 and 1921.

It will be observed from this statement that the company's operating income for the year 1920 as compared with 1919 was materially less. It will also be noted that the income for the three months period ending March 31st, 1920, on an average monthly basis would not produce an amount that could be relied upon for establishing an estimate for the calendar year 1920,

for approximately two-thirds of the 1920 operating income was earned in the first three months of that year.

This unusual condition was brought about largely by the fact of an increase in wages of certain classes of railroad employes by the United States Railroad Labor Board, which wage increase was effective as of May 1st, 1920. It is, therefore, apparent that the first three months operations for the year 1920 does not reflect certain increased costs that are included in the expense items of the later months of that year.

The statement for the first three months of 1920 would not, therefore, be a fair statement for the purpose of determining an average monthly operating income on which could be based an estimated operating income for the year 1920, niether would it be a fair statement for comparative purposes with the first three months of 1921, for the reason that there is reflected in the expense items of 1921 the increased wages as of May 1st, 1920, which increases are not included in the three months statement for 1920.

It, therefore, appears that the operating statement of the company for the first three months of 1921 reflects certain increased expenditures that were not included in the three months statement of 1920 for the reason that these expenses were not in effect at that time. This being the case and the fact that operating costs at the present time have a tendency toward a lower level, it seems that it would be fair to assume that the operating income of $6,090,137.22 for the period January 1st to March 31st, 1921, would be a reasonably fair income on which to base an average monthly amount for estimating the operating income for the year 1921.

OPERATING INCOME STATEMENT - SYSTEM.

	1920	1919
Operating Revenues	185,586,287.07	154,011,437.62
Operating Expenses	167,976,304.91	120,492,962.06
Net Operating Revenue	17,609,382.16	33,518,475.56
Railway Tax Accruals	7,548,485.83	5,774,553.97
Uncollectible Railway Revenue	59,931.68	31,580.46
Total	7,608,417.01	5,806,134.43
Railway Operating Income	10,000,965.15	27,712,341.13

	Three Months ended March 31st. 1921	1920
Operating Revenue	39,879,750.92	43,682,838.62
Operating Expenses	31,394,483.36	34,340,602.55
Net Operating Revenue	8,485,267.56	9,342,236.07
Railway Tax Accruals	2,390,444.31	2,173,795.44
Uncollectible Railway Revenues	14,686.03	13,368.42
Total	2,405,130.34	2,187,163.86
Railway Operating Income	6,090,137.22	7,155,072.21

In the following statement the station earnings were compiled from the Applicant Company's exhibits Nos. 2, 3, 4, 5, 6 and 7. The station expense was compiled from exhibit No. 9, and represents what would be considered a fair expense for this station:

EARNINGS OF WILLARD STATION FOR TEN MONTHS

From July 1st, 1920, to April 30th, 1921, inclusive.

Carload Freight Received	$10,801.99
Carload Freight Forwarded	64,488.84
Less than carload freight received	3,676.19
Less than carload freight forwarded	425.87
Ticket sales	359.56
Western Union Receipts	28.05
	$ 79,760.30
Station Expense for salaries, Fuel, Coal and Stationery	1,720.30

The aforesaid figures indicates that for the expense involved, the Willard station makes a creditable showing of receipts and also of receipts over expenditures.

This Commission is not oblivious to the handicaps to the operation of the railroads of this country. To a student of railway affairs it is easy to see the extremes to which they are pushed in attempting to meet their obligations and make any return on invested capital. Through the enactment of the Adamson Act and the taking away from the roads the power of fixing wages, classifications and working conditions, and placing this power wholly in the hands of the United States Railroad Labor Board, has brought about a condition fraught with such danger that it will require the best judgment of the country to meet the critical situation brought about through Federal administration. To meet the requirements made under Federal control it has been necessary to raise railroad rates so high that they have a tendency to stifle and cripple all lines of business. In addition to the high rates they also have to resort to economies unthought of under normal conditions.

To show the blighting hand that has been laid upon the railroads and the almost hopeless struggle they are having in trying to free themselves from their heavy burdens, a few facts are presented, compiled from "Wage Series, Report No. 1, United States Railroad Labor Board," which gives the average daily and monthly wage rates of railroad employes on only class "I" carriers. In this pamphlet and table of figures is set out at great length the amount paid railroad employes per day during December 1917, under private control. Immediately following is given in separate columns the enormous advances given under Governmental control. The increased

wages allowed the railway employes by the United States Railroad Administration of $797,095,511.48 in January, 1920, and the further increase by the United States Labor Board of $558,180,134.56, July 20th, 1920, represents an annual increase of $1,355,275,446.04 over that paid in 1917, and is the most stupendous raise ever allowed the same number of employes in one year since the dawn of civilization. When one takes into consideration the fact that an equal number of men during the war laid their lives - their all - on the sacrificial altar at $1.00 per day, this raise as the aftermath of war, is all the more incomprehensible from the standpoint of business or sound reasoning.

