(Decision No. 3160)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
D. G. PARSONS.) CASE NO. 592

December 18, 1930.

S T A T E M E N T

By the Commission:

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

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

O R D E R

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

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

IT IS FURTHER ORDERED, That this investigation be, and the same is hereby, set down for hearing before the Commission at the Hearing Room of the Commission, Denver, Colorado, on January 5, 1931, at 10:00 A.M. thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

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

(Decision No. 3161)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

IN THE MATTER OF THE APPLICATION OF)
THE CONTINENTAL TRANSIT COMPANY FOR)
CERTIFICATE OF PUBLIC CONVENIENCE) APPLICATION NO. 1730
AND NECESSITY.)

December 17, 1950.

Appearances: D. F. How, Esq., Denver, Colorado,
for applicant.

S T A T E M E N T

By the Commission:

This is an application by The Continental Transit Company, a Wyoming corporation, for a certificate of public convenience and necessity, authorizing the transportation of freight by motor vehicle in interstate only between Denver and the Colorado-Wyoming State line over U. S. Highway No. 85.

Protests were filed against this application by the Chicago, Burlington and Quincy Railroad Company, The Colorado and Southern Railway Company and Union Pacific Railroad Company. No evidence was introduced by the protestants.

The testimony shows that the applicant has an equipment of two 5-ton trucks, valued at approximately $4800.

The capital stock of this Company amounts to $50,000, of which $6,000 has been issued.

The testimony shows that this operation has been in existence since September 1, 1950. The applicant should pay the tax as compensation for the use of the highway from said date.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the laws of the State of Colorado, as well as the laws of the United States, require the issuance of a certificate of public convenience and necessity to the applicant herein for the territory involved.

O R D E R

IT IS THEREFORE ORDERED, That the laws of the State of Colorado and the laws of the United States require the issuance of a certificate of public convenience and necessity to The Continental Transit Company, a corporation, application herein, for a motor vehicle system for the transportation of freight in interstate only over U.S. Highway No. 85, between Denver and the Colorado-Wyoming State Line, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Walter Bouck

Dan S. Jones

Commissioners.

Dated at Denver, Colorado,
this 17th day of December, 1930.

Decision No. 3162 Cancelled.

(Decision No. 5165)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1711

December 18, 1930.

Appearances: Lee, Shaw and McCreery, Esqs., and C. D. Bromley, Esq., Denver, Colorado, for applicant.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing the construction, maintenance and operation of a transmission line extending from the town of Merino, Logan County, Colorado, north and west through the towns of Willard and Stoneham to New Raymer, Colorado, and for a system to distribute electric energy to said communities along and contiguous to said line. No protest was filed against this application.

The testimony shows that no other utility is now serving the territory involved with electric energy.

The investment for the transmission line and the distribution system amounts to approximately $35,000. This figure, however, shall not be considered as binding upon the Commission in any subsequent hearing involving the reasonableness of the rates.

The Commission heretofore has issued a certificate of public convenience and necessity authorizing the exercise of franchise rights within the town of New Raymer, Colorado.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires

the construction of an electrical transmission line from Merino north and west through the towns of Willard and Stoneham to New Raymer, Weld County, Colorado, and for systems to distribute electric energy in the towns of Willard and Stoneham, and to serve customers along and contiguous to said transmission line.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the construction of an electrical transmission line from Merino north and west through the towns of Willard and Stoneham to New Raymer, Weld County, Colorado, and for systems to distribute electric energy in the towns of Willard and Stoneham, and to serve customers along and contiguous to said transmission line, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file with this Commission within twenty days from the date of this order its tariffs, rules and regulations governing the proposed electric service.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

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

(Decision No. 5164)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE PUBLIC SERVICE COMPANY OF COLORADO FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1703

December 18, 1930.

Appearances: Lee, Shaw & McCreery and C. D. Bromley, Esq., Denver, Colorado, for applicant.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity to construct, maintain and operate a transmission line from a point near the town of Aurora, Adams County, Colorado, east a distance of approximately 23 miles to the town of Bennett, Adams County, Colorado, and to distribute electric energy to consumers in said town of Bennett, the unincorporated community of Watkins, Colorado, and the customers along said transmission line, and to exercise certain franchise rights granted by the town of Bennett to the applicant. No protest was filed against this application.

The testimony shows that no other utility is serving the territory involved with electric energy. The town of Bennett has a population of approximately 250, and the community of Watkins a population of approximately 50.

The investment in the transmission line is approximately $28,000; the distribution system in Bennett approximately $3,000, and in Watkins approximately $1,000. These figures, however, shall not be considered as binding upon the Commission in any subsequent hearing involving the reasonableness of the rates.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the construction, maintenance and operation of a transmission line running from a point near the town of Aurora, Adams County, Colorado, a distance of approximately 23 miles to the town of Bennett, Adams County, Colorado; a system for the distribution of electric energy to consumers in the town of Bennett, in the community

of Watkins and the proposed customers along said transmission line, and the exercise of franchise rights granted by the town of Bennett in Ordinance No. 20, passed and adopted on November 4, 1930.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the construction, maintenance and operation of a transmission line running from a point near the town of Aurora, Adams County, Colorado, a distance of approximately 23 miles to the town of Bennett, Adams County, Colorado; a system for the distribution of electric energy to consumers in the town of Bennett, in the community of Watkins and the proposed customers along said transmission line, and the exercise of franchise rights granted by the town of Bennett in Ordinance No. 20, passed and adopted on November 4, 1930, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file with this Commission within twenty days from the date of this order its tariffs, rules and regulations governing the proposed electric service.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

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

(Decision No. 3165)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF FRED SCHULTZ AND MANUEL SCHULTZ, DOING BUSINESS UNDER THE NAME OF SCHULTZ BROS., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1722

December 19, 1930.

Appearances: D. A. Maloney, Esq., Denver, Colorado, attorney for applicants.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight on Mondays and Thursdays only of each week from Pueblo to points east of Lamar to Holly, Colorado, and between Holly and Walsh, Colorado, and intermediate points, and between Holly, Colorado, and the Colorado-Kansas state line. No protest was filed against this application.

The Commission, in Application No. 1578 (Decision No. 2948), granted the applicants a certificate of public convenience and necessity to operate a motor vehicle system for the transportation of freight between Lamar and Holly, Colorado, and between Holly and Walsh, Colorado, and intermediate points. The Weicker Transportation Company now serves the territory between Pueblo and Lamar and intermediate points.

The testimony shows that for some time the applicants have received the freight from Pueblo destined to points east of Lamar via the Weicker Transportation Company, which requires a transfer of freight at Lamar. This service, according to the testimony, is not sufficiently adequate and expeditious to serve the receivers of freight from Pueblo to points east of Lam ar and to Walsh, Colorado. The Weicker Transportation Company is not opposing the issuance of this certificate. No further equipment is required by the applicants to render this service.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicants for the transportation of freight from Pueblo, Colorado, to points east of Lamar, to Holly, Colorado, and between Holly, Colorado and Walsh, Colorado, and intermediate points, and between Holly, Colorado, and the Colorado-Kansas state line on Mondays and Thursdays of each week only.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicants for the transportation of freight from Pueblo, Colorado, to points east of Lamar, to Holly, Colorado, between Holly and Walsh, Colorado, and intermediate points, and between Holly, Colorado, and the Colorado-Kansas state line on Mondays and Thursdays of each week only, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Walter Bruch

Jay S. Jones

Commissioners.

Dated at Denver, Colorado,
this 19th day of December, 1930.

(Decision No. 3166)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE WATER SERVICE OF COMMONWEALTH LAND COMPANY, A CORPORATION.	CASE NO. 459
RE WATER SERVICE OF H. B. RHEA AND L. J. OSMER, TRUSTEES.	CASE NO. 558

December 19, 1930.

Appearances: Frank N. Bancroft, Esq., Denver, Colorado, for L. J. Osmer;
H. B. Rhea, Littleton, Colorado, per se;
R. H. Blackman, Esq., Denver, Colorado, for residents of Woodlawn.

S T A T E M E N T

By the Commission:

Orders were entered on the Commission's own motion providing for an investigation and hearing for the purpose of determining whether or not the respondents are supplying their customers with a sufficient and adequate supply of water for their comfort, health and other needs, with a view of making such an order as the evidence should warrant.

The patrons concerned reside in additions known as Woodlawn and Windemere, which are outside of but contiguous to the town of Littleton. Another nearby area served to some extent is Gallup. The territories in question were served by Commonwealth Land Company, a corporation, until its dissolution by expiration of its charter. Since then operations have been conducted by H. B. Rhea and Mrs. L. J. Osmer, who, upon dissolution, became statutory trustees of the creditors and stockholders of the corporation.

The evidence showed that for a number of years the water supply has been inadequate during summer months. The evidence showed that notinfrequently patrons of the utility would be unable to draw any water from faucets. This has resulted in serious inconvenience on account of the lack of water both for ordinary household purposes and for sprinkling lawns.

Bonds in the amount of $20,000 issued by the corporation remain outstanding. The company has never been able to earn enough money to pay more than a fraction of the interest due on said bonds. It is barely able at the present time with rates which are quite high to earn a small amount over operating expenses. The evidence seemed to indicate that it will be out of the question to consider increasing rates.

Mrs. Osmer, one of the respondent trustees, as an individual, owns another well in the vicinity of the well from which the water is now supplied. If the trustees of the corporation were to purchase or lease Mrs. Osmer's well it would be necessary to install a pump at an expense of some five or six thousand dollars, to say nothing of whatever expense there might be in purchasing or leasing the well. The trustees have no money and there is no way in which any can be procured. The question arises, therefore, what, if any, order the Commission might properly make in order to secure adequate service for the water users. We are familiar with the abstract proposition that a utility which has dedicated itself to the service of a community must render adequate service. We are familiar also with a number of statements that poverty is no excuse. However, we have something more than the situation that exists in many cases. We have a showing not only of the fact that no additional return could be obtained after some several thousand dollars is expended, but, in addition, of the utter impossibility of procuring any money to remedy the service.

We might conceivably, with an air of assumed seriousness, order the trustees to take the necessary steps to afford their patrons adequate water service. It is obvious and certain that the order would not be complied with. We might then make an order requiring the respondents to show cause why they have not made compliance. They would again make a showing of inability to borrow or otherwise raise money. Thus we would require something which we now know cannot be done and then have the respondents make the same proof a second time. We would thus be back where we started and where we now know we would arrive if such a course were pursued. Such unreasonable circumlocution

appears out of the question.

The question of extensions of service in a general territory which a utility has undertaken to serve is analogous to if not identical with the broad question involved here. We, therefore, quote as follows from the decision of the Massachusetts Department of Public Utilities in Building Committee, etc., vs. Auburn Water Company, P.U.R. 1927B, 734, 735, 736:

> "It is obvious that this Department cannot properly order service when a company cannot find the necessary funds to comply with it and which would result in a further loss to a company which has paid no dividends, which has been unable to meet all its interest charges and which has been operating at a deficit.
>
> "Accordingly the petition is hereby dismissed."

In Mountain Water Company vs. May, 231 S.W. (Ky.) 908, P.U.R. 1921E 85, the court after making the statement that ordinarily a mandamus or mandatory injunction will lie at the instance of a consumer to compel a water company to extend its mains to any part of the city where its franchise requires it to operate, pointed out that the right to such relief is not absolute, and that the relief may be denied where the demand is wholly unreasonable, in view of the peculiar hardships and disastrous consequences that would follow. The court stated that doubtless the mere fact that the income from the extended service would not compensate the company for the cost of the extension, would furnish no cause for refusing to compel the service. However, it said "the company's income is consumed in the operation and maintenance of the plant. It has no funds on hand with which to make the extension, and is unable to borrow money. If compelled to make the extension the company will be thrown into bankruptcy, and will be unable to furnish fire protection for the city, or to continue the service to those who are using its water." The court concluded that the case was not one in which the utility could be compelled to make an extension.

In Re Augusta Water District, P.U.R. 1916E 31, the Maine Public Utilities Commission, after stating the broad duty generally owed by a public utility to serve its consumers, stated "Nor will it be required to undertake to do that which is physically or financially impossible or unreasonable. For example, respondent, limited as to its power to borrow, may not be required to

make extensions as rapidly as similar districts which may finance extensions and renewals by bond issues."

In Re Pleasantville Gas Co., P.U.R. 1920E 404, the New Jersey Board of Public Utilities Commissioners used language indicating that if the utility does show the impossibility or impracticability because of its financial plight of rendering proper and adequate service, such proof will prevent an order requiring such service. We quote as follows: "It is its duty to avail itself of the hearing which the statute provides shall be held before orders of this Board are made, and to present facts and figures to show . . . its financial plight, if such exists, is not its fault and that conditions are such it is impracticable for it to afford service which the law contemplates shall be provided."

Nothing has been said about the question of procuring different and better service by some other utility, for the reason that such question is not here involved. There was some talk at the hearing about it possibly being advisable to have service rendered in the territory in question by the town of Littleton. It is, of course, quite obvious that the respondents, being unable to render adequate service, are not in a position to prevent somebody else from doing so if proper steps are taken therefor.

After careful consideration of the evidence, we are of the opinion, and so find, that under the facts and circumstances as shown by the evidence in this case, the Commission may not properly make any order requiring the betterment of service, since, according to the evidence, it can only be improved by the expenditure of several thousands of dollars, which the respondents cannot borrow.

O R D E R

IT IS THEREFORE ORDERED, That the proceedings herein be, and they are hereby, discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of December, 1930.

Chairman Bock dissenting:

I regret that I am unable to agree with the order of my colleagues in this case. The facts involved are not disputed. This dissent, therefore, is directed solely against the majority opinion as it relates to the findings and order.

It is undisputed in the record that the water service by the respondents has been inadequate and that the only way that this can be remedied is by the procuring of additional water. In other words, more water must be available to the respondents to adequately serve their consumers.

It should be understood at the outset that the issue of abandonment, extensions or the reasonableness of the rates is not involved. We are solely concerned here with efficient, just, adequate and reasonable service to the present consumers. The issue of extension of service to new customers is not before us and, if it were, somewhat different principles would be applicable.

Section 2924 (b), Compiled Laws of Colorado, 1921, provides as follows:

> "Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employes and the public, and as shall in all respects be adequate, efficient, just and reasonable."

Section 2935, Compiled Laws of Colorado, 1921, provides as follows:

> "Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that the . . . . equipment, appliances, facilities, or service of any public utility, or the . . . . storage or supply employed by it, are . . . . inadequate or insufficient, the Commission shall determine the just, reasonable, safe, adequate , . . . equipment, appliances, facilities, service, or methods to be observed, ... and shall fix the same by its order" . . . .

The mandate to us, therefore, by the legislature is clear. What action, therefore, should this Commission take in view of the facts and the law involved?

If we had before us the issue of abandonment or extension of service, the disposition thereof would be simple, but where the issues involve inadequacy of service to present customers by a public utility, so long as such a utility functions, it is the duty of this Commission to see that the service is reasonably

adequate. If it were otherwise, a public similarly situated as in the instant cases would be absolutely helpless and at the mercy of the utility.

While the record does not indicate the value of the present property, I believe it reasonable to assume therefrom that it must be somewhat below the $20,000 mortgage. Any one purchasing public utility securities takes the same subject to all the obligations that such a utility owes to the public in the way of adequate service. To say now that the trustees and security holders have no duty whatsoever towards the public in this matter, and that we are powerless to require the trustees to do anything would be a confession of a failure in regulatory power that the express law of the State has attempted to provide. The attitude of the trustees can only have the result that unless the public involved takes some steps to liquidate the $20,000 bond issue, the inadequacy of the service will be continued. Surely no such duty rests upon the public and the definite requirement of adequate service rests upon the respondents as long as they continue to operate. The security holders may be willing to put up more capital in this utility in order to save their present investment, or decide on some constructive and reasonable plan to make a disposition of the same. Is it possible that the consumers must continue to suffer from an inadequate water service until the trustees and security holders in their own good time decide to change this situation? I think not.

In the case of Woodward v. Estes Park Water Company, P.U.R. 1925D,146, this Commission had before it the question of inadequacy of water service and the inability of the utility to finance. We quote the following paragraphs from this opinion:

> "The inability to properly finance the continuance of a service established for a number of years is not a sufficient excuse under the facts in this case. Laurel Springs v. New Jersey Gas Co. (N.J.) P.U.R. 1921A, 445.
>
> "Moreover, so long as a public utility continues to exercise its franchise it cannot refuse to render service to such patrons as it was organized to serve, because of the expense involved, and this is especially true where the status has once been created and maintained for a considerable period, as in the instant case. Colorado Teleph. Co. v. Wilmore, 53 Colo. 585, 129 Pac. 204; Colorado & S. R. Co. v. State R. Commission, 54 Colo. 64, 129 Pac. 506."

In the case of Re Chippewa County Telephone Company, P.U.R. 1929D, 340, the Wisconsin Railroad Commission had before it a similar problem.

We quote from their opinion:

> "The Commission recognizes that the Chippewa County Telephone Company's financial situation is far from satisfactory. So long as this company continues to render service as a public utility, however, it cannot be relieved from the obligations incident to the privileges conferred on such companies."

As stated above, the question of reasonable rates is not involved. While the testimony shows that the present rates are unusually high, yet there is no record upon which to either determine the value of the property or the reasonableness of the rates.

In the case of P. F. Lande, et al., v. The Napa Ranch, et al., Vol. 30, Railroad Commission of California, 704, the California Commission had before it a problem similar to the one involved in the instant case. We quote therefrom as follows:

> "While the testimony indicates that a greatly increased water supply can not be developed at the present sources except at unwarranted expense, it is also apparent that defendant has made little or no effort to improve and increase the existing facilities to their full extent. The Commission requires each and every public utility water system to furnish adequate and reasonable supply of water to its patrons at all proper times, and, when existing facilities and supply are inadequate, the utility is expected and required to expend all reasonable efforts to improve conditions and obtain additional water. It should also be pointed out that the fact that existing revenues may be insufficient to provide for a fair net return upon the investment in the utility properties does not discharge the duty of a public utility to render reasonable and adequate service where the facilities provided by the Public Utilities Act to obtain rates sufficient to net a fair return have not been availed of by such utility."

In this case a petition for a Writ of Review was denied by the courts.

In the case of R. E. Cronin, et al., v. the Portola Water Company, Vol. 28, Railroad Commission of California, 349, the California Commission had this to say about the duty of adequate service by a water utility:

> "It is clear, however, that the defendant company has not a sufficient water supply for its present needs and that it has not made any determined effort to acquire additional water. A public utility water system has the obligation imposed upon it by law to provide proper service at all times in reasonably adequate quantities and owes the public the duty to make all reasonable efforts to provide such service. This company therefore will be expected to take immediate steps to procure and develop such additional water as shall be required to properly provide for its consumers."

In the case of City of Lee's Summit v. Independence Waterworks Company, P.U.R. 1928B 193, the Missouri Public Service Commission said:

> "The Commission finds from the evidence that the defendant voluntarily signed an agreement to furnish water to the complainant. Having entered the field there was placed upon it by law the obligation to give adequate service (10477 Revised Statutes of Missouri 1919, Banks Commercial Club v. North Coast Power Co. (Or.) P.U.R. 1924B, 70; Re Canon-Reliance Coal Co. (Colo.), P.U.R. 1922B, 139). The evidence further shows that the service has proven inadequate to serve the growing needs of the complainant city. Adequate service is as much a corollary to fair rates of return as is the right to demand a fair rate of return for service rendered. (Re Milwaukee Electric R. & Light Co. (Wis.) P.U.R. 1920A, 361). The Commission is, therefore, of the opinion that the defendant should take immediate steps, either by the installation of a booster pump or by the laying of a larger or separate pipe line, to serve the present and growing needs of the complainant city. The Commission is of the further opinion that the defendant should take such immediate action as will relieve the complainant of further expense in the operation of said complainant's booster pump.
>
> "An order in keeping with the above will issue."

The record indicates that the respondents claim to be unable on account of finances to obtain any additional water. This, as appears from the authorities and the law cited, is not a sufficient excuse. The law provides certain penalties for violations based upon any lawful orders of this Commission. (Sections 2970-73, Compiled Laws of Colorado, 1921).

In my opinion, the Commission should make a finding in this case that the present source of water supply of the respondents is inadequate to serve the public involved and that in order to reasonably serve the consumers, the respondents should be required to obtain an additional water supply and pumping facilities and should take at once whatever measures are reasonably necessary to remedy and improve the inadequate water service now existing. As a first step to enforce these findings, an order should be entered directing the respondents to file with the Commission within sixty days from the date of the order a detailed plan for the improvement and increasing of water supply, such improvements to be completed on or before May 1, 1931. The Commission could then retain jurisdiction over this case until the respondents have complied with the findings and order.

Chairman.

Dated at Denver, Colorado,
this 19th day of December, 1930.

(Decision No. 3167)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
ATLANTIC-PACIFIC STAGES, INC.) CASE NO. 595

December 19, 1930

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question of whether or not Atlantic-Pacific Stages, Inc., respondent herein, has violated Chapter 134, Session Laws of Colorado, 1927, and the Rules and Regulations of this Commission by operating a bus between Pueblo and Denver, Colorado, on or about October 18, 1930, in the transportation of passengers intrastate between said points, and by the operation of a bus on or about December 7, 1930, in the transportation of passengers between Denver and Berthoud pass, Colorado, in intrastate transportation; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent has engaged in operations as above set forth in violation of the law, the Rules and Regulations of this Commission and the authority granted by the certificate of public convenience and necessity issued to said respondent.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent has violated the law, the Rules and Regula-

tions of this Commission, or the authority granted by the certificate of public convenience and necessity issued to it by this Commission.

IT IS FURTHER ORDERED, That said respondent show cause, if any it have, by written statement filed with this Commission within ten days, why the Commission should not enter an order commanding it to cease and desist from operating as a motor vehicle carrier in the transportation of passengers intrastate, or why it should not impose a penalty upon said respondent therefor.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission at its Hearing Room, 305 State Office Building, Denver, Colorado, on the 10th day of January, 1931, at 10 A.M. o'clock, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of December, 1930.

(Decision No. 3168)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MAKE NO COPY

* * * *

RE MOTOR VEHICLE OPERATIONS OF)
GOTTLIEB FRANK.)

CASE NO. 594

December 19, 1930.

S T A T E M E N T

By the Commission:

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

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

O R D E R

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

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, at a time and place hereafter to be fixed, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of December, 1930.

MAKE IVO
Copy Dillon

(Decision No. 3169)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF THE UNIVERSITY OF COLORADO.) CASE NO. 595

December 19, 1930.

S T A T E M E N T.

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the University of Colorado is operating the business of a "motor vehicle carrier" as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, by transporting passengers on sightseeing trips between Boulder, Colorado, and various other points in the State of Colorado without first or at all having obtained from the Public Utilities Commission of the State of Colorado a certificate of public convenience and necessity as required by law; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not the University of Colorado is engaged in operating the business of a motor vehicle carrier, and whether or not the Commission should enter an order requiring the respondent to cease and desist from such operations unless and until said respondent shall have obtained a certificate of public convenience and necessity as required by law.

O R D E R

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

whether or not the University of Colorado is engaged in operating the business of a motor vehicle carrier, and whether or not the Commission should enter an order requiring the respondent to cease and desist from so operating unless and until it shall obtain a certificate of public convenience and necessity as required by law.

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 10th day of January, 1931, at 10:00 A. M., at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of December, 1930.

(Decision No. 3170)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

* * *

IN THE MATTER OF THE APPLICATION OF THE CONSOLIDATED TRUCK COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1710

December 12, 1930

Appearances: H. D. Filson, Secretary, 1745 Blake Street, Denver, Colorado, for applicant.

S T A T E M E N T

By the Commission:

This is an application by The Consolidated Truck Company, a corporation, for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of freight in interstate only between Denver and the Colorado-Wyoming State line, via Fort Collins, Colorado, over U. S. Highway No. 285.

A protest was filed by the Union Pacific Railroad Company.

The testimony shows that the applicant approximately five years ago received a certificate of public convenience and necessity from this Commission to operate intrastate from Denver to Fort Collins and return. The authorization in the instant application will not require any further equipment.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the laws of the State of Colorado and the laws of the United States require the issuance of a certificate of public convenience and necessity to the applicant herein, for the territory involved.

O R D E R

IT IS THEREFORE ORDERED, That the laws of the State of Colorado and the laws of the United States require the issuance of a certificate of public convenience and necessity to the applicant herein for a motor vehicle system for the transportation of freight in interstate only between Denver and the Colorado-Wyoming State line, via Fort Collins, Colorado, over U. S. Highway No. 285, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of December, 1930.

(Decision No. 3171)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF UNION PACIFIC RAILROAD COMPANY FOR AUTHORITY TO ABANDON ITS AGENCY AT BUNELL.

I. & S. No. 144

December 19, 1930.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a letter from counsel for the applicant in which the request is made that the above application be dismissed.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of December, 1930.

(Decision No. 5172)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION OF THE BOARD OF COUNTY COMMISSIONERS OF HUERFANO COUNTY, COLORADO, FOR THE OPENING OF A PUBLIC HIGHWAY CROSSING, AT GRADE, OVER THE RIGHT-OF-WAY AND TRACKS OF THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY ABOUT 75 FEET EAST OF M.P. 177, AND THE CLOSING OF A PUBLIC HIGHWAY CROSSING NEAR M.P. 176.	APPLICATION NO. 1741

- - - - - - - -

December 19, 1930.

- - - - - - - -

S T A T E M E N T

By the Commission:

This proceeding arises out of the application of the Board of County Commissioners of Huerfano County, Colorado, filed with the Commission on November 26, 1930, in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917, for the opening of a public highway crossing, at grade, approximately 4000 feet west of the present crossing at Walsen which point is also about 75 feet east of Mile Post 177 of said railroad company, and the closing and abandonment of the present grade crossing at Walsen near Mile Post 176.

The application alleges said proposed crossing is necessary for the completion of State Project 262 D west of Walsenburg.

A copy of a letter from the Superintendent, Mr. Bowen, of The Denver and Rio Grande Western Railroad Company was submitted with the application indicating approval of the application of the county for a crossing at the place desired, conditioned upon the closing of the crossing at Walsen, and, therefore, it was not considered necessary to refer a copy of the application to the respondent, The Denver and Rio Grande Western Railroad Company, for the usual formal answer in such applications.

The Commission's engineer made an investigation of the matter on December 10,1930, and reported that the point where the crossing is desired is in a considerable railroad cut and, therefore, the vision of traffic on the highway approaching the track will be very much obscured rendering the crossing hazardous to this extent. He found that the reason for the location of the crossing at this point was for the ultimate purpose of crossing the track by an overhead bridge, but owing to lack of funds at this time for the bridge the county, which has charge of the construction of this highway project, now desires to cross the tracks of the railroad company, at grade. A location east or west of the proposed location where the vision would not be obstructed was suggested, but the county authorities maintained that it was their ultimate intention to have an overhead crossing constructed at this place when funds are available, which they anticipate within a year, and in order to avoid the expense of now constructing a grade to either of the locations suggested beyond the cut, and then constructing a new grade to the overhead bridge as now located, and also to avoid the expense of right-of-way that might be required on the suggested locations, they prefer a temporary grade crossing at the place as now located.

While the Commission is strongly of the opinion that every consideration in this important highway, and all the topographical features surrounding the approach to the crossing fully warrants and justifies an overhead bridge at this place, yet the matter of lack of funds available for the construction of the bridge at this time is a vital element, and in order to cooperate with the county in a partial completion of this road project without delay that appears to be important we have carefully considered the request of the county, and with the full and explicit understanding that funds will be available within a year the Commission will now issue its order for a temporary grade crossing at the place desired.

O R D E R

IT IS THEREFORE ORDERED, That in accordance with Section 29 of the Public Utilities Act, as amended April 16,1917, that a temporary public highway

crossing, at grade, be and the same is hereby permitted to be opened and established across the main line track and right of way of The Denver and Rio Grande Western Railroad Company at a point about 75 feet east of Mile Post 177 of said railroad on the Walsenburg-La Veta line, conditioned, however, that prior to the opening of said crossing to public travel it shall be constructed in accordance with plans and specifications as prescribed in the Commission's order, "In re Improvements of grade crossings in Colorado, 2 Colo. P.U.C. 128", and

IT IS FURTHER CONDITIONED, That said temporary crossing shall be replaced by an appropriate overhead bridge the construction of which shall begin within one year from January 1, 1931, and be constructed with due diligence.

IT IS FURTHER ORDERED, That the expense of the construction and maintenance of grading for the highway up to the track at said temporary crossing, including the drainage therefor, shall be borne by the county of Huerfano, Colorado, and the expense of the installation and maintenance of said crossing, including necessary cattle guards, crossing plank, signs and other similar expense shall be borne by The Denver and Rio Grande Western Railroad Company.

IT IS FURTHER ORDERED, That when the aforesaid temporary grade crossing is ready for use the present grade crossing at Walsen near Mile Post 176 of The Denver and Rio Grande Western Railroad Company shall be closed and permanently abandoned.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of December, 1930.

(Decision No. 3173)

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, COLORADO, FOR THE OPENING OF A PUBLIC HIGHWAY OVER THE RIGHT OF WAY AND TRACKS OF UNION PACIFIC RAILROAD COMPANY AT A POINT WHERE LAKE AVENUE EXTENDED WOULD CROSS THE TRACKS OF THE RAILROAD AT EASTLAKE, COLORADO.	APPLICATION NO. 1699

December 23, 1930.

Appearances: Harry Behm, Brighton, Colorado, attorney for applicant;
E. G. Knowles, Denver, Colorado, attorney for respondent.

S T A T E M E N T

By the Commission:

This proceeding arises out of the application of the Board of County Commissioners of the county of Adams, Colorado, filed with the Commission on September 25, 1930, in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917, for the opening of a public highway crossing, at grade, at a point where Lake Avenue in the Town of Eastlake, Colorado, extended would cross the tracks of the Union Pacific Railroad Company.

The application alleges that the proposed crossing would provide a better entrance into the town of Eastlake which could be secured without so many turns as now required at the present crossing west of the depot and which crossing could be abandoned when the proposed crossing is installed.

A copy of the application was duly referred to the Union Pacific Railroad Company, the respondent, and on October 13, 1930, the Company's General Attorney made reply thereto advising the Commission that the Company objected to the establishment of a grade crossing at the point specified in the application. Also a conference was held at Eastlake in the matter by county commissioner

McIntosh, Division Engineer Ayer of the railroad company, and the Commission's engineer, but the conference did not result in any tentative agreement in the matter.

The matter was, therefore, set down for formal hearing at the Hearing Room of the Commission, State Office Building, Denver, Colorado, at 10 o'clock A. M. on Monday, December 15, 1930.

Witnesses Dr. R. D. Elmore, Frank Dunphy, E. W. McGlothland, and county commissioner R. S. McIntosh testified for the applicant. Their testimony was to the effect that the proposed crossing would be of considerable benefit to the town of Eastlake in providing a more direct entrance to the main business part of the town, and be more convenient for people living west of the town to reach the business section. Also that considering the condition of the approaches at the present crossing just west of the depot and the turns that would have to be made in reaching the crossing there would be no more hazards at the proposed crossing than the present crossing.

The Commission's engineer was called to testify as to the conditions he found at the crossing where he made an investigation of the proposed crossing. His testimony was to the effect that while the new crossing would be more convenient for traffic from the north and west of the town to reach the business section of the town yet this convenience would be slight as the present crossing is only a little over 300 feet from the proposed crossing. Also that the hazards would be greater at the proposed crossing due to the fact that buildings on each side of the crossing, and cars on side tracks or both sides of the main track would seriously obstruct the view along the main track. Also that switching on the side tracks would be dangerous to traffic over the crossing. He was of the opinion that the hazards far exceeded the value of the convenience.

The Commission, therefore, having carefully considered the evidence at the hearing and the records in the case is of the opinion, and so finds, that a new crossing at the place desired is not justified. The Commission is also of the opinion that conditions at the present crossing can be made better and safer by having better approaches to the crossing and better conditions in the crossing itself which matters are here called to the attention of the carrier for necessary action.

The Commission will now issue its order denying the application.

O R D E R

IT IS THEREFORE ORDERED, That the application of the Board of County Commissioners of Adams County, Colorado, for the opening of a public highway crossing, at grade, at a point where Lake Avenue in the town of Eastlake, Colorado, extended crosses the tracks of the Union Pacific Railroad Company, and the abandonment of the present public highway crossing, at grade, just west of the depot of said railroad company at Eastlake, Colorado, be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

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

300

(Decision No. 3174)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF C. H. WOODIN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO . 1680

December 26, 1930.

S T A T E M E N T

By the Commission:

On October 30, 1930 the Commission issued an order denying the above application. Thereafter the applicant filed a petition for rehearing. The Commission has carefully considered the grounds alleged therein and concludes that the petition for rehearing should be denied.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

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

(Decision No. 3175)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1726
IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1727
IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1728
IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1729

December 26, 1930

Appearances: Granby Hillyer, Esq., Lamar, Colorado, and Pershing, Nye, Tallmadge, Bosworth and Dick, Esqs., Denver, Colorado, for applicant;
D. O. Brown, Esq., Walsh, Colorado, for Town of Walsh.

S T A T E M E N T

By the Commission:

These are applications for certificates of public convenience and necessity, authorizing the construction, maintenance and operation of systems for the distribution of natural gas to consumers in the towns of Granada, Springfield, Walsh and Holly, Colorado, and for certificates for the exercise of franchise rights granted by said towns to the applicant.

No protests were filed against these applications except in No. 1728, involving Walsh, Colorado.

The Commission in Application No. 1647, In Re A. J. Hardendorf, issued a certificate of public convenience and necessity for the construction and operation of a pipeline system in the territory in which the above mentioned towns are located. In that application we passed also upon the financial dependability of the applicant. No substantial change has occurred since that time.

The investment by the applicant in the distribution systems involved is approximately $4,200 for Granada, $14,375 for Springfield, $3,500 for Walsh, and $7,100 for Holly. These figures, however, shall not be considered as binding upon the Commission in any subsequent hearing involving the rate structure.

All of the towns mentioned have granted franchises to the applicant. The franchises are substantially the same in every respect, including the rate structure.

The protest of the Town of Walsh was directed to the matter of having some one representing the Company in Walsh at all times, so that there may be personal supervision not only in the construction of the line, but in the operation and maintenance of the same. The applicant testified there has been some temporary difficulty in obtaining a permanent man at Walsh, but that it was his understanding that a person had been employed for that purpose, and that the applicant would continue at all times to have some one at Walsh to take care of the supervision and maintenance, and to whom the public could turn for service. This was satisfactory to the protestant.

After a careful consideration of all the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the construction, operation and maintenance of the systems for distribution of natural gas in the Towns of Granada, Springfield, Walsh and Holly, Colorado, and the exercise of the franchise rights granted by said towns to the applicant.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the system of the applicant for distribution of natural gas to the consumers in the Town of Granada, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the applicant to exercise the franchise rights granted by the Town of Granada in Ordinance No. 111, for the distribution of natural gas, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the system of the applicant for distribution of natural gas to the consumers in the Town of Springfield, Colorado, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the applicant to exercise the franchise rights granted by the Town of Springfield in Ordinance No. 60, for the distribution of natural gas, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the system of the applicant for distribution of natural gas to the consumers in the Town of Walsh, Colorado, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the applicant to exercise the franchise rights granted by the Town of Walsh in Ordinance No. 19, for the distribution of natural gas, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the system of the applicant for distribution of natural gas to the consumers in the Town of Holly, Colorado, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the applicant to exercise the franchise rights granted by the Town of Holly in Ordinance No. 107, for the distribution of natural gas, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall file within twenty days from the date of this order its rates, rules and regulations for the service of natural gas in the territory involved in these applications.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

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

(Decision No. 3176)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

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

APPLICATION NO. 1592

December 26, 1930.

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

STATEMENT

By the Commission:

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

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

At the time of issuing the various sightseeing certificates, including those of the applicant and Gerst, the Commission took the position that those operators having fewer than four cars in the service could not properly and

adequately operate to all of the scenic points visited from Denver by tourists and others. Accordingly it refused authority to such operators to go to Estes Park.

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

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

As already stated, the applicant has heretofore received a certificate of public convenience and necessity from this Commission and he has been rendering a very efficient and excellent service in the territory in which he is authorized to operate. It is, therefore, with some regret that we reluctantly make the findings which in our opinion, the record requires us to make.

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

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

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

(Decision No. 5177)

At a session of The Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, on the 26th day of December, 1930.

INVESTIGATION AND SUSPENSION DOCKET NO. 149

Re Petroleum and petroleum products' rates from Denver, Colorado, to certain points of destination on U.P. RR and Colorado and Southern Railway.

IT APPEARING, That there have been filed with the Public Utilities Commission of the State of Colorado, by The Colorado and Southern Railway Company, by J. H. Buckingham, its Traffic Manager, and Union Pacific Railroad Company, by F. B. Cheate, its General Freight Agent, tariffs containing schedules stating new individual rates and charges and new individual regulations and practices affecting such rates and charges to become effective on January 31, 1931, designated as follows:

Colorado and Southern Railway Company, Amendment No. 250, to Colo. P.U.C. No. 440, Tariff No. C&S Railway G.F.O. 1-O. Union Pacific Railroad Company, Supplement (L) to Colo. P.U.C. No. 254, Tariff No. 3020-E,

IT IS ORDERED, That the Commission, upon its own motion, without formal pleading, enter upon a hearing concerning the lawfulness of the rates, charges, regulations and practices stated in the said schedules contained in said tariffs, viz:

Colorado and Southern Railway Company, Amendment No. 250, to Colo. P.U.C. No. 440, Tariff No. C&S Railway, G.F.O. 1-O. Union Pacific Railroad Company, Supplement (L) to Colo. P.U.C. No. 254, Tariff No. 3020-E.

IT FURTHER APPEARING, That the said schedules contain certain rates which are lower for longer hauls than for shorter hauls, the shorter haul being included within the longer haul, whereby the rights and interests of the public may be injuriously affected, and it being the opinion of the Commission that the effective date of the said schedules contained in the said tariff should be postponed pending said hearing and decision thereon,

IT IS FURTHER ORDERED, That the operation of the said schedules contained in said tariffs be suspended and that the use of the rates, charges, regulations and practices therein stated be deferred one hundred twenty days or until the 31st day of May, 1931, unless otherwise ordered by the Commission, and no change shall be made in such rates, charges, regulations and practices during said period of suspension.

IT IS FURTHER ORDERED, That the rates and charges, and the regulations and practices thereby sought to be altered shall not be changed by any subsequent tariff or schedule until this investigation and suspension proceeding has been disposed of.

IT IS FURTHER ORDERED, That a copy of this order be filed with the said schedules in the office of the Commission and that copies thereof be forthwith served upon The Colorado and Southern Railway Company, and the Union Pacific Railroad Company, Chamber of Commerce, Ft. Collins, Colorado; Community Association, Windsor, Colorado and Mayor of Timnath, Colorado.

IT IS FURTHER ORDERED, That this proceeding be assigned for hearing on the 3rd day of January, 1931 at 10:00 A.M. in the hearing room of the Commission, 305 State Office Building, Denver, Colorado.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Bock

John S. Jones

Commissioners.

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

(Decision No. 3178)

401

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF CLINTON HOWARD TO ASSIGN CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO WILLIAM J. HONEYMAN AND DELL F. SCOTT.

APPLICATION NO. 1278-A

December 31, 1930.

S T A T E M E N T

By the Commission:

A motion has been filed by counsel for the applicant to dismiss the above application.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 31st day of December, 1930.

(Decision No. 3179)

447

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF ADOLPH WEISS, HENRY A. WINTER, C. B. RADER AND T. C. SANDERSON, CO-PARTNERS, DOING BUSINESS AS THE MOTOR TRANSPORT COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE TRANSPORTATION SERVICE BETWEEN DENVER AND POINTS THROUGHOUT THE STATE OF COLORADO.	APPLICATION NO. 1479

January 2, 1951.

Appearances: Leo S. Moses, Esq., Denver, Colorado, for applicants;
D. Edgar Wilson, Esq., Denver, Colorado, for The Rocky Mountain Motor Company, Colorado Motor Way, Inc., Rocky Mountain Parks Transportation Company, Denver Cab Company and Chicago, Rock Island and Pacific Railway Company;
T. A. White, Esq., Denver, Colorado, for The Denver and Rio Grande Western Railroad Company.

S T A T E M E N T

By the Commission:

On January 3, 1950, the Commission issued a certificate of public convenience and necessity to Adolph Weiss, Henry A. Winter, C. B. Rader and and T. C. Sanderson, co-partners, doing business as The Motor Transport Company, authorizing motor vehicle transportation by them of automobiles "from Denver to all points on the Eastern Slope within the State of Colorado," including the cities and towns of Trinidad, Canon City, Manitou, Golden, Boulder and Fort Collins. The nature of the applicants' operation being so different from any other motor vehicle operation theretofore authorized by the Commission, and there being considerable question whether the said operation would be dangerous to others using the highways and would tend to unduly congest traffic, the certificate was issued for the period of one year only.

The Commission has had a second hearing, at which evidence was taken showing the nature and results of the operation of the applicants during this period of about a year. The evidence showed only one accident, which was a rather minor one. No evidence was offered in opposition to the application.

The applicants state that they do not desire to operate into the points in the mountains such as Estes Park and Salida, even though they be east of the continental divide.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicants for the transportation of automobiles from Denver to points in Colorado situated east of the Rocky Mountains, including the cities and towns of Trinidad, Canon City, Manitou, Golden, Boulder and Fort Collins.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicants for the transportation of automobiles from Denver to points in Colorado situated east of the Rocky Mountains, including the cities and towns of Trinidad, Canon City, Manitou, Golden, Boulder and Fort Collins, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

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

(Decision No. 3180)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN RE PETROLEUM AND PETROLEUM PRODUCTS' RATES FROM DENVER, COLORADO, TO CERTAIN POINTS OF DESTINATION ON UNION PACIFIC RAILROAD And COLORADO AND SOUTHERN RAILWAY.	I. & S. DOCKET NO. 149

January 5, 1931.

Appearances: John Q. Bier, Esq., Denver, Colorado, attorney for respondents.