The railroads, however, seem to be proceeding from the wrong premise in regard to the situation. The farmers are the real backbone of the country and supply the railroads with a very large tonnage. The withdrawal of station agencies in farming communities is the application of the wrong remedy to cure the disease.

In view of all the testimony in this case and taking into consideration the volume of business that has been done and that will be handled in the near future, and the further knowledge that if this agency were to be abandoned it would result in delays in shipments, and would cause great inconvenience, confusion, and probably severe losses to shippers, it is the opinion of this Commission the small amount that would be saved by installing a caretaker in place of an agent would not justify the making of Willard a non-agency station.

O R D E R

IT IS THEREFORE ORDERED, That the petition of the Chicago, Burlington and Quincy Railroad Company for the closing

of its agency at Willard, Colorado, be, and the same is, hereby denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GRANT E. HALDEMAN

(SEAL)

A. P. ANDERSON

F. P. LANNON

Commissioners.

Dated at Denver, Colorado,
this 2nd day of July, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

SECRETARY.

(Decision No. 469)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of the Application of The Denver and Interurban Railroad Company for Authority to Re-route its Trains and Cars, to Change the Location of its Webb Station and to Close its D. & I. Junction Station.

APPLICATION NO. 139.

(August 8, 1921)

STATEMENT

By the Commission:

On July 28, 1921, applicant, The Denver and Interurban Railroad Company, filed its petition or application with the Commission, wherein it prays that this Commission authorize petitioner, as soon as the electrification of its railroad between Louisville Junction and Webb Station is completed, to operate its cars and trains over the line of railroad between Webb and Louisville Junction and D. & I. Junction, instead of over its line of road as now being operated between Webb and D. & I. Junction, and to abandon its station called Webb and its station called D. & I. Junction, and to locate a station on the proposed new line of operation, at, or near the county road crossing said line near the Monarch mine, to be called by the name hereafter to be selected.

Accompanying said application is a blue print of the line of said railroad between above named points, and from said blue print and the allegations of said application, it appears that the change proposed will be in the interests of economy of operation in that it will do away with the need or necessity of its stations

at Webb and at D. & I. Junction, both of which, as said railroad is now being operated, are what is known as "register" stations; and that Louisville Junction, some three hundred yards north of the D. & I. Junction, is a continuous telegraph and register station at which point the said Denver and Interurban Railroad operates over the road of the Colorado and Southern Railway into Boulder.

From the allegations of petition, and from inquiries made from patrons of said Denver and Interurban Railroad, the Commission is advised that the proposed change will be advantageous to practically all of the patrons of said railroad, and particularly so to the miners of the Louisville district, who would be the only persons affected thereby. With the establishment of the new station between Webb and Louisville Junction, the miners at the Monarch mine will be a considerable distance nearer the new station than Webb, and the miners at the Sunnyside mine will have no greater distance to walk to the new station than they now have to get to the Webb station, and in fact, as it is represented, the distance from Sunnyside to the proposed new station is somewhat nearer than the distance from Sunnyside to the present station of Webb.

Attempt was made to give notice of this application upon the miners who are patrons of said railroad at Louisville, but without much success, the same having been called to the attention of only a few thereof; but from the allegations of the petitioner herein and the blue print filed therewith, and of the knowledge of the Chairman of this Commission, who rides upon trains of said railroad regularly to and from his residence, there would appear to be no foundation for any sort of objection upon the part of anyone, much less objections with reason.

O R D E R

IT IS THEREFORE ORDERED, That applicant, The Denver and Interurban Railroad Company be, and it is hereby, authorized and

powered to close its stations called "Webb" and "D. & I. Junction" a soon as the electrification of the line of road between Webb and Louisville Junction has been completed, and the service ready to be given thereover.

IT IS FURTHER ORDERED, That it establish a station with adequate facilities for the reception and discharge of passengers at, or near, the point where the county road crosses the line of railroad proposed to be electrified and operated between Webb and Louisville Junction, and that said station be opened contemporaneously with the closing of said stations of Webb and D. & I. Junction.

IT IS FURTHER ORDERED, That when said applicant company shall have named the proposed new station and installed the same, the Commission shall be notified thereof by the filing of a new time card, showing the changes of station and operation hereinabove authorized.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GRANT E. HALDEMAN

(S E A L)

A. P. ANDERSON

F. P. LANNON

COMMISSIONERS.

Dated at Denver, Colorado,
this 8th day of August, 1921.

I do hereby certify that the above and foregoing is a true and correct copy of the original Order of the Public Utilities Commission of the State of Colorado entered in the above entitled cause and now on file in this office.

A. J. LINDSAY
SECRETARY.