S T A T E M E N T

By the Commission:

The respondents herein, Colorado and Southern Railway Company and Union Pacific Railroad Company, filed with this Commission, effective on January 31, 1931, commodity rates on petroleum and petroleum products from Denver, Colorado, to certain points of destination on the Union Pacific Railroad Company and the Colorado and Southern Railway Company in the northern part of Colorado. The tariffs filed are designated as follows:

> Colorado and Southern Railway Company, Amendment No. 230, to Colo. P.U.C. No. 440, Tariff No. C&S Railway G.F.O. 1-O. Union Pacific Railroad Company, Supplement (L) to Colo. P.U.C. No. 254, Tariff No. 3020-E.

In view of the fact that the schedules involved contain certain rates which are lower for longer hauls than for shorter hauls, the shorter haul being included within the longer haul, the Commission on December 26, 1930, suspended these tariffs and set the matter down for public hearing on January 3, 1931. Notice of the proposed suspension and hearing date was sent to the Chamber of Commerce, Fort Collins, Community Association, Windsor, and the Mayor of Timnath, Colorado. No protests or appearances were made by any

organization representing shippers.

The testimony shows that the purpose of the tariffs involved is to meet competitive conditions between the Colorado and Southern Railway Company, the Union Pacific Railroad Company and the Chicago, Burlington & Quincy Railroad Company. The rates are based upon distance except at competitive points. The greatest differential in any rate lower for a longer haul than for a shorter haul is 3 cents per hundred pounds. The Commission has always recognized the competitive condition in the territory involved. The rates shown according to the testimony are compensatory and are the result of conferences with representatives of the petroleum industry.

While there is no long and short haul clause in the Public Utilities Act of this State, the Commission has recognized, in harmony with the Federal statute, that there are certain conditions and circumstances under which such rates as are involved herein should be permitted. Our Commission in P.U.C. Decision No. 660, Case No. 251, prescribed rates between Denver and Leadville, Colorado, under a similar situation.

After a careful consideration of the evidence, the Commission is of the opinion and so finds that the rates contained in the tariffs involved herein are justified and should go into effect on January 31, 1931, and that this proceeding should be discontinued.

O R D E R

IT APPEARING, That by an order dated December 26, 1930, the Commission entered upon a hearing concerning the lawfulness of the rates, charges, regulations, and practices stated in the schedules enumerated and described in said order, and suspended the operation of said schedules until May 31, 1931;

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 statement containing its findings of fact and conclusions thereon, which said statement is hereby referred to and made a part hereof, and has found that respondents have justified the schedules under suspension;

IT IS ORDERED, That the order heretofore entered in these proceedings, suspending the operation of said schedules, be, and it is hereby, vacated

and set aside as of January 5, 1931, and that these proceedings be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Bock

Johnson Jones

Commissioners.

Dated at Denver, Colorado,
this 5th day of January, 1931.

(Decision No. 3181)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - -

IN THE MATTER OF THE APPLICATION OF CHARLES BRUCE CAPRON AND THE MILLIKEN-JOHNSTOWN TRUCK LINE, INC., A CORPORATION, FOR TRANSFER AND ASSIGNMENT OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 913-A

- - - - - - - - -

January 9, 1931.

- - - - - - - - -

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

S T A T E M E N T

By the Commission:

This is an application for a transfer of certificate of public convenience and necessity issued to Charles Bruce Capron on December 8,1927 (Decision No. 1520) to The Milliken-Johnstown Truck Line, Inc, a Colorado corporation. No protests were filed against this application.

The testimony shows that the transferor has caused to be organized a Colorado corporation under the name of The Milliken-Johnstown Truck Line, Inc. All of the stock, except two qualifying shares, has been issued to the transferor. The capital stock is $10,000, at one dollar par value per share.

The transferor's brother testified that one of the purposes of organizing this Company was to make it possible for him to have an interest in this business. The financial statement filed in evidence indicates that the operation is on a sound basis.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the transfer sought herein should be authorized.

O R D E R

IT IS THEREFORE ORDERED, that Charles Bruce Capron be, and he is hereby, authorized to assign and transfer certificate of public convenience and necessity issued on December 8, 1927 (Decision No. 1520) to The Milliken-Johnstown Truck Line, Inc., a Colorado corporation.

IT IS FURTHER ORDERED, That the tariffs and rules and regulations governing this operation shall remain in force and effect until changed as provided by law.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of January, 1931.

(Decision No. 3188)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF GUY BLACK AND W. B. BURROWS, DOING BUSINESS AS CO-PARTNERS UNDER THE NAME OF THE GENOA TRANSPORTATION COMPANY FOR AUTHORITY TO TRANSFER AND ASSIGN CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO W. B. BURROWS AND CLARENCE TANGEMAN, CO-PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF THE GENOA TRANSPORTATION COMPANY.	APPLICATION NO. 1252-A

January 12, 1931.

Appearances: Guy Black, Genoa, Colorado, per se;
Clarence Tangeman, Genoa, Colorado, per se.

S T A T E M E N T

By the Commission:

On September 18, 1929, this Commission issued a certificate of public convenience and necessity to Art Schultz, Guy Black and W. B. Burrows, co-partners, doing business under the name and style of The Genoa Transportation Company (Decision No. 2488).

On December 5, 1930, this application was filed by Guy Black, W. B. Burrows and Clarence Tangeman. In the interim Guy Black and W. B. Burrows had purchased the interest of Art Schultz, who is not now in this partnership. This application is for the purpose of securing authority to assign and transfer the undivided one-half interest of Guy Black to Clarence Tangeman. This authorization will then permit W. B. Burrows and Clarence Tangeman to continue this operation.

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

O R D E R

IT IS THEREFORE ORDERED, That Guy Black be, and he is hereby, authorized to transfer and assign his one-half interest in certificate of public convenience and necessity issued on September 12, 1929 (Decision No. 2488) to Clarence Tangeman.

IT IS FURTHER ORDERED, That the tariffs, rules and regulations now on file with this Commission shall apply to this operation until the same have been changed or amended as provided by law.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 12th day of January, 1931.

(Decision No. 3183)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE OVERLAND MOTOR EXPRESS COMPANY, A CORPORATION, Complainant, vs. THE COLORADO RAPID TRANSIT COMPANY, A CORPORATION, Defendant.	)	CASE NO. 502

January 13, 1931.

Appearances: Edward C. Mason, Esq., Boulder, Colorado, for complainant.

S T A T E M E N T

By the Commission:

The Overland Motor Express Company and The Colorado Rapid Transit Company are both authorized motor vehicle carriers of freight between Boulder and Denver, Colorado. Sometime ago they filed a joint tariff. Among other items stated in said tariff is the following, to-wit:

"Item No. 5 Carriers Empty Returned.
"Cans & Boxes 5¢ each."

The complainant alleges and contends that the defendant has transported empty milk cans to Boulder free of charge. The testimony shows that the defendant has not transported any milk from the City of Boulder to Denver. There is an operation, however, conducted by Austin & Austin, who are also interested in the business of The Colorado Rapid Transit Company, who are authorized to haul milk and cream between Boulder and Denver and who do not make any charge for returning empty milk cans. This Austin & Austin operation is separate and apart and on a different tariff than that filed by The Colorado Rapid

Transit Company.

Under these circumstances it was suggested that the complainant, as well as the defendant, agree to a cancellation of Item No. 5 of their joint tariff. This was agreed to.

O R D E R

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

IT IS FURTHER ORDERED, That The Overland Motor Express Company be, and it is hereby, authorized within ten days from the date of this order to cancel said Item No. 5 of said joint tariff.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 13th day of January, 1931.

(Decision No. 3184)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF T. B. BROWN DRAY AND TRANSFER)
COMPANY FOR A CERTIFICATE OF) APPLICATION NO. 699
PUBLIC CONVENIENCE AND NECESSITY.)

January 13, 1931.

S T A T E M E N T.

By the Commission:

This matter was set down for hearing on January 12, 1931, No appearance was made by the applicant.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 13th day of January, 1931.

(Decision No. 3185)

PUC-23

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF FULLER TRUCK LINE FOR AN ORDER DEFINITELY DESCRIBING TERRITORY TO BE SERVED BY IT.

AMENDED APPLICATION NO. 239

January 12, 1931.

Appearances: Grant LeVeque, Esq., Brighton, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

On September 26, 1924, the Commission issued a certificate to the applicant, authorizing the operation of a motor vehicle line for the transportation of freight and express between the City and County of Denver, and Fort Lupton, Colorado. At the hearing preceding the issuance of said certificate, evidence was given to the effect that the applicant was serving certain territory on both sides of the main highway between said points. However, it was then thought that as to the service of the territory some distance removed from the highway which parallels the railroad line the Commission had no jurisdiction. Later it was held in Greeley Transportation Company v. People, 79 Colo. 507, that the Commission has jurisdiction over motor vehicle operations whether they be in competition with a railroad or not.

The amended application herein alleges that the applicant has been serving, and it seeks definite authority to continue to serve in the future, shippers and consignees residing on and between the boundary lines described as follows:

> Beginning at a point on the Denver-Fort Lupton highway immediately north of Riverside Cemetery thence to and across the Platte River, thence north generally parallel thereto to a point situated some mile and three quarters west of Brighton, thence north along the highway paralleling and at a distance of about a mile of said river to a point about a mile and three-

quarters west of the northern limits of Fort Lupton, thence east (west) to a point about a mile and three-quarters east of said town limits of Fort Lupton, thence south on a line running approximately two miles east of the Fort Lupton-Brighton-Denver highway to and across Sand Creek, thence west into the City of Denver.

Said territory is shown definitely by green lines on applicant's Exhibit No. 1, bearing date this day, which is attached to and by reference made a part hereof.

No protests were made against the application. The evidence does show that all of this territory has been served heretofore by the applicant and that it stands ready and willing now to serve any and all persons residing therein.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that both at the time the original certificate was granted and at the present time the public convenience and necessity required and does now require the motor vehicle operation of this applicant for the transportation of freight and express between Denver and all points named in said territory hereinbefore described.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of freight and express between Denver and all points named in said territory hereinbefore described, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 12th day of January, 1931.

(Decision No. 3186)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY FOR PERMISSION TO INSTALL GRADE CROSSING SIGNALS AT MAIN STREET CROSSING AT FLORENCE, COLORADO.

APPLICATION NO. 1749

January 13, 1931

S T A T E M E N T

By the Commission:

The Denver and Rio Grande Western Railroad Company has filed with the Commission an application, in compliance with General Order No. 13, for the installation and maintenance of certain crossing signals at Main Street crossing in the town of Florence, Colorado.

The application alleges that the installation of said signals is for the purpose of safe-guarding the public at said crossing.

It is proposed to install the audible and flashing visual indicator highway crossing type of signal that has heretofore been approved at other installations. These signals will be located in the center of the street where said street crosses the tracks of said railroad company, and be approximately fifteen feet from the center of the nearest tracks as fully described in the application.

The City Council of Florence duly passed an ordinance approving the installation of the aforesaid signals at the place herein described.

Since, therefore, there appears to be a necessity for the installation of such signals for the proper protection of the highway traffic at the crossing specified herein, the Commission will now issue its order authorizing the installation and maintenance of same as proposed.

O R D E R

IT IS THEREFORE ORDERED, That the application of The Denver and Rio Grande Western Railroad Company, in compliance with General Order No. 13, for the approval of the installation and maintenance of a certain type of highway grade crossing signal at the Main Street grade crossing of said railroad company in the town of Florence, Colorado, as set out in the application, be and the same is hereby approved.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
15th day of January, 1931.

(Decision No. 3187)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN MOTORWAYS, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1143

January 15, 1931.

S T A T E M E N T

By the Commission:

The Commission is advised by counsel for the above applicant that this concern has gone out of business, and therefore requests that the application be dismissed.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 15th day of January, 1931.

(Decision No. 3188).

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF WALTER ADAMS FOR A CERTIFICATE) Amended Application No. 1865
OF PUBLIC CONVENIENCE AND NECESSITY.)

January 16, 1931

Appearances: D. F. How, Esq., Denver, Colorado, for applicant.

S T A T E M E N T

By the Commission:

On March 26, 1929, this Commission granted a certificate of public convenience and necessity to the above applicant, authorizing a motor vehicle system for the transportation of milk, cream and farm produce from a certain territory in Arapahoe County, Colorado, to Denver, and the transportation of farm supplies from Denver to said territory.

On November 4, 1929, the Commission issued an order herein, in which it modified the order issued on March 26, 1929, relating to territory. This is an amended application to extend the present territory.

No protest was filed against this amended application.

The testimony shows that no other motor vehicle carrier now serves the territory in question in the transportation of the commodities involved.

The order entered by this Commission in the above entitled application on November 4, 1929, does not state with sufficient clearness the territory in which the applicant herein has heretofore been authorized to serve. For this reason the Commission will in this order re-define the entire territory served by the applicant including such as is before us in this amended application. The territory in which the applicant heretofore has, and herein will be authorized to serve, is described as follows, to-wit:

Beginning at a point on Sheridan Blvd. 1/2 mile south of Hart's corner or the point where the Denver-Morrison paved highway crosses the said Sheridan Blvd. Thence south on Sheridan Blvd. 1/2 mile and west 1½ miles to the town of Midway. Thence north 3 miles; west 1 mile; south 2 miles; east 1/4 mile; south 1 mile and east 3/4 mile to Midway. Thence west from Midway 1½ miles; south 2 miles to Lee's siding; thence west 1/2 mile and returning east 1/2 mile to Lee's siding; thence south 4½ miles and returning north 1/2 mile; thence west 1½ miles and returning east 1/2 mile; thence north 2 miles; west 1/2 mile; thence returning east 1/2 mile and continuing east 1 mile to a point 2 miles south of Lee's siding.

With regard to customers on the east side of the north and south highway running thru Lee's siding (heretofore described) and south of the Pioneer Union Ditch or south of the north boundary of sections 34, 35 and 36, T. 4 S., R. 69 W., applicant is permitted to serve only those whose farms that abut on said highway and with entry therefrom.

After a careful consideration of all the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system for the transportation of milk, cream and farm produce from the territory involved herein to Denver, and farm supplies from Denver to said territory.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the (transportation of milk, cream and farm produce from the following described territory, to-wit:

Beginning at a point on Sheridan Blvd. 1/2 mile south of Hart's corner or the point where the Denver-Morrison paved highway crosses the said Sheridan Blvd. Thence south on Sheridan Blvd. 1/2 mile and west 1½ miles to the town of Midway. Thence north 3 miles; west 1 mile; south 2 miles; east 1/4 mile; south 1 mile and east 3/4 mile to Midway. Thence west from Midway 1½ miles; south 2 miles to Lee's siding; thence west 1/2 mile and returning east 1/2 mile to Lee's siding; thence south 4½ miles and returning north 1/2 mile; thence west 1½ miles and returning east 1/2 mile; thence north 2 miles; west 1/2 mile; thence returning east 1/2 mile and continuing east 1 mile to a point 2 miles south of Lee's siding.

to Denver, and farm supplies from Denver to said above described territory,) and this

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

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Walter Bohl

David L. Jones

Commissioners.

Dated at Denver, Colorado,
this 14th day of January, 1952.

(Decision No. 3189)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE LONDON GOLD MINES COMPANY, A CORPORATION, FOR PERMISSION TO CONSTRUCT A RAILROAD LOADING SPUR ACROSS A COUNTY ROAD AND TO ESTABLISH A CROSSING FOR SAID COUNTY ROAD OVER SAID SPUR TRACK AT LONDON JUNCTION, PARK COUNTY, COLORADO.	APPLICATION NO. 1745

January 19, 1931.

S T A T E M E N T

By the Commission:

This proceeding arises out of the application of the London Gold Mines Company, a corporation, filed with the Commission on December 19, 1930, in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917, for the opening of a public highway crossing, at grade, over the spur track owned by said company which connects with The Colorado and Southern Railway near Mile Post 120 of said carrier. The crossing to be located where the county road crosses said spur track at a point 450 feet westerly of Mile Post 120.

The application alleges that the mining company has constructed a spur track from the line of The Colorado and Southern Railway Company to its ore bins at the mine, and that it is necessary to cross the county road at the point heretofore mentioned.

A copy of the application was duly served on The Colorado and Southern Railway Company and on December 26, the attorney for the company replied thereto, advising that the company had no objection to the application.

A letter from the county commissioners of Park County dated December 3, 1930, advises the Commission that there is no objection to the installation of the crossing provided the London Gold Mines Company planks

the crossing and maintains it in good condition.

Since, therefore, it appears that the spur track to be constructed by this company is necessary in its business and since it is necessary to cross the county highway to reach the point desired and that there is no objection to the crossing at the place desired, the Commission will now make its order granting the application.

O R D E R

IT IS THEREFORE ORDERED, That in accordance with Section 29 of the Public Utilities Act, as amended April 16, 1917, that a public highway crossing, at grade, be, and the same is hereby, permitted to be opened and established across the London Gold Mines Company spur track at London Junction at a point approximately 450 feet westerly of Mile Post 120 of The Colorado and Southern Railway Company and near the railroad station at Alma, Colorado; provided, however, that prior to the opening of said crossing to public travel it shall be constructed in accordance with plans and specifications as prescribed in the Commission's order "In Re Improvements of grade crossings in Colorado, 2 Colo. P.U.C. 188".

IT IS FURTHER ORDERED, That all the expense incidental to the installation and maintenance of said crossing shall be borne by the applicant, the London Gold Mines Company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of January, 1931.

(Decision No. 5190)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN RE MOTOR VEHICLE OPERATIONS)
OF D. G. PARSONS.) CASE NO. 592

- - - - - - - - -
January 19, 1931
- - - - - - - - -

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

S T A T E M E N T

By the Commission:

This is a complaint on the Commission's own motion requiring the respondent to show cause why he should not cease and desist from operating as a motor vehicle carrier as defined under the laws of this State.

The testimony shows that up to the latter part of November, 1930, the respondent has been operating as a motor vehicle carrier serving a large number of shippers located at Sterling, Colorado, and various points between Sterling and Julesburg, Colorado.

The testimony further shows that since that time the respondent has sold his truck and is now employed as a clerk in a store at Sterling.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the respondent has operated as a motor vehicle carrier without first having obtained a certificate of public convenience and necessity. In view of the fact that the respondent has operated for a considerable length of time as an unauthorized motor vehicle carrier, the Commission believes that an order should be entered requiring him to cease and desist, even though he is not now conducting such operations.

O R D E R

IT IS THEREFORE ORDERED, That D. G. Parsons, respondent herein, be, and he is hereby, ordered to forthwith cease and desist from operating

as a motor vehicle carrier as defined in Chapter 134 of the Session Laws of Colorado 1927, unless and until he has obtained a certificate of public convenience and necessity.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of January, 1931.

(Decision No. 3191)

442

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

* * *

IN THE MATTER OF THE APPLICATION)
OF C. E. COURTRIGHT FOR CERTIFICATE) APPLICATION NO. 1740.
OF PUBLIC CONVENIENCE AND NECESSITY.)
- - - - - - - - - - - - - - - - - - - -

- - - - - - - - -
January 19, 1931.
- - - - - - - - -

Appearances: Jack Garrett Scott, Esq., Denver, Colorado,
for applicant;
E. G. Knowles, Esq., Denver, Colorado,
for Union Pacific Railroad Company.

S T A T E M E N T

By the Commission:

This is an application for a motor vehicle system for the transportation of freight in interstate commerce only between Sterling, Colorado, and Julesburg, Colorado, and intermediate points on the one hand and Lodgepole, Nebraska, and North Platte, Nebraska, on the other.

Protests were filed by the Union Pacific Railroad Company and the Railway Express Agency.

On November 22, 1929, this Commission granted to the applicant a certificate of public convenience and necessity, authorizing him to operate a motor vehicle system for the transportation of freight and express between Sterling and Julesburg, Colorado, and intermediate points.

The testimony shows that the applicant is an experienced, able and qualified operator, and is financially responsible. No additional equipment will be necessary for the proposed service.

After a careful consideration the Commission is of the opinion, and so finds, that the laws of the United States, as well as of the State of Colorado, require the issuance of a certificate of public convenience and necessity to the applicant, authorizing a motor vehicle system for the

transportation of freight and express in interstate commerce only between Sterling, Colorado, and the Colorado-Nebraska state line, over U. S. Highway No. 138.

O R D E R

IT IS THEREFORE ORDERED, That the laws of the United States, as well as the laws of the State of Colorado, require the issuance of a certificate of public convenience and necessity to the applicant, authorizing a motor vehicle system for the transportation of freight and express in interstate commerce only between Sterling, Colorado, and the Colorado-Nebraska state line, over U. S. Highway No. 138, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of January, 1931.

(Decision No. 3192)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MAKE NO COPY

* * *

RE MOTOR VEHICLE OPERATIONS OF)
THE UNION TRUCK LINE, INCORPORATED.) CASE NO. 598

January 22, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to warrant it in instituting an investigation into the question of whether or not the above named respondent, which was granted a certificate of public convenience and necessity, Colo. P.U.C. No. 496, has violated the rules and regulations of this Commission, particularly Rule 37, relative to C.O.D. shipments, thru failure to account for the sum of $585.43 due on C.O.D. shipments from Martin Brothers Company of Denver, Colorado, to various merchants of Casper, Wyoming; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not the certificate of public convenience and necessity heretofore issued to said respondent should be revoked and cancelled.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not the above named respondent has violated the rules and regulations of this Commission, particularly Rule 37, relative to C.O.D. shipments, and whether or not the Commission should enter an order revoking and cancelling the certificate of public convenience and necessity

heretofore issued to said respondent.

IT IS FURTHER ORDERED, That said respondent show cause, if any it have, by written statement filed with this Commission within ten days from the date hereof, why the Commission should not enter an order cancelling and revoking the certificate of public convenience and necessity, Colo. P.U.C. 496, heretofore issued to said respondent.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room 305 State Office Building, on Friday, the 6th day of February, A.D. 1931, at ten o'clock A.M., at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 22nd day of January, 1931.

(Decision No. 3193)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN MOTOR COMPANY AND COLORADO MOTOR WAY, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1098

January 23, 1931

S T A T E M E N T

By the Commission:

The Commission has been advised by counsel for the above applicant, that the above application should be dismissed.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 23d day of January, 1931.

(Decision No. 3194)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF AND COLORADO GAS AND UTILITIES COMPANY FOR CONSENT TO THE ASSIGNMENT OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. — APPLICATION NO. 1647-A

IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF AND COLORADO GAS AND UTILITIES COMPANY FOR CONSENT TO THE ASSIGNMENT OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. — APPLICATION NO. 1648-A

IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF AND COLORADO GAS AND UTILITIES COMPANY FOR CONSENT TO THE ASSIGNMENT OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. — APPLICATION NO. 1726-A

IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF AND COLORADO GAS AND UTILITIES COMPANY FOR CONSENT TO THE ASSIGNMENT OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. — APPLICATION NO. 1727-A

IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF AND COLORADO GAS AND UTILITIES COMPANY FOR CONSENT TO THE ASSIGNMENT OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. — APPLICATION NO. 1728-A

IN THE MATTER OF THE APPLICATION OF A. J. HARDENDORF AND COLORADO GAS AND UTILITIES COMPANY FOR CONSENT TO THE ASSIGNMENT OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. — APPLICATION NO. 1729-A

January 24, 1931.

Appearances: Pershing, Nye, Tallmadge, Bosworth & Dick, Esqs., and N. A. Hutchinson, Esq., Denver, Colorado, and Granby Hillyer, Esq., Lamar, Colorado, for applicants.

S T A T E M E N T

By the Commission:

The above applications are for the purpose of seeking authority from this Commission to transfer certificates of public convenience and necessity issued to A. J. Hardendorf to The Colorado Gas and Utilities Company, a corporation organized and existing under and by virtue of the laws of the State of Delaware.

No protests were filed against these applications.

The testimony shows that the certificates involved herein, originally issued to A. J. Hardendorf, were actually held in trust by him for himself, D. B. Cogswell and O. J. Fredell. It is now intended to convey all the interest of these three individuals in corporation form to The Colorado Gas and Utilities Company. All of the common stock of the transferee, amounting to 3,000 shares, no par value, except for four qualifying shares, are held by said three individuals. All of the property of these individuals connected with the business involved in these applications has been transferred to the transferee.

A financial balance sheet of the transferee dated December 15, 1930, was filed.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the transfers and assignments sought herein should be granted.

O R D E R

IT IS THEREFORE ORDERED, That A. J. Hardendorf be, and he is hereby, authorized to transfer and assign to The Colorado Gas and Utilities Company certificate of public convenience and necessity dated July 19, 1930, Application No. 1647, Decision No. 2970.

IT IS FURTHER ORDERED, That A. J. Hardendorf be, and he is hereby, authorized to transfer and assign to The Colorado Gas and Utilities Company certificate of public convenience and necessity dated July 19, 1930, Application No. 1648, Decision No. 2971.

IT IS FURTHER ORDERED, That A. J. Hardendorf be, and he is hereby, authorized to transfer and assign to The Colorado Gas and Utilities Company certificate of public convenience and necessity dated December 26, 1930, Application No. 1726, Decision No. 3175.

IT IS FURTHER ORDERED, That A. J. Hardendorf be, and he is hereby, authorized to transfer and assign to The Colorado Gas and Utilities Company certificate of public convenience and necessity dated December 26, 1930, Application No. 1727, Decision No. 3175.

IT IS FURTHER ORDERED, That A. J. Hardendorf be, and he is hereby, authorized to transfer and assign to The Colorado Gas and Utilities Company certificate of public convenience and necessity dated December 26, 1930, Application No. 1728, Decision No. 3175.

IT IS FURTHER ORDERED, That A. J. Hardendorf be, and he is hereby, authorized to transfer and assign to The Colorado Gas and Utilities Company certificate of public convenience and necessity dated December 26, 1930, Application No. 1729, Decision No. 3175.

IT IS FURTHER ORDERED, That the transferee shall file within twenty days from date hereof tariffs, rules and regulations governing the distribution of natural gas.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
24th day of January, 1931.

(Decision No. 3196)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF VENA APGAR FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.) APPLICATION NO. 1533

January 28, 1931

Appearances: A. H. Romans, Esq., Loveland, Colorado, for applicant;
D. Edgar Wilson, Esq., Denver, Colorado, for Rocky Mountain Motor Company, Rocky Mountain Parks Transportation Company and Colorado Motor Way, Inc.

STATEMENT

By the Commission:

This is an application for a certificate of public convenience and necessity to authorize a taxi service for the transportation of passengers within the City of Loveland, and from Loveland to such points in the State of Colorado as may be demanded.

Protest was filed against this application by The Rocky Mountain Motor Company, the Rocky Mountain Parks Transportation Company and Colorado Motor Way, Inc.

The testimony shows that the applicant has been conducting a taxicab business at Loveland for a number of years. In 1929 she purchased a Dodge Six Sedan at a cost of $1,345. Her financial dependability is satisfactory. There is at present no established taxi service in Loveland. The population of Loveland is approximately 6,000.

The applicant does not desire to establish any route or scheduled service, but purely to operate on call and demand. The service is what is commonly called a taxi service, used mainly for emergency purposes.

The protestants in the application are mainly desirous of protecting the regular scheduled service of the motor vehicle carrier. Most of the communities surrounding Loveland are being served by regular scheduled motor vehicle carriers. It is, therefore, suggested by protestants that if proper conditions are placed in a certificate protecting the regular scheduled motor vehicle carriers they have no objection to the granting of such a certificate.

The Commission in the application of H. C. Beach, No. 1200, (Decision No. 2113) had before it a similar situation, and issued a certificate upon such conditions as it felt would protect the regular motor vehicle carrier. The applicant herein is willing to accept these conditions.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle carrier taxi system of the applicant for the transportation of passengers in and out of Loveland, Colorado, subject to certain conditions contained in the order hereinafter entered, which in our opinion the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle carrier taxi system of the applicant for the transportation of passengers in and out of Loveland, subject to the following conditions:

(a) The radius of the territory to which the applicant shall confine her operations shall not exceed 75 miles from Loveland.

(b) The rates of the applicant shall on all trips made to points having a regular service, whether by rail or motor vehicle, be at least 33-1/3 per cent greater per passenger than the effective rates of the regular scheduled carriers.

(c) None of the applicant's operations shall be on schedule.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of January, 1931.

(Decision No. 3197)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION)
OF CASPER LUTZ FOR CERTIFICATE OF) APPLICATION NO. 1171
PUBLIC CONVENIENCE AND NECESSITY.)

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- - - - - - - - -
January 28, 1931.
- - - - - - - - -

Appearances: D. Edgar Wilson, Esq., Denver, Colorado,
for Rocky Mountain Motor Co. and Rocky
Mountain Parks Transportation Company.

S T A T E M E N T

By the Commission:

The above application was set down for hearing before the Commission at Denver, on January 26, 1931. No appearance was made by the applicant. Counsel for protestants moved that the application be dismissed for want of prosecution.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Walter Bock

Dan S. Jones

Walt Fellows

Commissioners.

Dated at Denver, Colorado,
this 28th day of January, 1931.

(Decision No. 3198) 372

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO TRANSFER A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY HERETOFORE ISSUED TO JOHN W. BURGNER.

APPLICATION NO. 968-A

January 29,1931

Appearances: Jack Garrett Scott, Esq., Denver, Colorado, for F.G.Stegall;
T. A. White, Esq., Denver, Colorado, for The Denver & Rio Grande Western Railroad Co.;
D. A. Maloney, Esq., Denver, Colorado, for John W. Burgner and various creditors;
Robert R. Tarbell, Esq., Saguache, Colorado, for U.S.Read.

S T A T E M E N T

By the Commission:

The certificate of public convenience and necessity as originally issued herein granted authority to John W. Burgner to transport freight and express by motor vehicle between Pueblo and Salida and intermediate points, "provided, however, that no freight or express shall be hauled from Canon City or points east thereof to Pueblo or from Pueblo to Canon City or points east thereof."

Without going into detail as to the various applications and petitions that have been filed herein with respect to the transfer of said certificate, it is sufficient to say that the pleadings as they now stand request, and the parties all agree, that authority be granted to Burgner to transfer the said certificate in two parts, one to U. S. Read and the other to F. G. Stegall, doing business as the Stegall Truck Line, who shall be permitted under said Burgner certificate to transport to Salida and points intermediate thereto and Canon City only that freight which originated in Denver.

In the conduct of his operations Burgner incurred debts amounting to several thousand dollars, which made it impossible for him to continue to operate. The service has been rendered for some weeks by others under an understanding had with the Commission and Burgner.

Stegall has been operating since May 24, 1928, between Denver and Canon City under a certificate of public convenience and necessity issued by the Commission. His operations have proved satisfactory. The financial condition of Stegall and U. S. Read were shown to be reasonably satisfactory.

Read has agreed to pay in full all money due from Burgner on account of C.O.D. shipments, highway compensation and general taxes on equipment, and labor, except indebtedness due to one Wesley Edwards. He agrees to produce within a reasonable time statements signed by all of the other general creditors, except Stegall and The Morrissey Carriage Company, showing satisfactory settlement of their claims. We understand that those general creditors are not all to be paid in full. Some are to take notes for the full amount of their claims, others are to accept various amounts less than the total due them. Stegall has agreed to make payment in full of the amount of money due Wesley Edwards and to cancel his own claim against Burgner.

There would then be left only the claim of the Morrissey Carriage Company, which, according to our last information, amounted to some $5,000. This claim is denied in toto by Burgner. After the C.O.D. claims, those of the laborers and other taxing bodies on account of taxes due are paid in full and the general creditors, excepting the Morrissey Carriage Company, have made settlements, there will remain approximately $1,800. It is agreed by all parties hereto that this amount of money shall be deposited in the Saguache County National Bank by U.S.Read. If a compromise settlement is made by and between Burgner and The Morrissey Carriage Company, such amount as shall be accepted in settlement shall be paid over by said bank to said The Morrissey Carriage Company. If no settlement is made within sixty days and if within that time the carriage company shall not have instituted legal proceedings with a view of the reduction of its claim to a judgment, the amount of approximately

$1,800 shall then be paid over by said bank to Burgner. If no settlement is made by Burgner and said The Morrissey Carriage Company within sixty days from this day and suit is brought by said company within that period the said bank shall then continue to hold said money until final judgment is rendered. Said bank is to use all of said amount of approximately $1,800 to pay any final judgment equaling or exceeding the amount of money on deposit. If a final judgment is procured for less than the amount on deposit, such part thereof as equals the amount of the judgment shall be applied to the full payment thereof.

After careful consideration of all of the evidence and the agreements of said parties, the Commission is of the opinion, and so finds, that authority should be granted to John W. Burgner to transfer his certificate of public convenience and necessity to U. S. Read and to F. G. Stegall, doing business as the Stegall Truck Line, subject to the conditions hereinafter stated.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to John W. Burgner to transfer his certificate of public convenience and necessity heretofore issued to him herein to U. S. Read and to F. G. Stegall, doing business as the Stegall Truck Line, Read to have all the authority that was originally granted to Burgner, and Stegall to have authority to transport only that freight which originated in Denver, provided, however, that before said transfer of the certificate is made there shall be filed with this Commission written receipts showing that all C.O.D., labor and tax claims against Burgner have been paid (not merely settled by compromise) in full, and that all of the other creditors except The Morrissey Carriage Company have willingly made a compromise and settlement of their claims.

IT IS FURTHER ORDERED, That before said transfer shall be made a balance of approximately $1,800 shall be deposited in Saguache County National Bank under written instructions to said bank to hold said money and to pay the

same out in the manner hereinbefore indicated, and there shall be filed with this Commission a written statement by said bank that it has received and will hold and pay out said money under such instructions.

IT IS FURTHER ORDERED, That all such written receipts and statements, including the one to be made by said bank, shall be filed with this Commission not later than ten weeks from this day.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 29th day of January, 1931.

(Decision No. 3199)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF CLINTON HOWARD AND S. E. TRAVIS, CO-PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE HOWARD TRUCK LINE, AND THE EASTERN COLORADO TRANSPORTATION COMPANY, A CORPORATUON, FOR AUTHORITY TO TRANSFER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1278-AA

January 29, 1931.

Appearances: A. P. Anderson, Esq., Denver, Colorado, attorney for applicants;
D. Edgar Wilson, Esq., Denver, Colorado, attorney for The Chicago, Rock Island and Pacific Railway Company.

S T A T E M E N T

By the Commission:

This is an application by Clinton Howard and S. E. Travis, co-partners, doing business under the firm name and style of Howard Truck Line, and The Eastern Colorado Transportation Company, a corporation, for authority to said co-partners to transfer their certificate of public convenience and necessity, originally issued herein, to said corporation. The two principal stockholders in said corporation are William J. Honeyman and Dell F. Scott. The corporation is to receive from the present holders of the certificate three trucks of a market value of some $6,500, subject to encumbrances amounting to about $2,825.00. There are other debts arising out of the motor vehicle operation of the partners which the corporation has agreed to assume. In addition, the said stockholders, Honeyman and Scott, stated at the hearing that they would personally guarantee the payment of those debts. The total financial resources of the two said stockholders are such that the Commission is convinced that the creditors will all be paid in full.

After considering carefully all of the evidence, including that

relating to the motor vehicle experience of the two said stockholders, the Commission is of the opinion and so finds that authority to make the transfer of the certificate in question should be granted.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to Clinton Howard and S. E. Travis, co-partners, doing business under the firm name and style of Howard Truck Line, to transfer the certificate of public convenience and necessity heretofore issued to them to The Eastern Colorado Transportation Company, a corporation, upon the condition that the two said stockholders agree to personally guarantee the payment of the said debts of the said co-partnership.

IT IS FURTHER ORDERED, That the tariff of rates, time schedule and rules and regulations heretofore filed by the transferor herein be, and the same are hereby, made those of the transferee herein until changed as provided by law.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 29th day of January, 1931.

(Decision No. 3200)

527

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

IN THE MATTER OF THE APPLICATION)
OF FRED REIN FOR CERTIFICATE OF) APPLICATION NO. 1560
PUBLIC CONVENIENCE AND NECESSITY.)

January 29, 1931

Appearances: Louis A. Hellerstein and Ira Quiat, Esqs., Denver, Colorado, attorneys for applicant;
D. F. How, Jr., Esq., Denver, Colorado, attorney for W.M.Matthews;
Jack Garrett Scott, Esq., Denver, Colorado, attorney for Motor Truck Common Carriers' Association.

S T A T E M E N T

By the Commission:

This is an application by Fred Rein for a certificate of public convenience and necessity authorising the transportation of milk and cream to Denver from farmers and dairymen residing within the boundary lines hereinafter stated and not more than a mile beyond said lines. The said boundary lines are as follows:

> Beginning at a point on the Denver-Brighton highway about 1/2 mile south of Adams City, thence along said highway to a point thereon immediately west of the northern limit of Irondale as extended, thence east about 5-1/2 miles, thence north 3 miles, thence west to said Denver-Brighton highway, thence south or southwest along said highway to Haseltine, thence west therefrom about a mile and three-fourths to what is known as the River Road, running generally parallel with the South Platte River, thence south along said river road to and across said river at a point a little over a mile northwest of Adams City, thence along the highway from said point to the said Denver-Brighton highway.

The applicant himself has been engaged in transporting milk and cream in the territory in question for over four years. His predecessors rendered such service for many more years. The applicant's financial condition is satisfactory. An extraordinarily large number of the milk and

cream shippers appeared at the hearing and made an unusually strong showing in behalf of the applicant. The principal protestants were William M. Matthews and Fuller Truck Line. The former filed his application on January 24,1930 and secured his certificate on March 19,1930. The Fuller Truck Line's certificate is a very old one. His territory, as in the case of many of the early applicants, is very large, so large in fact that it is very questionable whether the said line can adequately serve all the milk and cream shippers in his territory. A substantial part of the territory sought to be served by the applicant is served by Matthews. The applicant testified without contradiction that before Matthews filed his application he had a conversation with Matthews as to the advisability of seeking a certificate and that Matthews told him it would not be necessary, and that thereafter Matthews without saying anything further to the applicant filed his application and secured his certificate; that as soon as he (the applicant) learned that it was necessary to secure a certificate he filed his application. In view of the fact that the service of the applicant and his predecessor antedates by a number of years the service rendered by Matthews, and the very strong evidence given in support of the application herein, we have concluded that the mere fact that Matthews has already procured his certificate should not prevent the issuance of a certificate to the applicant.

After careful consideration of all the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity require the motor vehicle system of the applicant for the transportation of dairy products from points within the above described limits and within a mile thereof to Denver.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of dairy products from point to point within the above described limits and within a mile thereof to Denver.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
29th day of January, 1931.

(Decision No. 3201)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
M. O. HOUSE, DOING BUSINESS AS THE)
HOUSE TRANSFER COMPANY, FOR CERTIFICATE) APPLICATION NO. 1528
OF PUBLIC CONVENIENCE AND NECESSITY.)

January 29, 1931.

Appearances: Johnson & Robison, Esqs., Fort Morgan, Colorado, attorneys for applicant;
J. G. Scott, Esq., Denver, Colorado, attorney for The Motor Truck Common Carriers Association and The Colorado Transfer and Warehousemen's Association.

STATEMENT

By the Commission:

This is an application by M. O. House, doing business under the name and style of The House Transfer Company, for a certificate of public convenience and necessity authorizing him to conduct a general trucking operation between points in Fort Morgan and Morgan County and between points in said county and other points in the State. The applicant has been engaged for a number of years in rendering such a service and he now seeks authority to continue.

Most of his business consists of transporting freight from point to point within the city of Fort Morgan. He has occasion about twice a week on the average to transport freight to or from some point out of the city. This business originating or terminating out of the City consists of a trip about once in two weeks to points outside of the county. The applicant's financial condition is satisfactory. He has established a good reputation as an operator. His equipment at the present time consists of a 2½-ton White truck and a 3/4-ton truck of the same kind.

The Commission heretofore has issued a number of certificates

authorizing an operation similar to the one applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is of more importance may be protected against injurious competition.

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

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a transfer, moving and general cartage business in the city of Fort Morgan and in the county of Morgan and for occasional service throughout the State of Colorado and each of the counties thereof, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant, M. O. House, doing business as The House Transfer Company, for the conduct of a transfer, moving and general cartage business in the City of Fort Morgan and in the County of Morgan, and for occasional service throughout the State of Colorado, and each of the counties thereof, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

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

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

(c) The applicant shall not transport coal from the mine to any territory involved herein.

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

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

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 29th day of January, 1931.

(Decision No. 3202)

At a General Session of the Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, January 29, 1931.

INVESTIGATION AND SUSPENSION DOCKET NO. 150.

Re Discontinuing operations of mixed trains 461 and 462 on Sundays on the Silverton Branch.

IT APPEARING, That the Denver and Rio Grande Western Railroad Company filed with the Commission on January 26, 1931, a petition requesting authority to temporarily discontinue operation of mixed trains numbers 461 and 462 on Sundays on the Silverton Branch, effective on and after February 22, 1931;

IT APPEARING FURTHER, That on January 8, 1931, the Silverton Commercial Club advised the Commission that it was rumored the aforesaid rail carrier proposed to make a reduction in its train service on the Silverton Branch and requested opportunity to be heard in the matter before authorizing same:

IT IS THEREFORE ORDERED, That the proposed date of discontinuance of said Sunday mixed train service on the Silverton Branch of the Denver and Rio Grande Western Railroad Company be suspended one hundred and twenty days, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That said discontinuance of train service appearing to be injuriously affecting the rights and interests of the patrons of the railroad company, and others that might be concerned, that the same be made a subject of investigation and determination by the Commission within said period of suspension or within such further time as the same may be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the petition for discontinuance of said train service and copies hereof be forthwith served on the said Denver and Rio Grande Western Railroad Company, the petitioner, and the Silverton Commercial Club, the protestant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Walter Bruck

Mary S. Jones

Commissioners.

Dated at Denver, Colorado,
this 29th day of January, 1931.

(Decision No. 3203)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF FRANK PLESS FOR CERTIFICATE OF) APPLICATION NO. 1724
PUBLIC CONVENIENCE AND NECESSITY.)

January 30, 1931

Appearances: D. F. How, Esq., Denver, Colorado, for applicant.
Jack Garrett Scott, Esq., Denver, Colorado, for Motor Truck Common Carriers' Ass'n.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of milk and cream from a certain territory in Weld County to Denver, and ice cream from Denver to said territory.

Protest was filed against this application by The Motor Truck Common Carriers' Association.

The testimony shows that the applicant has been operating in this business as a contract carrier for approximately four years; his equipment consists of two trucks, valued at approximately $3650. His financial dependability is satisfactory.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of milk and cream from the following described territory, to-wit: 5 miles on both sides of U. S. Highway No. 85 from a point 2 miles north of the town of La Salle to the town of Platteville; 2 miles on the west side and 5 miles on the east side of said highway between Platteville and Ft. Lupton; no territory on the west side and 5 miles on the east side of said highway from Ft. Lupton to 2 miles south of Ft. Lupton, the southern point in said territory, all more fully described in Exhibit D, which by reference thereto is made a part hereof, to Denver, Colorado, and the transportation of ice

cream from Denver, Colorado, to said above described territory.

__ O R D E R __

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of milk and cream from the following described territory, to-wit: 5 miles on both sidesof U. S. Highway No. 85 from a point 2 miles north of the town of La Salle to the town of Platteville; 2 miles on the west side and 5 miles on the east side of said highway between Platteville and Ft. Lupton; no territory on the west side and 5 miles on the east side of said highway from Ft. Lupton to 2 miles south of Ft. Lupton, the southern point in said territory, all more fully described in Exhibit D, which by reference thereto is made a part hereof, to Denver, Colorado, and the transportation of ice cream from Denver, Colorado, to said above described territory, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 30th day of January, 1931.

Commissioners.

(Decision No. 3204)

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

THE CHAMBER OF COMMERCE OF GREELEY, COLORADO, A CORPORATION, Complainant,	)	
vs.	)	CASE NO. 576
UNION PACIFIC RAILROAD COMPANY, Defendant.	)	

January 30, 1931

Appearances: A. L. Vogl, Esq., Denver, Colorado, attorney for complainant;
Charles Frankenberger, Esq., Omaha, Nebraska, and E. G. Knowles, Esq., Denver, Colorado, attorneys for Union Pacific Railroad Company;
G. R. Glover and J. Q. Dier, Esqs., Denver, Colorado, attorneys for Chicago, Burlington & Quincy Railroad Company and The Colorado and Southern Railway Company.

S T A T E M E N T

By the Commission:

Complainant, The Chamber of Commerce of Greeley, a corporation, organized for the purpose of promoting the welfare and interests of Greeley, Colorado, with respect to business, trade, transportation and social and civic betterment, by complaint filed August 7, 1930, on behalf of the people of Greeley, alleges that the rates on lump, mine run, nut, slack or pea coal, in carloads, from mines in northern Colorado, located on the Union Pacific Railroad Company's lines to Greeley, Colorado, were and are unjust and unreasonable. We are asked to prescribe lawful rates for the future.

The Colorado and Southern Railway Company and Chicago, Burlington & Quincy Railroad Company intervened in support of the defendant. The carriers, when all of them are referred to, will be called defendants.

Rates will be stated in amounts per ton of 2,000 pounds.

The mines in northern Colorado on the Union Pacific Railroad are shown in complainant's exhibit as being located at Erie, State Coal Mine, Puritan Coal Mine, Frederick Mine and Firestone Mine, the average distance to Greeley being 35.1 miles. In defendant's exhibits they have used Erie as a representative point, the distance to Greeley being 40.9 miles. In its brief complainant for the purposes sought is agreeable to the use of 40 miles as the correct distance.

The assailed rates are $1.50 on lump coal, $1.34 on mine run or nut coal and $1.10 on slack or pea coal, the terms lump, mine run, nut, slack or pea coal being defined as follows:

Lump coal: Rates named apply on any soft coal which in the screening process has passed over (that is, has not passed through spaces or openings in) any screen.

Nut coal: Any soft coal which in the screening process has passed through round perforations not exceeding four inches in diameter in plate screens and which is further screened to remove the slack and pea.

Mine run coal: Any unscreened soft coal, or soft coal as mined, also soft coal which in the screening process has passed through spaces exceeding 1¼ inches in bar screens, or through round perforations exceeding 2½ inches in diameter in plate screens and not further screened.

Slack and Pea coal: Any soft coal which in the screening process has passed through spaces not greater (larger) than 1¼ inch bar screens, or round perforations in plate screens 2½ inches in diameter.

The interveners assert that they, as well as the Union Pacific, serve the northern coal fields and Greeley, and that the same rates are applicable from mines on their lines into Greeley; that the owners of the mines on all roads are in active competition for the Greeley business, and that the rates from all mines should be blanketed in order to maintain competition in the coal business in Greeley.

Prior to 1914, the rates on coal from the northern Colorado fields to Greeley were $1.10 on lump, 70 cents on mine run and 62½ cents on slack.

Under the general advances of 1918 and 1920, a voluntary reduction in 1921 on lump coal and the general reduction of 1922, the rates were $1.70 on lump, $1.34 on mine run and nut, and $1.22 on slack or pea, which were the effective rates at the time of the hearing in Case No. 244.

In Case No. 244, decided by this Commission June 4, 1923, we prescribed a rate of $1.50 on lump coal from northern Colorado to Greeley and found that the rates on mine run, nut, pea or slack were not unreasonable or discriminatory.

The record in the instant case differs from that in Case No. 244 to the extent that, at that time the preponderance of the coal traffic from northern Colorado to Greeley moved via the lines of The Colorado and Southern Railway a distance of 77.4 miles, while at present the preponderance of the movement is over the lines of the Union Pacific Railroad.

Comparisons are made with coal rates in Kansas, Nebraska, North Dakota, Montana and with the Holmes and Hallowell scale, 69 I. C. C. 11, which for a haul of 40 miles are as follows:

Kansas	$1.22
Nebraska	1.09
North Dakota	1.22
Montana	1.24
Holmes & Hallowell scale	0.94

In I. & S. Docket No. 1953, Lignite Coal from North Dakota to stations in North Dakota, South Dakota and Minnesota, 89 I. C. C. 732, 126 I. C. C. 243, the Interstate Commerce Commission prescribed a scale of single line rates for application on interstate transportation of lignite coal from mines in North Dakota to points in North Dakota, South Dakota and Minnesota which for a distance of 40 miles is $1.22.

In the Holmes and Hallowell case 69 I. C. C. 11, the Commission prescribed a maximum scale of rates on bituminous coal applicable from the head of the Great Lakes to points in Minnesota, North Dakota, and South Dakota, which for a distance of 40 miles is 94 cents.

In Docket 17000, Part 2, Western Trunk Line Class Rates, 164 I. C. C. 1, the Commission prescribed rates for interstate application in this territory on a basis approximately 20% higher than in the general territory covered by the territory involved in the Holmes and Hallowell case, supra.

Considerable testimony was put in the record to show the situation in regard to truck competition. The testimony shows that the regular coal dealers who obtain their coal via the rail carrier are meeting with very serious competition, to such an extent that some of the coal dealers have under contemplation the transportation of coal direct from the mine to their customers at Greeley. Truck competition, of and by itself, is not sufficient evidence from which this Commission is warranted in reducing freight rates. It does, however, have some relation to the freedom of movement of coal via rails in the territory involved and also whether the present rates are greater than the services rendered by the rail carrier are reasonably worth.

In Smyth vs. Ames, 169 U. S. 466, which is a leading case on what elements may be considered in the determination of reasonable rates, the Supreme Court of the United States said this: "What the Company is entitled to ask is a fair return upon the value of that which it employes for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth".

The question of fair return upon the value of the rail carriers under the record as made is not before us. The question of what the services are reasonably worth is before us. In the determination of what the services are reasonably worth, the rates charged by competitive transportation facilities are material. Moreover, the question of freedom of movement by rail is an element in the determination of the reasonableness of the rate. The testimony in the instant case shows that, owing to truck competition, the rail carriers are not transporting from the territory involved as much coal as they did several years ago.

In the case of Ann Arbor Railroad Company, et al, vs. United States, et al, 281 U. S. 658, the Supreme Court of the United States was discussing the transportation elements contained in the Hoch-Smith resolution. The Court, in discussing the question of freedom of movement, said this:

> "The resolution is in three paragraphs. The first declares it to be a true policy in rate making that the conditions which at any given time prevail in the several industries 'should be considered' in so far as it is 'legally possible' to do so, to the end that commodities may move freely. This policy is not new. In rate making under existing laws it has been recognized that conditions in a particular industry may and should be considered along with other factors in fixing rates for that industry and in determining their reasonableness; and it also has been recognized that, so far as can be done with due regard

for the interests affected, rates should be such as will permit the commodities to which they relate to move freely in the channels of commerce".

In view of these authorities which are of the very highest, and the Ann Arbor Railroad Company case, supra, decided less than seven months ago, it is our opinion that in ascertaining the reasonableness of the rates involved herein, the competition by truck operators should be given some consideration.

In view of the fact that the present rates were fixed by this Commission in Case No. 244, and in view of all other circumstances related to this matter, it is our opinion that the rates assailed were not unreasonable in the past.

Taking all the facts and circumstances in evidence, and considering the rates for similar hauls under similar transportation conditions, we find that the rates assailed were not unreasonable in the past, but that they are, and for the future will be, unreasonable to the extent that they exceed, or may exceed, $1.25 on lump, mine run and/or nut coal. Upon the record as made we do not find the rates on slack or pea coal to be excessive or unreasonable.

O R D E R

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

IT IS ORDERED, That the defendant, the Union Pacific Railroad Company, be and it is hereby notified and required to cease and desist, on or before February 25, 1931, and thereafter to abstain, from publishing, maintaining or applying for the intrastate transportation of lump, mine run and/or nut coal, in carloads, rates which exceed those prescribed in the following paragraph:

IT IS FURTHER ORDERED, That said defendant be, and it is hereby, notified and required to establish, on or before February 25, 1931, upon notice to this Commission and to the general public by not less than 30 days filing and posting in the manner prescribed in Section 16 of the Public Utilities Act, and thereafter to maintain and apply to the intrastate transportation of lump, mine run and/or nut coal, in carloads, rates which shall not exceed $1.25 per ton of 2,000 pounds

from northern Colorado mines named in Item 10 of U. P. R. R. Tariff No. 3067-H, Colo. P.U.C. No. 234, to Greeley, Colorado.

IT IS FURTHER ORDERED, That this order shall continue in force until the further order of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Bock

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this
30th day of January, 1931.

(Decision No. 3205)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF G. R. PRATT FOR CERTIFICATE OF) APPLICATION NO. 1713
PUBLIC CONVENIENCE AND NECESSITY.)

January 30, 1931

Appearances: D. A. Maloney, Esq., Denver, Colorado, for applicant;
J. Q. Dier and G. H. Logan, Esqs., Denver, Colorado, for The Colorado and Southern Railway Company;
T. A. White, Esq., Denver, Colorado, for The Denver and Rio Grande Western Railroad Company;
Jack Garrett Scott, Esq., Denver, Colorado, for Motor Truck Common Carriers' Ass'n.

S T A T E M E N T

By the Commission:

On June 18, 1929, this Commission, in Application No. 1137 (Decision No. 2297) issued a certificate of public convenience and necessity to G. R. Pratt and R. Crow, co-partners doing business as Pratt & Crow, in which we authorized a motor vehicle system for the transportation of farm products from the farms in Pueblo County to the markets in the City of Pueblo and other points in said county, and of farm supplies from various points in said county to said farms.

The testimony in the instant application shows that since the authorization of this certificate one of the co-partners, R. Crow, has left the partnership, creating a large indebtedness amounting to approximately $5,000. The applicant, G. R. Pratt, has assumed all of this indebtedness. Crow does not claim any interest now in this co-partnership. One of the purposes of this application is to issue a certificate to G. R. Pratt authorizing him to continue to furnish this transportation service.

The application also seeks to obtain a certificate of public convenience and necessity, authorizing the applicant to conduct a general transportation business between points in Vineland, Colorado and Pueblo

County, and between points in said County and other points in the State.

The Colorado and Southern Railway Company filed a protest against this application.

The testimony shows that there is a public convenience and necessity for the transportation service for which authority is sought. The applicant has five trucks and equipment valued at approximately $10,000.

The Commission heretofore has issued a number of certificates authorizing an operation similar to the one the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight, except household goods, between points served singly or in combination by scheduled carriers a rate must be charged which shall be at least twenty percent in excess of the scheduled carriers' rates, so that such carriers, whose service to the public is of more importance, may be protected against injurious competition. The applicant has expressed a willingness to keep on file a tariff containing rates not lower than those already on file with the Commission by The Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicant, G. R. Pratt, for the transportation of farm products from the farms in Pueblo County to the markets in the City of Pueblo, and other points in said County, and of farm supplies from various points in said county to said farms; provided, however, that he shall not engage in the transportation of freight between points on or near the Santa Fe Trail and other points in said county served by scheduled carriers.

The Commission also finds that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the conduct of a general transportation and cartage business in Vineland, and Pueblo County and between points in said county and other points in the State, sub-

ject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operation of the applicant, G. R. Pratt, doing business as the Vineland Truck Line, for the transportation of farm products from the farms in Pueblo County to the markets in the City of Pueblo, and other points in said County, and of farm supplies from various points in said county to said farms; provided, however, that he shall not engage in the transportation of freight between points on or near the Santa Fe Trail and other points in said county served by scheduled carriers, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant, G. R. Pratt, doing business as the Vineland Truck Line, for the conduct of a general transportation and cartage business in Vineland, in the County of Pueblo, and between points in said County and other points in the State, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor, subject to the following conditions:

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

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

(c) The applicant shall not transport coal from the mine to any territory involved herein.

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

(e) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appro-

priate orders may be made to prevent improper encroachment by the applicant upon the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of his business as it may develop in the future.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 30th day of January, 1931.

(Decision No. 3206)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
J. C. SELF FOR A CERTIFICATE OF) APPLICATION NO. 1622
PUBLIC CONVENIENCE AND NECESSITY.)

January 30, 1931

S T A T E M E N T

By the Commission:

The Commission is in receipt of a letter from counsel for the above applicant, requesting the withdrawal of the above application.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

OTTO BOCK

(S E A L)

DAN S. JONES

WORTH ALLEN
Commissioners.

Dated at Denver, Colorado, this
30th day of January, 1931.

ATTEST: A TRUE COPY.

Secretary.

(Decision No. 3207)

531

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE GORDON STORAGE WAREHOUSES,)
INC., FOR A CERTIFICATE OF PUBLIC) APPLICATION NO. 1714.
CONVENIENCE AND NECESSITY.)

January 31, 1931.

Appearances: Jack Garrett Scott, Esq., Denver, Colorado, for applicant;
J. F. Vallery, Esq., and J. Q. Dier, Esq., Denver, Colorado, for Chicago, Burlington and Quincy Railroad Company.
F. W. Collett, Esq., Denver, Colorado, for Railway Express Agency.
J. P. Logan, Esq., Denver, Colorado, for The Colorado Transfer & Warehousemen's Association.

S T A T E M E N T

By the Commission:

This is an application by The Gordon Storage Warehouses, Inc., a Nebraska corporation, for a certificate of public convenience and necessity, authorizing the transportation of furniture and household goods in interstate commerce only between Omaha, Nebraska, and other Nebraska points and Denver, Colorado, and other Colorado points.

Protests were filed against this application by The Chicago, Burlington and Quincy Railroad Company and C. E. Courtright.

The applicant filed a financial statement, which shows a satisfactory condition.

The applicant contemplates using three trucks in this interstate service of an approximate value of $11,500.

Counsel for applicant also made a statement that his client agrees to file a tariff substantially the same as filed by The Colorado Transfer and Warehousemen's Association, which tariff applicant proposed to adopt and use as its own.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the laws of the United States, as well as the laws of the State of Colorado, require the issuance of a certificate of public convenience and necessity to the applicant for the transportation of furniture and household goods in interstate commerce only between Omaha, Nebraska, and other Nebraska points, and Denver, Colorado, and other Colorado points.

O R D E R

IT IS THEREFORE ORDERED, That the laws of the United States, as well as the laws of the State of Colorado, require the issuance of a certificate of public convenience and necessity to The Gordon Storage Warehouses, Inc., for the transportation of furniture and household goods in interstate commerce only between Omaha, Nebraska, and other Nebraska points, and Denver, Colorado, and other Colorado points, and this order shall be held and deemed to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That within twenty days from the date of this order the applicant shall file with this Commission its tariffs, rules and Regulations, which will be substantially the same as the tariff of The Colorado Transfer and Warehousemen's Association now on file with the Public Utilities Commission of the State of Colorado.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 31st day of January, 1931.

(Decision No. 3208)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF REESE E. HUGHES FOR CERTIFICATE) APPLICATION NO. 1720
OF PUBLIC CONVENIENCE AND NECESSITY.)

January 31, 1931

Appearances: J. Nelson Truitt, Esq., Kiowa, Colorado, for applicant.
Bert Hall, Esq., Parker, Colorado, for Hall Truck Company.
G. H. Logan, Esq., and J.Q. Dier, Esq., Denver, Colorado, for The Colorado and Southern Railway Company.
Homer Jessup, Esq., Elbert, Colorado, per se.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight from point to point within a radius of 25 miles of Elizabeth, Colorado, and to haul livestock and farm products from said radius to Denver, and supplies of every kind and sort for the farmers living within said radius from Denver.

Protests were filed against this application by The Colorado and Southern Railway Company, The Hilltop and Denver Truck Line, The Parker-Denver Truck Line and the Hall Truck Company.

During the hearing the applicant agreed to limit his territory within a radius of 15 miles of Elizabeth, and to transport livestock only from said territory into Denver, and no freight from Denver to said territory; he also agreed to limit his operations to one truck.

There are several motor vehicle carriers authorized to transport livestock to Denver in the territory involved. The applicant introduced

witnesses to show that his operation was required in addition to such as are already authorized. The only authorized carrier who appeared at the hearing and protested was Mr. Bert Hall, of the Hall Truck Company, and his objection was only direct to a small territory in the south end of his territory. In view of the fact that all of these motor vehicle carriers only have one truck, and in view of the nature and demand of such service, the Commission is of the opinion that the record warrants the authorization of another motor vehicle carrier.

The applicant has one truck, valued at approximately $1,000; his financial dependability is satisfactory.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of freight from point to point within a radius of 15 miles of Elizabeth, Colorado, and for the transportation of livestock only from said radius to Denver, Colorado. In all other respects the application will be denied.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of freight from point to point within a radius of 15 miles of Elizabeth, Colorado, and the transportation of livestock only from said radius to Denver, Colorado, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the applicant shall be limited in his motor vehicle carrier operations to one truck.

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

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system except when prevented from so doing by the Act of God,

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 31st day of January, 1931.

(Decision No. 3209)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
C. C. COX.) CASE NO. 599

January 31, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the respondent is engaged in operating as a motor vehicle carrier as defined in Section 1 (d), Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without having obtained a certificate of public convenience and necessity as required by law, and whether or not the Commission should enter an order requiring him to cease and desist such operations.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law.

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission at its Hearing Room, 305 State Office Building, Denver, Colorado, on Friday, the 13th day of February, 1931, at 10 A.M., at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 31st day of January, 1931.

(Decision No. 3210)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
PAUL BROWN.) CASE NO. 600

January 31, 1931

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the respondent is engaged in operating as a motor vehicle carrier as defined in Section 1 (d), Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without having obtained a certificate of public convenience and necessity as required by law, and whether or not the Commission should enter an order requiring him to cease and desist such operations.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law.

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission at the Court House in Greeley, Colorado, on Monday, the 16th day of February, 1931, at 10 o'clock A.M. thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 31st day of January, 1931.

(Decision No. 3211)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
JOHN BROWN.) CASE NO. 601

January 31, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the respondent is engaged in operating as a motor vehicle carrier as defined in Section 1 (d), Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without having obtained a certificate of public convenience and necessity as required by law, and whether or not the Commission should enter an order requiring him to cease and desist such operations.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law.

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission at the Court House in Greeley, Colorado, on Monday, the 16th day of February, 1931, at ten o'clock A.M. thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 31st day of January, 1931.

(Decision No. 3212)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
M. L. GORDON.) CASE NO. 602

- - - - - - - - -
January 31, 1931
- - - - - - - - -

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the respondent is engaged in operating as a motor vehicle carrier as defined in Section 1 (d), Chapter 134, Session Laws of Colorado, 1927; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without having obtained a certificate of public convenience and necessity as required by law, and whether or not the Commission should enter an order requiring him to cease and desist such operations.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without having obtained a certificate of public convenience and necessity as required by law.

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission on Friday, the 13th day of February, 1931, at 10 A. M. in the Hearing Room of the Commission, 305 State Office Building, Denver, Colorado, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 31st day of January, 1931.

(Decision No. 3213)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

RE MOTOR VEHICLE OPERATIONS OF)
WALLACE W. SMOCK.) CASE NO. 605

February 4,1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 154, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 154, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law, and whether or not the Commission should enter an order requiring him to cease and desist from so operating.

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in the Court House at Greeley, Colorado, on February 16, 1931, at ten A.M. thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
4th day of February, 1931.

(Decision No. 3214)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF B. E. ANDERSON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1571

February 5, 1931

Appearances: D. F. How, Esq., Denver, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This matter was set down for hearing at Colorado Springs on February 2, 1931, at which time counsel for applicant moved that the same be dismissed.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 5th day of February, 1931.

(Decision No. 3215)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - -

IN THE MATTER OF THE APPLICATION OF)
NELLIE M. IDOL, LOREN IDOL AND IRIS)
I. IDOL, CO-PARTNERS DOING BUSINESS)
UNDER THE TRADE NAME AND STYLE OF) APPLICATION NO. 1691
MEEKER TRANSFER COMPANY, FOR CERTI-)
FICATE OF PUBLIC CONVENIENCE AND)
NECESSITY.)
- - - - - - - - - - - - - - - - - - -

- - - - - - - - -
February 5, 1931
- - - - - - - - -

Appearances: Loren E. Idol, Esq., Meeker, Colorado, per se.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transfer of freight within the Town of Meeker, and from point to point within a radius of 25 miles from the Town of Meeker. No protest was filed against this application.

The testimony shows that the applicants have one truck, valued at approximately $1,000. During the wintertime, owing to weather conditions, in the territory involved, the applicants use horses in the transportaion of freight.

No other authorized carrier is now serving the public herein involved in such a service as proposed by the applicants nor is there any rail transportation in the territory in question.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicants for the transfer of freight within the Town of Meeker, and from point to point within a radius of 25 miles from said Town of Meeker.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applisants for the transfer of freight within the Town of Meeker, and from point to point within a radius of 25 miles from said Town of Meeker, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 5th day of February, 1931.

(Decision No. 3216)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION FOR AUTHORITY TO TRANSFER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY HERETOFORE ISSUED TO JOHN W. BURGNER.

APPLICATION NO. 968-A

- - - - - - - - - -

February 9,1931.

- - - - - - - - - -

S T A T E M E N T

By the Commission:

On January 29 the Commission made an order authorizing the transfer of the certificate heretofore issued by the Commission to John W. Burgner. One of the paragraphs of the order reads as follows:

> "IT IS FURTHER ORDERED, That all such written receipts and statements, including the one to be made by said bank, shall be filed with this Commission not later than ten weeks from this day."

The word "weeks" was inserted in the order by oversight. The evidence showed that the parties are ready to procure such receipts immediately. In view, however, of the fact that a large part of the ten day period has passed and the parties concerned may have taken more time than they would have required if the order had originally read "ten days," we are correcting the previous order to give the parties one week from this day in which to file all receipts except the one to be procured from the bank, and as to that one to give them ten days from this day.

O R D E R

IT IS THEREFORE ORDERED, That the order heretofore made herein on January 29,1931, be, and the same is hereby, amended by substituting the following order in lieu of that portion of said prior order hereinbefore quoted:

"IT IS FURTHER ORDERED, That all such written receipts and statements, except the one to be made by said bank, shall be filed with this Commission not later than one week from this day.

"IT IS FURTHER ORDERED, That the receipt and statement to be made by said bank shall be filed with the Commission not later than ten days from this day."

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of February, 1951.

(Decision No. 3217)

533

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF B. R. GERARD FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1489
IN THE MATTER OF THE APPLICATION OF J. W. BARKER FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1651
IN THE MATTER OF THE APPLICATION OF R. C. MORTENSEN FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1687

February 9, 1931

Appearances: C. H. Allen, Esq., Monte Vista, Colorado, attorney for B. R. Gerard;
R. L. Ellis, Esq., Pueblo, Colorado, attorney for J. W. Barker;
Charles H. Woodard, Esq., Alamosa, Colorado, attorney for R. C. Mortensen;
T. A. White, Esq., Denver, Colorado, attorney for The Denver & Rio Grande Western Railroad Company;
George T. Kearns, Denver, Colorado, for San Luis Valley Southern Railway Co.;
G. H. Logan, Denver, Colorado, for The Colorado & Southern Railway Co.

STATEMENT

By the Commission:

Applications were filed by three different persons, all of whom seek authority to serve substantially the same territory.

The prayer of the application of B. R. Gerard is as follows:

"That applicant requests permission to establish service for the transportation of household goods, sheep, cattle, hogs, milk, cream, farm produce, and other commodities from Jaroso, Mesita, San Acacio, San Luis, Chama and San Pablo to Walsenburg, and Pueblo, and for the transportation of groceries, dry goods, hardware and other merchandise from Pueblo and Walsenburg to Chama, San Pablo, San Luis, San Acacio, Mesita and Jaroso, and from Fort Garland to Jaroso, Mesita, San Acacio and San Luis, Chama and San Pablo and from said points to Fort Garland, and for the transportation of household goods, sheep, cattle, hogs, and other farm produce including milk and cream from Jaroso, Mesita, San Acacio, San Luis, Chama and Pablo to Fort Garland, and for the transportation of the commodities

named between said points, except that applicant does not ask for the right to transport any goods or commodities of any kind between Fort Garland and Walsenburg and Pueblo except through shipments to points on said route."

J. W. Barker seeks authority to operate as a motor vehicle carrier for the transportation of freight "between Pueblo and Walsenburg, Colorado on the one hand, and San Luis, San Acacio, Mesita and Jarosa in the State of Colorado, and Costilla, Cerro, Questa, Arroya Hondo and Taos in the State of New Mexico on the other hand."

R. C. Mortensen seeks authority for the operation by him as a common carrier for the transportation of freight generally "between Pueblo, Colorado, and Jarosa, Colorado, and intermediate points, including Walsenburg, Fort Garland, San Luis, San Acacio and Mesita," all in Colorado, and Costilla, New Mexico, and a molybdenum mine situated just south of the Colorado-New Mexico boundary line.

At the hearing all of the applicants stated that they seek no authority to transport freight other than that originating or terminating at points south of Fort Garland, Colorado. In other words, they do not desire to transport any freight to or from Pueblo and Walsenburg, from and to Fort Garland or any intermediate point.

The evidence shows that the points, San Acacio, Mesita and Jarosa are on the line of The San Luis Valley Southern Railway Company, which runs between Blanca, a point on The Rio Grande Western Railroad Company, and Jarosa, a point just north of the Colorado-New Mexico State boundary line; that the towns San Luis, Chama, San Pablo and Garcia are situated west of the railroad line; that said railroad is not only a short line but is also a weak one.

The railroad passed through a receivership beginning in 1924 and extending into the year 1928, in which year the assets were sold at public auction. During all of the years of the receivership, operations were conducted at a loss. In the year 1928 the operations showed a profit of $1,932.39, and in the year 1929 a profit of $2,269.77. However, during

those two years the company was allowed by the Interstate Commerce Commission to make certain charges to capital account which ordinarily and at this time are required to be charged to operating expenses.

The evidence indicates rather clearly that merchandise coming into the towns of San Luis, Chama and San Pablo would move by private carriers or by trucks owned by the merchants serving those towns if there were no certificated carrier. Garcia, situated just north of the state line, is closer to the railroad than the other three towns named and, as the evidence indicates, can more conveniently be served by the transportation of freight by truck from the railroad line.

There is quite a substantial movement of hogs in less than carload lots from all of the territory in question to Walsenburg and Pueblo, particularly the latter. There is some movement also of cattle and other farm products.

The evidence shows that there is not enough business to warrant the issuance of more than one intrastate certificate. All of the applicants were shown to have a good reputation and to be responsible, financially and otherwise. Most of the merchants seemed to prefer Gerard. Moreover, Gerard's application was filed first.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant, B. R. Gerard for the transportation in less than carload lots:

(a) Of live stock and other farm products and household goods from San Acacio, Mesita, Jaroso, Garcia, San Pablo, Chama and San Luis, and the vicinity thereof, to Pueblo and intermediate points, including Walsenburg, and

(b) Of merchandise and freight generally from Pueblo and intermediate points to San Luis, San Pablo and Chama,

The Commission further finds that the public convenience and necessity does not require other operations proposed by Gerard.

The Commission further finds that the public convenience and

necessity does not require the operation of the proposed motor vehicle systems of applicants R. C. Mortensen and J. W. Barker in so far as they relate to intrastate operations.

The applicant Barker testified that he does not desire an interstate certificate if an intrastate certificate be denied.

The applicant Mortensen testified that he desires the interstate certificate irrespective of the action of the Commission with respect to the intrastate operation.

The Commission further finds that the Constitution of the United States and the laws of the State of Colorado require the issuance of a certificate of public convenience and necessity to the applicant R. C. Mortensen for the transportation of freight in interstate commerce only between Pueblo and Jaroso and intermediate points on one hand, and the Colorado-New Mexico State boundary line immediately south of Jaroso on the other.

Since the first draft of the decision herein was written, the Commission has received a letter from Charles H. Woodard, Esq., attorney for the applicant Mortensen, in which he states that he would appreciate "a decision in this matter at the Commission's earliest convenience, or a re-hearing in case the Commission is not satisfied with the facts already presented." In the letter he called our attention to the fact that Mortensen is still continuing to render the trucking business which the community needs and that the applicant Gerard has not been rendering the service.

It may be stated that the Commission immediately after the hearing prepared an order herein and that the same has been held up pending the adjustment of the matter of the highway compensation taxes due from the applicants.

The point made by the attorney for Mortensen cuts both ways. Under the law one is not supposed to be engaged in motor vehicle operations as a common carrier unless and until he should have procured a certificate

of public convenience and necessity. We have concluded to stand by the decision originally made. It is known, of course, that the doctrine of res judicata does not prevent an applicant who is denied a certificate from filing another application and making a further showing which will be entitled to the same consideration as if he had not previously sought a certificate.

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

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant B. R. Gerard for the transportation in less than carload lots of (a) live stock and other farm products and household goods from San Acacio, Mesita, Jaroso, Garcia, San Pablo, Chama and San Luis, and the vicinities thereof, to Pueblo and intermediate points, including Walsenburg, and (b) merchandise and freight generally from Pueblo and intermediate points to San Luis, San Pablo and Chama, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the application of the said Gerard be denied except as herein expressly granted.

IT IS FURTHER ORDERED, That the applications of R. C. Mortensen and J. W. Barker, in so far as they relate to intrastate operations, be and they are hereby denied.

IT IS FURTHER ORDERED, That the said Gerard shall not serve any territory west of the Rio Grande river or east of the Culebra range.

IT IS FURTHER ORDERED, That the Constitution of the United States and the laws of the State of Colorado require the issuance of a certificate of public convenience and necessity to the applicant R. C. Mortensen for the transportation of freight in interstate commerce only between Pueblo and Jaroso and intermediate points on one hand, and the Colorado-New Mexico State boundary line immediately south of Jaroso on the other, and this order shall be taken, deemed and held to be a certi-

ficate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of February, 1931.

(Decision No. 3218)

536

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF C. E. REID FOR CERTIFICATE OF) APPLICATION NO. 1607
PUBLIC CONVENIENCE AND NECESSITY.)

February 11, 1931

Appearances: D. F. How, Esq., Denver, Colorado,
attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
attorney for Motor Truck Common Carriers' Association and The Colorado Transfer and Warehousemen's Association;
John Q. Dier, Esq., Denver, Colorado,
attorney for Chicago, Burlington & Quincy Railroad Company and The Colorado & Southern Railway Company;
D. Edgar Wilson, Esq., Denver, Colorado,
attorney for The Chicago, Rock Island and Pacific Railway Company;
F. J. Toner, Esq., Denver, Colorado,
for The Denver & Salt Lake Railway Company.

S T A T E M E N T

By the Commission:

This is an application by C. E. Reid for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of live stock "between and to and from any points, ranches, farms and places within the State of Colorado." The evidence showed that the applicant has been engaged for seven years in the transportation of live stock from one farm to another, to the stock yards in Denver, fairs and other places. Testimony indicated that his business has been originating or terminating within a radius of some thirty miles of Brighton. The evidence further showed that the shippers of live stock cannot always secure the services of other certificated carriers,

While in rare cases the applicant may serve customers residing more than fifteen or twenty miles from Brighton, we are inclined to believe that the public convenience and necessity does not require that he be authorized to serve a territory within the radius of thirty miles. With rare exceptions live stock shippers employ truck operators residing in and near their own communities.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of live stock from point to point within a territory extending ten miles north of Brighton, twenty-five miles east, ten miles south and fifteen miles west, and between points within said territory and other points within the State of Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of live stock from point to point within a territory extending ten miles north of Brighton, twenty-five miles east, ten miles south and fifteen miles west, and between points within said territory and other points within the State of Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That unless and until further authorized by the Commission the equipment of the applicant shall be confined to one truck.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 11th day of February, 1931.

(Decision No. 3219)

535

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
ARCHIE L. HARSCH FOR CERTIFICATE OF) APPLICATION NO. 1601.
PUBLIC CONVENIENCE AND NECESSITY.)

February 11, 1931.

Appearances: Frederic W. Clark, Esq., Greeley, Colorado, attorney for applicant;
John Q. Dier, Esq., Denver, Colorado, attorney for Chicago, Burlington & Quincy Railroad Company and The Colorado and Southern Railway Company.
Jack Garrett Scott, Esq., Denver, Colorado, attorney for Motor Truck Common Carriers' Association.

S T A T E M E N T

By the Commission:

This is an application by Archie L. Harsch of Greeley, Colorado, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of live stock "between points within the counties of Weld, Larimer, Morgan, Boulder and the City and County of Denver, and intermediate points."

The evidence showed that the applicant has been in the business of transporting live stock by truck for some seven years. His equipment consists of a two-ton G.M.C. truck and a new Ford with a semi-trailer. His business has consisted of transporting the stock from farm to farm, to railroad points, the stock yards in Denver, various rodeos, etc. The evidence further showed that he does some forty-five or fifty per cent of the total truck transportation of live stock in his community. The evidence showed also that there is not now enough equipment in use in the district in question to serve the shippers.

Occasionally the applicant is called upon to transport live stock

to or from points situated without the territory hereinafter authorized to be served. However, most communities now have one or more truck operators engaged in transporting live stock, and, as a rule, service by a local man is more satisfactory than that rendered by one living at some distance away.

We have concluded to give the applicant the same territory given to three other operators in certificates issued on October 30, 1930, in Applications Nos. 1608, 1609 and 1610. If experience should show that the applicant and the other operators or any of them are required by public convenience and necessity to serve a greater territory, authority to that end may be granted later upon application to the Commission.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of live stock from point to point within a territory extending 18 miles north of Greeley, 20 miles east thereof, 20 miles south and 10 miles west, and between points within said territory and other points within the State of Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of live stock from point to point within a territory extending 18 miles north of Greeley, 20 miles east thereof, 20 miles south and 10 miles west, and between points within said territory and other points within the State of Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 11th day of February, 1931.

(Decision No. 3220)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
THOMAS F. MULVANY.)

CASE NO. 591

February 11, 1931.

Appearances: D. F. How, Esq., Denver, Colorado,
attorney for respondent.

S T A T E M E N T

By the Commission:

An order was made requiring the respondent, Thomas F. Mulvany, to show cause why his certificate should not be revoked for failure to pay the fee for issuing his certificate. It developed also that the respondent had not paid his highway compensation tax when due. The sworn answer of the respondent was to the effect that he did not understand the serious nature of his delinquencies. It is obvious that he either did not understand the serious obligation resting upon him by virtue of the law or that he was guilty of a contemptuous disregard of his duties. We have concluded to give the respondent an opportunity to comply promptly with the law in the future, with the understanding that further delinquencies of the kind in question will be ample ground for final revocation of the certificate granted to him.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 11th day of February, 1931.

(Decision No. 3821)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE COLORADO & SOUTHERN RAILWAY COMPANY TO DISCONTINUE PASSENGER TRAIN SERVICE AND TO CURTAIL A PORTION OF ITS FREIGHT SERVICE.	APPLICATION NO. 1646

February 11, 1931

Appearances: J. L. Rice, Esq., and John Q. Dier, Esq., Denver, Colorado, for applicant;
Warwick L. Downing, Esq., Denver, Colorado, for Royal Tiger Mines Co.;
Carl A. Kaiser, Esq., Breckenridge, Colorado, and Barney L. Whatley, Esq., Denver, Colorado, for Board of County Commissioners of Summit County, and Mayor and Board of Trustees of Town of Breckenridge;
John M. Boyle, Esq., Fairplay, Colorado, for Park County;
R. D. McLeod, Esq., Leadville, Colorado, for Mayor and City Council of Leadville, Colorado;
E. A. Bond, Esq., Leadville, Colorado, for Board of County Commissioners of Lake County;
Colin A. Smith, Esq., Assistant Attorney General;
F. D. Thompson, Esq., Longview, Colorado, for Longview Resort Company.

S T A T E M E N T

By the Commission:

In the original application filed herein, The Colorado & Southern Railway Company seeks authority "to discontinue all its passenger train service between Denver and Leadville, Colorado, and intermediate points, upon its said narrow-gauge lines." By an "Amendment of and Supplement to Application" the applicant seeks authority also "to reduce its regular scheduled freight train service between Como and Leadville, Colorado, to one regular train per week in each direction."

We shall deal first with the passenger service. The brief in support of the application states:

"In order to give breadth to the issue, and to enable the Commission to go as far as it thought proper in ordering a re-

duction, the application was so framed as to ask for entire discontinuance of all passenger train service . . .

"It is the recommendation and request of the Railway Company that the Commission modify the present requirements of daily passenger service by ordering on the west end only such tri-weekly service, either by passenger or by mixed train, between Como and Leadville or between Breckenridge and Leadville, as seems to the Commission best, limited, however, to the winter period."

It thus will be seen that the carrier really does not consider it reasonable or desirable to discontinue all service. The broad prayer of the application is merely "to give breadth to the issue."

The evidence of the carrier shows the yearly out-of-pocket cost of the passenger service to be $90,396.41, and the revenue therefrom $51,865.75, with an annual loss of $38,530.66. There were a number of exhibits introduced showing estimated amounts that would be saved by different plans for rendering less passenger service than is now afforded. Some of the suggested plans contemplate service the year round, some during winter months only; some over the whole line, Denver to Leadville, some over parts only.

Exhibit 3A, which is based on the operation throughout the year of three trains each way per week between Denver and Leadville shows the following:

	Present Service Denver-Leadville	Tri-weekly Service Denver-Leadville	Saving
Total Out-of-pocket cost	$90,396.41	$42,084.71	$48,311.70
REVENUES			
Passenger	$33,116.40	$19,869.84	
Mail	10,993.89	8,582.16	
Express	4,606.70	2,764.86	
Other	3,146.76	1,888.84	
Total revenues	$51,865.75	$33,105.70	$18,760.05 (red)
Out-of-pocket loss	$38,530.66	$ 8,979.01	
Saving per year			$29,551.65

However, that there will not be a loss of $8,979.01 from rendition of such service is shown clearly by the evidence. There was introduced in evidence a letter from R. L. Henderson, Division Superintendent of Railway Mail Service, addressed to two of the attorneys herein, in which it was stated that in view of the conditions (stating them) attending the status and operation of this line, the Department would "be willing to make a special contract with the Colorado & Southern Railway Company at not less than $15,000.00 per annum" if the "passenger train service is continued on a frequency of not less than three trips per week in each direction." In this way mail would go to and from points on the line daily except Sunday, one day from Denver to Leadville, the next from Leadville to Denver. If only the stated minimum of $15,000.00 should be paid, the revenue from mail would be increased by $6,417.84, leaving a loss per year of only $2,561.17. However, in view of the statement that $15,000.00 is the minimum amount that would be paid by the Department, we have considerable hope and expectation that the amount that the Department will pay is at least $20,000.00. If it should pay that amount the loss of some $2,500.00 would be turned into a profit of about that amount.

At the hearing it was contended by the applicant that the language in Mr. Henderson's letter, "in order to secure continuance and to stabilize the operation of passenger train service", conditions the offer upon the continuance of such service beyond the three-year test period prescribed by the Interstate Commerce Commission in the abandonment case recently before the latter. We are of the opinion that the letter bears no such construction. Moreover, in a conference recently had with Mr. Henderson he assured us he did not intend so to condition his offer.

It will be noted from the figures in Exhibit 3A that the passenger revenues are estimated by the carrier to fall from $33,116.40 to $19,869.84 as a result of reduction of passenger service from six to three times a week each way. That loss would be forty per cent. There is no bus operation

anywhere on the line. An experienced railroad man testified that in his opinion the loss would not be as much as forty per cent. We are inclined to believe the loss would be nearer twenty per cent. If only twenty per cent, the profit of $2,500.00 would be increased to about $9,000.00. If the loss on express should be only fifteen per cent, as we believe is fair to assume, another $2,000.00 could be added to profit of operation, making a profit of some $11,000.00 in lieu of the present loss of about $38,500.

None of the other plans for rendering any passenger service can be compared with the one for tri-weekly service each way over the whole line throughout the whole year. Nothing less than such service will secure a favorable mail contract. The other plans show an out-of-pocket loss while this one shows a profit.

The reduction of freight train service between Como and Leadville seems to have been an afterthought, as leave to file the amendment and supplement to the application was not requested until the case was called for hearing. The evidence shows that with rare exceptions it is necessary to operate two freight trains per week at least a part of the way between the two points named. It shows also that in the past, without any authority from this Commission, the applicant has on different occasions failed to render the scheduled freight service over parts of the route. At times it has operated the train only as far as Dillon, and at other times only to Climax. It shows further that on occasions one to three carloads of freight have been placed in the passenger train and moved by it. There has been no complaint reaching the Commission about such operation.

The evidence shows further that aside from l.c.l. shipments there were moved from one point to another on the line between Como and Leadville some thirty-five carload shipments per week during the year 1929. In view of the fact that some three or four cars loaded with merchandise are about all the locomotives in use can haul, it is obvious that it will require, with few exceptions, two freight trains each week to handle the freight moving on this line.

On those rare occasions when the carrier could haul on one round trip all the freight offered during the week, and it can secure the consent of the consignees to waive one of the semi-weekly operations, we see no reason for not eliminating such operation under those circumstances. However, on such occasions it should, it seems to us, put the l.c.l. freight in a passenger train and move the same as it has heretofore moved carload freight. We see no reason why the carrier should not, unless complaint is made, continue to take the liberty that it has been taking in the past without an order from this Commission. In view of the fact that it has been giving such flexible service we see no need for making an order allowing it under any and all circumstances to move freight only once a week. We feel that it is incumbent upon the carrier to move twice a week either by freight or passenger train such freight as is available and needed by the consignees.

This Commission is not only willing but most desirous of rendering all possible assistance to the carrier in its endeavor to effect economies. If the tri-weekly passenger train service and the semi-weekly freight service, with such liberties taken with respect thereto as have been indicated, should, contrary to our expectations, prove more burdensome than is now apparent, we suggest that the carrier come back for such further relief as may be warranted.

In a concluding paragraph of the decision of the Interstate Commerce Commission in Finance Docket No. 7132 is found this language:

> "In the meantime, possible economies in operation, such as might be effected by reducing passenger service, changing freight schedules, and perhaps improvement of the equipment, should be developed."

The order herein made authorizes a reduction of passenger service which, in the opinion of the Commission, will result in the conversion of an out-of-pocket loss to a profit. While we do not authorize the applicant under any and all conditions to cut the freight service between Como and Leadville to one train per week each way, we do, in effect, permit "changing freight schedules" by sanctioning the continuance of such flexible service as the carrier has been rendering without authority from the Commission.

The next course suggested by the Interstate Commerce Commission is "improvement of equipment". This suggestion was emphasized by Commissioner Lewis, who made reference to what the Uintah "has successfully done under more adverse operating grades and curves, and in a more sparsely settled country yielding less tonnage, largely by changes in motive power which have reduced operating costs." We are somewhat surprised and disappointed to find that the applicant herein has permitted considerable time to elapse without apparently making any effort to reduce operating expenses by use of more modern and efficient motive power. The line seems to be operated exactly as it always has been. There is apparently no thought of changing the situation. We are not now saying what should or could be done. The point we are making is that unless a bona fide attempt is made along the lines suggested, the applicant should not be permitted to abandon all service.

It is generally admitted and there is no question that the locomotives used on the line are antiquated and inefficient. The very high engine mile cost shows the worn out condition of the engines. Efficient motive power has been one of the most outstanding contributions of recent years to economical operation of railroads.

It is quite conceivable that a gas-electric rail motor car could be designed, manufactured and put in passenger service on the line with a most substantial saving as compared with the present costs of operating the passenger trains.

The Commission has heard of two or three possible ways of reducing costs of freight train operations. One would require the use of more powerful and somewhat heavier steam locomotives. Another is the possible use of lighter motive power which would have a greater pulling power by reason of the use of a stringer affording more traction.

As we have indicated, we are not now making any decision as to any of these matters, but we do think that a very careful study should be made with a view to correcting an intolerable situation respecting ancient

and inefficient motive power.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that a tri-weekly passenger service each way between Denver and Leadville is sufficient to meet all the requirements of the traveling public, said service to be rendered on a schedule substantially as set forth in the order hereinafter entered. It is the intention to adopt for the passenger train service the schedule suggested by the Division Superintendent of the Railway Mail Service as set out in Exhibit No. 24.

The Commission further finds that the shipping public in the territory involved requires a semi-weekly freight service between the points in question for weekly service.

It has been suggested by counsel for the Climax Molybdenum Company that the rail carrier be required to make available for a period of one year the actual details of all items of expense charged against this branch, said items to be reported monthly in duplicate to the Commission, and similarly a monthly report of all shipments moving over this branch showing the total revenues collected, the divisions as between the South Park branch and other lines, the local line rates, etc., etc. It is suggested that if such reports could be made that at the end of the year information would be available which would accurately show the true picture. We hesitate, owing to the expense involved, to require such monthly reports. We deem the suggestion of sufficient importance, however, to retain jurisdiction over this application solely for the purpose of determining within the next year whether or not, after a hearing, such monthly accounting reports should be made.

O R D E R

IT IS THEREFORE ORDERED, That the applicant herein, The Colorado & Southern Railway Company, be, and the same is hereby, authorized to reduce its passenger service between Denver and Leadville, Colorado, to three trains per week in each direction, leaving Denver at 8:00 A.M. on Mondays, Wednesdays and Fridays, arriving at Leadville at 6:25 P.M., and leaving Leadville at

8:30 A.M. on Tuesdays, Thursdays and Saturdays, arriving at Denver at 6:30 P.M.

IT IS FURTHER ORDERED, That the application as it relates to the reduction of freight service between Como and Leadville to one train each way per week be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That this reduction in service shall become effective March 1, 1931.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 11th day of February, 1931.

(Decision No. 3222)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

In Re: Livestock - Loading, unloading, feeding and watering stops at railroad operated stockyards.	))))	INVESTIGATION AND SUSPENSION DOCKET NO. 145

- - - - - - - - -
February 13, 1931.
- - - - - - - - -

S T A T E M E N T

By the Commission:

By schedules filed to become effective on the 9th day of December, 1930, respondent, Union Pacific Railroad Company, proposed certain changes, which apparently had the effect of increasing certain rates for the intrastate transportation of livestock. Upon a protest by American National Live Stock Association, this Commission suspended operation of the schedules until the 7th day of April, 1931.

On December 15, 1930, this Commission received advice from the protestant that respondent was willing to withdraw its proposal by cancelling the suspended schedules and then confer with protestant in an endeavor to compose all conflicting views before reissuing the schedules. This proposal of respondent is agreeable to the protestant.

Effective January 8, 1931, in Supplement No. 28 to Colo. P.U.C. No. 248, respondent withdrew and cancelled the suspended schedules, thus eliminating the cause of action in this proceeding.

O R D E R

IT IS THEREFORE ORDERED, That the order heretofore entered in this proceeding suspending the operation of said schedules be, and it is hereby, vacated and set aside as of February 13, 1931, and that this proceeding be

discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 13th day of February, 1931.

(Decision No. 3223)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE RIO GRANDE TRANSPORT COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1707.

February 14, 1931.

S T A T E M E N T.

By the Commission:

The Motor Truck Common Carriers' Association and the Weicker Transportation Company, protestants in the above application, have filed a petition for rehearing in the above matter. The Commission has given this petition careful consideration. In our opinion, the grounds alleged for the granting of a rehearing are not meritorious. Under these circumstances, an order will be entered denying this petition.

O R D E R

It IS THEREFORE ORDERED, That the petition for rehearing of The Motor Truck Common Carriers' Association and Weicker Transportation Company be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

OTTO BOCK

DAN S. JONES
Commissioners.

(S E A L)

Dated at Denver, Colorado,
this 14th day of February, 1931.

ATTEST: A TRUE COPY.

Secretary.

The testimony shows that the applicants are now operating a regular scheduled passenger and freight service between Rifle and Meeker, Colorado, and intermediate points.

The Rio Grande Motor Way, Inc. is at present authorized to give a regular scheduled freight service between Grand Junction and Glenwood Springs. Its schedule now calls for a tri-weekly service from Grand Junction on Mondays, Wednesdays and Fridays, leaving Grand Junction at approximately 5:00 A.M. At present it transfers freight destined to Meeker to the applicants herein at Rifle at approximately 1:00 P. M. This freight reaches Meeker in the afternoon of the same day.

The applicants produced several merchants from Meeker as witnesses, whose testimony was substantially to the effect that a direct service without transfer at Rifle from Grand Junction would be a public convenience and necessity; they stated also that the rate of 90 cents now charged for the joint haul of the Rio Grande Motor Way, Inc. and the applicants is not satisfactory, and that the 65 cent rate per hundred pounds proposed by the applicants would have the effect of moving this freight over the transportation facilities of the applicants and eliminate at Meeker certain unauthorized operators who now haul most of the business.

In our opinion the rate situation seemed to the shippers to be the most important urge for the applicants' proposed service. This rate, however, is limited to shipments from Grand Junction of 4,000 pounds or more. In other words, the volume of the rate is such that the applicants desire only to apply the same to such a quantity of freight as will permit its profitable movement.

The Merchants at Meeker also testified that if the Commission should grant this certificate, and the applicants would put in a 65 cent rate, they would then use the truck service of the applicants.

While in our opinion the applicants have made a showing of public

convenience and necessity for a service more fully described in the findings herein, we believe it of sufficient importance to suggest that if the applicants and The Rio Grande Motor Way, Inc. could reach an amicable arrangement for a joint rate substantially less than the present 90 cents per hundred pounds, this would result in substantial economies to both operations. Any adjustment of this nature would receive the sympathetic co-operation of this Commission. In view, however, of the record made herein, we believe that a certificate should issue at this time to the applicants.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicants for the transportation of freight to and from Grand Junction and Glenwood Springs only, from and to points in Rio Blanco County, in truckloads of not less than 4,000 pounds. In all other respects the application will be denied.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicants for the transportation of freight to and from Grand Junction and Glenwood Springs only, from and to points in Rio Blanco County, in truckloads of not less than 4,000 pounds, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

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

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Otto Bock

Dan S. Jones

Commissioners.

Dated at Denver, Colorado,
this 14th day of February, 1931.

(Decision No. 3225)

537

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF O. A. DUNN FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.) APPLICATION NO. 1643

February 14, 1931

Appearances: Omer T. Mallory, Esq., Fort Morgan, Colorado, attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado, attorney for Motor Truck Common Carriers' Association and The Colorado Transfer and Warehousemen's Association.

S T A T E M E N T

By the Commission:

This is an application by O. A. Dunn for a certificate of public convenience and necessity authorizing the operation of a motor vehicle line for the transportation of freight, including live stock and household goods, from point to point in Morgan County and throughout the State of Colorado. At the hearing the applicant agreed to limit his operations for the transportation of freight from or to points located within a distance of twenty-four miles of Fort Morgan on the north, five miles on the east, thirty miles on the south and twenty-four miles therefrom on the west.

The evidence showed that he has been engaged in the general trucking business for some eight years. Most of his operations have been local. He has done some household goods moving but not very much, particularly in the past year.

The applicant's financial responsibility was satisfactorily shown.

The Commission heretofore has issued a number of certificates authorizing operations similar to the one the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the

(Decision No. 3224)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF H. S. HARP AND THAD S. HARP, CO-PARTNERS DOING BUSINESS AS HARP BROTHERS, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1692

February 14, 1951

Appearances: Frank Delaney, Esq., Glenwood Springs, Colorado, for applicants;
T. A. White, Esq., Denver, Colorado, for The Denver and Rio Grande Western Railroad Company and The Rio Grande Motor Way, Inc.

STATEMENT

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of freight, not on schedule service, between points in the counties of Garfield and Rio Blanco, and occasional trips between other points throughout the State of Colorado.

Protests were filed against this application by The Denver and Rio Grande Western Railroad Company and The Rio Grande Motor Way, Inc.

The applicants at the hearing amended their application, requesting authorization for an irregular motor vehicle operation for the transportation of freight between points in the counties of Garfield and Rio Blanco, and for the transportation of freight originating at Grand Junction and points east of Grand Junction in Mesa County, Colorado, and at Glenwood Springs and points west of Glenwood Springs in Garfield County, destined for points north of Rifle in Garfield and Rio Blanco counties, also for the transportation occasionally of freight between other points throughout the State.

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

The applicant has expressed a willingness to be bound by the condition requiring his rates to be twenty per cent higher than those of scheduled carriers for the transportation of freight between points served by such carriers.

The first certificates authorizing the transportation of household goods were issued at one time to twenty-four operators who belong to an association known as The Colorado Transfer and Warehousemen's Association. That association filed for all of its members a tariff of rates applying to the transportation of household goods. Since then every applicant for authority to transport such goods has expressed a willingness to be bound by those rates until and unless they shall have been found to be unreasonable.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operation of the applicant for the transportation of freight generally, from or to points in the territory hereinbefore described, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle operation of the applicant for the transportation of freight generally, from or to points in the territory hereinbefore described, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience

and necessity therefor:

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

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

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

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

IT IS FURTHER ORDERED, That the applicant shall file within twenty days from this date and keep on file a tariff of rates and rules and regulations applying to and governing his operation which shall be substantially the same as the tariff of The Colorado Transfer and Warehousemen's Association.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 14th day of February, 1931.

(Decision No. 3226)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

538

IN THE MATTER OF THE APPLICATION OF TATE KETTLER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1706

February 14, 1931

Appearances: John H. Simpson, Esq., Loveland, Colorado, attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado, attorney for Motor Truck Common Carriers' Association and The Colorado Transfer and Warehousemen's Association.

S T A T E M E N T

By the Commission:

This is an application by Tate Kettler, doing business as Tate Kettler Truck Service, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight between points "within and in the vicinity of the City of Loveland, in Larimer County, Colorado, and points elsewhere within and without the State of Colorado." His equipment consists of two White trucks having rather high capacity. His financial condition is satisfactory.

The applicant has been engaged since 1919 in rendering such a service as he seeks authority to continue. His business has consisted in large part in the transportation of grain and other farm products from the farms in the vicinity of Loveland to elevators and canning factories in said city. He is engaged also in the transportation of vegetables from one factory to another in northern Colorado owned and operated by the Kuner-Empson Company, and the transportation of household goods from point to

point within the State and live stock from the vicinity of Loveland to Denver.

While several such certificates as is herein sought have been granted to operators in the City of Loveland, it appears that only one of them is engaged in as extensive operations as those carried on by the applicant. The equipment of all but one of the others is rather limited and is more or less confined to local and light drayage service.

The Commission heretofore has issued a number of certificates authorizing operations similar to the one the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight except household goods between points served singly or in combination by scheduled carriers, a rate must be charged which shall be at least twenty per cent in excess of the scheduled carriers' rates, so that such carriers whose service to the public is of more importance may be protected against injurious competition.

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

While a protest was made by two motor truck associations, having one or more members in Loveland, against the issuance of the certificate herein, no one of the Loveland certificate holders made a separate protest, and the evidence showed that no one of them had asked the associations in question to resist the issuance of the certificate although each of such operators were given notice of the filing of the application and of the hearings had thereon.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity

requires the proposed motor vehicle operations of the applicant for the transportation of freight generally from point to point within the territory extending ten miles north of Loveland, fifteen miles east, ten miles south and to the Larimer County line on the west, and between points within said territory and other points within the State of Colorado, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the transportation of freight generally from point to point within the territory extending ten miles north of Loveland, fifteen miles east, ten miles south and to the Larimer County line on the west, and between points within said territory and other points within the State of Colorado, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

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

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

its business as it may develop in the future.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 14th day of February, 1931.

(Decision No. 3227)

528

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION)
OF FRANK PLESS FOR CERTIFICATE OF) APPLICATION NO. 1724
PUBLIC CONVENIENCE AND NECESSITY.)
- - - - - - - - - - - - - - - - - -)

- - - - - - -
February 16, 1931
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Appearances: D. F. How, Esq., Denver, Colorado,
for applicant;
Jack Garrett Scott, Esq., Denver, Colorado,
for Motor Truck Common Carriers' Ass'n.

S T A T E M E N T

By the Commission:

On January 30, 1931, the Commission issued an order in the above matter in which it granted the applicant a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of ice cream from Denver, Colorado, to a certain territory described therein, commencing two miles south of Fort Lupton and ending at a point north of the town of La Salle on U. S. Highway No. 85.

Relative to this transportation of ice cream, the Commission overlooked the fact that the applicant's testimony warranted a finding that this phase of the certificate should include any point between Denver and La Salle on U. S. Highway No. 85.

The Commission, therefore, finds the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of ice cream from Denver to La Salle and intermediate points on U. S. Highway No. 85. Under these circumstances, the order of the Commission entered on January 30, 1931, will be modified so as to permit the applicant to transport ice cream from Denver to La Salle and intermediate points on U. S. Highway No. 85.

O R D E R

IT IS THEREFORE ORDERED, That paragraph one of the order entered herein on January 30, 1931, (Decision No. 3203) be, and the same is hereby, changed and modified to read as follows:

"IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the (transportation of milk and cream from the following described territory, to-wit: 5 miles on both sides of U. S. Highway No. 85 from a point 2 miles north of the town of La Salle to the town of Platteville; 2 miles on the west side and 5 miles on the east side of said highway between Platteville and Ft. Lupton; no territory on the west side and 5 miles on the east side of said highway from Ft. Lupton to 2 miles south of Ft. Lupton, the southern point in said territory, all more fully described in Exhibit D, which by reference thereto is made a part hereof, to Denver, Colorado, and the transportation of ice cream from Denver to La Salle and intermediate points on U. S. Highway No. 85,) and this order shall be deemed and held to be a certificate of public convenience and necessity therefor".

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 16th day of February, 1931.

(Decision No. 3228)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

539

IN THE MATTER OF THE APPLICATION OF A. E. ALMBERG, DOING BUSINESS UNDER THE NAME AND STYLE OF SANTA FE DRIVE MOVING & STORAGE WAREHOUSE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1750

February 16, 1931

Appearances: Robert D. Charlton, Esq., Denver, Colorado, for applicant;
D. Edgar Wilson, Esq., Denver, Colorado, for Chicago, Rock Island & Pacific Railway Co.
J. Q. Dier, Esq., Denver, Colorado, for Colorado and Southern Railway Company.

S T A T E M E N T

By the Commission:

This is an application by A. E. Almberg, doing business under the name and style of Santa Fe Drive Moving & Storage Warehouse, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of household goods only in the counties of Adams, Arapahoe and Jefferson in the State of Colorado, and also for occasional service elsewhere throughout the State of Colorado.

The testimony shows that the applicant's equipment consists of two trucks valued at approximately $4,000. His financial condition is satisfactory.

The applicant has been engaged for the past twenty years in rendering such a service as he seeks authority to continue in and around Denver, as his business consists altogether in the transportation of household goods.

The Commission heretofore has issued a number of certificates authorizing operations similar to the one the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that the applicant file a tariff con-

taining rates on household goods not lower than those carried on file with the Commission by the Colorado Transfer and Warehousemen's Association, and also to be bound by the conditions which this Commission has imposed upon similar operators. The applicant is a member of the Colorado Transfer and Warehousemen's Association.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle system of the applicant for the transportation of household goods only in the counties of Adams, Arapahoe and Jefferson in the State of Colorado, and also for occasional transportation thereof, elsewhere throughout the State of Colorado, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle system of the applicant for the transportation of household goods only in the counties of Adams, Arapahoe and Jefferson in the State of Colorado, and also for occasional transportation thereof, elsewhere throughout the State of Colorado, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) That the applicant shall not operate on schedule between any point.

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

(c) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that if and as occasion may arise appropriate orders may be made to prevent improper encroachment by the applicant upon

the field of business occupied by the scheduled carriers, and at the same time to allow the applicant reasonable latitude in the carrying on of its business as it may develop in the future.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 16th day of February, 1931.

(Decision No. 3229)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE UNION PACIFIC RAILROAD COMPANY FOR AUTHORITY TO ABANDON ITS AGENCY AT HENDERSON, ADAMS COUNTY, IN THE STATE OF COLORADO.	)	INVESTIGATION AND SUSPENSION DOCKET NO. 147.

February 16, 1931.

Appearances: E. G. Knowles, Esq., Denver, Colorado, attorney for Union Pacific Railroad Company;
M. L. Smith, Brighton, Colorado, for protestants.

S T A T E M E N T

By the Commission:

An application was filed by Union Pacific Railroad Company asking for authority to abandon its agency at Henderson. Protest was filed by a number of people residing in the vicinity thereof.

Henderson station is located 14.1 miles from Denver and five miles from Brighton, at which points station agencies are regularly maintained. The station is three-fourths of a mile from South Henderson, which is situated on the Denver-Brighton highway. More business is done at South Henderson than at Henderson.

The evidence showed that there is comparatively little work to be done by the station agent at Henderson. The tons of l.c.l. freight forwarded during the years 1925, 1926, 1929, and 1930 were 4, 2, 4-1/2 and 1, respectively. The tons of l.c.l. freight received during those years were 15, 25, 14-3/4 and 13-1/2. The total carload shipments forwarded during those years were 92, 232, 208 and 204; the total number received were 64, 48, 46 and 46. By far the greater part of the freight forwarded consisted of sugar beets. The next most important commodity was vegetables, the number of cars for the

four years being 56, 51, 11 and 8. The beet shipments are all looked after by the Great Western Sugar Company and may be handled to the satisfaction of that company without an agent at Henderson. During the years in question there were received at the station 64, 48, 46 and 46 carload shipments. During the past two years eighty per cent of those shipments have consisted of coal and gas and oil.

The passenger traffic to and from Henderson is very light. The totals for the years in question, including both intra-system and interline, were $313.73, $690.78, $186.08 and $488.27.

The evidence showed further that ninety per cent of the telegrams are telephoned to the addressees. There is no toll charge for telephone conversations between Brighton and Henderson. There is a charge of ten cents for conversations between Henderson and Denver.

While some inconvenience necessarily will result from the abandonment of the agency, the question is whether or not, in view of the duty of the carrier to effect all reasonable economies, it is reasonable to require the continuance thereof.

The most important service rendered by the station agent appears to be in connection with the shipments of vegetables. During the years 1925 and 1926 the shipments exceeded fifty cars. During the past two years they amounted to only 11 and 8, respectively. However, other shipments were made from sidings north and south of Henderson which are billed by the station agent at Henderson. The evidence showed that for the thirteen months beginning August 1, 1929, and ending August 31, 1930, 96 cars moved from Henderson and the sidings in the vicinity thereof. Most of the vegetables are shipped in the months of August and September.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to abandon the agency at Henderson subject to the condition, however, that in each year it appears that there will be shipped from Henderson and the sidings in the vicinity thereof as many as fifty cars of vegetables, an agent shall be

placed and kept at said station during the months of August and September. Some question may possibly arise as to the number of cars of vegetables that will be shipped. However, it is well known that railroad companies make surveys for the purpose of determining the number of carloads of prospective business. It should, therefore, be determined with reasonable ease and accuracy the number of cars in prospect. If any dispute arises the Commission may be called upon to make a decision.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to Union Pacific Railroad Company to abandon its agency at Henderson, Adams County, in the State of Colorado, at the close of business on February 28, 1931; provided, however, and on the condition that in each year in which it is reasonably probable that there will be shipped from said station, and the sidings in the vicinity thereof, more than a total of fifty carloads of vegetables, the said railroad company shall place and keep an agent at the said station of Henderson during the months of August and September for the purpose of performing the ordinary duties of a station agent in connection with the shipment of such vegetables.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado,
this 16th day of February, 1931.

(Decision No. 5250)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION OF M. A. MULLINS AND H. D. STRICKLAND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1696

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February 20,1931.

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Appearances:

Pershing, Nye, Tallmadge, Bosworth & Dick, Esqs., Denver, Colorado, for applicants.

S T A T E M E N T

By the Commission:

This is an application of M. A. Mullins and H. D. Strickland, co-partners, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight and passengers between Trinidad and Lamar, Colorado.

At the hearing the applicants stated that all freight and passengers proposed to be carried would either originate or be destined to Branson and points intermediate to it and Springfield. In other words, no freight or passengers will be carried locally between Springfield and Lamar and intermediate points or between Trinidad and any points west of Branson.

Responsibility financially and otherwise of the applicants was satisfactorily shown. The equipment of the applicants consists of three Chevrolet trucks, two of which have a capacity of one and one-half tons and a third one ton. They propose to limit their passenger business to such

passengers as are able to ride on the freight equipment. This phase of their business is to be carried on more or less as an accommodation to an occasional person who has no other way of traveling, as well as to have a good excuse for refusing to carry passengers who are not willing to pay their fares.

The main point proposed to be served is Kim, located about half way between Branson and Springfield. The territory around Kim produces a large amount of beans and corn which has to be trucked to Springfield, Trinidad, Lamar or Branson. No other truck operator is serving the territory in question.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicants for the transportation of freight and passengers between Lamar and Trinidad and intermediate points, provided, however, that all passengers and freight must either originate or be destined to Branson and points intermediate to it and Springfield.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operation of the applicants for the transportation of freight and passengers between Lamar and Trinidad and intermediate points, provided, however, that all passengers and freight must either originate or be destined to Branson and points intermediate to it and Springfield, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
29th day of February, 1931.

(Decision No. 5251)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * * * *

IN THE MATTER OF THE APPLICATION OF GUNNISON VALLEY POWER COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1752

February 21, 1931.

Appearances: Grant, Ellis, Shafroth and Toll, Esqs., Denver, Colorado, attorneys for applicant.

S T A T E M E N T

By the Commission:

This is an application by the Gunnison Valley Power Company for authority to construct a 6600 volt transmission line from its generating plant in Hotchkiss, Colorado, to Crawford, Colorado, and a distribution system within the Town of Crawford. The evidence showed that the approximate cost would be $8,000 for the transmission line and $2,000 for the distribution system. The distance between the two towns is about eleven miles.

The ordinance granting authority to construct the distribution system and to serve the town was passed by the Board of Trustees of the Town of Crawford on January 5, 1931. The term for which the applicant is authorized to distribute electric energy in Crawford is twenty-five years.

No other utility is distributing electric energy within or near the Town of Hotchkiss.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires that authority be granted to the Gunnison Valley Power Company to construct a 6600 volt transmission line from its generating plant in the Town of Hotchkiss to the Town of Crawford, and a distribution system within

the Town of Crawford.

The Commission further finds that the public convenience and necessity requires the exercise by the applicant of the franchise rights granted it in and by virtue of an ordinance passed by the Board of Trustees of the Town of Crawford on January 5, 1931.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the Gunnison Valley Power Company to construct a 6600 volt transmission line from its generating plant in the Town of Hotchkiss to the Town of Crawford, and a distribution system within the Town of Crawford, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the exercise by the applicant of the franchise rights granted it in and by virtue of an ordinance passed by the Board of Trustees of the Town of Crawford on January 5, 1931, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of February, 1931.

(Decision No. 3232)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN RE AMENDMENT NO. 34 TO)
D. & R. G. W. FREIGHT TARIFF) I. & S. DOCKET NO. 142.
NO. 4486-G, COLORADO P.U.C. NO. 81.)

February 21, 1931.

Appearances: W. M. Campbell, Esq., and Thomas R. Woodrow, Esq., Denver, Colorado, for The Denver and Rio Grande Western Railroad Company;
D. P. Strickler, Esq., Colorado Springs, Colorado, for The Doyle Ice & Storage Company;
Devine, Preston & Storer, Esqs., Pueblo, Colorado, for American Refrigerator Transit Company.

S T A T E M E N T

By the Commission:

At Monument, a point situated on the line of The Denver and Rio Grande Western Railroad Company between Denver and Colorado Springs, The Doyle Ice and Storage Company in the winter harvests ice from ponds. This ice is shipped as harvested to Pueblo. In 1909 a spur track was built from the Rio Grande's main line to the icehouse and ponds of the Doyle Company. Since 1909 the Doyle Company has furnished ice to various railroads and refrigerator companies, including the Missouri Pacific Railroad, The Chicago, Rock Island and Pacific Railway, The Colorado and Southern Railway, The Atchison, Topeka and Santa Fe Railway, Pacific Fruit Express, American Refrigerator Transit Company and the Rio Grande.

During the period from 1909 to about January 1, 1926, the Rio Grande supplied a special switch engine and crew during the ice harvesting season under a verbal agreement with the Doyle Company that it would furnish to the Rio Grande for transportation not less than thirty cars per day on an average. The minimum number of cars have been so furnished. No charge was made prior

to about January 1, 1926, for said switching service. Neither was any claim made prior to said date that any charge should be made for said service.

At some time near the early part of the year 1925 negotiations were begun between the Rio Grande and the protestant, the American Refrigerator Transit Company, hereinafter referred to as the Refrigerator Company, for a contract, finally consummated, whereby the latter became obligated to the Rio Grande to perform the icing service upon the lines of the latter for a period of twenty years, beginning January 1, 1926. At about the same time the Refrigerator Company began negotiations with the protestant, the Doyle Company, for a contract under which the latter company would perform that portion of the contract for said icing service which might be required by the agreement between the Rio Grande and the Refrigerator Company to be performed at Pueblo and other places. The negotiations between the Refrigerator Company and the Rio Grande, and between the Doyle Company and the Refrigerator Company were conducted simultaneously with full knowledge on the part of the Rio Grande that the negotiations were being conducted by the Refrigerator Company and the Doyle Company. During the course of these negotiations the Doyle Company advised the Rio Grande that it must know the transportation cost which the Doyle Company would have to incur in transporting its ice from its ponds at Monument to its storage house at Pueblo, which it was necessary for it to construct in order to meet the icing requirements of the Rio Grande. In consequence the President of the Rio Grande on August 19, 1925, wrote a letter to the Refrigerator Company in which he stated that the cost for transportation from Monument to Pueblo for the next ten-year period of the contract would be seventy-five cents per ton. Copies of this letter and one dated September 21, 1925, also written by the President of the Rio Grande, were attached to and made a part of the contract made by and between the Refrigerator Company and the Doyle Company dated September 26, 1925. While the agreement made between the Refrigerator Company and the Rio Grande was dated July 1, the evidence shows that the contract was not finally made until at or about the time the contract with the Doyle Company was made, and that the

Doyle Company refused to make any contract until a statement or promise was made by the President of the Rio Grande as to the transportation cost.

W. E. Doyle, formerly President of the Doyle Company, but who at the time of the hearing herein was no longer connected with said company, testified that before the contract of September 26 was made he had one or more conversations with the President of the Rio Grande about the matter of charges to be made by the Rio Grande in connection with the movement of the ice from Monument to Pueblo.

Doyle testified as follows on cross examination:

> "Q. Now, there never was any agreement between you and Mr. Pyeatt (president of the Rio Grande) that the 75 cent rate was to include the expense of this extra switch engine, was there? A. It was always understood, we had discussed such things when I was making that, I wanted the net cost and that was the rate."

The evidence shows that in reliance upon the letters in question and the oral statements of the President of the Rio Grande, the contract of September 26 was executed.

By Amendment No. 54 to its Tariff G.F.D. No. 4486-G, Colorado P.U.C. No. 81, the Rio Grande published a rate of $12.50 per hour or a fraction thereof, subject to a minimum of four hours, to become effective October 25, 1930, to compensate the Rio Grande for special switching service to be rendered for the Doyle Company at Monument "When special switching service is necessary at the ice plant", such a charge to be in addition to the published carload freight rates on shipments destined to points on or via the Rio Grande. The effective date of said amendment was suspended by the Commission upon protest filed by the Doyle Company. A hearing was thereafter had before the Commission. Prior to the hearing the Refrigerator Company filed its petition in intervention.

The platform of the Doyle Company is not long enough to accommodate the total number of cars loaded and shipped daily during the ice harvesting season, covering an average period of approximately sixteen days. Switching service is, therefore, necessary. Such service is rendered by a train crew consisting of a conductor, engineer, fireman and brakeman. In 1926 the total

cost of such service to the Rio Grande, as shown by the evidence, was $1,473.93; in 1928, $2,214.64; in 1929, $2,334.81; and in 1930, $2,415.04. The evidence shows further that the switching service considered alone, without regard to other aspects of the case, is reasonably worth the charge proposed.

The switching is done within what is admitted to be the switching limits of the station of Monument.

In January, 1926, the President of the Rio Grande telegraphed a representative of the Doyle Company that the rate of seventy-five cents per ton was made purely for transportation to Pueblo and would not cover switching service at the ponds. More or less controversy has since existed over the contentions of the Rio Grande and the Doyle Company. However, no tariff was filed prior to the one which was to become effective October 23, 1930.

The ultimate question is whether or not this tariff rate for switching service has been justified. As affecting the ultimate question three subordinate questions are raised.

One of them is whether the Rio Grande is bound by its letters and oral statements made by its President, in reliance upon which the contract of September 26 was made. This question assumes that the written and oral statements made by the President of the Rio Grande as to the cost to the Doyle Company of transporting the ice to Pueblo either expressly or by necessary or reasonable implication covered the service here in question. We do not deem it necessary to answer this question, for the reason that our conclusion with respect to the second question disposes of the case.

The second question raised is whether it is proper for a carrier rendering switching service on industry or spur tracks within the switching limits of its station to make a charge for such service when the carrier transports the commodity switched on a line haul.

The facts as to the loading, switching, etc., at Monument are not in dispute. However, the record shows that the parties differ radically in their conclusions based on the admitted facts. The protestants take

the position that the service rendered is not one additional to or more burdensome than the carrier would have to render if the ice were loaded on the Rio Grande's own industry tracks, their position being that it is "merely a substituted service" for the latter and that, therefore, the carrier under the law may not make an extra charge therefor. The carrier takes a position directly opposed to that of the protestants, contending that it is an extra service for which special compensation should be made.

In what is known as The Los Angeles Switching Case, 234 U.S. 294, it appears an action was brought by three railroad companies to restrain the Interstate Commerce Commission from enforcing an order requiring those companies to desist "'from exacting their present charge of $2.50 per car for delivering and receiving carload freight to and from industries located upon spurs and side tracks within their respective switching limits', in Los Angeles, California, when such carload freight 'is moving in interstate commerce, incidentally to a system-line haul.'" It was alleged in the complaint that public terminals, including team track and freight sheds were sufficient for the receiving and delivering of carload freight; that the spur track service established for the convenience of the shippers was essentially different from line haul service and was additional thereto. The opinion of the court written by Mr. Justice Hughes contains the following language, applying with equal force to the situation here:

> "Nor do we understand that the Commission ruled that the receipt and delivery of goods at plants located upon spurs or sidetracks could not, in any circumstances, be regarded as a distinct service for which separate compensation might be demanded. Cases of an interior movement of plant traffic to and from various parts of the establishment, and of deliveries through a system of interior switching tracks constructed as plant facilities, were expressly distinguished by the Commission (18 I.C.C. pp. 313, 314); and it is apparent that the ruling of the Commission would not apply in any case where by reason of the location and extent of the spur tracks and the character of the movement the facts were essentially different from those upon which the decision was based. (Interstate Commerce Commission v. Stickney, 215 U. S. 98,105)."
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> . . . . .
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> "Such a question is manifestly one upon which it is the province of the Commission to pass."

Continuing, the Court held:

"It cannot be maintained that the delivery and receipt of goods on industrial spur tracks within the switching limits in a city is necessarily an added service for which the carrier is entitled to make, or should make, a charge additional to the line haul rate to or from that city, when the line haul rate embraces a receiving and delivering service for which the spur track service is a substitute. It is said that the carriers are bound to carry only to or from their terminal stations. But when industrial spur tracks have been established within the carrier's switching limits, within which also various team tracks are located, these spurs may, in fact, constitute an essential part of the carrier's terminal system. It was stated by the Commission that carriers throughout the country treat industry spurs of the kind herein in question, 'as portions of their terminals, making no extra charge for service thereto when the carrier receives the benefit of the line haul out or in.' It was added that while this general statement covered perhaps 10,000 cities and towns in the United States, the carriers before the Commission could name only three exceptions, to-wit, the cities of Los Angeles, San Francisco and San Diego. But laying the generalization on one side, it is plain that the question whether or not there is at any point an additional service in connection with industrial spur tracks upon which to base an extra charge, or whether there is merely a substituted service, which is substantially a like service to that included in the line haul rate and not received, is a question of fact to be determined according to the actual conditions of operation."

The decision of the Interstate Commerce Commission written by Commissioner Lane and sustained by the Supreme Court, as just pointed out, describes in more detail the general practice not to charge for such service as is here under consideration, and states the reasons for and history of the rule. 18 I.C.C. 510.

There appears to be no more switching involved at the spur track, built at the expense of the Doyle Company, excepting the furnishing by the Rio Grande of some old rails, than there would be if the ice were delivered to the carrier at its station. The facilities of the Doyle Company doubtless would have to be duplicated by the Rio Grande if the loading were done at the station in Monument. Moreover, there might be more or less congestion around the station which is obviated by having the spur or industry track off of its right-of-way. There is no evidence indicating that the switching at the ice ponds and the Doyle Company platforms is any different or any more expensive than it would be at the Monument station. The evidence shows and we find that the service rendered on the Doyle Company's track is not

"an additional service" but "merely a substituted service", being substituted for an identical service which the carrier might be expected and required to render at its station or industry tracks in connection with the line haul.

This case should be distinguished from those in which it appears that a car has to be spotted several times or moved to two or more loading points for the shipper. Here the cars are spotted once. They are then loaded and ready to be moved by the carrier.

It is true, as stated, that the tracks and platforms of the Doyle Company are not long enough to permit of the spotting at one time of enough cars to permit a whole day's loading. The question might conceivably be raised whether in view of that fact it is not the duty of the shipper to extend its tracks and platforms, assuming that the physical conditions would permit. If the carrier itself were required on its own property to build tracks and platforms for the shipper, as it undoubtedly would be if the ice were loaded upon its property, we have no way of determining whether, in view of the expense and the short duration of the ice season, it would build longer tracks and platforms than the Doyle Company has built. This, it seems to us, is a matter of speculation. What we do know is that the facilities used have been furnished at the expense of the Doyle Company, except, as stated, the furnishing of some rails by the Rio Grande, and that if the carrier had to furnish the facilities, and had built none more extensive than those used, it would be quite as necessary for it to render a switching service at its facilities as it is now to render the service at the facilities constructed by the Doyle Company. Hence, our finding that the service is a "mere substituted" one.

The switching that is done within the switching limits of a station or terminal by a carrier which is immediately to render a line haul is clearly distinguished in the cases from such inter-railroad switching as is necessary when freight either originates or is delivered upon the tracks of a carrier which does not render the line haul. Such a service is considered in Consumers' League of Colorado v. Colorado & Southern

Railway Company, et al., 64 Colo. 502, which is quoted from at length by the attorneys for the Rio Grande. The Supreme Court of Colorado in the Consumers' League case cited with approval a long line of cases headed by the Los Angeles Switching Case, the title of which is there given as Associated Jobbers v. A., T. & S.F. Ry. Co. Our court said in the Consumers' League case that "The recognized rule as to the rights and obligations of American railroads applied to line hauls and to the furnishing terminal facilities is clearly stated in Associated Jobbers v. A., T. & S. F. Ry. Co., supra, as follows:" Then follows a rather extended quotation from that case, being as follows:

> "'The American railroad rate has always been recognized as covering the full service which the carrier gives, in furnishing the car, a proper place at which to load it, the conveyance of that loaded car, and its terminal delivery. * * * The rate, which it is required shall be published, is a complete rate, which includes not only the charge for hauling, but the charge for the use of the terminals at both ends of the line. The terminal charges referred to in section 6, and which must be expressly set forth in the carrier's tariff, are those for other services at the terminal which the carrier may furnish, such as storage, elevation, switching and cartage. This construction of the act is borne out fully by its history, and has been formally accepted by railroad counsel in advising the carriers. The railroads recognize their duty to make delivery under the flat rate stated in their tariffs, and such delivery is made upon industry tracks, which are part of the carrier's terminals, without additional charge. They treat a dependent spur as a part of their own depot, to which the published rate carries all freight. They have recognized the value of having industries located on their tracks and have competed, in proper and improper ways, to secure them as dependencies. They have, accordingly, given to such industries the same service that they give at their team tracks, treating the one as the substitute or equivalent of the other. If delivery is made at the team track the carrier must haul the car from the main line and place it on the team track. And so, if delivery is to be made at an industry, it must be conveyed from the main line to the industry. In the former, as in the latter case, there is an inter-terminal switching, and a placement of the car.'
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> "It was further said in that case:
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> "'An additional charge may be made when an additional service is given. But the service here given is not additional to that for which the rate pays. If the shipper pays for team-track delivery, and does not receive it, but asks instead, and is given, a side-track delivery, which costs the carrier no more, he may not be compelled to pay an additional charge upon the assumption that he has received a terminal team-track service which has not been given. A carrier may not so construct its rates as to compel an extra charge for like service, and this, in our judgment, the defendants at Los Angeles have done.'"

Our court held further in its opinion that "A switching charge upon and over lines other than the line of the initiating carrier is a separate and distinct service and may be charged only when such service is rendered." With such a case we are here obviously not concerned, because no other carrier's line is used in the movement.

We, therefore, conclude and find that the so-called switching charge for the service in question here has not been justified, is unwarranted, unreasonable and unlawful.

It seems hardly necessary to deal at length with a question raised, but which it appears to us is really not involved in this case. That question is the propriety of imposing a switching charge, as such, for the handling of freight received from or turned over to another carrier when over a long course of years one charge has been made and collected covering both the line haul and the service rendered on the tracks of the other carrier. Such a question is dealt with in Interstate Commerce Commission v. Chicago, Burlington & Quincy Railroad Company, 186 U.S. 320, from which the attorneys for the Doyle Company quoted at some length in their brief. There it is held that carriers have a right "to divide their rates and thus to make a distinct charge from the point of shipment to Chicago and a separate terminal charge for delivery to the stock yards, a point beyond the lines of the respective carriers." (page 335) The same conclusion is reached by our Supreme Court in the Consumers League case as to switching done by a connecting carrier as distinguished from that done by the carrier having the line haul.

It is further held in the Interstate Commerce Commission case that a through rate existing for a long period of time "certainly in the absence of proof to the contrary, must be presumed to have provided in and of itself compensation for the services rendered in making delivery at the stock yards." (page 336)

However, we feel that we should pursue this question no further, as in this case the so-called switching service is an incident of the line haul performed by the carrier which renders the original service, whereas,

in the Interstate Commerce Commission case the livestock had to be switched to and upon the tracks owned by the Union Stock Yards and Transit Company in Chicago, which company made a charge for the service rendered on its tracks and in its yards.

We do believe that the reasoning as to the effect of the existence over a long period of one rate for a line haul and a switching service on the tracks of another carrier is somewhat applicable here. The conclusion on which our decision rests is that the service in question is a "substituted service" identical with that which the carrier would have to render if the ice were delivered at the Monument station on tracks and platforms which it would have to build at its sole expense. It strikes us that if the service were an additional one, carrying a sufficiently increased burden to warrant a separate and distinct charge, the Rio Grande would have made such a charge without waiting seventeen years, and until it had gotten the benefit of a long-term contract.

Former Chairman Bock before leaving the Commission prepared a dissenting opinion. The Rio Grande and the courts, in the event of a review of the decision, should have the benefit of his views. We are, therefore, reporting the same. The language of the decision has been slightly changed since his dissent was prepared, but in no substantial respect.

Commissioner Wheeler did not participate in making the decision herein.

O R D E R

IT IS THEREFORE ORDERED, That the amendment in question, No. 34 to Freight Tariff, D. & R. G. W., G.F.D. No. 4486-G, Colorado P.U.C. No. 81, be, and the same is hereby, ordered cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of February, 1931.

Former Chairman Bock dissenting:

The findings and order by the majority in this case are predicated solely upon one proposition and that is that it is not proper for a carrier rendering switching service on industry or spur tracks within the switching limits of its station to make a charge for such service when the carrier transports the commodity on a line haul. Stating it somewhat differently, it is the opinion of the majority that the switching service now rendered at the industry or spur tracks of the Doyle Ice and Storage Company is not an additional or special service, but is a service incidental to the line haul. Several other questions of law and fact were presented in this case, but since the majority have predicated their findings solely upon this one proposition, I deem it unnecessary to go into these other questions.

A careful study of the facts as related to the switching service involved herein leads me to the conclusion that there is no evidence upon which to base the findings and order of the majority. In my opinion, I consider it a fair statement to say that it is admitted by all parties hereto on the record that the switching service performed by the engine and crew of the rail carrier is not a switching service merely incidental to the road haul, but is a special service that has to be performed during the ice harvesting season or else the ice cannot be successfully harvested. That brief statement of the facts as I view them should be helpful. During the ice harvesting season of each year, a special switch engine and crew are necessary at Monument to perform switching for the Doyle Ice and Storage Company at its ice plant in order to enable the ice company to harvest the same. This harvesting season is usually for a period of approximately fifteen days in the month of January or February. To permit the ice company to successfully harvest this ice during the season, a daily movement of from 40 to 60 cars is reasonably required. Owing to the limited and inadequate trackage at the ice company plant, it is necessary that special switching service be rendered by the engine and crew of the rail carrier. If the ice company would arrange its ice loading in accordance with its trackage facilities so that the rail carrier could handle the switching with its regular trains, then the switching would be incidental to the line haul

and no charge could be made for such services at Monument.

The testimony of the superintendent of transportation of the rail carrier as to the handling of the ice at the ice plant, is somewhat illuminating on this subject, which is as follows:

> "West of the ice house or the tail track can be stored 18 to 19 empties, depending upon the length of them; on the main spur side of platform can be held 6 empties and on the spur track side 5 empties. It might be possible by getting all short cars to run one more car in on one side or the other; between the platform and the clearance point with the main line can be held 8 to 9 cars. The practice during the harvesting season is to keep the platform tracks and the ice tracks full of empties. The switch engine is assigned there for the reason that we cannot spot at the platform sufficient empties to keep the plant going all day long and it is necessary to give two or three switches during the day or night or during the working hours, to get the loads away from the plant and to get empties at the platform available for loading. The switch engine or crew ordinarily works out of Colorado Springs or Palmer Lake; it is an assigned crew that is assigned to Monument, to the switching of ice at Monument, and it hauls the ice from Monument sometimes to Palmer Lake and occasionally down to Colorado Springs."

It will be seen therefrom that the loading of approximately four times as many cars as the ice trackage will accommodate necessitates the exclusive service of a specially assigned switch engine and crew for that purpose. The record is clear that only 11 or 12 cars can be loaded at one time, and when they are loaded, interplant switching service is necessary.

The authorities cited in the opinion of the majority are not in conflict with the viewpoint expressed in this dissenting opinion; in fact, they tend to sustain the proposition that when there is any special switching service not incidental to the line haul, the rail carrier is entitled to payment for such service even though this service is rendered by spur or side tracks within switching limit districts. An order should be entered herein vacating the suspension of the operation of the schedules involved herein, and that this proceeding be discontinued.

(Decision No. 3233)

At a General Session of the Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, February 25,1931.

INVESTIGATION AND SUSPENSION DOCKET NO. 151

Re Closing C&S Station at Sopris,Colo.

IT APPEARING, That The Colorado and Southern Railway Company filed with the Commission on February 10, 1931, a petition requesting authority to discontinue its agent and station agency at Sopris, in Las Animas County, Colorado, on and after March 15,1931, on the ground that the expense for the agency is not justified by the amount of business, and

IT APPEARING FURTHER, That on February 20,1931, J. Deldeas, Superintendent and lessee of Sopris Mine No.1, filed with the Commission a letter protesting the abandonment of said agency on the grounds that it is a joint agency with other railroads, that he is a large shipper and will be greatly inconvenienced by the closing of the station, as well as others concerned,

IT IS THEREFORE ORDERED, That the proposed date of the discontinuance of the aforesaid railroad station agency at Sopris, Colorado, be suspended one hundred twenty days from March 15,1931, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That said discontinuance of agency service appearing to be injuriously affecting the rights and interests of the patrons of the railroad company at the aforesaid place, and others that might be concerned, that the same be made a subject of investigation and determination by the Commission within said period of suspension or within such further time as the same may be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the petition for discontinuance of said service and copies hereof be forthwith served on said The Colorado and Southern Railway Company, the petitioner, and J. Deldeas, Sopris, Colorado, the protestant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
25th day of February,1931.

(Decision No. 3234)

At a General Session of the Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, February 25, 1931.

INVESTIGATION AND SUSPENSION DOCKET NO. 152

IT APPEARING, That The Denver and Rio Grande Western Railroad Company filed with the Commission on January 29, 1931, a petition requesting authority to discontinue the operation of trains Nos. 435 and 436 on Sundays between Durango, Colorado, and a point on the New Mexico-Colorado state line at or near Bondad, Colorado, on and after March 1, 1931, alleging that the public convenience and necessity does not require such train service, and that now such service is being rendered at considerable financial loss to the said rail carrier, and

IT APPEARING FURTHER, That on February 16, 1931, the Chamber of Commerce of Farmington, New Mexico, filed a letter with the Commission protesting the discontinuance of said train service, averring that such discontinuance means the abandonment of the Sunday train service between Durango and Farmington, and that as there is now only one train per day that they cannot afford to have anything interfere with the present schedule,

IT IS THEREFORE ORDERED, That the proposed date of the discontinuance of the aforesaid train service between Durango and the Colorado-New Mexico state line be suspended one hundred twenty days from March 1, 1931, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That said discontinuance of train service appearing to be injuriously affecting the rights and interests of the patrons of the railroad company and others that might be concerned, that the same be made a subject of investigation and determination by the Commission within the said period of suspension or within such further time as the same may be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the petition for discontinuance of said train service, and copies hereof be forthwith served on said The Denver and Rio Grande Western Railroad Company,

the petitioner, and the Chamber of Commerce at Farmington, New Mexico, the protestant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 25th day of February, 1931.

(Decision No. 3255)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

IN THE MATTER OF THE APPLICATION OF)
COMMONWEALTH UTILITIES CORPORATION)
FOR A CERTIFICATE OF PUBLIC CONVEN-) APPLICATION NO. 1697
IENCE AND NECESSITY.)
- - - - - - - - - - - - - - - - - - -

- - - - - - - - - -
February 27, 1931.
- - - - - - - - - -

Appearances: Grant, Ellis, Shafroth and Toll, Esqs.,
Denver, Colorado, attorneys for applicant.

S T A T E M E N T

By the Commission:

This is an application by Commonwealth Utilities Corporation for a certificate of public convenience and necessity authorizing the exercise of franchise rights granted to it by an ordinance passed by the Board of Trustees of the Town of Akron, Colorado. The said ordinance bears No. 175 and is entitled as follows:

> "An ordinance granting to Commonwealth Utilities Corporation, its successors and assigns, the right to construct, maintain and operate an electric lighting and power plant in the Town of Akron, Colorado, and to generate, furnish and sell electric energy to the said town and the inhabitants thereof and imposing certain conditions upon the exercise of the rights and privileges hereby granted."

The franchise is to run for a period of twenty years from the date of the passage of the ordinance. That date is September 5, 1930.

The applicant has been operating up to this time under another franchise which has not yet expired. The town heretofore has owned the street lighting system. It was desirous of selling that system to the applicant and to have the latter furnish a modern and up-to-date system in lieu of the one operated by the town. The applicant has purchased said system for a consideration of Three Hundred Dollars, $300.00, being the alleged junk value thereof.

The applicant has a generating plant in the Town of Akron and a distribution system, the total value of which, according to the testimony, is Seventy-Five Thousand Dollars. It was testified that the expenditure for a new street lighting system would be Twenty-Five Hundred Dollars. These figures, of course, shall not be binding upon the Commission in any hearing held for the purpose of passing upon the reasonableness of rates.

No evidence was given of any necessity for the construction of a power plant.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the exercise by the applicant of all these franchise rights granted to the applicant in and by virtue of Ordinance No. 175, passed by the Board of Trustees of the Town of Akron, Colorado, except the authority granted in said ordinance to construct a power plant.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to the applicant to exercise all these franchise rights granted in and by virtue of Ordinance No. 175, passed by the Board of Trustees of the Town of Akron, Colorado, except the authority granted in said ordinance to construct a power plant, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
27th day of February, 1951.

315

(Decision No. 3256)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
THE COLORADO-NEW MEXICO TRANSPORTATION)
COMPANY FOR A CERTIFICATE OF PUBLIC) APPLICATION NO. 1693
CONVENIENCE AND NECESSITY.)

February 27, 1951.

Appearances: E. Cory, Taos, New Mexico,
for applicant;
T. A. White, Esq., Denver, Colorado,
for The Denver and Rio Grande Western
Railroad Company;
George T. Kearns, Denver, Colorado,
for San Luis Valley Southern Railway.

STATEMENT

By the Commission:

This is an application by the Colorado-New Mexico Transportation Company for a certificate of public convenience and necessity authorizing the transportation of freight in intrastate commerce over the routes and between the points stated as follows:

> "Between Pueblo, Colorado, and State line at Costilla, New Mexico or Garcia, Colorado, and intermediate points including Fort Garland, Colorado; thence south to San Luis, Colorado; thence west to San Acacio, Colorado; thence south to Mesita, Colorado; thence south to Jarosa, Colorado; thence to Garcia, Colorado; thence to Costilla, New Mexico.
>
> "For an Interstate route for carrying freight from Pueblo and Walsenburg, Colorado, to Fort Garland, San Luis, San Acacio, Mesita, Jarosa and Garcia, Colorado, to Costilla, and Taos, New Mexico."

When the case was first set for hearing the applicant did not appear. Other cases were set for hearing at the same time, involving somewhat the same service as is here sought authority to render. We proceeded to hear those cases, being applications of B. R. Gerard, J. W. Barker and R. C. Mortensen. At the request of the applicant we later set the application

herein a second time. At the hearing E. Cory, president of the applicant, and two other witnesses testified in his behalf. It was agreed by the applicant that the record made in the consolidated hearing of the three applications referred to might be made a part of the record herein.

On February 9, 1931, an order was made in the said consolidated applications, in which we found that the public convenience and necessity does not require more than one operator to serve the territory in question. A certificate was in said order issued to Gerard. One of the reasons for the issuance of the certificate to Gerard was that most of the merchants and others to be served expressed a preference for him. The testimony of the two witnesses other than Cory related principally to the credit that he might procure and a comparison of the proposed rates to be charged by the applicant with those charged by the rail carriers. The president of the applicant testified that a couple of other witnesses had promised to come and testify in his behalf.

The order granting the certificate to Gerard was made after the hearing of the application herein, and was made with the record made in this case in mind.

After careful consideration of the evidence we are of the opinion, and so find, that the public convenience and necessity does not require the operations, or any of them, proposed in the application herein.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 27th day of February, 1931.

(Decision No. 3287)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION)
OF G. R. GIBONEY FOR A CERTIFICATE) APPLICATION NO. 1556
OF PUBLIC CONVENIENCE AND NECESSITY.)

- - - - - - - - - -

February 27,1931.

- - - - - - - - - -

Appearances: F. R. Carpenter, Esq., Hayden, Colorado, attorney for applicant;
Elmer L. Brock, Esq., Denver, Colorado, attorney for The Denver & Salt Lake Railway Company, protestant.

S T A T E M E N T

By the Commission:

This is an application by G. R. Gibeney of Hayden, Colorado, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight between Steamboat Springs, Colorado, and Craig, Colorado, and in and around Hayden, an intermediate point.

At the hearing it developed that Gibeney has been conducting miscellaneous trucking operations in and out of the vicinity of Hayden, and that he desires authority to continue such operations in the future. These operations consist of the transportation of freight which either originates or terminates within a radius of twenty miles of Hayden. The applicant does not desire to engage in any scheduled operations or to operate over any fixed routes.

The Commission heretofore has issued a number of certificates authorizing operations similar to the one the applicant herein desires authority to conduct. It has, however, in each and every case conditioned the authority upon the requirement that in the transportation of all freight

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

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity require the proposed motor vehicle operations of the applicant for the transportation of freight generally from point to point within the State of Colorado, subject to the terms and conditions hereinafter named, which the Commission finds the public convenience and necessity require.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operations of the applicant for the transportation of freight generally from point to point within the State of Colorado, subject to the following conditions, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) All freight transported by the applicant must either originate or terminate within a radius of twenty miles of the town of Hayden.

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

(c) The applicant shall not operate on schedule between any points.

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

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

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
27th day of February, 1931.

(Decision No. 3258)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
CLAUDE EDWARDS.)

CASE NO. 513

February 27, 1931.

S T A T E M E N T

By the Commission:

An order was made by the Commission, on its own motion, requiring the respondent Claude Edwards to show cause why an order should not be made requiring him to cease and desist from operating as a motor vehicle carrier. A hearing was had at which the evidence indicated clearly, and the Commission finds, that the respondent was not at the time of the hearing or for some time previous thereto operating as a motor vehicle carrier, as defined by statute.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 27th day of February, 1931.

(Decision No. 3239)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF C. W. KIGHT, ET AL., FOR AUTHORITY TO TRANSFER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 694-A
IN THE MATTER OF THE APPLICATION OF P. P. TURNER, ET AL., FOR AUTHORITY TO TRANSFER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 713-A

February 27, 1951.

Appearances: Chinn and Strickler, Esqs. and Ben S. Wendelken, Esq., Colorado Springs, Colorado, for applicant.

S T A T E M E N T

By the Commission:

The Commission heretofore issued two certificates of public convenience and necessity, one to C. W. Kight and E. D. Tarman, co-partners, doing business under the firm name and style of Kight & Tarman Sight Seeing Company, the other to P. P. Turner. A new partnership has been formed, the members of which are D. B. Snouffer, Tony Colyn, Leonard Colyn, George Sinnett, E. D. Tarman and P. P. Turner. Authority is asked by the original grantees of the two certificates and the members of the new firm to transfer said certificates of public convenience and necessity to said new partnership.

Evidence as to the reputation, both financially and otherwise, of the members of the new firm is satisfactory.

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

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is

hereby, granted to C. W. Kight and E. D. Tarman, doing business as Kight and Tarman Sight Seeing Company, to transfer their certificates of public convenience and necessity, heretofore issued by this Commission, to D. B. Snouffer, Tony Colyn, Leonard Colyn, George Sinnott, E. D. Tarman and P. P. Turner, co-partners, doing business under the firm name and style of the Cadillac Sightseeing Company.

IT IS FURTHER ORDERED, That authority be, and it is hereby, granted to P. P. Turner to transfer the certificate of public convenience and necessity heretofore issued to him to the said co-partners, doing business under the firm name and style of the Cadillac Sightseeing Company.

IT IS FURTHER ORDERED, That the tariffs of rates and rules and regulations heretofore filed by the original holders of such certificates shall become and remain those of the transferees until they may be changed in accordance with the law and the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 27th day of February, 1931.

(Decision No. 3240)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF M. L. MILLER, DOING BUSINESS UNDER THE NAME AND STYLE OF THE MILLER TRUCK LINE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1520

February 27, 1931.

Appearances: D. F. How, Esq., Denver, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity authorizing a motor vehicle system for the transportation of freight between Alma, Colorado, and Colorado Springs, Colorado, and intermediate points west of Florissant, Colorado. The applicant does not request to be permitted to do any local hauling between Florissant and Colorado Springs.

Protest was filed against the application by The Midland Terminal Railway Company.

The testimony of the applicant is to the effect that he has an equipment of four trucks, valued at approximately $2,800; that heretofore he has conducted an authorized transportation business between Como and Alma and intermediate points which he disposed of sometime ago, and that he has had considerable transportation experience.

There is now no authorized truck operation between Alma and Colorado Springs, nor is there any rail carrier service between that territory.

The applicant produced several witnesses who testified to the question of public convenience and necessity. It was their opinion that

the granting of this certificate would not affect the transportation service now offered between Denver and Alma by rail by The Colorado and Southern Railway Company.

It is common knowledge that the people of what is known as the South Park, Dillon and Breckenridge districts are fighting a life and death battle for the retention of rail service now afforded those districts by The Colorado and Southern Railway Company. We are now in a three-year test period prescribed by the Interstate Commerce Commission in an abandonment proceeding. Since the order was made by that Commission business generally throughout the country has shrunk considerably in volume. We appreciate that ordinarily freight moves in the manner preferred by the public and that it is difficult for Commissions to curb this tendency. However, only a few witnesses testified in this case in support of the application. Moreover, this is not an ordinary case. Because of the situation described it is a most extraordinary one. For that reason we feel that this Commission will not be justified in authorizing anything to be done which will contribute to a loss of business to the said rail carrier.

While the Commission does not desire to take any action that will discriminate against the jobbers in Colorado Springs in favor of those in Denver, it goes without saying that if a certificated truck operation is conducted between Colorado Springs and the points in question, freight that otherwise would move over the line of the Colorado and Southern would be moved by the truck line.

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

O R D E R

IT IS THEREFORE ORDERED, That the application herein be, and the

same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 27th day of February, 1951.

Case 446
Dillon

(Decision No. 3241)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RE MOTOR VEHICLE OPERATIONS OF)
L. L. FELKER.)

CASE NO. 446

Appearances: L. L. Felker, New Raymer, Colorado,
pro se.

S T A T E M E N T

By the Commission:

An order was entered on the Commission's own motion requiring the respondent, L. L. Felker, to show cause why an order should not be made requiring him to cease and desist operating as a motor vehicle carrier. A hearing was had at which evidence was taken. The evidence showed conclusively and the Commission finds that the respondent is not and has not in any recent period been engaged in operating as a motor vehicle carrier.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 27th day of February, 1931.

(Decision No. 5242)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS OF)
G. R. GIBONEY.)

CASE NO. 517

February 27, 1931.

Appearances: F. R. Carpenter, Esq., Hayden, Colorado,
attorney for respondent;
E. L. Brock, Esq., Denver, Colorado,
attorney for The Denver & Salt Lake
Railway Company.

S T A T E M E N T

By the Commission:

An order was made herein requiring the respondent to show cause why he should not be required to cease and desist from operating as a motor vehicle carrier. A hearing was had and evidence taken. The evidence indicated that the applicant did not know that his operations, which have consisted principally of the transportation of freight between Steamboat Springs, Colorado, and Craig, Colorado, and in and around Hayden, an intermediate point, were subject to the jurisdiction of this Commission. As soon as he learned of the fact that the Commission does have jurisdiction, he promptly filed an application. Under the circumstances the Commission is of the opinion, and so finds, that the proceeding herein should be discontinued.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 27th day of February, 1931.

(Decision No. 3243)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF THE RIO GRANDE TRANSPORT COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1707

February 27,1951.

S T A T E M E N T

By the Commission:

An order was made herein on January 28 granting a certificate of public convenience and necessity to the applicant, The Rio Grande Transport Company. On February 9 an application for rehearing was filed by Pueblo San Luis Valley Transportation Company, a corporation. Previously another protestant herein filed its application for rehearing, which was denied by former Chairman Bock and Commissioner Jones. Since said order was made former Chairman Bock has ceased to be a member of the Commission. In view of the fact that the majority of the Commission as recently constituted granted the certificate and denied one application for a rehearing, Commissioner Allen now feels that a due regard for the action of the Commission and orderly procedure requires him to join in denying the application for rehearing now before the Commission.

The Commission having carefully considered the application for rehearing is of the opinion, and so finds, that the application should be denied.

Commissioner Wheeler did not participate in the disposition of this application for rehearing.

O R D E R

IT IS THEREFORE ORDERED, That the application of San Luis Valley

Transportation Company for a rehearing be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

WORTH ALLEN

(S E A L)

DAN S. JONES

Commissioners.

Dated at Denver, Colorado, this 27th
day of February, 1931.

ATTEST: A true copy.

Secretary.

(Decision No. 3244)

527

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION)
OF FRED REIN FOR A CERTIFICATE OF) APPLICATION NO. 1560
PUBLIC CONVENIENCE AND NECESSITY.)

February 27, 1951.

S T A T E M E N T

By the Commission:

An order was made herein granting a certificate of public convenience and necessity to Fred Rein, the applicant. Thereafter a motion for rehearing was filed. The Commission has read and given careful consideration to the motion. However, we are of the opinion, and so find, that the same should be denied.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 27th day of February, 1951.

(Decision No. 3245)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

IN THE MATTER OF THE APPLICATION OF THOMAS L. REASONER, DOING BUSINESS AS GRAY LINE MOTOR TOURS, FOR AUTHORITY TO TRANSFER PORTIONS OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATIONS NOS. 594-A1 and 594-A2

- - - - - - - - -
February 28, 1951.
- - - - - - - - -

Appearances: Thomas L. Reasoner, Colorado Springs, Colorado, pro se;
Harry L. Wood, Manitou, Colorado, pro se;
M. W. James, Colorado Springs, Colorado, pro se.

S T A T E M E N T

By the Commission:

Two applications have been filed, one by Thomas L. Reasoner and Harry L. Wood, the other by said Reasoner and M.W.James, each asking for authority to transfer such part of the certificate heretofore issued to the said Reasoner as pertains to the operation of two automobiles. The total number of cars which the said Reasoner was authorized in his certificate to operate is twelve.

The evidence shows that the two proposed transferees are reasonably strong financially and that they enjoy a good reputation in their communities.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to make the two transfers proposed.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to Thomas L. Reasoner, doing business as the Gray Line Motor Tours,

to transfer to Harry L. Wood such portion of the certificate heretofore issued to said Reasoner as pertains to two automobiles, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That authority be, and the same is hereby, granted to Thomas L. Reasoner, doing business as the Gray Line Motor Tours, to transfer to M. W. James such portion of the certificate heretofore issued to said Reasoner as pertains to two automobiles, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the equipment of said Thomas L. Reasoner in the future shall be limited to eight automobiles.

IT IS FURTHER ORDERED, That the tariff of rates and rules and regulations of said Thomas L. Reasoner shall become and remain those of the applicants until and unless they shall have been changed according to the law and the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this
28th day of February, 1931.

(Decision No. 5246)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

In the matter of the application of Union Pacific Railroad Company for authority to abandon its agency at River Bend, Elbert County, in the State of Colorado.) I. & S. NO. 148

March 2, 1931

Appearances: E. G. Knowles, Esq., Denver, Colorado, attorney for Union Pacific Railroad Company.
Orlando Preston, Esq., Denver, Colorado, c/o First National Bank, attorney for La Force & Ferguson.
Harry A. Scherrer, Esq., River Bend, Colorado, attorney for protestants.

S T A T E M E N T

By the Commission:

This is an application by Union Pacific Railroad Company for an order authorizing the abandonment of its agency at River Bend in Elbert County, Colorado.

The contention of the railroad company is that the agency has been maintained principally on account of operating reasons; that those reasons no longer exist and that the business done at and thru the said station is so little that it is unreasonable to require the carrier longer to maintain the agency.

The evidence shows that the total amount of revenue on account of freight forwarded from said station, amounted in the year 1930, to $3,528.00, with a total of seventy-seven waybills. The revenue for such freight in 1925, was $4,973.00. It increased from that year up to $12,419.00 in the year 1928. The revenue from traffic received at the station amounted in the year 1930, to $2,966.00, being more than the receipts for the years 1925, 1926, 1927 and 1929, and less than those for the year 1928. The receipts for passenger traffic for

the six years in question have never amounted to more than $120.10 per year. The receipts from the telegraph business in the year 1930, amounted to $9.55. They have never exceeded $23.70 per year in the six year period. The receipts from express consignments for the year 1930, were $50.40, the number of consignments being fifty-one. The total receipts during the last five years have not exceeded $92.25 per year, and the total number of consignments have not exceeded eighty per year.

The carriers offer to install a telephone in the public waiting room of the station, which could be used by the shippers and patrons of the railroad in calling the agent at Limon. There is no toll charge for conversations between those two points. It offers also to furnish a representative to look after the loading of cars when as many as ten carloads of livestock are to be shipped at one time. The distance from River Bend to Limon is six miles.

The patrons offered evidence to show that considerable inconvenience would result for the shippers of livestock if they are compelled to deal with the agent at Limon or conductors on trains. They testified also that a large part of the land in the vicinity of the station was purchased from the railroad company or a subsidiary thereof, and that the abandonment of the agency would result in some depreciation of the value of the land. Evidence was further given showing that the railroad agent assists an aged woman postmaster in transporting her mail a short distance from the train to the postoffice, and that if the agency is abandoned, the postmaster would not be able to handle the heavy mail. There was some testimony to the fact also, that long distance calling could be made over the phone which the railroad company proposes to provide, upon representation of those using the telephone that they are at other telephones in the community, and that in this manner a number of long distance calls would be made for which the telephone company could make no collections; that for this reason it would not be possible to maintain a telephone in the station waiting room.

The Federal Transportation Act of 1920, requires a railroad company to effect all reasonable economies. The question in this case, as in many others of the same kind, is whether in view of all the facts and circumstances, it is

reasonable to authorize abandonment of the agency. This turns largely on the question whether the inconvenience suffered by the public out-weighs the financial burden involved in maintaining the agency.

Figures given show quite clearly that there is a very small amount of business done at and thru the agency. It is well known that a large percentage of all railroad revenues is used to pay expenses. Moreover, the figures given include revenues, part of which accrue to other carriers participating in the transportation of some of the freight moving into and out of River Bend. Most of the leading cattle men have telephones or access to those of neighbors. By use of these telephones, cars can be ordered and other instructions give and information obtained from the station agent at Limon.

It is questionable whether the abandonment of the agency would have any effect on the value of real estate thereof. Assuming that it does, there is no rule of law requiring a railroad company to maintain a station agency merely for the purpose of holding up values of real estate, even though the railroad company sold it.

We sympathize with the postmaster and will regret very much if the closing of the station agency will result in her losing her position. However, in passing upon the questions of the kind now before the Commission, we are limited to the consideration of facts affecting the public and not any individual. We frequently have held in passing upon applications for motor vehicle certificates of public convenience and necessity that the needs of the applicants are entitled to very little consideration, the law prohibiting the issuance of a certificate unless the public convenience and necessity so requires.

In re Frank Bickford, recently before the South Dakota Board of Railroad Commissioners, P.U.R. 1930E 494, testimony was given that the applicant for a motor vehicle certificate had four children, was crippled and would become a public charge unless the certificate should be granted. The Commission held that those facts would not warrant it in issuing the certificate.

After a careful consideration of all the evidence, the Commission is of the opinion, and so finds, that authority should be granted to the applicant

herein to abandon its agency at River Bend, Colorado, at the close of business on March 20, 1931.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to the Union Pacific Railroad Company to abandon its station agency at River Bend, Colorado, at the close of business on March 20, 1931.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado,
this 2nd day of March, 1931.

(Decision No. 3247)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

319

* * *

IN THE MATTER OF THE APPLICATION OF E. M. WOODWARD, DOING BUSINESS UNDER THE NAME and STYLE OF THE WOODWARD TRUCK LINE, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	)	APPLICATION NO. 1474

March 2, 1931.

Appearances: Leon H. Snyder, Esq., Colorado Springs, Colorado, attorney for applicant;
D. Edgar Wilson, Esq., Denver, Colorado, for Chicago, Rock Island and Pacific Railway Company.

S T A T E M E N T

By the Commission:

This is an application for a certificate of public convenience and necessity, authorizing a motor vehicle system for the transportation of freight and express on regular scheduled service between Matheson and Burlington, Colorado, and intermediate points.

Protests were filed against this application by The Denver-Hugo Transportation Company and the Chicago, Rock Island and Pacific Railway Company.

The testimony shows that the applicant was granted a certificate by this Commission some time ago for the transportation of freight and express on regular schedule between Colorado Springs and Matheson, Colorado. It is now the purpose of the applicant to extend this line to Burlington.

The testimony shows also that if the certificate should be granted the applicant would be required to buy a new truck at the approximate cost of $2,000. He is now using three trucks in his present operation.

A number of wholesale merchants from Colorado Springs testified to the effect that this service would be a public convenience and necessity;

that since the Commission authorized the truck operation from Denver to this territory, which they consider Colorado Springs trade territory, they have lost considerable business; that unless they have a regular scheduled truck service from Colorado Springs the wholesalers would not be able to do business in the territory, and that the shippers in the territory involved request this service. The freight charge in most instances is paid by the consignees.

The protestant, The Chicago, Rock Island and Pacific Railway Company produced a number of witnesses, who testified that there is no public convenience and necessity for the transportation by truck of lumber, coal and grain, and that the service of the rail carrier as applied to those commodities is satisfactory. In other respects the witnesses were not familiar with the transportation needs.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of freight, except lumber, coal and grain, between Matheson and Burlington, Colorado, and intermediate points.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of freight, except lumber, coal and grain, between Matheson and Burlington, Colorado, and intermediate points, and this order shall be deemed and held to be a certificate of public convenience and necessity therefor.

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

IT IS FURTHER ORDERED, That the applicant shall operate such motor vehicle carrier system according to the schedule filed with this Commission except when prevented from so doing by the Act of God, the public

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 2nd day of March, 1931.

(Decision No. 3248)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF JAMES HARRISON McKEE, JUDSON C. STRATTON AND C. C. SNYDER, CO-PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE AIR LINE TRUCK SERVICE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	)	APPLICATION NO. 1491

March 2, 1931.

Appearances: David F. How., Jr., Esq., Denver, Colorado, attorney for applicants;
D. Edgar Wilson, Esq., Denver, Colorado, attorney for Chicago, Rock Island and Pacific Railway Company.

S T A T E M E N T

By the Commission:

This is an application by James Harrison McKee, Judson C. Stratton and C. C. Snyder, doing business under the name and style of The Air Line Truck Service, for a certificate of public convenience and necessity authorizing the transportation of freight in both intrastate and interstate commerce. The applicants now hold a certificate of public convenience and necessity authorizing the transportation of freight between Denver and Kirk, Joes and Cope, Colorado.

The purpose of this application is to secure an extension of said certificate so that the applicants may serve points on and within a distance of six miles of State Highway No. 102, known as Air Line highway, as it runs east to the Colorado-Kansas state boundary from the present terminus of said route, a short distance east of Joes.

Reasonably satisfactory evidence was given of the financial responsibility of the applicants. No complaints have been received against the service which they heretofore have rendered. The evidence indicated

that they have been successful as truck operators.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicants in both intrastate and interstate commerce between Denver and other points now authorized to be served by them and points on and within a distance of six miles of State Highway No. 102, as it extends east from the present eastern terminus of their route to the Colorado-Kansas state boundary line near Garney, Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicants for the transportation of freight in both intrastate and interstate commerce between Denver and other points now authorized to be served by them and points on and within a distance of six miles of State Highway No. 102, as it extends east from the present eastern terminus of their route to the Colorado-Kansas state boundary line near Garney, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 2nd day of March, 1931.

(Decision No. 3849)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

RE DISCONTINUANCE OF TRAIN SERVICE)
BETWEEN ELBERT AND FALCON BY THE) I. & S. DOCKET NO. 156
COLORADO AND SOUTHERN RAILWAY COMPANY.)

- - - - - - - - - -

February 27, 1951.

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S T A T E M E N T

By the Commission:

WHEREAS, on May 10, 1950, the Colorado and Southern Railway Company filed a petition with the Commission, giving notice of the Company's intention to discontinue its train service of one scheduled mixed train per day each direction between Elbert and Falcon, Colorado, and substitute therefor an irregular train service of non-scheduled trains to be run between said places as may be necessary when there is an aggregate of at least five cars to be moved, both directions included; and

WHEREAS, on June 4, 1950, the Commission issued an order suspending the date of discontinuance of said train service for investigation and determination on the protest of patrons of the Company; and

WHEREAS, on September 8, 1950, a stipulation was filed by the Colorado and Southern Railway Company with the Commission, providing for the operation of one round trip freight train service per week to be made on Saturday, and for other freight train service where it might be required for five carloads or more of live stock on proper notice, to be effective October 1, 1950, between Falcon and Elbert. The stipulation also provided that it should remain in force until changed by order of this Commission after due notice and hearing of all concerned; and an order was issued in accordance therewith; and

WHEREAS, the Commission was advised that said stipulation was satisfactory

to protestants and all others concerned; and

WHEREAS, we are now in receipt of a protest from Carl O. Coonts, the Postmistress at Eastonville, and from F.W.Roberts and 28 other signers of a petition for a resumption of the daily train service to Eastonville.

IT IS THEREFORE ORDERED, That the matter of train service between Falcon and Elbert shall be reopened and set down for hearing in the Hearing Room of the Commission in Denver on March 28, 1951, at 10 A.M. o'clock, without at this time requiring any change in the service as now rendered.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
27th day of February, 1951.

(Decision No. 5250)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RE MOTOR VEHICLE OPERATIONS OF)
PAUL BROWN.)
- CASE NO. 600

RE MOTOR VEHICLE OPERATIONS OF)
JOHN BROWN.)
- CASE NO. 601

- - - - - - - - - -
March 2, 1951.
- - - - - - - - - -

Appearances: Jack Garrett Scott, Esq., Denver, Colo. for Motor Truck Common Carriers Association;
C.L. Whitaker, Stoneham, pro se.

S T A T E M E N T

By the Commission:

Orders were entered on the Commission's own motion requiring the respondents, Paul Brown and John Brown, to show cause why an order should not be made requiring them to cease and desist from operating as motor vehicle carriers as defined by law. The cases were set for hearing in Greeley and due notice was given the respondents thereof. However, neither of them appeared. The Commission consolidated the two cases for hearing. While the evidence was not as complete and detailed as the respondents could have made it by appearing and informing the Commission of the nature and extent of their operations, we are still of the opinion that it was sufficient to warrant a finding that the respondents are motor vehicle carriers and have been operating as such.

The evidence showed specifically that they hauled grain for farmers in their territory all during the last harvest season; that they brought two loads of livestock to Denver during the week in which the livestock show was held; that their truck, which is owned and operated jointly by them, is frequently seen in and about Stoneham where it is engaged in moving freight for the public.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the respondents, and each of them, have been operating as and are motor vehicle carriers as defined by the statute of the State of Colorado.

The Commission has in its files a letter written by the Rev. Leo F. Patrick tending to show that the respondents are not operating as motor vehicle carriers. He does not mention the matter of the transportation of wheat during the recent harvest. Neither does he mention one of the said trips made to Denver with livestock. Moreover, the letter cannot be made a part of the record.

Since orders of the Commission are not subject to the rule of res judicata, the concern of the respondents should be solely with their future conduct. If they do not engage in the transportation of freight for any substantial number of the public they will not be violating the law.

O R D E R

IT IS THEREFORE ORDERED, That the respondents, Paul and John Brown, and each of them, forthwith cease and desist from operating as motor vehicle carriers until and unless a certificate of public convenience and necessity is procured therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this
2nd day of March, 1931.

(Decision No. 3251)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
WALLACE W. SMOCK.) CASE NO. 603

March 3, 1931

Appearances: Charles C. Townsend, Esq., Greeley, Colorado, attorney for respondent.

S T A T E M E N T

By the Commission:

An order was made on the Commission's own motion requiring the respondent, Wallace W. Smock, to show cause why he should not be required to cease and desist from operating as a motor vehicle carrier unless and until he procures a certificate of public convenience and necessity. A hearing was had at which the respondent appeared and gave testimony in support of his contention that he is not operating as a motor vehicle carrier as defined by statute.

Section 1 (d), Chapter 134, Session Laws of Colorado, 1927, defines a "motor vehicle carrier" as meaning and including every person " . . . or managing any motor vehicle used in serving the public in the business of transporting persons or property for compensation over any public highway between fixed points or over established routes, or otherwise, who indiscriminately accept, discharge and lay down either passengers, freight or express, or who hold themselves out for such purpose by advertising or otherwise." Decisions of cases of this sort, like many others, turn largely upon a question of degree. The evidence shows that the respondent has been kept quite busy transporting freight of one kind and another, including cattle and hogs to Denver, and beans and other crops to railroad stations.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the respondent is and has been engaged in operating as and is a motor vehicle carrier as defined by law.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of March, 1931.

219

(Decision No. 3252)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF W. R. HOUSLEY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.) APPLICATION NO. 809

March 3, 1931

S T A T E M E N T

By the Commission:

The Commission is in receipt of a letter dated February 21, addressed to Hon. Edwin C. Johnson, Lieutenant Governor of the State of Colorado, written by W. R. Housley, the above named applicant, stating that he has ceased operating under his certificate of public convenience and necessity.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity issued to said W. R. Housley on July 26, 1927, be, and the same is hereby, revoked and cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of March, 1931.

(Decision No. 3253)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF A. L. LEVY, DOING BUSINESS AS LEVY'S TRANSFER AND STORAGE COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1587

March 3, 1931.

STATEMENT

By the Commission:

An order was heretofore made herein by the Commission denying the application of the applicant A. L. Levy, doing business as Levy's Transfer and Storage Company. A petition has been filed by Levy asking that the case be reopened and that he have an opportunity to present more evidence. The practice of the Commission with respect to further hearings has always been very liberal. We feel, therefore, that the applicant herein should have further opportunity to make a showing. The Commission is, therefore, of the opinion, and so finds, that the application herein should be reopened.

However, the order reopening the application does not and cannot grant any right to the applicant to operate as a motor vehicle carrier without a certificate.

ORDER

IT IS THEREFORE ORDERED, That the above entitled application be, and the same is hereby, reopened for the introduction of further evidence at a time and place hereafter to be fixed by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 3rd day of March, 1931.

Commissioners.

(Decision No. 3254)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE COLORADO-WYOMING EXPRESS, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1735

March 3, 1931.

Appearances: George F. Guy, Esq., Cheyenne, Wyoming, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by the Colorado-Wyoming Express, a corporation, for a certificate of public convenience and necessity authorizing the transportation of freight interstate between Denver and the Colorado-Wyoming state line, using the highway running through Brighton, Greeley, Eaton and Nunn, known as U. S. Highway No. 85. When said highway is not in good condition the applicant proposes to use the highway running through Longmont, Loveland and Fort Collins, known as U. S. Highway No. 285. The applicant agrees to carry public liability insurance, protecting third persons and the property thereof on the highway.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the Constitution of the United States and the laws of the State of Colorado require the issuance to the applicant of the certificate of public convenience and necessity as prayed for.

O R D E R

IT IS THEREFORE ORDERED, That a certificate of public convenience and necessity be, and the same is hereby, granted to the applicant for the operation of a motor vehicle system for the transportation of freight in interstate commerce only between Denver and Colorado-Wyoming state boundary line at the point where U. S. Highway No. 85 crosses said boundary line, and this order shall be taken, deemed and held to be a certificate of public

convenience and necessity therefor.

IT IS FURTHER ORDERED, That authority be, and the same is hereby, granted to the applicant to travel upon U. S. Highway No. 285 when U. S. Highway No. 85 is not in good condition for use.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of March, 1931.

Case No. 454
T.F.D.

(Decision No. 5255)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RE MOTOR VEHICLE OPERATIONS OF)
RALPH LITTLEFIELD.) CASE NO. 454

- - - - - - - - - -

March 3, 1931.

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Appearances: Ralph Littlefield, New Raymer, Colorado, pro se.

S T A T E M E N T

By the Commission:

An order was entered on the Commission's own motion requiring the respondent, Ralph Littlefield, to show cause why he should not be required to cease and desist from operating as a motor vehicle carrier. A hearing was had. The respondent has been doing considerable trucking. He testified that he had hauled grain for some seven neighbors during the harvest season; that with these neighbors he exchanged hauling. He has hauled corn for some nine people since last summer. He has hauled a number of loads of livestock but testified that he buys the livestock at the ranch and does not render a transportation service for the people from whom he purchases the same.

Section 23 of Chapter 134, Session Laws of Colorado, 1927, reads "Nothing in this act shall be construed as prohibiting the intermittent transportation of farm produce to market or supplies to the farm by any person chiefly engaged in farming." The question is whether or not the transportation is so infrequent as to be called "intermittent". The case is a close one. We do not feel that we are quite justified, in view of the evidence, in finding that the respondent is now operating as a motor vehicle carrier. We do believe that if his operations become any more extensive

than they were described in the testimony, he would become such a carrier.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
3rd day of March, 1951.

(Decision No. 3256)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

RE MOTOR VEHICLE OPERATIONS OF GOTTLIEB FRANK.) CASE NO. 594

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March 3, 1931.

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

S T A T E M E N T

By the Commission:

An order was made by the Commission, on its own motion, requiring the respondent to show cause why he should not be required to cease and desist from operating as a motor vehicle carrier. A hearing was had although the respondent failed to appear in person or by an attorney. The evidence showed that he and his son Chris have been hauling grain quite extensively from the farms in Weld County, Colorado, to the towns of New Raymer and Grover, Colorado, and Bushnell and Kimball, Nebraska.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the respondent is and has been operating as a motor vehicle carrier as defined by statute.

O R D E R

IT IS THEREFORE ORDERED, That the respondent, Gottlieb Frank, forthwith cease and desist from operating as a motor vehicle carrier, as defined by

the statute of Colorado, unless and until he shall have procured a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
3rd day of March, 1931.

(Decision No. 3257)

543

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION OF T. F. VINCENT FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1739

- - - - - - - - -
March 5, 1931.
- - - - - - - - -

Appearances: J. C. Nixon, Esq., Greeley, Colorado, attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado, attorney for The Colorado Transfer and Warehousemen's Association; and
Clay R. Apple, Esq., Greeley, Colorado, attorney for Harry H. Hudson, protestant.

S T A T E M E N T

By the Commission:

This is an application by T. F. Vincent of Windsor, Colorado, for a certificate of public convenience and necessity authorizing the transportation of freight from point to point in the Town of Windsor and an area within a radius of five miles thereof.

The evidence showed that the applicant is a man enjoying a good reputation, both financially and otherwise; that he has been engaged for some thirteen years in the business which he seeks authority to continue. He has been engaged particularly in the transportation of light loads. His business has been mostly local and for that reason he is available when his services are desired.

At the hearing some mention was made of more extensive operation than his application seeks authority to conduct. However, we can at this time only consider such application as is before us.

After careful consideration of the evidence the Commission is

of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of freight from point to point within the Town of Windsor and an area within a radius of five miles thereof, subject to the condition hereinafter imposed, which the commission finds the public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operation of the applicant for the (transportation of freight from point to point within the Town of Windsor and an area within a radius of five miles thereof, subject to the following condition,) and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) That the capacity of the equipment shall never exceed that of the equipment which the applicant now has, namely, two trucks, one having a one-ton and the other a one and one-half ton capacity.)

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

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
3rd day of March, 1931.

(Decision No. 3258)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF GUY J. BRADFORD, DOING BUSINESS AS THE YELLOW CAB & TRANSFER, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1737

March 3, 1931

Appearances: Clay R. Apple, Esq., Greeley, Colorado, attorney for applicant;
Jack Garrett Scott, Esq., Denver, Colorado, attorney for The Colorado Transfer and Warehousemen's Association.

S T A T E M E N T

By the Commission:

This is an application by Guy J. Bradford, doing business as The Yellow Cab & Transfer, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of (1) freight "from point to point in the territory within a radius of four miles of the Weld County Court House; from the territory within said radius to any part of the State occasionally and from any part of the State into said territory occasionally," and (2) "passengers from point to point within a radius of four miles of the Weld County Court House, to and from farms within a radius of four miles from the Weld County Court House and for permission to meet Union Pacific trains Nos. 15 and 13 at La Salle, Colorado, each day and to transport passengers to and from said trains. Applicant further requests permission to transport passengers to and from other trains arriving at La Salle upon call and demand only; to transport passengers from the territory within said radius to any part of the State occasionally and occasionally from any part of the State into the territory within said radius."

The business of the applicant has consisted very largely of haul-

ing trunks to and from the depot in Greeley, and passengers in taxi service in and about said city. His taxi operations are rendered throughout twenty-four hours of the day. The evidence shows that while the applicant did a little freight business as far back as some five years ago, it did not amount to very much until about a year ago.

The applicant's reputation, both financially and otherwise, was most satisfactorily shown.

There was no objection at the hearing to the granting to the applicant of a certificate authorizing the taxi and trunk transportation business. There was considerable objection to his engaging in miscellaneous freight operations.

The evidence showed that other freight operators who have been in the business longer than the applicant and who already have certificates of public convenience and necessity are amply able to take care of all the miscellaneous freight business offered in the territory in question. In fact, a large part of their equipment is idle a substantial part of the time. There was evidence that some of it has not been used this year.

The statute clearly requires this Commission before issuing a certificate of public convenience and necessity to find such convenience and necessity. We have held time and again that where the service already afforded the public is ample and satisfactory, public convenience and necessity does not require the granting of an additional certificate. However, we have been somewhat lenient in giving all of those operators who have been in business for many years an opportunity to continue their operations. Here the applicant's miscellaneous freight operations are of most recent origin and the granting of a certificate to him would simply mean making worse an already over-supplied transportation situation.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the transportation of trunks and other baggage from point to point within a

radius of four miles of the Weld County Court House, and between points within said area and other points in the State of Colorado, and the transportation of passengers from point to point within a radius of four miles of the Weld County Court House and between points in said area and other points in the State of Colorado, subject to the conditions hereinafter imposed, which, in the opinion of the Commission, public convenience and necessity requires.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle operations of the applicant for the transportation of trunks and other baggage from point to point within a radius of four miles of the Weld County Court House, and between points within said area and other points in the State of Colorado, and the transportation of passengers from point to point within a radius of four miles of the Weld County Court House and between points in said area and other points in the State of Colorado, subject to the conditions hereinafter stated, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

(a) The passenger rates of the applicant on all trips made to points having scheduled service, whether by rail or motor vehicle, shall be at least 33-1/3 per cent greater per passenger than the effective rates of the scheduled carrier or carriers.

(b) The applicant shall not operate outside of the City of Greeley on schedule except to and from La Salle, Colorado, for the purpose of meeting Union Pacific trains Nos. 15 and 13.

(c) The applicant shall not establish any office or maintain any agency in any other city than Greeley for the purpose of developing or taking care of his business.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of March, 1931.

(Decision No. 3259)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

Re MOTOR VEHICLE OPERATIONS OF)
GUY J. BRADFORD, DOING BUSINESS)
AS THE YELLOW CAB AND TRANSFER.)
- - - - - - - - - - - - - - - - - -

CASE NO. 580

- - - - - - - - -
March 5, 1931.
- - - - - - - - -

Appearances: Clay R. Apple, Esq., Greeley, Colorado, attorney for respondent;

Jack Garrett Scott, Esq., Denver, Colorado, attorney for The Colorado Transfer and Warehousemen's Association.

S T A T E M E N T

By the Commission:

An order was made herein requiring the respondent to show cause why he should not be required to cease and desist from operating as a motor vehicle carrier. A hearing was had and evidence taken. The evidence indicated that the applicant did not know that his operations, which have consisted principally of the transportation of freight, passengers and baggage from point to point within the City of Greeley, were subject to the jurisdiction of this Commission. As soon as he learned of the fact that the Commission does have jurisdiction, he promptly filed an application.

Under the circumstances the Commission is of the opinion that it should not penalize the applicant by not granting to him in an application heard on the same day as the case herein was heard, such a certificate as the evidence shows the public convenience and necessity requires.

Without any question, and the Commission so finds, the respondent, has been and is operating as a motor vehicle carrier.

O R D E R

IT IS THEREFORE ORDERED, That the respondent forthwith cease and

desist from operating as a motor vehicle carrier as defined by statute except as expressly authorized in an order made on this day in Application No. 1757.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
3rd day of March, 1951.

(Decision No. 3260)

544

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF LON H. KELLOGG AND FRANK O. EHMANN FOR AUTHORITY TO THE FORMER TO TRANSFER TO THE LATTER A PORTION OF THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY HERETOFORE ISSUED TO THE FORMER.	)	APPLICATION NO. 1591-A

March 4, 1931.

Appearances: Chadwick J. Perry, Esq., Denver, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application for authority to Kellogg to transfer to Ehmann a portion of the certificate of public convenience and necessity heretofore issued to Kellogg. It is desired to transfer to Ehmann authority to serve that portion of the certificate authorizing service in the territory between State Highway No. 86 and the north line of Elbert County, extending from Wilson creek west to Bijou creek. The reputation of Ehmann financially and otherwise was satisfacterily shown. The evidence further shows that both the transferee and the transferor would have enough territory to insure a reasonably sound operation by both.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to Lon H. Kellogg to transfer the portion of the certificate hereinbefore described.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to Lon H. Kellogg to transfer to Frank O. Ehmann that portion of his certificate of public convenience and necessity heretofore issued

by the Commission covering and applying to that portion of the territory heretofore served by Kellogg lying between State Highway No. 86 and the north line of Elbert County, extending from Wilson creek west to Bijou creek.

IT IS FURTHER ORDERED, That the tariff of rates and rules and regulations heretofore filed by Kellogg shall become and remain those of Ehmann until changed in accordance with the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of March, 1931.

(Decision No. 3261)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
FRANK P. MARTIN.)

CASE NO. 547

March 4, 1931.

Appearances: Frank P. Martin, Walden, Colorado,
pro se.

S T A T E M E N T

By the Commission:

On September 10, 1929, a certificate of public convenience and necessity was issued to the respondent Frank P. Martin. No highway compensation tax reports have been made and no tax paid since the issuance of such certificate. A case was instituted on the Commission's own motion requiring the respondent to show cause why his certificate should not be revoked for failure to make such report and pay such taxes. A hearing was had on October 2, 1930. The respondent then promised to make his reports within ten days and to pay all taxes due. No reports have yet been filed and nothing further has been heard from the respondent.

After careful consideration of the evidence herein, the Commission is of the opinion, and so finds, that the certificate of public convenience and necessity heretofore issued to Frank P. Martin in Application No. 1212 should be revoked and cancelled.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity heretofore issued to Frank P. Martin in Application No. 1212

be, and the same is hereby, revoked and cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of March, 1931.

(Decision No. 3262)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF BILL JAMES AND SAM SACOFF, CO-PARTNERS, DOING BUSINESS AS THE LIBERTY TRANSPORTATION COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1501
IN THE MATTER OF THE APPLICATION OF THE STEAMBOAT TRANSFER AND STORAGE COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	APPLICATION NO. 1678

March 4, 1931.

Appearances: E. G. Vanatta, Esq., Craig, Colorado, attorney for applicants James and Sacoff; Elmer L. Brock and David W. Oyler, Esqs., Denver, Colorado, attorneys for The Denver & Salt Lake Railway Company, protestant; A. P. Anderson, Esq., Denver, Colorado, attorney for Steamboat Transfer and Storage Company.

S T A T E M E N T

By the Commission:

On April 20, 1929 the Commission issued a certificate of public convenience and necessity to Steamboat Transfer and Storage Company, a corporation, having its principal place of business in Steamboat Springs. The certificate authorized the transportation of "(a) freight between Denver and Steamboat Springs and a territory within a radius of 50 miles thereof and from point to point in said territory, (b) household goods between points in said territory and all other points in the State of Colorado, and (c) fruit from western Colorado to points within said territory". However, the certificate did not authorize a scheduled operation.

On November 8, 1929, the Commission made an order requiring the respondent, William James, who is the same person as Bill James, to show cause why he should not be required to cease and desist from operating as a motor vehicle carrier. On November 20, 1929, Bill James and Sam Sacoff, co-partners, doing business as Liberty Transportation Company, filed their application for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight between the City and County of Denver and the towns of Steamboat Springs and Craig. On August 8, 1930, Steamboat Transfer and Storage Company filed its application for a certificate authorizing the operation of a motor vehicle system for the transportation of freight on schedule between Denver and Craig. In the latter application authority is sought to transport on the trip west freight originating in Denver to Toponas and Craig and all points intermediate to those two points, and, on the trip east freight originating at Toponas and points west thereof to all points east thereof.

A hearing was first had on the case against William James and the application of James and Sacoff, the said case and the application being consolidated for hearing. Thereafter a hearing was had on Application No. 1678 and a further hearing on Application No. 1501, the two applications being consolidated for hearing, and the record in Application No. 1501 being made a part of the record in Application No. 1678.

Some six business men of Craig appeared and testified in behalf of James and Sacoff. Their evidence was to the effect that the operation of the truck line between Craig and Denver is required by public convenience and necessity, reasons therefor being stated in some detail. The evidence showed that the two said applicants had been engaged in a miscellaneous motor vehicle trucking operation. In addition to the line haul between Denver and Craig they had been hauling freight to and from various other points, according to the call and demand of the public for such

service. One of the said partners indicated that unless the trucking operation between Denver and Craig is limited to one certificate holder, it would not be profitable. On this point his testimony is in agreement with that of the president of the applicant, Steamboat Transfer and Storage Company.

The latter company now has offices and/or representatives in Craig and Oak Creek, in addition to the main office in Steamboat Springs. He testified that the irregular non-scheduled service which he is now rendering between Denver and points within a fifty mile radius of Steamboat Springs, which include both Craig and Oak Creek, is not satisfactory to the public. The distance between Craig and Denver by highway, via Toponas, Yampa and Oak Creek, is about 228 miles. At the present time the highway traveled is not open during all of the year. It is, therefore, impossible to render motor vehicle service throughout the year. Some years ago the issuance of a certificate authorizing motor vehicle operations over such a long route, crossing, as it does, the Continental Divide, would have been wholly out of the question. It seems even at this time to be a long route. However, after having heard many cases involving operations between Denver and the towns in question, we are convinced that the merchants will have motor vehicle service by one or more common carriers or by private carriers. Service by the latter is unsatisfactory for the reason it is not regulated, and for the further reason that numerous unreliable parties engage therein, frequently causing considerable loss to the public patronizing them.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity does require a scheduled freight motor vehicle operation between Craig and Denver.

The question arises how many certificates should be granted and, if not more than one, to which of the applicants. The evidence shows fairly clearly that there is not enough business to insure two sound, de-

pendable operations. As is stated above, the evidence is more or less in harmony on this point.

The financial position of the applicant, Steamboat Transfer and Storage Company, is somewhat stronger than that of the other applicants. That company and its president, Stanley L. Larson, have been engaged in motor vehicle operations for a number of years. They have been most reliable and trustworthy. It has been the general policy of the Commission, dictated by what appears to it to be the best interests of the public, to afford reasonable protection to a certificated operator already in the field, so long as that may be done without any injury to the public.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operation of the applicant, Steamboat Transfer and Storage Company, and that the public convenience and necessity does not require the proposed operation of the applicants Bill James and Sam Sacoff, doing business as Liberty Transportation Company.

It is unfortunate that every town on a route cannot have its own separate motor vehicle operator or operators. However, within the past year many of the operators serving larger points and operating over shorter routes with a much larger volume of business have gotten into serious financial difficulties. If Steamboat Transfer and Storage Company cannot give reasonably adequate and satisfactory service to the public of Craig, the Commission has authority, in proper proceedings, to correct the situation by issuing a new certificate or otherwise. We shall expect the company to give close and attentive consideration to its patrons in all towns, bearing in mind that unless he renders adequate service the Commission may grant a certificate to another who will.

O R D E R

IT IS THEREFORE ORDERED, That the application of Bill James and Sam Sacoff, co-partners, doing business as Liberty Transportation Company, be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant, Steamboat Transfer and Storage Company, for the transportation of freight in less than railroad carload lots, on schedule from Denver to Toponas and Craig and all points intermediate to the two last named points, and from Craig and Toponas and all points intermediate thereto to all points east of Craig, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the said Bill James and Sam Sacoff, and each of them, forthwith cease and desist from operating as motor vehicle carriers until and unless they shall have secured a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of March, 1931.

(Decision No. 8263)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION OF EARL F. BUCKINGHAM FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1754

- - - - - - - - -
March 4, 1951.
- - - - - - - - -

Appearances: Earl F. Buckingham, Chadron, Nebraska, pro se.

S T A T E M E N T

By the Commission:

This is an application by Earl F. Buckingham for a certificate of public convenience and necessity authorizing the transportation of freight generally in interstate commerce between Denver and intermediate points and the Colorado-Nebraska state boundary line where U. S. Highway No. 38 crosses the same, and between Denver and intermediate points and the Colorado-Wyoming state boundary line where U. S. Highway No. 85 crosses the same. The applicant intends to operate between Chadron and Denver and to use U. S. Highway No. 38 when the condition of the same permits, and to route his truck or trucks across the Wyoming boundary line only in those rare cases when the condition of the other highway requires. Ordinarily the D-L-D highway between Wiggins and Denver will be used, although occasionally the route via Greeley thence down the Platte River will be followed.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the Constitution of the United States and the law of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the transportation of freight

generally in interstate commerce between Denver and intermediate points and the Colorado-Nebraska state boundary line where U. S. Highway No. 38 crosses the same, and between Denver and intermediate points and the Colorado-Wyoming state boundary line where U.S. Highway No. 85 crosses the same.

O R D E R

IT IS THEREFORE ORDERED, That the Constitution of the United States and the law of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the transportation of freight generally in interstate commerce between Denver and intermediate points and the Colorado-Nebraska state boundary line where U. S. Highway No. 38 crosses the same, and between Denver and intermediate points and the Colorado-Wyoming state boundary line where U. S. Highway No. 85 crosses the same, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(S E A L)

WORTH ALLEN

DAN S. JONES

EDWARD E. WHEELER
Commissioners.

Dated at Denver, Colorado, this
4th day of March, 1931.

This is to certify that the attached and foregoing is a true and correct copy of the original order of the Commission.

Secretary.

236

236

(Decision No. 3264)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION)
OF EVERETT SCOTT FOR CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECES-) APPLICATION NO. 1742
SITY.)

- - - - - - - - - - - - - - - - - - -

- - - - - - - - -
March 4, 1951.
- - - - - - - - -

Appearances: A. P. Anderson, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by Everett Scott for a certificate of public convenience and necessity authorizing the transportation of milk and farm produce to Denver from points situated on the Plum Creek road and within ten miles of the Town of Sedalia, and the transportation of farm supplies from Denver and Sedalia and intermediate points to said points on said road.

No protest was made. The applicant has been operating for a number of years and rendering satisfactory service to his patrons. His financial condition is satisfactory. There is no other means of transportation available to the farmers in question.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of milk and farm produce to Denver and Sedalia and intermediate points from points situated on the Plum Creek road and within ten miles of the Town of Sedalia, and the transportation of farm supplies from Denver and Sedalia and intermediate points to said points on said road.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of milk and farm produce to Denver and Sedalia and intermediate points from points situated on the Plum Creek road and within ten miles of the Town of Sedalia, and the transportation of farm supplies from Denver and Sedalia and intermediate points to said points on said road; and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this
4th day of March, 1931.

547

(Decision No. 3265)

547

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF F. C. CALHOUN AND WALTER ADAMS, CO-PARTNERS, DOING BUSINESS UNDER THE NAME AND STYLE OF C. & A. TRANSPORTATION COMPANY FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY.

APPLICATION NO. 1755

March 4, 1931

Appearances: George F. Guy, Esq., Cheyenne, Wyoming, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by F. C. Calhoun and Walter Adams, co-partners, doing business as the C. & A. Transportation Company, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight in interstate commerce only between Denver and a point on the Colorado-Wyoming state boundary line where U. S. Highway No. 85 crosses the same. The applicants agree to carry such insurance as may be lawfully required by the State of Colorado.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the Constitution of the United States and the law of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the transportation of freight in interstate commerce between Denver and a point on the Colorado-Wyoming state boundary line where U. S. Highway No. 85 crosses the same.

O R D E R

IT IS THEREFORE ORDERED, That the Constitution of the United States and the law of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorising the transportation of freight in interstate commerce between Denver and a point on the Colorado-Wyoming state boundary line where U. S. Highway No. 85 crosses the same, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this
4th day of March, 1931.

(Decision No. 3266)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF JESS WILSON AND H. O. WILSON, CO-PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF WILSON BROTHERS TRANSFER, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1751

March 4, 1951

Appearances: Nathan I. Golden, Esq., Denver, Colorado, attorney for applicants;
D. Edgar Wilson, Esq., Denver, Colorado, attorney for The Chicago, Rock Island and Pacific Railway Company.

S T A T E M E N T

By the Commission:

This is an application by Jess Wilson and H. O. Wilson, co-partners, doing business under the firm name and style of Wilson Brothers Transfer, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight in interstate commerce only between Denver and the Colorado-Kansas state line where U. S. Highway No. 40 North crosses the same. The applicants propose to operate between Brewster, Kansas, and surrounding territory and Denver. They seek no authority to do intrastate business. They agree to carry such insurance as the State of Colorado may lawfully require.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the Constitution of the United States and the law of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the transportation of freight in interstate commerce between Denver and the Colorado-Kansas state line where U. S. Highway No. 40 North crosses the same.

O R D E R

IT IS THEREFORE ORDERED, That the Constitution of the United States and the law of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the transportation of freight in interstate commerce between Denver and the Colorado-Kansas state line where U.S. Highway No. 40 North crosses the same, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
4th day of March, 1951.

(Decision No. 3267)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY'S AMENDMENT NO. 54 TO FREIGHT TARIFF NO. 4886-G, COLO. P.U.C. NO. 81.	INVESTIGATION AND SUSPENSION DOCKET NO. 142

March 7, 1931.

S T A T E M E N T

By the Commission:

An order was made herein on February 21 of this year cancelling the above-entitled freight tariff amendment. An application for rehearing has been filed by The Denver and Rio Grande Western Railroad Company. In the application is found a request for authority to introduce additional testimony.

After careful consideration of the application the Commission is of the opinion, and so finds, that the case should be reopened for the purpose of allowing the introduction of such additional testimony as may be proper.

O R D E R

IT IS THEREFORE ORDERED, That the above-entitled case be, and the same is hereby, reopened for the purpose of receiving additional testimony.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 7th day of March, 1931.

MAKE

(Decision No. 3368)

NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF C. E. LEWIS AND JOE F. ENRIGHT, CO-PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF L-L AUTO TOURS.	)	CASE NO. 587

March 5, 1931.

Appearances: C. E. Lewis, Boulder, Colorado, for respondents;
D. Edgar Wilson, Esq., Denver, Colorado, attorney for Rocky Mountain Motor Company and Rocky Mountain Parks Transportation Company.

S T A T E M E N T

By the Commission:

An order was made requiring the respondents, C. E. Lewis and Joe F. Enright, doing business under the firm name and style of L-L Auto Tours, to show cause why their certificate of public convenience and necessity should not be revoked and cancelled on account of their engaging in operations not authorized by their said certificate.

Respondents testified that at the hearing on their application, it was called to the attention of the Commission that the sightseeing operators of the Boulder region were accustomed rather infrequently to make round trips extending out of the State, particularly into Wyoming, and that the Commission informed them that no action with respect to such trips would then be taken, provided the operators would keep a record of and report their mileage on that portion of their said trips which would be within Colorado. Since then the motor vehicle business has grown to such an extent that the Commission has found it difficult to keep track of the various operations of the many motor vehicle carriers. In order that the Commission may

not as a subterfuge. Some of the leading cases are: Interstate Motor Transit Co. et al., vs. Public Utilities Commission of Ohio, decided by the Supreme Court of Ohio, 163 N.E. 713, P.U.R. 1929B, 521, in which it was stated there was a crossing of the Ohio river into Kentucky and an immediate crossing back into Ohio; Delaware, L. & W. R. Co. v. Frank Martz Bus Co., in which it appears there was a crossing made from Pennsylvania into New Jersey and back again into Pennsylvania, P.U.R. 1929D, 253; Pine Hill-Kingston Bus Corp. v. Davis, et al., decided by the New York Supreme Court, 232 N.Y. Supp. 536, P.U.R. 1929C, 655. In the Ohio and Pennsylvania cases it was held that the crossings were made as a mere subterfuge and in order to permit the conduct of an intrastate operation without regulation by the state commissions. In the Pine Hill-Kingston case the facts were that "Defendant operated a bus line from a point on Broadway, New York City, through Forty-Second street to the Hudson river, crossing by ferry into New Jersey, and, after proceeding in that state about 40 miles, returned into New York state in the vicinity of Tuxedo, continuing to Kingston, and from that point over the route for which plaintiff has a certificate." The court held:

> "Defendant is engaged in interstate commerce. (citing cases) A common carrier, passing through a foreign state en route between termini in the originating state, is engaged in interstate commerce, unless the route is unreasonable (citing a case), or a subterfuge for the purpose of taking advantage of Federal Statutes (citing a case). The cogent reasoning of defendant is that his route is reasonable, and is not a subterfuge, because passengers are obtained in New Jersey, and the highways are less congested with traffic than these on the easterly side of the Hudson river."

It is shown by the cases cited whether one is operating across the state line in good faith is merely a question of fact to be determined in each case.

If the operation is across the state line in good faith, a State has no power to interfere with such operation. It may simply exercise in respect thereof its police powers. The court pointed out in the Pine Hill-Kingston case that:

> "The courts of the state of New York have no jurisdiction to exercise control over interstate commerce. (citing cases.)
>
> "An order restraining defendant from carrying

passengers between intrastate points on plaintiff's route would have been proper, but it was beyond the power of the court to restrain him from operating his busses or from accepting or discharging interstate passengers."

In the well known case of Buck v. Kuykendall, 267 U.S. 307, P.U.R. 1925C, 483, the Supreme Court of the United States held that a statute in the State of Washington whose "primary purpose is not regulation with a view to safety or to conservation of the highways, but the prohibition of competition" in interstate bus transportation, is unconstitional because the statutory provision "is a regulation, not of the use of its (Washington's) own highways, but of interstate commerce. Its effect upon such commerce is not merely to burden but to obstruct it. Such state action is forbidden by the Commerce Clause."

On the same day the United States Supreme Court decided Bush & Sons Co. v. Maloy, et al., 267 U.S. 317, P.U.R. 1925C, 488. In the Bush case it appears that an application was made for "a permit to do an exclusively interstate business as a common carrier of freight over specified routes, alleging its willingness and intention to comply with all applicable regulations concerning the operation of motor vehicles." The permit was denied. A suit brought in the state court to restrain the state officials from interfering with the applicant's operations was dismissed. The decree was affirmed by the highest court of Maryland. In acting upon the application for the permit the Maryland Commission passed upon the question "whether or not existing lines of transportation would be benefited or prejudiced and in this way the public interest affected." The United States Supreme Court held in effect that the Maryland Commission could not lawfully consider such a question and that in considering it and denying the permit the state through the Commission had "invaded a field reserved by the Commerce Clause for Federal regulation."

As pointed out above, we have gone somewhat beyond the scope of the issue in this case. But since the questions raised are controlled by law that is so fundamental and well established, we deem it proper to

effectively enforce such policing powers as the State has seen fit to exercise with respect to interstate operations, such, for instance, as the collection of the highway mileage tax and the requirement that a certain kind of insurance be carried, it has been found necessary to require those common carriers operating in interstate commerce to come in, ask for and procure a certificate. While this certificate is called one of public convenience and necessity, the Commission recognizes the well settled rule of law that an interstate carrier cannot be required by a state to prove public convenience and necessity. Moreover, aside from the practical necessity of making such a requirement, the statute under which the Commission is functioning is very broad in its terms. It provides that "No motor vehicle carrier as defined in this act shall hereafter operate any motor vehicle for the transportation of either persons or property, or both, without first having obtained from the Commission a certificate declaring that the present or future public convenience and necessity require, or will require, such operation." The term "motor vehicle carrier" is broad enough to and, in our opinion, does include interstate as well as intrastate carriers.

The evidence showed that on a few occasions the respondents had been transporting passengers on sightseeing trips into the State of Wyoming.

The Commission finds from the undisputed evidence that the respondents have been operating in interstate commerce without having procured a formal certificate therefor.

A number of questions were raised at the hearing which really are not within the issue in this case. However, in view of what appears to be their elementary nature, we may venture the suggestion that the questions are either of fact or are controlled by well settled rules of law. Nothing is better settled than that one engaged in a transportation service, carrying his passengers or freight across a state line is engaged in interstate commerce, even though his final destination is within the state from which he started. The rule is quite as clearly established that in order for a transportation service involving the crossing of a state line to be considered an interstate operation, the crossing must be in good faith and

make some answer to them.

O R D E R

IT IS THEREFORE ORDERED, That the respondents, and each of them, forthwith cease and desist from operating over the highways of the State of Colorado in interstate commerce until and unless they shall have taken proper steps to procure a certificate therefor from this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 5th day of March, 1931.

(Decision No. 3269)

549

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF WILLIAM SCHIERMEYER FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1830

March 9, 1931.

Appearances: Lee, Griffith and Aldrich, Esqs., Denver, Colorado, attorneys for applicant;
John Q. Dier, Esq., Denver, Colorado, attorney for Chicago, Burlington & Quincy Railroad Company.

S T A T E M E N T

By the Commission:

This is an application by William Schiermeyer for a certificate of public convenience and necessity authorizing the transportation of freight between Denver and an area within a radius of fifteen miles of Holyoke, Colorado, but not to or from intermediate points. At the hearing the applicant stated that he would haul no freight to or from the Town of Holyoke itself. His service is to be limited to the transportation of livestock, poultry, produce, etc. from the farms to Denver, and farm supplies, not including groceries, from Denver to farmers living within said area.

The applicant's reputation, both financially and otherwise, was satisfactorily shown. No other certificated carrier is rendering such a service to the farmers in the territory in question. A number of witnesses appeared and gave some strong testimony in support of the application.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of all such freight as he proposes to haul, except coal. In view of the

nature of the applicant's operation and all the facts and circumstances shown by the evidence, and the further fact that coal is a commodity which now constitutes so large a percentage of the intrastate rail tonnage in Colorado, we are of the opinion, and so find , that the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of freight in less than rail carload quantities from farmers residing within a radius of fifteen miles of Holyoke to Denver, Colorado, and farm supplies, not including coal and groceries, from Denver to the farms within said area.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of freight in less than rail carload quantities from farmers residing within a radius of fifteen miles of Holyoke to Denver, Colorado, and farm supplies, not including coal and groceries, from Denver to the farms within said area, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That except as herein expressly granted, the application be, and the same is hereby, denied.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of March, 1931.

(Decision No. 3270)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
M. I. CHUBBUCK.)

CASE NO. 605

March 9, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and,

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

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity, and whether or not the Commission should enter its order requiring him to cease and desist from so operating unless and until he shall have procured a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why the Commission should not enter its order requiring him

to cease and desist from operating as a motor vehicle carrier unless and until he procures a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission on Wednesday, the 25th day of March, 1931, at 10:00 o'clock A.M. in the Hearing Room of the Commission, Denver, Colorado, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of March, 1931.

(Decision No. 3271)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
HARLEY HOLLISTER.) CASE NO. 606

March 9, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity, and whether or not the Commission should enter its order requiring him to cease and desist from so operating unless and until he shall have procured a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days

from the date hereof, why the Commission should not enter its order requiring him to cease and desist from operating as a motor vehicle carrier unless and until he procures a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission on Wednesday, the 25th day of March, 1931, at 10:00 A.M. o'clock, at the Commission's Hearing Room, Denver, Colorado, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of March, 1931.

(Decision No. 3272)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
CHARLES JOHNSON.) CASE NO. 607

March 9, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity, and whether or not the Commission should enter its order requiring him to cease and desist from so operating unless and until he shall have procured a certificate of public convenience and necessity to so operate.

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

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him to cease and desist from operating as a motor vehicle carrier unless and until he procures a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission on Wednesday, the 25th day of March, 1931, at 10:00 A.M. o'clock, at the Commission's Hearing Room, Denver, Colorado, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado,
this 9th day of March, 1931.

(Decision No. 3275)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
C. H. CAPRON.) CASE NO. 608

March 9, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said respondent is operating as a motor vehicle carrier without a certificate of public convenience and necessity, and whether or not the Commission should enter its order requiring him to cease and desist from so operating unless and until he shall have procured a certificate of public convenience and necessity to so operate.

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission on Wednesday, the 25th day of March, 1931, at 10:00 A. M. o'clock at the Commission's Hearing Room, Denver, Colorado, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
9th day of March, 1931.

(Decision No. 3274)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF CONTINENTAL OIL COMPANY AND CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY TO CONSTRUCT A STANDARD GAUGE RAILROAD TRACK, AT GRADE, ACROSS STATE HIGHWAY NO. 2, IN ADAMS COUNTY, COLORADO.

APPLICATION NO. 1633

March 9, 1931.

S T A T E M E N T

By the Commission:

On February 2, 1931, the State Highway Department filed an application to reopen the above application for additional, further and other proof. On March 6, the Commission received a letter from the State Highway Department requesting that the application be dismissed without prejudice.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of March, 1931.

(Decision No. 3278)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION OF THE UNION PACIFIC RAILROAD COMPANY FOR THE ABANDONMENT OF THE HIGHWAY CROSSINGS AT MILE POST 117.51 and MILE POST 117.70, OF THE UNION PACIFIC RAILROAD COMPANY NEAR AND AT ORCHARD, COLORADO.

APPLICATION NO. 1670

- - - - - - - - -
March 10, 1951.
- - - - - - - - -

Appearances: E. G. Knowles, Denver, Colorado, attorney for applicant;
G. C. Twombly, Fort Morgan, Colorado, attorney for protestants.

S T A T E M E N T

By the Commission:

This proceeding arises out of the application of Union Pacific Railroad Company, a corporation, filed with the Commission on July 28, 1950, in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917, for the closing and abandonment of public highway crossings, at grade, at Mile Post 117.51, and Mile Post 117.70, Sterling subdivision of the Union Pacific Railroad near and at Orchard, Colorado.

The application alleges that there is no necessity for four crossings so near each other at this place and that the aforesaid two crossings can be abandoned without inconvenience to the public and hazards be reduced thereby.

A copy of the application was duly served on the Board of County Commissioners of Morgan County, the county authorities concerned, and on August 12, 1950, the County Attorney for said County made reply thereto protesting the proposed abandonment of aforesaid crossings alleging that the public would be seriously inconvenienced thereby. Also other protests were received from business concerns of Orchard.

A conference was then arranged between the County Commissioners of Morgan County, a representative of the railroad company and the engineer of the Commission at Orchard on August 26,1930. The matter of all the crossings (four) at Orchard was thoroughly considered, and at that time tentative plans were agreed upon which provided for the closing of the crossing at Mile Post 117.51 as a public highway crossing, but to be retained as a private crossing for the accommodation of the owner of the land on either side of the crossing. Also other plans for the closing or partial closing of other crossings were agreed upon, subject to approval of the rail carrier. These plans have been subject to changes due to the prospect for rearrangement of tracks due to the newly developed oil business at this place.

The matter of the application was, therefore, set down for hearing before the Commission at its Hearing Room, State Office Building, Denver, Colorado, at 10:00 A. M. on March 4, 1931, and was duly heard at this time and place. The hearing developed that prior to the hearing an informal conference was held with representatives of all the interests concerned present, and a tentative agreement entered into for a settlement of matters at issue. This agreement provided for the closing and abandonment of the crossing at Mile Post 117.51 as a public highway crossing, but to be retained as a private crossing when the usual agreement for a private crossing could be made between the rail carrier and the owner of the land adjacent to the crossing. The agreement also provided that that part of the pending application as to the crossing at Mile Post 117.70 be continued for further consideration at a later time when the conditions are appropriate.

These matters having been fully explained to the Commission by the attorneys for the interests concerned and by a witness, and the Commission believing that greater safety will be secured for the public and others concerned by closing and abandoning said crossing as a public highway crossing without inconveniencing the public, and that the interests of the owner of the land on both sides of the track at this crossing will be safeguarded

by retaining the crossing as a private crossing will now make its order granting the application as to this crossing in accordance with the terms agreed upon by the interests concerned.

It was also brought out in the hearing that to make effectual the closing of this crossing as a public crossing the county highway on the north side of the track between this crossing and Orchard should be abandoned, and the Commission was advised by the County Attorney that steps would be taken by the County to secure the abandonment of the county highway and when this is done the fence can be moved over to the railroad right-of-way line, thus properly limiting the crossing to its intended uses.

O R D E R

IT IS THEREFORE ORDERED, in accordance with Section 22 of the Public Utilities Act, as amended, that the public highway crossing, at grade, at Mile Post 117.51 of the Sterling Subdivision of the Union Pacific Railroad near Orchard, Colorado, be closed and abandoned as a public highway crossing when same is converted into a private crossing for the accommodation of the party owning the land on both sides of the track adjacent to said crossing.

IT IS FURTHER ORDERED, That the application be continued as to the matter of the closing of the crossing at Mile Post 117.70 until conditions are such at Orchard regarding the final arrangement of tracks as to permit the proper determination of this matter.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
10th day of March, 1931.

(Decision No. 3276)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION OF THE BOARD OF COUNTY COMMISSIONERS OF ALAMOSA COUNTY, COLORADO, FOR THE OPENING OF A PUBLIC HIGHWAY CROSSING OVER THE RIGHT-OF-WAY AND MAIN LINE TRACK OF THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY AT A POINT AT MILE POST 257.93 OF SAID RAILROAD.	APPLICATION NO. 1755

- - - - - - - - -

March 10, 1931.

- - - - - - - - -

S T A T E M E N T

By the Commission:

This proceeding arises out of the application of the Board of County Commissioners of Alamosa County filed with the Commission on February 9, 1931 in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917 for the opening and establishment of a public highway crossing, at grade, over and across the right-of-way and main line track of The Denver and Rio Grande Western Railroad Company at a point where the line between Sections 26 and 27, Township 38 N., Range 9 E. crosses the railroad which point is at mile post 257.93 of said railroad.

The application alleges that the crossing is necessary for the convenience of people residing south of the track to reach the main highway paralleling the railroad on the north side of the track.

A copy of the application was duly served on The Denver and Rio Grande Western Railroad Company, and on February 17, 1931 the respondent by its General Attorney made reply thereto advising that the Company had no objection to the establishment of said crossing as desired upon the usual terms and conditions.

Since, therefore, it appears from the record that the crossing will serve a convenience and is a necessity for the accommodation of the

public on the south side of the railroad track at that point, and there is no objection to its establishment, as requested, by any party concerned, the Commission will now without further proceedings make its order granting the application.

O R D E R

IT IS THEREFORE ORDERED, in accordance with Section 29 of the Public Utilities Act, as amended, that a public highway crossing, at grade, be, and the same is hereby, permitted to be opened and established over and across the right-of-way and main line track of The Denver and Rio Grande Western Railroad Company at a point where the line between Sections 26 and 27, Township 38 North, Range 9 East crosses the track of said railroad and which point is at or near mile post 257.93; conditioned, however, that prior to the opening of aforesaid crossing to public travel it shall be constructed in accordance with plans and specifications as prescribed in the Commission's Order "In re Improvements of grade crossings in Colorado, 2 Colo. P.U.C.128."

IT IS FURTHER ORDERED, That the expense of the construction and maintenance of grading for the highway up to the track at the new crossing authorized, including the drainage therefor shall be borne by the County of Alamosa, and the expense of the installation and maintenance of said crossing including necessary cattle guards, if any, crossing plank, signs and other expense shall be borne by the respondent, The Denver and Rio Grande Western Railroad Company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Edward F. O'Donnell

Commissioners.

Dated at Denver, Colorado, this
10th day of March, 1951.

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(Decision No. 3277)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE ANDERSON TRANSPORT COMPANY AND JESS KENNER, DOING BUSINESS AS THE WHITE TRUCK LINE COMPANY, FOR AUTHORITY TO THE FORMER TO TRANSFER TO THE LATTER A PORTION OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY HERETOFORE ISSUED.	APPLICATION NO. 607-AAA

March 10, 1931.

Appearances: William B. Stewart, Esq., Pueblo, Colorado, attorney for applicants;
T. A. White, Esq., Denver, Colorado, attorney for The Denver and Rio Grande Western Railroad Company;
Robert v-H. Work, Denver, Colorado, for Motor Truck Common Carriers' Association.

S T A T E M E N T

By the Commission:

This is an application for authority to The Anderson Transport Company, a corporation, to transfer to Jess Kenner, doing business as The White Truck Line, a portion of the certificate of public convenience and necessity issued in Application No. 607. The portion of the certificate now sought to be transferred is referred to in the order granting the certificate as "Route 'A'. From Trinidad, Colorado, to Jansen, Sopris Plaza, Sopris, Madrid, Valdez, Segundo (New), Segundo (Old) and Primero, all of which points are in Las Animas County, State of Colorado."

Heretofore the applicants herein asked for authority to transfer another portion of said original certificate. The Commission inadvertently in authorizing said transfer authorized the transfer of the whole certificate. Inasmuch as the order was much broader in its scope than the application

filed, the order was treated as a nullity so far as the excessive portion thereof is concerned.

The financial condition of the proposed transferee was satisfactorily shown. The evidence further showed that he had paid some small debts owed by the present holder of the certificate and had assumed an indebtedness of some $900.00, which the Transport Company owes to a bank. The evidence showed also that there are no other liabilities of the present holder growing out of the operation in question.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to make the transfer in question.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to The Anderson Transport Company, a corporation, to transfer to Jess Kenner, doing business as The White Truck Line Company, that portion of the certificate of public convenience and necessity originally granted by the Commission in Application No. 607, which reads as follows:

> "Route 'A'. From Trinidad, Colorado, to Jansen, Sopris Plaza, Sopris, Madrid, Valdez, Segundo (New), Segundo (Old) and Primero, all of which points are in Las Animas County, State of Colorado."

IT IS FURTHER ORDERED, That the tariffs of rates and rules and regulations of said The Anderson Transport Company, now on file with the Commission, become and remain those of said Jess Kenner until and unless changed according to law and the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 10th day of March, 1931.

Commissioners.

(Decision No. 3278)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

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IN THE MATTER OF THE APPLICATION)
OF DENVER-COLORADO SPRINGS-PUEBLO)
MOTOR WAY, INC., FOR A CERTIFICATE) APPLICATION NO. 1755
OF PUBLIC CONVENIENCE AND NECESSITY.)

March 10, 1931.

Appearances: T. A. White, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by Denver-Colorado Springs-Pueblo Motor Way, Inc., for a certificate of public convenience and necessity to transport package freight in its passenger equipment now being operated under its certificate of public convenience and necessity issued by this Commission between Pueblo and Walsenburg and intermediate points, and between Pueblo and Canon City and intermediate points.

No protest was filed by any person.

Considerable testimony was given showing that the transportation of package freight by the applicant is needed by the public, particularly of newspapers, automobile and other machinery repair parts which clearly require such expeditious service as is afforded by the applicant's busses.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of package freight in its passenger equipment being operated between Pueblo and Walsenburg and intermediate points and between Pueblo and Canon City and intermediate points.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle system of the applicant for the transportation of package freight in its passenger equipment being operated between Pueblo and Walsenburg and intermediate points and between Pueblo and Canon City and intermediate points, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Edward E. [illegible]

Commissioners.

Dated at Denver, Colorado,
this 10th day of March, 1931.

(Decision No. 3079)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF F. G. STEGALL AND THE SOUTHWESTERN TRANSPORTATION COMPANY, A CORPORATION, FOR AUTHORITY TO THE FORMER TO TRANSFER TO THE LATTER CERTAIN CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATIONS NOS. 570-A, 968-AA and 984-AA

March 10, 1931

Appearances: J. D. Blunt, Esq., Canon City, Colorado, attorney for applicants.

S T A T E M E N T

By the Commission:

This is an application by F. G. Stegall, doing business as Stegall Truck Line, and The Southwestern Transportation Company, a corporation, for authority to the former to transfer to the latter three certificates of public convenience and necessity now held by the former. The three certificates in question are those issued in Applications Nos. 570, 968 and 984. The certificates in the two latter applications have come to Stegall by transfer.

The evidence shows that the financial condition of the corporation is reasonably good. Two of the stockholders thereof, including Charles A. Bliley, President, and Alexander Walker, a director, have brought considerable strength to the corporation by reason of their strong financial resources. The corporation has already paid some debts, amounting to about $1,000, incurred by Stegall and proposes immediately to pay other liabilities.

The said F. G. Stegall is Vice President and Manager of the corporation. His wife, Agnes Stegall, is Secretary and Treasurer.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to F. G. Stegall

to transfer to the said The Southwestern Transportation Company certificates of public convenience and necessity now held by said Stegall and originally issued by the Commission in Applications Nos. 570, 968, and 984.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and it is hereby, granted to F. G. Stegall to transfer to the said The Southwestern Transportation Company certificates of public convenience and necessity now held by said Stegall and originally issued by the Commission in Applications Nos. 570, 968 and 984.

IT IS FURTHER ORDERED, That the tariffs and rules and regulations of said F. G. Stegall shall become and remain those of said The Southwestern Transportation Company until changed according to law and the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of March, 1931.

(Decision No. 3280)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

WESTERN FREIGHT AUDIT COMPANY, Complainant, vs. THE COLORADO AND SOUTHERN RAILWAY COMPANY, Defendant.	CASE NO. 369

- - - - - - - - -

March 10, 1931.

- - - - - - - - -

S T A T E M E N T

By the Commission:

An order was made herein that the rates charged by the defendant on shipments of cattle between Denver and Loveland exceeded those in the tariffs of rates on file with the Commission.

A petition for rehearing was filed by the defendant. The Commission made an order reopening the case and granted a rehearing "limiting the same to introduction of evidence as to the payment of freight charges and the question of assignment of claims by those who did make payment thereof."

The hearing was thereafter had on the matter of the payment of said charges, and the assignment of claims arising by virtue thereof.

The original order herein finding that excessive charges had been made was based upon the conclusion that Rule 77, which was a part of the defendant's tariffs, applied even though there was a specific commodity rate in effect at the time all the shipments in question moved between Loveland and Denver, the two points between which the shipments in question moved. On further consideration of this matter, the Commission has some doubt whether said rule does apply in cases where there is in effect a specific commodity rate on freight moving to and/or from an intermediate point.

O R D E R

IT IS THEREFORE ORDERED, on the Commission's own motion, that this case be, and the same is hereby, reopened as to the question of the proper construction of said Rule 77, and the case is set for further hearing before the Commission on Friday, March 27, 1951 at 10 o'clock A.M.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this
10th day of March, 1951.

(Decision No. 3281)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF M. B. BENNETT, DOING BUSINESS UNDER THE NAME AND STYLE OF BENNETT'S TRANSFER AND STORAGE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1266

March 10, 1931

S T A T E M E N T

By the Commission:

An application was filed herein in which the applicant requested, inter alia, authority "to operate and conduct an irregular transfer business for the transportation of furniture, household goods, oil rigs, and miscellaneous articles within a radius of 225 miles from the City of Trinidad." Thereafter the Commission had a hearing and made an order authorizing the transportation of freight within the City of Trinidad only. It now appears to the Commission that probably the language of the application was broad enough to and did include interstate operations between points within a radius of 225 miles of the City of Trinidad, and that the applicant is entitled under the Constitution of the United States and the law of the State of Colorado to a certificate authorizing such interstate operations.

O R D E R

IT IS THEREFORE ORDERED, That the above entitled application be, and the same is hereby, reopened on the Commission's own motion.

IT IS FURTHER ORDERED, That any persons who desire to oppose the issuance of such interstate certificate shall appear before the Commission in its Hearing Room in Denver on March 26, 1931 at 10 A.M. o'clock and show

cause why the same should not issue.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of March, 1931.

(Decision No. 5282)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF JOHN HALBERT FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1759

March 10, 1931.

Appearances: D. G. Reynolds, Esq., Springfield, Colorado, attorney for applicant;
Robert H. Work, Denver, Colorado, for Motor Truck Common Carriers' Association;
R. F. Maroney, Esq., Denver, Colorado, attorney for The Atchison, Topeka and Santa Fe Railway Company.

S T A T E M E N T

By the Commission:

This is an application by John Halbert for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system "for the transportation of freight and express between the towns of Springfield, Colorado and Pueblo, Colorado, and the intermediate points between said towns via Pritchett and Las Animas, Colorado, and that, to that end, in the event said permission is granted, applicant prays for a certificate of public convenience and necessity to be issued to him, allowing him to engage in said freight and express trucking service."

The Atchison, Topeka and Santa Fe Railway Company protested. A qualified protest was made by Ralph T. Preston. The latter testified that in his opinion the public convenience and necessity requires the operation between Pueblo and Pritchett and between Pritchett and Springfield but not otherwise.

The evidence shows that the applicant is in a satisfactory financial condition. His residence is in Pritchett. His equipment consists of a three-ton International and a Chevrolet truck, the latter having a semi-trailer.

At the present time a subsidiary of the Santa Fe runs into Pritchett via Springfield from Dodge City, Kansas. The service between Pueblo and Pritchett by rail is quite circuitous. Motor truck service now consists of a line running from Pueblo to Lamar and another from Lamar to Springfield. The latter is operated by said Preston, who makes somewhat irregular trips from Pueblo to Springfield.

The testimony further showed that within a year or so the Santa Fe is going to build and have completed a line of railroad from the south through either Springfield or Pritchett to Las Animas. One question raised was as to the requirement of public convenience and necessity at this time; another as to the requirement thereof after the said rail line is constructed. The applicant himself was not quite positive that his operation would be required after the institution of rail service over the new line.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of freight between Pueblo and Pritchett and between Pritchett and Springfield until such time after the Santa Fe has constructed and begun operations over the new line to be built through Pritchett or Springfield to Las Animas as shall be required for a further hearing and decision herein.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operations of the applicant for the transportation of freight between Pueblo and Pritchett and between Pritchett and Springfield until such time after The Atchison, Topeka and Santa Fe Railway Company has constructed and begun operations over the new line to be built through Pritchett or Springfield to Las Animas as shall be required for a further hearing and decision herein, and this order shall be taken, deemed and held to be a certi-

ficate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity does not require the transportation of any freight between Pueblo and Springfield, either direct or via Pritchett.

IT IS FURTHER ORDERED, That the application be, and the same is hereby, denied except as expressly granted.

IT IS FURTHER ORDERED, That jurisdiction over the application herein be retained to the end that shortly after the institution of rail service over the new line to be built through Springfield or Pritchett to Las Animas a further hearing be had for the purpose of determining whether the public convenience and necessity will then require the continuance of said operation thereafter.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this
10th day of March, 1931.

(Decision No.3283)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

551

* * *

IN THE MATTER OF THE APPLICATION)
OF OTTO BAIRD FOR CERTIFICATE OF) APPLICATION NO. 1695
PUBLIC CONVENIENCE AND NECESSITY.)

March 10, 1931

Appearances: Riley R. Cloud, Esq., Pueblo, Colorado, attorney for applicant;
T. A. White, Esq., Denver, Colorado, attorney for The Denver & Rio Grande Western Railroad Company;
Robert v-H. Work, Denver, Colorado, for Motor Truck Common Carriers' Association.

S T A T E M E N T

By the Commission:

This is an application by Otto Baird for certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of household goods between Pueblo, Colorado, and all other points within the State of Colorado, in both intrastate and interstate commerce. The applicant made a very satisfactory showing as to his financial condition. He has been engaged in motor vehicle operations for a number of years and has apparently given general satisfaction. He seeks no authority to transport other commodities than household goods.

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

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation in both interstate and intrastate commerce of household goods between Pueblo and all points within the State of Colorado, subject to the terms and con-

ditions hereinafter named, which the Commission finds the public convenience and necessity requires:

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operations of the applicant for the transportation in both interstate and intrastate commerce of household goods between Pueblo and all points within the State of Colorado, subject to the following terms, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor:

(a) The applicant shall not operate on schedule between any points.

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

(c) Jurisdiction of the application herein shall be, and the same is hereby, retained to the end that appropriate orders may be made with respect to the operations of the applicant.

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

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of March, 1931.

149

(Decision No. 3284)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF RIO GRANDE MOTOR WAY, INC., FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1705

March 10, 1931

Appearances: T. A. White, Esq., Denver, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by Rio Grande Motor Way, Inc. for a certificate of public convenience and necessity "authorizing the operation of a passenger sight seeing automobile service for the transportation of passengers between Pueblo and the Royal Gorge Park owned by the City of Canon City, Colorado, and Parkdale, in Fremont County, Colorado, said operation to be conducted over and upon the routes shown on the blue print map" attached to the application, and admitted in evidence as Exhibit No. 3. It is proposed to transport some passengers on round trips and others one way from Pueblo to Parkdale, and from Parkdale to Pueblo so as to accommodate people traveling by rail either east or west who desire to get off the trains and view the gorge from the top thereof. Some of the round-trip passengers will cross the suspension bridge, others will not.

While one written protest was filed there was no appearance at the hearing of the application. Considerable evidence was offered in support of the application.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the proposed motor vehicle operation of the applicant for the transportation

of passengers on sightseeing trips between Pueblo and the Royal Gorge Park and Parkdale, in Fremont County, Colorado, over and upon the routes shown on the blue print map attached to the application and admitted in evidence as Exhibit No. 3.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the proposed motor vehicle operation of the applicant for the transportation of passengers on sightseeing trips between Pueblo and the Royal Gorge Park and Parkdale, in Fremont County, Colorado, over and upon the routes shown on the blue print map attached to the application and admitted in evidence as Exhibit No. 3, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of March, 1931.

(Decision No. 5285)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF M. L. GORDON, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1771

March 10, 1931.

Appearances: W. W. Gaunt, Brighton, Colo., attorney for applicant;

V. G. Garnett, Denver, Colo., for Colorado Rapid Transit Company.

S T A T E M E N T

By the Commission:

This is an application by M. L. Gordon for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of dairy products to Denver, and farm supplies from Denver to points within the territory described as follows:

In Township Two (2) North, Range Sixty-five (65) West of the Sixth P.M., the following numbered Sections: 19,20,21, 22 and 23; 26,27,28,29,30,31,32,33,34 and 35.

In Township One (1) North, Range Sixty-five (65) West, the following numbered Sections: The North one-half (N½) of Section Two (2). The North half (N½) of Section Three (3). The Southwest Quarter (SW¼) of Section Three (3). Sections 4,5,6, 7,8, and 9. The West one-half (W½) of Section Ten (10). The Southeast Quarter (SE¼) of Section Ten (10). The South one-half (1/2) of Section Eleven (11). The South one-half (1/2) of Section Twelve (12). All of Sections 13,14,15,16,17,18,19,20,21,22,23,24, 26,27,28,29,30,31,32,33 and 34.

In Township One (1) South, Range Sixty-five (65) West, the following numbered Sections: Sections 4,5,6,7,8,9,17 and 18.

In Township One (1) South, Range Sixty-six (66) West, the following numbered Sections: 1,2,3,4,9,10,11,12,13,14,15, 16 and East one-half (1/2) of Section Seventeen (17).

In Township One (1) North, Range Sixty-six (66) West, the following numbered Sections: 13,14,15,22,23,24,25,26,27,34,35 and 36. In Twp. (2) N, Range (65) W. of 6th PM in Sections numbered 7, 8, 9, 10, 11, 14, 15, 16, 17 & 18.

5/16/32 Dec #4300

The financial standing of the applicant was shown to be satisfactory. He is serving a number of farmers who testified strongly in support of the application. No other certificated carrier is rendering similar service in the territory in question.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of dairy products from points within the territory hereinbefore described to Denver, and farm supplies from Denver to points within said territory.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the motor vehicle operation of the applicant for the transportation of dairy products from points within the territory hereinbefore described to Denver, and farm supplies from Denver to points within said territory, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this
10th day of March, 1931.

(Decision No. 3286)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE CLOSING STATION AT PARKER, COLORADO, BY THE COLORADO AND SOUTHERN RAILWAY COMPANY.	)))	INVESTIGATION AND SUSPENSION DOCKET NO. 146

March 10, 1931.

Appearances: J. L. Rice, Esq., Denver, Colorado, attorney for applicant;
Bert Hall, Parker, Colorado, pro se and representing various other protestants.

S T A T E M E N T

By the Commission:

This is an application by The Colorado and Southern Railway Company for an order authorizing the abandonment of its agency at Parker in Douglas County, Colorado. The contention of the railroad company is that the business done at and through said station is so limited that it is unreasonable to require the carrier longer to maintain the agency. Parker is a small village with a population of about 125 and is situated on the Falcon branch line of the applicant about 23 miles south of Denver. The discontinuance of the station agency service would save the railroad approximately $1,700 per year. The total revenue derived from said station by applicant for the year 1930 was $7,943.23.

At the hearing some testimony was introduced by protestants showing the inconvenience that would result to shippers if said station agency service should be withdrawn, particularly in respect to the shippers of cattle. Applicant offered to make some reasonable arrangement in reference to paying for the toll calls to the agent at Elizabeth for cars in the event in was desired to ship at least a carload lot; to arrange that the key to the station at Parker be left with some responsible resident of Parker in order that l.c.l. freight and express could be safely left therein and also to install a proper receptacle in which

orders for cars and billing on shipments might be left by shippers. The Federal Transportation Act of 1920 requires a railroad company to effect all reasonable economies.

The question in this case, as in various other matters of the same kind, is whether in view of all the facts and circumstances it is reasonable to authorize the abandonment of the agency, and this is governed largely by the question of whether the inconvenience suffered by the public would be greater than the financial burden involved in maintaining the agency. We realize that the closing of this agency will result in considerable inconvenience to various shippers and we fully sympathize with their attitude in the matter, but from a consideration of all the facts as presented to the Commission, we are forced to the conclusion that applicant is entitled to the relief sought in its application, subject to certain requirements.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the traveling and shipping public does not reasonably require station agency service at Parker, subject to compliance by the applicant with certain conditions hereinafter imposed, which the Commission finds the public convenience and necessity require.

O R D E R

IT IS THEREFORE ORDERED, That the Colorado and Southern Railway Company, applicant herein, be, and it is hereby authorized to discontinue its station agency at Parker, Colorado, at the close of business on April 10, 1931, subject to compliance with the requirements hereinafter imposed.

IT IS FURTHER ORDERED, That the said applicant be required to make arrangements by which shippers of carload lots of freight may, at the expense of the applicant, make one call to the agent at Elizabeth, for the purpose of placing an order for a car, and the applicant will telephone at its expense, to such telephone in the Parker district as may be designated by the one ordering the car advising the shipper when said car will be ready for loading at Parker.

IT IS FURTHER ORDERED, That some reasonable arrangements shall be made whereby some resident of Parker shall act as custodian of the

key to the station for the benefit of shippers and that it shall provide a proper box or receptacle on the outside of the depot where written orders for cars and shipping instructions may be left.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of March, 1931.

347

(Decision No. 3287)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF R. C. BURTON AND CHARLES F. WOOD AND J. W. MORGAN FOR AUTHORITY TO SAID BURTON TO TRANSFER TO SAID WOOD AND MORGAN A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1619-A

March 16, 1931

Appearances: Mollette and Clements, Esqs., Durango, Colorado, attorneys for applicants.

S T A T E M E N T

By the Commission:

This is an application by R. C. Burton, holder of certificate of public convenience and necessity heretofore issued by this Commission, and Charles F. Wood and J. W. Morgan, co-partners, doing business under the firm name and style of Wood and Morgan, for authority to the former to transfer his said certificate of public convenience and necessity to the two said partners.

The reputation of Wood and Morgan financially and otherwise was shown to be most satisfactory.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to R. C. Burton to transfer the certificate of public convenience and necessity now held by him authorizing motor vehicle operations between Durango and Cortez to Charles F. Wood and J. W. Morgan, co-partners, doing business under the firm name and style of Wood and Morgan.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and it is hereby, granted to R. C. Burton to transfer the certificate of public convenience and necessity now held by him authorizing motor vehicle operations between Durango and Cortez to Charles F. Wood and J. W. Morgan, co-partners, doing business under the firm name and style of Wood and Morgan.

IT IS FURTHER ORDERED, That the rates and rules and regulations heretofore filed by said Burton shall become and remain those of said Wood and Morgan until they shall be changed according to law and the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 16th day of March, 1931.

(Decision No. 5288)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF JOHN R. TRIMBLE AND GEORGE McEWEN FOR AUTHORITY TO THE FORMER TO TRANSFER TO THE LATTER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	)	APPLICATION NO. 1353-A

March 16, 1931.

Appearances: George McEwen, Cortez, Colorado, pro se.

S T A T E M E N T

By the Commission:

This is an application by John R. Trimble and George McEwen for authority to the former to transfer to the latter a certificate of public convenience and necessity heretofore issued by the Commission in Application No. 1353. The reputation of McEwen both financially and otherwise was satisfactorily shown.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to John R. Trimble to transfer to George McEwen the certificate of public convenience and necessity heretofore issued to the former.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to John R. Trimble to transfer to George McEwen the certificate of public convenience and necessity heretofore issued to the former.

IT IS FURTHER ORDERED, That the rates and rules and regulations

heretofore filed by said Trimble shall become and remain those of said McEwen until they shall be changed according to law and the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 16th day of March, 1930.

(Decision No. 3289)

553

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF W. FRED NEWMAN, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE NEWMAN TRANSPORTATION COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	)	APPLICATION NO. 1554

March 17, 1931.

Appearances: David F. How, Jr. Esq., Denver, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by W. Fred Newman, doing business under the firm name and style of The Newman Transportation Company, for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of freight and express in interstate commerce only, between the City and County of Denver and points within the State of Wyoming. Applicant's proposed operation is to be conducted over U. S. Highway No. 85. He plans to use in the operation two trucks of the value of Twenty-five thousand dollars, ($25,000).

After careful consideration of the evidence, the Commission is of the opinion and so finds, that the constitution of the United States and the laws of the State of Colorado, requires the issuance of a certificate of public convenience and necessity to the applicant, W. Fred Newman, authorizing the operation of a motor vehicle system for the transportation of freight and express in interstate commerce only, between the City and County of Denver and the Colorado-Wyoming State Line at a point where U. S. Highway No. 85 crosses the same.

O R D E R

IT IS THEREFORE ORDERED, That the constitution of the United States and the laws of the State of Colorado, requires the issuance of a certificate of public convenience and necessity to the applicant, W. Fred Newman, authorizing the operation of a motor vehicle system for the transportation of freight and express in interstate commerce only, between the City and County of Denver and the Colorado-Wyoming State Line at a point where U. S. Highway No. 85 crosses the same, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

IT IS FURTHER ORDERED, That applicant shall, within a period of twenty days from the date hereof, file with the Commission such insurance policies as are required by the Rules and Regulations of the Commission covering public liability and property damage, so far as his operations in Colorado are concerned.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 17th day of March, 1931.

(Decision No. 3290)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

RE MOTOR VEHICLE OPERATIONS OF)
F. W. HAMILTON.) CASE NO. 610

March 18, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, on or about August 15, 1930, in Application No. 1522, the Commission did issue to the above named respondent a certificate of public convenience and necessity; and

WHEREAS, the records of this Commission show that said respondent has failed to pay the fee of $5.00 required by statute and the Rules and Regulations of this Commission to be paid for the issuance of said certificate; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said certificate should be revoked and cancelled for failure of respondent to pay the fee required to be paid therefor.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not said certificate of public convenience and necessity should be revoked and cancelled.

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on Monday, the 30th day of March, at 10 A.M. thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
18th day of March, 1931.

(Decision No. 3291)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF E. CORY,)
DOING BUSINESS AS COLO.-MEX TRANSPORTA-) CASE NO. 611
TION COMPANY.)

March 19, 1931

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent is engaged in operating busses for the transportation of passengers intrastate over the public highways of the State of Colorado without a certificate of public convenience and necessity as required by law; and

WHEREAS, the Commission is of the opinion that the public interest requires that an investigation and hearing be held for the purpose of determining whether or not the above named respondent is engaged in operating busses in the transportation of passengers intrastate without a certificate of public convenience and necessity.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be held for the purpose of determining whether or not said above named respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, in the transportation of passengers intrastate in the State of Colorado without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why it should not enter an order commanding said respondent to cease and desist from operating as a motor vehicle carrier in the transportation of passengers intrastate in the State of Colorado without a certificate of public convenience and necessity.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of March, 1931.

(Decision No. 3292)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF M. L. MILLER, DOING BUSINESS UNDER THE NAME AND STYLE OF MILLER TRUCK LINE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	)	APPLICATION NO. 1520

March 19, 1931.

S T A T E M E N T

By the Commission:

An order was made herein denying the application of M. L. Miller for a certificate of public convenience and necessity. A motion for rehearing has been filed. After careful consideration of the same, the Commission is of the opinion that a further hearing should be had herein.

O R D E R

IT IS THEREFORE ORDERED, That the above entitled motion for rehearing be, and the same is hereby, granted, and that the said application be set down for further hearing at a time and place to be hereafter determined.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of March, 1931.

(Decision No. 3393)

545

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF GUY J. BRADFORD, DOING BUSINESS AS THE YELLOW CAB AND TRANSFER, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1737

March 19, 1931.

S T A T E M E N T.

By the Commission:

An order was made herein on March 3, 1931, granting a certificate of public convenience and necessity. However, the certificate was not as broad in scope as was sought. A petition for rehearing has been filed. One of the main grounds in support of the petition is that it is impossible to operate in the manner authorized in the certificate issued unless given the further authority sought in the original application.

Without admitting that it is necessary to grant a certificate of public convenience and necessity for one kind of transportation service that the evidence shows the public convenience and necessity does not require in order that the public may have the benefit of another kind of service that is required, the Commission is of the opinion that a further hearing herein should be had.

O R D E R

IT IS THEREFORE ORDERED, That the petition for rehearing herein be, and the same is hereby, granted, and that the above entitled matter be

set down for further hearing at a time and place hereafter to be determined.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of March, 1931.

(Decision No. 3294)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE DISCONTINUANCE OF MIXED TRAINS NOS. 461 AND 462 ON SUNDAYS ON SILVERTON BRANCH OF THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY.	INVESTIGATION AND SUSPENSION DOCKET NO. 150

March 21, 1931.

Appearances: Thos. R. Woodrow, Esq., Denver, Colorado, attorney for The Denver and Rio Grande Western Railroad Company;
William A. Way, Esq., Silverton, Colorado, attorney for Commercial Club of San Juan County and the Town of Silverton.

S T A T E M E N T

By the Commission:

The Denver and Rio Grande Western Railroad Company has been operating a narrow gauge mixed train daily from Durango to Silverton and return. The train leaves Durango at 8:45 A.M. and arrives in Silverton at 12:10 P.M. The return trip is begun at 12:40 P.M., the train arriving in Durango at 4:00 P.M. It seeks authority to temporarily discontinue the operation of the train on Sundays. The San Juan Commercial Club and the Town of Silverton appeared by their attorney at the hearing and resisted the application.

Silverton is a town supported almost wholly by the mining industry. One of the largest mining operations conducted in the Silverton territory is the Sunnyside Mine at Eureka, being a point a few miles from Silverton and reached by a short rail line operating between Eureka and Silverton. That mine ceased production operations about October 1, 1930, laying off some 325 employes. This resulted in a loss to the applicant of freight shipped from this mine alone amounting to approximately $18,000 per month.

The evidence showed that at the present time one or two trains each way per week could transport all of the freight. The evidence indicated

that the railroad's mail and express revenue would not be affected by the change.

From the first of May to about the middle of November the Rio Grande Motor Way, Inc., a subsidiary of applicant, operates a motor bus running daily between Silverton and Durango. It carries both passengers and express. While the Million Dollar or Chief Ouray highway connecting Silverton and Durango has remained open practically all of the current winter, it is the first winter that the highway has not been closed for several months. Even though, as is not certain, the highway might be kept open in the future, there is some question as to the safety of operations during the winter months when there is more or less snow on the highway and the same is subject to snow slides. This means that if the Sunday train is not operated there will be no means of getting into or out of Silverton in the winter months, except by private automobiles when the highway is open.

The revenue from the passenger business done on the Sunday trains is not great. For the four months, October to January both inclusive, said revenue was as follows:

October 1930 -	$14.22
November 1930 -	49.53
December 1930 -	57.57
January 1931 -	63.08

The Superintendent of Transportation of the railroad company first testified that the branch line is not paying its way. Then he stated that he could not say positively, but did state that the narrow gauge line as a whole is now at least paying its way. The evidence showed that the out-of-pocket cost of operating the train on Sunday is $54.17, not including $2.10 as agent's wages. It will be seen that the total Sunday revenue from passengers for a month is approximately the amount of the cost of one day's operation of the train.

Protestants contend that the abandonment of the Sunday service would not only cause them some substantial inconvenience but would have a bad influence on interesting capital in developing the territory. Moreover, fear was expressed that once the trains are eliminated they will not be restored. In support of the latter fear, reference was made to a promise said to have been made at the time the passenger train service was superseded

by a mixed train. If the people of Silverton had at any time in the past thought that they were entitled to have passenger train service restored, they could have had the necessity therefor passed upon by the Commission. The granting of authority to eliminate Sunday service does not mean that the Commission may not at any future time, when a proper showing is made, require the restoration thereof. Moreover, in this case the railroad company expressly stated at the hearing that it is willing that the order be conditioned that if and when the Sunnyside Mine resumes operations on substantially the same basis as they were being carried on in September, 1930, the Sunday trains shall be restored. Of course, conditions might require the restoration thereof even without that one mine resuming such operations.

Two witnesses, one residing at Silverton and being the General Manager of the Shenandoah-Dives Mining Company, the other residing at Eureka and being the General Manager of the company operating the Sunnyside Mine, testified that in their opinion the request of the railroad is a reasonable one which should be granted in order to permit what they consider a reasonable economy.

The Commission dislikes very much to inconvenience the public in not allowing rail ingress and egress on Sundays. However, it is well known that the railroads have lost an enormous amount of business due both to the present financial depression and to the operation of trucks, busses and private automobiles. If the rail lines are to continue to serve the public efficiently they must be permitted to make all reasonable economies. Otherwise, much more serious consequences will develop for the public served.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to the applicant to discontinue temporarily the operation of the Sunday train in question.

The applicant will be required to restore service immediately upon resumption of operations at the Sunnyside Mine equal in extent to those conducted in September, 1930. If the applicant does not advise the Commission on or before October 1 of its intention to restore such service during the winter months of the winter 1931-1932, the Commission will on motion of the

protestants set the matter down for further hearing.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to The Denver and Rio Grande Western Railroad Company to discontinue after April 13th, until further order of the Commission the operation of its Sunday train between Durango and Silverton and return.

IT IS FURTHER ORDERED, That the applicants shall immediately restore such train service upon the resumption of operations at the Sunnyside Mine equal in extent to those conducted in September, 1930.

IT IS FURTHER ORDERED, That jurisdiction be, and the same is hereby, retained to the end that such other and further orders may be made as may be warranted.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of March, 1931.

(Decision No. 3295)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

Arthur H. Carhart,
Complainant,
vs.
Stegall Truck Line,
Defendant.

CASE NO. 596

March 28, 1931

Appearances: Arthur H. Carhart, Denver, Colorado, pro se
J. D. Blunt, Esq., Canon City, Colorado, for defendant.

S T A T E M E N T

By the Commission:

Complainant, an individual, formerly engaged in growing tomatoes at Canon City, Colorado, alleges by informal complaint filed December 21, 1930, that the rate charged on shipments of fresh tomatoes shipped on and after July 12, 1930, from Canon City, Colorado, to Denver, Colorado, was contrary to a verbal contract rate agreed upon between complainant and defendant.

Under date of January 9, 1931, the Commission, transferred the matter from its informal docket to its formal docket owing to the fact that the complaint could not be disposed of informally.

Complainant contends that the case in question rests on an agreement between himself and Mr. Stegall of the Stegall Truck Line relative to the hauling of a crop of fresh tomatoes from Canon City to wholesale houses located in Denver.

It is admitted that defendant quoted a rate of 75¢ per hundred pounds. The record does not contain sufficient facts for the Commission to determine whether the kind of package in which the crop was to be shipped was discussed at the time the defendant quoted the 75¢ rate. The defendant testified that he

had never heard of tomatoes being shipped in baskets, but assumed they would be shipped in the ordinary boxes or lugs, and had he known that they were to be packed in baskets, he would not have quoted any such rate as 75¢ per hundred pounds.

The containers in which the shipments were transported are baskets about twelve inches long, eight inches wide and five or six inches deep, with a loop shaped handle over the center, and a cover which when set in place apparently rested on top of the tomatoes. The baskets are made of thin wooden material. The approximate weight of an empty basket is between a pound and pound and one-half.

The complainant testified that the aggregate weight of the shipments was 9787 pounds, which testimony is not disputed by the defendant.

Charges were assessed and collected on the basis of fifteen cents per basket which was an arbitrary charge separate and distinct from the so-called contract rate or the legal tariff rate in effect at the time the transportation service was performed.

The legal published rate in effect at the time the shipments moved was $1.00 per hundred pounds, which was the only legal rate applicable.

Section 17, paragraph (e) of the Public Utilities Act provides as follows:

> "Except as in this section otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals, and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified, nor extend to any corporation or person any form of contract or agreement or rule or regulation or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided, that the Commission may by rule or order establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to each public utility."

A common carrier may not lawfully charge any other rate than the one on file with the Commission. One cannot change his lawful rate by the mere making of a contract. The Commission may in a formal case find that a rate on file with it is unreasonable. If such finding is made it may order the making of reparation. A contract to charge a lower rate than the one on file may tend somewhat to show

that the rate on file is unreasonably high. However, in this case in view of all the evidence the Commission is unable to find that the rate of $1.00 per hundred pounds on tomatoes shipped in baskets of the kind described is unreasonable.

We find that the charges on the shipments involved should have been assessed on the basis of the actual weight, viz. 9787 pounds at a rate of $1.00 per hundred pounds, and that complainant has been overcharged to the extent of the difference between $127.65, the amount collected and the amount that should have been collected on the basis of the actual weight of the shipments, or $97.87.

O R D E R

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

IT IS ORDERED, That defendant, Stegall Truck Line, be, and it is hereby, authorized and directed to pay to complainant, Arthur H. Carhart, 2591 Eudora Street, Denver, Colorado, on or before April 20, 1931, the amount of $29.78 on account of the unreasonable charges collected on shipments of tomatoes from Canon City to Denver.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
23rd day of March, 1931.

(Decision No. 3296)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS OF)
OVID M. LUDLOW.)

CASE NO. 612

March 23, 1931.

S T A T E M E N T.

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the above named respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not the above named respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That the said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why it should not enter an order requiring said respondent to cease and desist from operating as a motor vehicle carrier unless and until

he has procured a certificate of public convenience and necessity as required by law.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 14th day of April, A.D. 1931, at ten o'clock A.M., at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 23rd day of March, 1931.

(Decision No. 3297)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE ABANDONMENT PRESENT MIXED TRAIN SERVICE OF TRAINS NOS. 345 AND 346 BETWEEN GUNNISON AND BALDWIN, AND TRAINS NOS. 343 AND 344 BETWEEN GUNNISON AND PITKIN, AND OPERATE SUCH FREIGHT SERVICE AS MAY BE REQUIRED BY DEMANDS OF THE SERVICE TO BE EFFECTIVE JUNE 15, 1930.	INVESTIGATION AND SUSPENSION DOCKET NO. 137

March 23, 1931.

Appearances: T. A. White, Esq., Denver, Colorado, for The Denver and Rio Grande Western Railroad Company;
Clifford H. Stone, Esq., Gunnison, Colorado, for protestants.

S T A T E M E N T

By the Commission:

The Denver and Rio Grande Western Railroad Company has been operating a tri-weekly mixed train service of trains Nos. 345 and 346 between Gunnison and Baldwin, and trains Nos. 343 and 344 between Gunnison and Pitkin. It seeks authority to abandon said mixed train service and substitute in lieu thereof such freight service as may be required by the demands of the service. The mixed train service has been operating on the Baldwin branch making a round trip on Tuesday, Thursday and Saturday of each week, and on the Pitkin branch making a round trip on Monday, Wednesday and Friday. The Pitkin branch connects with applicant's main line at Parlin and extends approximately fifteen miles from Parlin to Pitkin. The Baldwin branch is eighteen miles in length.

The evidence discloses that the total earnings of the Pitkin and Baldwin branches for the year 1929 were as follows:

Baldwin branch $14,179
Pitkin branch $ 5,083

In addition to the above sums, approximately $20 per month revenue has been realized from express service on the Pitkin branch. The combined out-of-pocket

operation cost of both of said branches is between $1,500 and $1,600 per month.

The passenger revenue derived from the operation of the Pitkin branch for the year ending April 1930, averaged approximately $2.83 per round trip. The passenger revenue on the Baldwin branch for the same period averaged 82 cents per round trip. Considerably more freight is handled by applicant on the Baldwin branch than on the Pitkin branch.

The protestants offered considerable testimony, some of which tends to show that more or less inconvenience would be suffered by shippers, particularly on the Pitkin branch, if the tri-weekly service is discontinued. The question presented to the Commission is whether this inconvenience would be sufficient to offset the advantage to the carrier of a more economical operation. The fact that applicant is willing to hold no-bill coal shipments in its Gunnison yard for billing, is a factor that removes a considerable part of the objections made to the reduction of the train service. The evidence in connection with the coal shipments applies to the Baldwin branch. In connection with the Pitkin branch, the objections were based largely upon the inconvenience that would be suffered by those engaged in the timber business. The Commission appreciates that in this particular industry some inconvenience might result, particularly if the industry is developed to a greater extent than now exists. The shipment and marketing of props apparently requires very prompt service at some periods. However, we doubt whether in this particular matter any more inconvenience will be suffered by the shippers by the substitution of such freight service as applicant proposes in lieu of its present tri-weekly operations, except at rare intervals.

The applicant offers to operate a weekly train on each branch and to take care of any additional business by non-scheduled service, not exceeding one train per week on each branch where not less than four cars are offered for shipment at one time.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to the applicant to discontinue its scheduled tri-weekly mixed train service upon both the Pitkin and Baldwin branches upon substitution in lieu thereof of one regular

scheduled weekly train on both branches and in addition thereto not exceeding one non-scheduled train per week on each branch when not less than four cars are offered for shipment at one time.

We assume that in determining on what days to render the scheduled weekly service the railroad company will give due consideration to the needs and desires of the public served.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to The Denver and Rio Grande Western Railroad Company to discontinue after April 1, 1931, its scheduled tri-weekly mixed train service upon both the Pitkin and Baldwin branches upon the substitution in lieu thereof of one regular scheduled weekly train on each branch and in addition thereto not exceeding one non-scheduled train per week on each branch when not less than four cars are offered for shipment at one time.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 24th day of March, 1931.

(Decision No. 3298)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE CLOSING STATION AT EASTONVILLE, COLORADO.) I. AND S. DOCKET NO. 143

March 24, 1931.

Appearances: J. L. Rice, Esq., Denver, Colorado, attorney for applicant;
Thomas W. Roberts, Eastonville, Colorado, pro se.

S T A T E M E N T

By the Commission:

This is an application by The Colorado and Southern Railway Company for an order authorizing the abandonment of its agency at Eastonville in El Paso County, Colorado. The contention of the Railroad Company is that the business done at and through said station is so limited that it is unreasonable to require the carrier longer to maintain the agency. Eastonville is a small village with a population of some twenty-five people and is situated on the Falcon branch line of the applicant about sixty-four miles south of Denver. The discontinuance of the station agency service would save the railroad approximately $1,700 per year. The total revenue from both carload and less than carload traffic originating at or destined to Eastonville amounted in the year 1930 to $7,822.79. The greater part of this was on carload tariff.

The only person who appeared to protest testified that the only time an agent is needed is in the fall when livestock are being shipped out. The applicant offered to make some reasonable arrangement in reference to paying for the toll calls to the station agent at Elbert, twelve miles away, for cars when it is desired to ship a carload of freight of whatever nature. The protestant then stated that such an arrangement would be satisfactory.

The question in this case, as in others of the same kind, is

whether in view of all the facts and circumstances it is reasonable to authorize the abandonment of the agency, and this is governed largely by the question whether the inconvenience suffered by the public would be greater than the financial burden involved in maintaining the agency. We realize that the closing of this agency will result in considerable inconvenience to various shippers and we fully sympathize with their attitude in the matter, but from a consideration of all the facts as presented to the Commission, we are forced to the conclusion that applicant is entitled to the relief sought in its application, subject to certain conditions imposed.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the traveling and shipping public does not reasonably require station agency service at Eastonville, subject to compliance by the applicant with the conditions hereinafter imposed, which the Commission finds the public convenience and necessity require.

O R D E R

IT IS THEREFORE ORDERED, That The Colorado and Southern Railway Company, applicant herein, be, and it is hereby, authorized to discontinue its station agency at Eastonville, Colorado, at the close of business on April 20, 1931, subject to compliance with the conditions hereinafter imposed.

IT IS FURTHER ORDERED, That the said applicant be required to make arrangements by which shippers of carload lots of freight may, at the expense of the applicant, make one call to the agent at Elbert, for the purpose of placing an order for a car, and the applicant will telephone at its expense to such telephone in the Eastonville district as may be designated by the one ordering the car, advising the shipper when said car will be ready for loading at Eastonville.

IT IS FURTHER ORDERED, That some reasonable arrangements shall be made whereby some resident of Eastonville, if he or she will consent, will act as custodian of the key to the station for the benefit of shippers in

order that freight may be left therein by shippers and the Railroad Company for consignees, and that the applicant shall provide a proper box or receptacle where written orders for cars and shipping instructions may be left.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 24th day of March, 1931.

(Decision No. 3299)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - - -

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY FOR AUTHORITY TO CLOSE STATION AT PRING, COLORADO.

APPLICATION NO. 1770

- - - - - - - - -

March 25, 1931.

- - - - - - - - -

Appearances: Earl H. Ellis, Esq., Denver, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by The Atchison, Topeka and Santa Fe Railway Company for authority to abandon its station agency at Pring, El Paso County, Colorado. No protests were filed and no person appeared at the hearing in opposition to the application.

There are no buildings of any kind at or near the station except those owned by the applicant. The total business originating at the station in the year 1930 amounted to only $1,550. There was practically no incoming business during said year. The expense of maintaining the agency is some $5,000 per annum. The station is situated only three miles from Monument where a station agency is maintained.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to the applicant to abandon its station agency at the station of Pring, El Paso County, Colorado, effective April 20,1931.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby,

granted to the applicant to abandon its station agency at the station of Pring, El Paso County, Colorado, effective April 20,1951.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 25th day of March, 1951.

(Decision No. 3500)

At a General Session of the Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, March 27, 1931.

INVESTIGATION AND SUSPENSION DOCKET NO. 155

Re: Discontinuance of agent and station agency at Falcon by CRI&P Ry. Company.

IT APPEARING, That The Chicago, Rock Island and Pacific Railway Company filed with the Commission on March 5, 1931, a petition requesting authority to discontinue its agent and station agency at Falcon, Colorado and thereafter substitute a caretaker in lieu of the agent on and after the 6th day of April, 1931, on the ground that the agency is not justified by the amount of business, and

IT APPEARING FURTHER, That on March 25, 1931, a petition signed by Carl J.Newman and seventy-six other residents of Falcon and surrounding country, protesting the closing of the agency at Falcon by said railroad company was filed with the Commission. It is alleged that the railroad service at this station has already been greatly curtailed by the closing of The Colorado and Southern Railway Company's service and further reduction of service is protested because of the detriment to the community;

IT IS THEREFORE ORDERED, That the proposed date of the aforesaid discontinuance of agency service at Falcon, Colorado, by the said Chicago, Rock Island and Pacific Railway Company be suspended one hundred twenty days from April 6, 1931, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That said discontinuance of agency service appearing to be injuriously affecting the rights and interests of the patrons of the railway company at the aforesaid place and others that might be concerned, that same be made a subject of investigation and determination by the Commission within said period of suspension or within such further time as the same may be suspended.

IT IS FURTHER ORDERED, That the matter be set down for hearing at the school house at Falcon, Colorado, at 10:30 A.M. on Wednesday, April 22,1951.

IT IS FURTHER ORDERED, That a copy of this order be filed with the petition for discontinuance of said service and copies hereof be forthwith served on said The Chicago, Rock Island and Pacific Railway Company, the petitioner, and Carl J.Newman, Falcon, Colorado, for notice to the other protestants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 27th day of March, 1951.

(Decision No. 3301)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE BOARD OF COUNTY COMMISSIONERS OF ROUTT COUNTY, AND THE STATE HIGHWAY DEPARTMENT OF THE STATE OF COLORADO FOR THE OPENING OF A PUBLIC HIGHWAY CROSSING OVER THE RIGHT-OF-WAY AND WYE TRACK OF THE DENVER AND SALT LAKE RAILWAY COMPANY IN SECTION 30, TOWNSHIP 4 NORTH, OF RANGE 85 WEST, OF THE SIXTH P. M. IN ROUTT COUNTY, COLORADO.	APPLICATION NO. 1762

March 25, 1931.

Appearances: Tom Pollock, Assistant Attorney General for State Highway Department;
A. M. Gooding, County Attorney of Steamboat Springs for County Commissioners;
Elmer L. Brock, Attorney for The Denver and Salt Lake Railway Company.

S T A T E M E N T

By the Commission:

This proceeding arises out of the application of the Board of County Commissioners of Routt County, and the State Highway Department of the State of Colorado, filed with the Commission on February 18, 1931, in compliance with Section 29 of the Public Utilities Act, as amended April 16, 1917, for the opening and establishment of a public highway crossing, at grade, over the right-of-way and wye track of The Denver and Salt Lake Railway Company at a point in Section 30, Township 4 North, Range 85 West, of the 6th Principal Meridian in Routt County, Colorado, where the proposed new state highway crosses said wye track as shown in State Highway Department plans of proposed highway designated herein as Exhibit No. 1.

The application alleges that said crossing is necessary in the

construction of the new state highway between Sidney and Oak Creek in Routt County and to avoid the dangerous alignment it would be necessary to use in going around the end of the said wye track.

A copy of the application was duly served on the respondent, The Denver and Salt Lake Railway Company. On February 24, 1931, said respondent through its attorney filed an answer thereto alleging inter alia, that said crossing is not necessary; that the crossing as proposed creates a hazard "in connection with possible derailments of trains moving over the switch;" that it would practically destroy the utility of the stem of the wye for purposes of storage, and would interfere with the use of said wye in the turning of trains.

The Commission, therefore, set the case down for hearing at its Hearing Room, State Office Building, Denver, Colorado, at 2:00 P.M. on March 20, 1931, at which time and place the matter was duly heard by Commissioners Allen and Wheeler.

The applicant's witnesses, the engineer of this Commission, an engineer of the State Highway Department, the Chairman of the Board of County Commissioners of Routt County, and Dr. E.L. Morrow of Oak Creek, Colorado, gave testimony purporting to show that:

(a) The only practicable route for the highway is in the Oak Creek valley at the foot of some steep hills on the east side of the valley.

(b) That it is necessary to cross the wye track as proposed in order to avoid the additional distance of about 500 feet in going around the end of the wye track which extends up a draw running at right angles to the valley and highway, and to avoid four dangerous sharp curves which would exist were the highway constructed up the draw.

(c) That the proposed crossing will be between the frog and switch points of the wye track switch and clear of these vital points of the switch.

(d) That the wye track has not been used for turning engines for several years, and at present is being used for the storage of little used

wooden coal cars placed there when the Highway Department attempted to install the crossing; and that so far as had been observed only a few cars had heretofore been stored on the lower end of the legs of the wye, these being principally work cars of the railroad company.

(e) That the proposed crossing would present little interference with storage of cars or the use of the wye to turn engines.

The testimony of A. L. Johnson, respondent's General Superintendent, was to the effect that the proposed crossing would create a hazard in the operation of turning movements over the wye and would decrease the storage capacity of the tracks at this place; that while little use has been made of the wye for turning operations in recent years yet if business should increase on the railroad there might be use of the track for this purpose in the future; that both the legs and stem of the wye had been in more or less general use for the storage of cars. The respondent's General Superintendent testified also that the crossing would be dangerous on account of grade in approaches, ordinary train movements, and the possibility of cars stored on the stem of the wye getting away and running down grade to the crossing.

Mr. Johnson further testified that the points of the switch would be in the traveled portion of the highway and that loose gravel and dirt working in around the points would prevent their movement. On the other hand, the testimony for the applicants indicated that these points would be some fifteen feet from the traveled portion of the highway and that the frog of the switch would be about ten feet therefrom. The traveled portion of the highway is to be eighteen feet in width running in the center of the right-of-way.

Mr. Johnson further testified that even if a derail switch were installed east of the crossing the momentum of any cars getting loose on the stem would carry them to and across the highway.

The evidence showed that if the highway were constructed up and around the stem of the wye, either there would be two very sharp curves where the highway on both sides of the wye would make its two turns east or

that a large amount of money would have to be spent in cutting back the hills around which these curves extend. It is obvious that unless the hills were cut back a substantial distance, the vision of motorists traveling on the highway would be seriously restricted. Moreover, sharp curves are invariably conducive to accidents resulting from the speed at which motorists travel these days.

Admitting all that Mr. Johnson testified with respect to the use of the wye and stem for storage purposes, it is still apparent that the use has not been very extensive in recent years. It is unfortunate to authorize the installation of any highway grade crossings. However, in a few cases, particularly across tracks that are not frequently used, the expense and other objectionable features of an alternative course more than outweigh the disadvantages of a crossing.

The evidence showed that the highway extending from Oak Creek to Sidney when relocated will not include two grade crossings across the respondent's main line, which heretofore have been a part of the highway. The evidence further showed that one of the crossings probably will be totally abandoned and closed and that the other, if left open, will be used only by some four or five families living in the country thereabouts. Without at this time attempting to make any final decision with respect to the crossing which the Chairman of the County Commissioners testified probably would be abandoned, we may say that we consider the same very dangerous and that all reasonable steps should be taken for its complete abandonment.

So far as the danger arising from cars getting away and running wild down the stem of the wye is concerned, we are of the opinion that the danger can be largely eliminated by placing the most westernmost car on the stem near the derail switch and any other car or cars east thereof near the one at the switch. In this way the car at the switch could not obtain enough momentum to run into the highway. Its first movement would be into the derail switch.

The evidence with respect to the highway approaching the wye at grade is not very definite but indicated that the grade would not be so pronounced as to be objectionable.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the opening and establishment of a highway crossing at grade over and across the right-of-way and wye track of The Denver and Salt Lake Railway Company at a point on the line where the new state highway that is being constructed, as shown in Exhibit No. 1, crosses the stem switch of said wye track located in Section 30, Township 4 North, Range 85 West, of the Sixth Principal Meridian in Routt County, Colorado, subject to the conditions and requirements hereinafter imposed which, in the opinion of the Commission, public convenience and necessity require.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the opening and establishment of a highway crossing at grade over and across the right-of-way and wye track of The Denver and Salt Lake Railway Company at a point on the line where the new state highway that is being constructed, as shown in Exhibit No. 1, crosses the stem switch of said wye track located in Section 30, Township 4 North, Range 85 West, of the Sixth Principal Meridian in Routt County, Colorado, subject to the conditions and requirements hereinafter made and imposed.

IT IS FURTHER ORDERED, 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 center line of said highway as the same extends across the right-of-way of the respondent shall pass over said switch at a point at least eighteen feet east of the point of the switch frog and at least nineteen feet from the points of the switch.

IT IS FURTHER ORDERED, That the expense for the construction and maintenance of the highway up to the track at the new crossing including drainage therefor shall be borne by the County of Routt or the State of Colorado, as agreed upon by the parties concerned, and the expense of the installation and maintenance of the crossing, including the crossing planks and signs, shall be borne by the respondent, The Denver and Salt Lake Railway Company.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of March, 1931.

(Decision No. 3302)

At a General Session of The Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, on the 28th day of March, 1931.

INVESTIGATION AND SUSPENSION DOCKET NO. 154

IT APPEARING, That the Cascade Public Service Company, Cascade, Colorado, filed with the Commission on February 20, 1931, a proposed original water rate schedule for the water plant operated by said company to be effective April 1, 1931, and

IT APPEARING FURTHER, That on March 28, 1931, letters were received from Mrs. Clara B. Beggs and Mrs. Zelpha I. Hewitt, customers of aforesaid water company, protesting the proposed water rates as being unreasonable and excessive. Also protests have been received from B. J. Taggart and Mack Dusenbury.

IT IS THEREFORE ORDERED, That proposed effective date of the aforesaid water rate schedule of the Cascade Public Service Company be suspended for one hundred and twenty days from April 1, 1931, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That said proposed water rate schedule appearing to be injuriously affecting the rights and interests of the customers of the water plant of the Cascade Public Service Company at the aforesaid place, that the same be made a subject of investigation and determination by the Commission within said period of suspension or within such further time as said schedule may be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the proposed water rate schedule of said company, and copies hereof be forthwith served on said respondent, the Cascade Public Service Company of Cascade, Colorado, and Mrs. Clara B. Beggs, 836 East Seventeenth Avenue, Denver, Colorado, Mrs. Zelpha I. Hewitt, Mack Dusenbury, B. J. Taggart, Mr. and Mrs. M. V. Gawthrop,

agents, Cascade, Colorado, and Elrick C. Cole, Great Bend, Kansas.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of March, 1931.

(Decision No. 3303)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF M. B. BENNETT, DOING BUSINESS UNDER THE NAME AND STYLE OF BENNETT'S TRANSFER AND STORAGE, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1266

March 28, 1931

Appearances: J. Edgar Chenoweth, Esq., Trinidad, Colorado, attorney for applicant;
Robert B. Charlton and J. P. Logan, Esqs., Denver, Colorado, for The Colorado Transfer & Warehousemen's Association;
J. Q. Dier, Esq., and G. H. Logan, Esq., Denver, Colorado, attorneys for The Colorado & Southern Railway Company.

S T A T E M E N T

By the Commission:

On September 27, 1929 the Commission issued an order in the above application authorizing the transportation of freight within the City of Trinidad only, to the above named applicant. Thereafter on the Commission's own motion, the matter was re-opened for the purpose of determining whether or not applicant's original application was broad enough to include interstate operations between points within a radius of 225 miles of the City of Trinidad, and same was set down for hearing.

At the hearing the attorneys for protestants offered to withdraw all objections to the granting of an interstate certificate to applicant, provided he would keep on file a tariff of rates identical with that of The Colorado Transfer & Warehousemen's Association. This offer was accepted by the attorney for applicant.

Under these circumstances and upon the record as made and without committing the Commission to the reasonableness of the tariff of rates to be

filed, the Commission is of the opinion, and so finds, that the Constitution of the United States and the laws of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the transportation of freight generally in an irregular transfer business in interstate commerce only, between points within a radius of 225 miles of the City of Trinidad, subject to the condition hereinafter imposed pursuant to stipulation of the parties hereto.

O R D E R

IT IS THEREFORE ORDERED, That the Constitution of the United States and the laws of the State of Colorado require the issuance to applicant, M. B. Bennett, doing business under the name and style of the Bennett's Transfer and Storage, of a certificate of public convenience and necessity, authorizing the transportation of freight generally in an irregular transfer business, in interstate commerce only, between points within a radius of 225 miles of the City of Trinidad, subject to the condition hereinafter imposed pursuant to the stipulation of the parties hereto.

IT IS FURTHER ORDERED, That pursuant to stipulation made by the parties hereto, the applicant shall keep on file a tariff of rates identical with that of The Colorado Transfer and Warehousemen's Association.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado,
this 28th day of March, 1931.

(Decision No. 3304)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF P. P. RUNKLE And L. E. RUNKLE FOR AUTHORITY TO THE FORMER TO TRANSFER TO THE LATTER THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	)	APPLICATION NO. 948-A

March 28, 1931.

Appearances: George H. Wilkes, Esq., Florence, Colorado, attorney for applicants;
T. A. White, Esq., Denver, Colorado, attorney for The Denver and Rio Grande Western Railroad Company.

S T A T E M E N T

By the Commission:

This is an application by P. P. Runkle and L. E. Runkle for authority to the former to transfer to the latter the certificate of public convenience and necessity heretofore issued to the former. The original certificate issued herein contained a condition that the same should not be assignable. However, no protest against the assignment has been made. The certificate authorized the transportation of freight between Pueblo and Portland and Concrete, as well as Florence. No other motor vehicle operators are serving Portland and Concrete.

The evidence showed that the present holder of the certificate is on his deathbed and that his son L. E. Runkle is responsible financially and as a motor vehicle operator, he having conducted the operations for a considerable time for his father.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the condition imposed in the original certificate should be waived and that authority should be granted to P. P. Runkle to transfer to L. E. Runkle the certificate of public convenience

and necessity heretofore issued to the former.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to P. P. Runkle to transfer to L. E. Runkle the certificate of public convenience and necessity heretofore issued to the former.

IT IS FURTHER ORDERED, That L. E. Runkle assume and pay all indebtedness which may have arisen out of the operations carried on under the said certificate.

IT IS FURTHER ORDERED, That the tariff of rates and rules and regulations of P. P. Runkle now on file with the Commission become and remain those of L. E. Runkle until such time as they may be changed according to law and the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of March, 1931.

(Decision No. 5305)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

- - - -

RE MOTOR VEHICLE OPERATIONS)
OF M. I. CHUBBUCK.) CASE NO. 605

- - - - - - - - - - - - - - - -

- - - - - - - - -
March 28, 1931.
- - - - - - - - -

Appearances: Thomas F. Dillon, Denver, Colorado,
for Public Utilities Commission
of the State of Colorado.

S T A T E M E N T

By the Commission:

The Commission made an order on its own motion, instituting an investigation for the purpose of determining whether or not the respondent, M. I. Chubbuck, is operating as a motor vehicle carrier without a certificate of public convenience and necessity, and whether the Commission should make an order requiring him to cease and desist from operating as such carrier in the event the evidence should warrant.

The matter came on for hearing at the hearing room of the Commission on March 25. A copy of said order made by the Commission on March 9, 1931, was on that day mailed to the respondent. A return registered receipt signed by Mr. Chubbuck on March 10, now on file with the Commission, shows that respondent had due notice of the hearing.

The evidence showed that the respondent is, and has been engaged in miscellaneous hauling of livestock for the public from the vicinity of Arriba to Denver, and that he has been engaged in hauling freight for the public from point to point in the Arriba region.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the respondent is, and has been operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without having procured a certificate of public convenience and necessity.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Dated at Denver, Colorado,
this 28th day of March, 1951.

(Decision No. 3306)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS)
OF HARLEY HOLLISTER.) CASE NO. 606

March 28, 1951.

Appearances: Thomas F. Dillon, Denver, Colorado,
for Public Utilities Commission
of the State of Colorado.

S T A T E M E N T

By the Commission:

The Commission made an order on its own motion, instituting an investigation for the purpose of determining whether or not the respondent, Harley Hollister, is operating as a motor vehicle carrier without a certificate of public convenience and necessity, and whether the Commission should make an order requiring him to cease and desist from operating as such carrier in the event the evidence should warrant.

The matter came on for hearing at the hearing room of the Commission on March 25. A copy of said order made by the Commission on March 9, 1951, was on that day mailed to the respondent. A return registered receipt dated March 10, now on file with the Commission, shows that respondent had due notice of the hearing.

The evidence showed that the respondent is, and has been engaged in miscellaneous hauling of livestock for the public from the vicinity of Arriba to Denver, and that he has been engaged in hauling freight for the public from point to point in the Arriba region.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the respondent is, and has been operating as

a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without having procured a certificate of public convenience and necessity.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of March, 1931.

(Decision No. 3307)

MAKE NO Copy

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
CHARLES JOHNSON.)

CASE NO. 607

March 28, 1931.

Appearances: Charles Johnson, Arriba, Colorado,
pro se;
Thos. F. Dillon, Denver, Colorado,
for Public Utilities Commission
of the State of Colorado.

S T A T E M E N T

By the Commission:

The Commission made an order on its own motion, instituting an investigation for the purpose of determining whether or not the respondent, Charles Johnson, is operating as a motor vehicle carrier without a certificate of public convenience and necessity, and whether the Commission should make an order requiring him to cease and desist from operating as such carrier in the event the evidence should warrant.

The matter came on for hearing at the hearing room of the Commission on March 25. A copy of said order made by the Commission on March 9, 1931, was on that day mailed to the respondent.

The evidence showed that the respondent is, and has been engaged in miscellaneous hauling of livestock for the public from the vicinity of Arriba to Denver, and that he has been engaged in hauling freight for the public from point to point in the Arriba region.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the respondent is, and has been operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without having procured a certificate of

public convenience and necessity.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of March, 1931.

(Decision No. 5306)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
F. W. HAMILTON.)

CASE NO. 610

April 1, 1931.

S T A T E M E N T

By the Commission:

On complaint filed upon the Commission's own motion, the respondent, F. W. Hamilton, was charged with failure to pay the fee required by law for the issuance of a certificate of public convenience and necessity.

The testimony shows that a copy of the order was served upon respondent by registered mail, that he failed to file an answer to the complaint, and that he has failed to pay said fee.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity issued to the respondent herein in Application No. 1522 be, and the same is hereby, revoked and cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of April, 1931.

(Decision No. 3309)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
E. CORY, DOING BUSINESS AS COLO-) CASE NO. 611
MEX TRANSPORTATION COMPANY.)

April 1, 1931.

Appearances: T. A. White, Esq., Denver, Colorado,
for Rio Grande Motor Way, Inc.;
Colin A. Smith, Esq., Denver, Colorado,
Assistant Attorney General.

S T A T E M E N T

By the Commission:

The Commission issued its order requiring the respondent herein to show cause why it should not be required to cease and desist from operating as a motor vehicle carrier in the transportation of passengers intrastate within the State of Colorado unless and until he procured a certificate of public convenience and necessity as required by law.

At the time of the hearing, neither the respondent nor anyone in his behalf appeared. Our attention was directed to, and we have taken judicial notice of, Application No. 1769, which was verified by the respondent, E. Cory, on February 14, 1931, and filed with this Commission on February 25, 1931. In that application the respondent alleged that he is now engaged in: " * * bus service between Walsenburg, Colorado, Taos, New Mexico, and Alamosa, Colorado, via Fort Garland and Taos, New Mexico, a return daily trip between these points and intermediate points"; that "there is no transportation except the petitioner now operating a daily round trip service between the above points"; that "petitioner now has in service in this passenger transportation the following equipment * * "; and that "petitioner is now making a round trip daily between said points."

Two witnesses who had recently ridden in respondent's automobiles on intrastate trips testified to that fact and introduced in evidence

written receipts for the fare paid by them. A third witness who lives in Alamosa testified that he had seen people get on and off the cars of respondent at Alamosa and had seen them purchase tickets. A placard of respondent's schedule, which was introduced in evidence, listed several intrastate stations. Testimony was submitted which showed that respondent's transportation facilities were generally available to the public for intrastate transportation.

The record before us clearly shows, and we hereby find, that respondent is engaged in operating as a motor vehicle carrier between points within the State of Colorado without a certificate of public convenience and necessity.

O R D E R

IT IS THEREFORE ORDERED, That the above named respondent forthwith cease and desist from operating as a motor vehicle carrier in the intrastate transportation of passengers within the State of Colorado unless and until he procures a certificate of public convenience and necessity therefor.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of April, 1931.

(Decision No. 3529)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION)
OF THE PUBLIC SERVICE COMPANY OF) APPLICATION NO. 1779
COLORADO FOR CERTIFICATE OF PUB-)
LIC CONVENIENCE AND NECESSITY.)

April 1, 1931

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

S T A T E M E N T

By the Commission:

The Public Service Company of Colorado seeks a certificate of public convenience and necessity authorizing the construction of a distribution system for the distribution and sale of gas in the Town of Fort Lupton, Colorado, and the exercise of certain franchise rights and privileges granted by ordinance passed by said town. No protest has been filed against the application.

No utility heretofore has been engaged in distributing gas of any kind in said town. The applicant proposes to distribute gas to be purchased by it from the Colorado-Wyoming Gas Company, a corporation engaged in selling gas in wholesale quantities and delivering the same at the town or city limits of towns and cities in northern Colorado.

The capital investment of the applicant in said distribution system ultimately will be $10,800. However, this figure shall not be binding upon the Commission in any case in which it may have the duty of passing upon or determining the reasonableness of rates to be charged the utility's customers.

The franchise rights granted to the applicant by Ordinance No. 164, passed by the Board of Trustees of the Town of Fort Lupton and approved by the Mayor thereof on the 4th day of March, 1931, are to continue in effect for a period of twenty years. The franchise authorizes the distri-

bution of artificial gas in the event the supply of natural gas should fail. Authority is granted also to construct a plant or plants and works for the manufacture and generation of artificial gas. The ordinance recites that the applicant must agree to pay a fixed and unchanging price for natural gas throughout the term of twenty years. No evidence was introduced on the question of such necessity and no finding is made with respect thereto. It was taken for granted that at the present time the applicant has no desire to construct any plant for the manufacture of artificial gas. There was, therefore, no evidence introduced on the subject.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity requires the construction and operation by the applicant of a distribution system in the Town of Fort Lupton for the distribution therein of gas, and the exercise of the franchise rights granted in said Ordinance No. 164, passed by the Board of Trustees of the Town of Fort Lupton and approved by the Mayor thereof, except the right to construct a plant or plants and/or works.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity requires the construction and operation by the applicant of a distribution system in the Town of Fort Lupton for the distribution therein of gas, and the exercise of the franchise rights granted in said Ordinance No. 164, passed by the Board of Trustees of the Town of Fort Lupton and approved by the Mayor thereof, except the right to construct a plant or plants and/or works, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That authority to exercise the franchise rights granted to construct a plant or plants and/or works be, and the same is hereby, denied at this time, with leave to the applicant to ask for

further hearing with respect thereto at any time in the future during the twenty year period in question.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of April, 1931.

410

(Decision No. 3311)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF H. L. SLOAN FOR AUTHORITY TO TRANSFER A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PERRY LYON AND CARL THOMPSON, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF LYON AND THOMPSON.	)	APPLICATION NO. 1156-A

April 2, 1931.

Appearances: W. W. Gaunt, Esq., Brighton, Colorado, attorney for applicants;
Louis W. Burford, Esq., Denver, Colorado, attorney for Virgil F. Vance, protestant.

STATEMENT

By the Commission:

This is an application by H. L. Sloan, Perry Lyon and Carl Thompson for authority to transfer to said Lyon and Thompson, co-partners, doing business as Lyon and Thompson, the certificate of public convenience and necessity heretofore granted by this Commission to said Sloan.

The application was protested by Virgil F. Vance, who is authorized to serve Prospect, a point within the territory served by Sloan. The ground of Vance's protest is that Sloan has forfeited his certificate, so far as it authorizes service of Prospect, by abandonment and discontinuance of service for a period of more than five days in violation of Rule 21 of the Rules and Regulations Governing Motor Vehicle Operators promulgated by the Commission. Vance alleged in his protest that Sloan has not served the Prospect vicinity on the average of more than once a month since the issuance of his certificate.

The evidence showed that the two applicants, Lyon and Thompson, are responsible financially and will make capable truck operators. The Commission is of the opinion that there was no substantial evidence introduced in support of Vance's protest. The evidence showed also that Sloan is in

contact with his customers in Prospect by telephone and that he carries promptly to Prospect all freight left at his dock in Denver and picks up at wholesale and jobbing houses other freight destined to Prospect; that when his customers in Prospect and vicinity desire any freight transported to Denver, they reach him by telephone; and that his service generally to Prospect customers has been expeditious.

The evidence further showed that the only debts owed by the applicant Sloan which arose out of his operations under the certificate or in connection with the procurement of the same are two balances of thirty and twenty dollars each, due to two attorneys who rendered services for the applicant Sloan in connection with the filing of and hearing on his application. It was agreed at the hearing that part of the purchase price to be paid for the certificate be paid direct to said attorneys.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that authority should be granted to H. L. Sloan to transfer the certificate of public convenience and necessity heretofore issued to him by this Commission to Perry Lyon and Carl Thompson, doing business under the firm name and style of Lyon and Thompson, subject to the condition hereinafter stated.

O R D E R

IT IS THEREFORE ORDERED, That authority should be granted to H. L. Sloan to transfer the certificate of public convenience and necessity heretofore issued to him by this Commission to Perry Lyon and Carl Thompson, doing business under the firm name and style of Lyon and Thompson, subject to the condition hereinafter stated, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That before said certificate is assigned, the applicants shall cause to be paid two debts amounting to $50.00 which were created in connection with the applicant Sloan's certificate.

IT IS FURTHER ORDERED, That the tariff of rates and rules and regulations heretofore filed with the Commission by said Sloan shall become and remain those of the said assignees until such time as the same shall

shall be changed according to law and the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 2nd day of April, 1931.

(Decision No.3312)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
E. W. CRIM.) CASE NO. 614

April 4, 1931

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

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

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why it should not enter an order requiring him to cease and desist from operating as a motor vehicle carrier unless and until he procures

a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 20th day of April, 1931, at 2 P.M. o'clock thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of April, 1931.

(Decision No. 3515)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF)
L. J. WERNZ.) CASE NO. 615

April 4, 1931.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

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

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 20th day of April, 1931, at 2 P.M. o'clock thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of April, 1931.

(Decision No. 3314)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
DAVID KIMBLE.) CASE NO. 616

April 4, 1931

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

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

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

desist from operating as a motor vehicle carrier unless and until he procures a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 20th day of April, 1931, at 2 P.M. o'clock thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of April, 1931.

(Decision No. 3515)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RE MOTOR VEHICLE OPERATIONS OF ROY D. KIMBLE.	)	CASE NO. 617

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April 4, 1951.

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S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

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

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 505 State Office Building, Denver, Colorado, on the 20th day of April, 1931, at 2 P.M. o'clock thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of April, 1931.

(Decision No. 3516)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RE MOTOR VEHICLE OPERATIONS OF)
RALPH E. KIMBLE.) CASE NO. 618

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April 4, 1931.

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S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 154, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

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

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

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 20th day of April, 1951, at 2 P.M. o'clock thereof, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of April, 1951.

(Decision No. 3317)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RE MOTOR VEHICLE OPERATIONS OF)
D. G. PARSONS.) CASE NO. 619

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April 4, 1931.
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S T A T E M E N T

By the Commission:

WHEREAS, on or about September 25, 1930, in Application No. 1246, the Commission issued a certificate of public convenience and necessity to the above named respondent; and

WHEREAS, the records of this Commission show that said respondent has failed to pay the fee prescribed by statute and the rules and regulations of this Commission to be paid for such certificate; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said certificate of public convenience and necessity should therefore be revoked and cancelled.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not the certificate of public convenience and necessity issued to the above named respondent in Application No. 1246 should be revoked and cancelled.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why the Commission should not enter an order revoking and cancelling said certificate for his failure to pay the fee required to be paid by statute and the rules and regulations of this Commission.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on April 20, 1931, at 2 P.M. o'clock, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of April, 1931.

(Decision No. 5518)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RE MOTOR VEHICLE OPERATIONS OF)
H. S. LEACH,) CASE NO. 620

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April 4, 1931.
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S T A T E M E N T

By the Commission:

WHEREAS, on or about August 18, 1930, in Application No.986, the Commission issued to S. L. Leach a certificate of public convenience and necessity which has since been transferred to the above named respondent; and

WHEREAS, the records of this Commission show that the fee prescribed by statute and the rules and regulations of this Commission to be paid for such certificate has not been paid; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said certificate of public convenience and necessity should, therefore, be revoked and cancelled.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not the certificate of public convenience and necessity issued to the above named respondent in Application No. 986 should be revoked and cancelled.

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

cancelling said certificate for his failure to pay the fee required to be paid by statute and the rules and regulations of this Commission.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 505 State Office Building, Denver, Colorado, on April 20th, 1951, at 2 P.M. o'clock, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
4th day of April, 1951.

Case 621
Delony

(Decision No. 3519)

Before the Public Utilities Commission
of the State of Colorado

* * *

RE MOTOR VEHICLE OPERATIONS OF)
DEAN H. COX.)

CASE NO. 621

April 4, 1931

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

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

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from the date hereof, why it should not enter an order requiring him to cease and desist from operating as a motor vehicle carrier unless and until he procures

a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 20th day of April, 1931, at 2 P.M. o'clock thereof, at which time and place such evidense may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 4th day of April, 1931.

(Decision No. 3320)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE DISCONTINUANCE OF TRAIN SERVICE)
BETWEEN ELBERT AND FALCON BY THE) I. & S. DOCKET NO. 136
COLORADO & SOUTHERN RAILWAY COMPANY.)

April 7, 1931

S T A T E M E N T

By the Commission:

On May 10, 1930 The Colorado and Southern Railway Company filed a petition with the Commission, giving notice of the Company's intention to discontinue its train service of one scheduled mixed train per day each direction between Elbert and Falcon, Colorado, and substitute therefor an irregular train service of non-scheduled trains to be run between said places as may be necessary when there is an aggregate of at least five cars to be moved, both directions included.

On June 4, 1930, the Commission issued an order suspending the date of discontinuance of said train service for investigation and determination on the protest of patrons of the Company.

On September 8, 1930 a stipulation was filed signed by the attorney for The Colorado and Southern Railway Company and by an atterney representing the protestants, providing for the operation of one round trip freight train service per week to be made on Saturday, and for other freight train service where it might be required for five carloads or more of live stock on proper notice, and an order was issued in accordance with the statements of said stipulation.

It later developed that a misunderstanding existed on the part of a number of protestants as to the terms and conditions of said stipulation and the matter was reopened and set down for further hearing in the Hearing Room of the Commission in Denver on March 23, 1931.

At said hearing, the decision of the Commission was held in abeyance pending a further conference between the representatives of applicant and the protestants.

A new stipulation has been now filed signed by all the interested parties through their representatives.

The terms and conditions of said new stipulation provide, inter alia, as follows:

"1. The weekly round freight train trip, provided for in said order of September 10, 1930, shall be made on Sunday of each week instead of Saturday.

"2. In addition to said regular weekly Sunday trip, the Railway Company shall also run its Denver-Elbert train through to Eastonville or to Falcon, and return (as may be necessary to accomplish the transportation desired) on any other day or days upon which there are two or more car loads of livestock, in the aggregate, counting both Eastonville and Falcon, to be moved on such train, in either direction south of Elbert; providing, the party or parties interested shall give to any Station Agent of the Railway Company, or its chief dispatcher in Denver, twenty-four hours notice of the making of such two-car shipment of livestock, and request such special trip therefor. The Railway Company shall stand the expense of one telephone call for the purpose of giving such notice of a two-car shipment.

"3. The trains provided for in this Stipulation shall be so operated as on the present schedule, viz., to arrive at Eastonville about 10:30 A. M. and at Falcon about 11:00 A.M."

After careful consideration of the terms and conditions of said stipulation, the Commission is of the opinion that the same is fair and reasonable and hereby approves the same.

O R D E R

IT IS THEREFORE ORDERED, That the order entered September 10, 1930, be, and the same is hereby, modified as follows:

1. The weekly round freight train trip, provided for in said order of September 10, 1930, shall be made on Sunday of each week instead of Saturday.

2. In addition to said regular Sunday trip, the Railway Company shall also run its Denver-Elbert train through to Eastonville or to Falcon, and return (as may be necessary to accomplish the transportation desired) on any other day or days upon which there are two or more carloads of livestock, in the aggregate, counting both Eastonville and Falcon, to be moved on such train, in either direction south of Elbert; providing, the party or parties interested shall give to any Station Agent of the Railway Company, or its chief dispatcher in Denver, twenty-four hours notice of the making of such two-car shipment of livestock, and request such special trip therefor. The Railway Company shall stand the expense of one telephone call for the purpose of giving such notice of a two-car shipment.

3. The trains provided for in this stipulation shall be so operated as on the present schedule, viz., to arrive at Eastonville about 10:30 A.M. and at Falcon about 11:00 A.M.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 7th day of April, 1931.

(Decision No. 3321)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * * *

IN THE MATTER OF THE APPLICATION OF H. F. DENIO AND ANITA D. KARR, CO-PARTNERS, DOING BUSINESS AS A. W. KARR & COMPANY, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1761

April 8, 1951.

Appearances: E. H. Houtchens, Esq., Greeley, Colorado, attorney for applicants.

S T A T E M E N T

By the Commission:

This is an application by H. F. Denio and Anita D. Karr, co-partners, doing business as A. W. Karr & Company, for certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of milk from points along the routes hereinafter described to La Salle and Denver, Colorado. He seeks authority also to haul other farm products from points along said route to the local markets, including Galeton, Eaton and Greeley.

The route in question begins at Greeley, Colorado, and runs north to the town of Eaton, thence 5 miles east, thence 5 miles north, thence 9 miles east, thence back along said route 1 mile west, thence 4 miles south, thence 2 miles west, thence 2 miles south, thence 1 mile west, thence 2½ miles south, thence 3 miles west, thence 1/2 mile south, thence along the Gill-Greeley highway to the City of Greeley.

For a number of years the applicants have been hauling milk from farmers on said route to the milk depot of the Windsor Farm Dairy in La Salle. They do not seek authority to haul milk destined to any other creameries.

While up to the present time they have delivered their milk in La Salle, it may be that at any time in the future they will be required by the consignee of the milk to bring the same to Denver.

The milk operation is to be regular and on schedule. The operation for the transportation of other farm products is to be irregular and on call and demand.

No protests were filed against the application.

While it is rather unusual for a common carrier to accept freight destined to one consignee only, the evidence indicates that the volume of milk consigned to said Windsor Farm Dairy is quite substantial and that probably the applicants could not adequately serve farmers shipping to other dairies. Of course, if in the future the public convenience and necessity is shown to require the services on the route of some other applicant for the transportation of milk to other dairies, the Commission will be governed accordingly.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity require the motor vehicle operation of the applicants for the transportation of milk from points along the route in question to Windsor Farm Dairy in La Salle and in Denver, subject to the condition hereinafter stated, which, in the opinion of the Commission, the public convenience and necessity require.

The Commission further finds that the public convenience and necessity require the motor vehicle operation of the applicants for the transportation of other farm products along the route in question to other local markets, including Galeton, Eaton and Greeley.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the motor vehicle operation of the applicants for the transportation of milk from points along the route in question to Windsor Farm Dairy in

La Salle and in Denver, Colorado, subject to the condition hereinafter stated, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity require the motor vehicle operation of the applicants for the transportation of farm products along the route in question to other local markets, including Galeton, Eaton and Greeley, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That if and when the applicants begin hauling milk to Denver they shall promptly notify the Commission in writing thereof.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
8th day of April, 1931.

(Decision No. 3382)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
J. M. JOHNSTON FOR A CERTIFICATE OF) APPLICATION NO. 1763
PUBLIC CONVENIENCE AND NECESSITY.)

April 8, 1931.

Appearances: E. H. Houtchens, Esq., Greeley, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by J. M. Johnston for a certificate of public convenience and necessity authorizing the operation of a motor vehicle system for the transportation of milk from points within the territory hereinafter described to the Town of La Salle and the City of Denver. The territory from which the applicant desires to transport milk is bounded substantially as follows:

> Beginning at the Town of Evans, thence 1 mile north, thence east to and along the South Platte River to the Southeast corner of Section 7, T. 4 N., R. 62W, 6th P.M., thence 3 miles south, thence in a northwesterly direction to the southwest corner of Section 17, T. 4N, R. 63W, 6th P.M., thence 1 mile west, thence 1 mile south, thence 1 mile west, thence 5 miles south, thence 11½ miles west, thence 1½ miles north, thence in a northeasterly direction to the southwest corner of Section 19, T. 5N, R. 64W, 6th P.M., thence west about 4½ miles to the Town of Evans.

The applicant seeks authority also to transport milk from farms immediately outside of and abutting on the boundaries so described.

The applicant transports the milk from the territory in question to the depot of the Windsor Farm Dairy in La Salle, where the same is cooled. He then carries said milk, or approximately the same volume thereof, to the plant of said dairy in Denver. The operation is to be regular and on schedule.

No protests were filed against the application.

While it is rather unusual for a common carrier to accept freight destined to one consignee only, the evidence indicates that the volume of milk destined to said Windsor Farm Dairy is quite substantial and that probably the applicant could not adequately serve farmers shipping to other dairies. Of course, if in the future the public convenience and necessity is shown to require the services on the route of some other applicant for the transportation of milk to other dairies, the Commission will be governed accordingly.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity require the motor vehicle operation of the applicant for the transportation of milk from points within the territory in question and from farms immediately outside of and abutting on the boundaries described, to Windsor Farm Dairy in La Salle and in Denver, Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the motor vehicle operation of the applicant for the transportation of milk from points within the territory in question and from farms immediately outside of and abutting on the boundaries described, to Windsor Farm Dairy in La Salle and in Denver, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

or to be hereafter adopted by the Commission with respect to motor vehicle carriers and also subject to any future legislative action that may be taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 8th day of April, 1931.

Commissioners.

(Decision No. 5525)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

554

* * *

IN THE MATTER OF THE APPLICATION OF TOM N. CONNELL FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

APPLICATION NO. 1765

April 8, 1931.

Appearances: Roy N. Briggs, Esq., Greeley, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by Tom N. Connell for certificate of public convenience and necessity authorizing the transportation of milk to the depots of the Windsor Farm Dairy located in both La Salle and Denver, Colorado.

The applicant desires authority to operate over three routes, one of which is situated immediately southeast and west of La Salle, the other is east and northeast of Greeley, the other is north of Greeley. The said routes are so complicated and circuitous that a legal description thereof would not only be long but rather complicated and indefinite. We have, therefore, attached to the order herein, and made a part hereof, Exhibit No. 1, introduced in evidence by the applicant, showing the said routes with respect to section lines.

For a number of years the applicant has been hauling milk from farms on said route to the milk depots of the Windsor Farm Dairy in La Salle and Denver. The operation is to be regular and on schedule.

No protests were filed against the application.

While it is rather unusual for a common carrier to accept freight destined to one consignee only, the evidence indicates that the volume of milk destined said Windsor Farm Dairy is quite substantial and that probably the applicant could not adequately serve farmers shipping to other dairies.

Of course, if in the future the public convenience and necessity is shown to require the services on the route of some other applicant for the transportation of milk to other dairies, the Commission will be governed accordingly.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity require the motor vehicle operations of the applicant for the transportation of milk to the depots of the Windsor Farm Dairy situated in La Salle and in Denver, from the farms situated on the routes shown by applicant's Exhibit No. 1, which is attached hereto and made a part hereof.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the motor vehicle operation of the applicant for the transportation of milk to the plants of the Windsor Farm Dairy situated in La Salle and in Denver from the farms situated on the routes shown by applicant's Exhibit No. 1, which is attached hereto and made a part hereof, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

taken with respect thereto.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 8th day of April, 1931.

[Decision No. 5324]

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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RE MOTOR VEHICLE OPERATIONS OF)
L. S. THIEL.) CASE NO. 628

April 9, 1951.

STATEMENT

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

ORDER

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

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

as a motor vehicle carrier unless and until he procures a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 505 State Office Building, Denver, Colorado, on the 25th day of April, 1951, at ten A.M. o'clock, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of April, 1951.

(Decision No. 5325)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF PARKER MERCANTILE COMPANY, A CORPORATION.	)))	CASE NO. 625

April 9, 1951.

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not said respondent is operating as a motor vehicle carrier as defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, without a certificate of public convenience and necessity as required by law; and

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

O R D E R

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

IT IS FURTHER ORDERED, That said respondent show cause, if any it have, by written statement filed with the Commission within ten days from the

date hereof why the Commission should not enter an order requiring it to cease and desist from operating as a motor vehicle carrier unless and until it procures a certificate of public convenience and necessity to so operate.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 505 State Office Building, Denver, Colorado, on the 25th day of April, 1951, at ten A. M. o'clock, at which time and place such evidence may be introduced and such witnesses examined as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dave S. Jones

Commissioners.

Dated at Denver, Colorado, this
9th day of April, 1951.

Case 624

MAKE NO Letters

(Decision No. 3526) Copy

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
MILLIKEN-JOHNSTOWN TRUCK LINE,) CASE NO. 624
INC., A CORPORATION.)

April 9, 1931

S T A T E M E N T

By the Commission:

WHEREAS, sufficient information has come to the attention of the Commission to justify it in instituting an investigation into the question of whether or not the respondent above named has exceeded the authority granted to it by the certificate of public convenience and necessity issued on or about January 9, 1931, in Application No. 913-A, Decision No. 3181; and

WHEREAS, the Commission is of the opinion that the public interest requires that a hearing and investigation be held for the purpose of determining whether or not said respondent has violated the terms of its said certificate, and if so, whether or not said certificate should be revoked or suspended.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a hearing and investigation be held for the purpose of determining whether or not the above named respondent has violated the terms of the certificate of public convenience and necessity issued to it in Application No. 913-A, Decision No. 3181, on or about January 9, 1931.

IT IS FURTHER ORDERED, That said respondent show cause, if any it have, by written statement filed with the Commission within ten days from

the date hereof, why the Commission should not enter an order revoking or suspending the certificate of public convenience and necessity heretofore issued to said respondent.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 305 State Office Building, Denver, Colorado, on the 25th day of April, 1931, at 10:00 A.M. o'clock, at which time and place such witnesses may be examined and such evidence introduced as may be proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado,
this 9th day of April, 1931.

87

(Decision No. 3327)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

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

APPLICATION NO. 1592

April 9, 1931

S T A T E M E N T

By the Commission:

An order was made herein on December 26, 1930, denying the application herein. A petition for rehearing was filed on March 24, 1931.

After careful consideration of the petition the Commission is of the opinion, and so finds, that the said petition should be denied.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of April, 1931.

(Decision No. 3328)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION)
OF ADOLPH A. BETHKE FOR CERTIFI-)
CATE OF PUBLIC CONVENIENCE AND) APPLICATION NO. 1764
NECESSITY.)
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April 9, 1931.
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Appearances: E. H. Houtchens, Esq., Greeley, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application of Adolph A. Bethke for a certificate of public convenience and necessity authorizing transportation of milk to Greeley Creamery Company in Greeley, Colorado, from the territory bounded as follows: Beginning at the northwest corner of Section 21, Township 4, North, Range 66, West of the 6th P.M., thence east 5 miles, thence south 2 miles, thence west 5 miles, thence north 2 miles to the point of beginning, from farms abutting in said boundaries, and from farms along the following described route: Beginning at the southeast corner of Section 20, Township 4, North, Range 65, West of the 6th P.M., thence west 1 mile, thence north 5 miles, thence east 2 miles, thence north about 3¼ miles, thence west about 1½ miles, thence east about 1/2 mile, thence south about 2 miles, thence west 1 mile, thence south 1½ miles, thence west about 2 miles, thence east 1 mile, thence south about 1½ miles to the Denver-Greeley highway, a short distance southwest of the Town of La Salle.

The applicant seeks authority also to transport other farm products from farms within the territory and along the routes and boundaries hereinbefore described to the local markets, including Gilcrest, Peckham, La Salle,

Evans and Greeley.

While it is rather unusual for a common carrier to accept freight destined to one consignee only, the evidence indicates that the volume of milk consigned to said Greeley Creamery Company is quite substantial and that probably the applicant could not adequately serve farmers shipping to other dairies. Of course, if in the future the public convenience and necessity is shown to require the services in the territories and over the routes in question of some other applicant for the transportation of milk, the Commission will be governed accordingly.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the public convenience and necessity require the motor vehicle operation of the applicant for the transportation of milk from farms within the territory and on the routes and boundaries hereinbefore described to the Greeley Creamery Company in Greeley, Colorado.

The Commission further finds that the public convenience and necessity require the motor vehicle operation of the applicant for the transportation of other farm products from farms within the territory and on the routes and boundaries hereinbefore described to local markets, including Gilcrest, Peckham, La Salle, Evans and Greeley, Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the motor vehicle operation of the applicant for the transportation of milk from farms within the territories and on the routes and boundaries hereinbefore described to Greeley Creamery Company in Greeley, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That the public convenience and necessity require the motor vehicle operation of the applicant for the transportation

of other farm products from farms within the territories and on the routes and boundaries hereinbefore described to local markets, including Gilcrest, Peckham, La Salle, Evans and Greeley, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dan S. Jones

Commissioners.

Dated at Denver, Colorado, this 9th
day of April, 1931.

(Decision No. 3329)

558

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION)
OF JACK PERRY, DOING BUSINESS AS)
THE DENVER-CHEYENNE-CHAPPELL TRUCK)
LINE, FOR A CERTIFICATE OF PUBLIC) APPLICATION NO. 1756
CONVENIENCE AND NECESSITY.)

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April 9, 1951.

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Appearances: Claude W. Blake, Esq., Denver, Colorado,
attorney for applicant.

S T A T E M E N T

By the Commission:

This is an application by Jack Perry, doing business as The Denver-Cheyenne-Chappell Truck Line, for a certificate of public convenience and necessity authorizing the transportation of freight by motor vehicle over U. S. Highway No. 85 between Denver and the Colorado-Wyoming state line at a point where said highway intersects the same. The applicant is engaged in hauling freight to and from points in Wyoming and Nebraska. No authority to do intrastate business is sought.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the Constitution of the United States and the laws of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the operation of a motor truck system for the transportation of freight in interstate commerce only over U. S. Highway No. 85 between Denver and the Colorado-Wyoming state line at a point where said highway intersects the same.

O R D E R

IT IS THEREFORE ORDERED, That the Constitution of the United States

and the laws of the State of Colorado require the issuance to the applicant of a certificate of public convenience and necessity authorizing the operation of a motor truck system for the transportation of freight in interstate commerce only over U.S. Highway No. 85 between Denver and the Colorado-Wyoming state line at a point where said highway intersects the same, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this 9th
day of April, 1951.