State of Colo. PUC.

(Decision No. 6375.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
WILLIAM WOLVERTON.) CASE NO. 1574.

March 14, 1935.

S T A T E M E N T.

By the Commission:

The records of the Commission disclose that heretofore the above named respondent was issued private permit No. A-630 under the provisions of Chapter 120, Session Laws of Colorado, 1931, authorizing him to engage in the business of a private carrier by motor vehicle between Denver and Breckenridge and intermediate points, and between Denver and the Colorado-Wyoming state line and intermediate points, which said permit was extended on two or three occasions to include points as far west as Grand Junction and Gunnison.

Information has come to the Commission that the respondent, William Wolverton, doing business under the name of Wolverton Truck Line, is and has been engaged in the business of operating as a motor vehicle common carrier as that term is defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, as amended, without first having obtained a certificate of public convenience and necessity as required by law, and in violation of the permit to operate as a private carrier by motor vehicle heretofore issued to him, by holding himself out to indiscriminately serve the public as a common carrier by circulating cards, which are in words and figures as follows, to-wit:

WOLVERTON TRUCK LINE
Formerly Connell Truck Line
Office and Depot at 1817 Fifteenth Street - Denver, Colo.
Pick-up Service Night Phone: Main 1688
Leave Denver 6:00 P.M. Daily
WE MOVE YOUR FREIGHT ON TIME TO

Bailey	Avon	Glenwood Springs	Lacy
Fairplay	Edwards	New Castle	Rulison
Buena Vista	Wolcott	Silt	Grand Valley
Granite	Eagle	Antlers	Debeque
Leadville	Gypsum	Rifle	Tunnel
Red Cliff	Dotsero	Mesa	Gale
Gilman	Shoshone		Palisade
Minturn			Grand Junction

PHONES: MAIN 4962 - MAIN 6072

It has also been brought to the attention of the Commission that the respondent has violated the terms of his permit by operating between Denver and certain mines in northern Colorado and has failed to report the highway compensation tax which has accrued by virtue of certain coal hauling operations for the Goody-Courter Coal Company. The private permit heretofore issued to respondent does not authorize service to points north of Denver on U.S. Highway 285.

On account of the failure of respondent to report the coal hauled for the aforesaid coal company, the Commission did on February 13, 1934, issue a distraint warrant to collect the sum of $5470.69, highway compensation taxes due and unpaid for the period from January 1, 1934, to February 6, 1935, and now is engaged in selling five trucks of respondent to satisfy these delinquent and unreported taxes.

In view of all the facts and circumstances, the Commission is of the opinion, and so finds, that a complaint, investigation and hearing, on its own motion, should be instituted to determine whether or not the private permit heretofore issued to respondent should be revoked and cancelled, and that he be required to cease and desist from using the public highways as a private or common carrier by motor vehicle.

O R D E R.

IT IS THEREFORE ORDERED, By the Commission, on its own motion, that an investigation and hearing be entered into to determine whether or not the above named respondent, William Wolverton, is and has been engaged in the business of operating as a motor vehicle carrier without a certificate of public convenience and necessity in violation of law and the permit to operate as a private carrier by motor vehicle heretofore issued to him, and to deter-

mine whether or not respondent has served certain points not authorized by the aforesaid private permit, and has failed and refused to report the ton miles of freight transported by him, or has filed false reports which failed to show the amount of freight above referred to.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from this date, why the Commission should not enter its order requiring said respondent to cease and desist from operating as a motor vehicle carrier unless and until he procures a certificate of public convenience and necessity therefor, and an order suspending or revoking the permit to operate as a private carrier by motor vehicle heretofore issued to him, and such other order or orders as may be meet and proper in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing in the Hearing Room of the Commission, 330 State Office Building, Denver, Colorado, on Wednesday, the 27th day of March, 1935, at 2 P.M., at which time such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 14th day of March, 1935.

(Decision No. 6376)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION OF)
CHARLES H. PIERCE FOR A CERTIFICATE) APPLICATION NO. 2286.
OF PUBLIC CONVENIENCE AND NECESSITY.)

March 14, 1935.

Appearances: Albert S. Isbill, Esq., Denver, Colorado, for the applicant.

E. L. Brock, Esq., Denver, Colorado, for the Denver and Salt Lake Railway Company.

D. Edgar Wilson, Esq., Denver, Colorado, for the Rocky Mountain Motor Company, the Denver Cab Company, and the Rocky Mountain Transportation Company.

S T A T E M E N T

By the Commission:

This is an application by Charles H. Pierce for a certificate of public convenience and necessity, authorizing the transportation of passengers between Denver and West Portal, Colorado, and to and from points within a radius of thirty-five miles of West Portal.

At the hearing it appeared that some one thousand men will be employed on what is known as the pioneer or water tunnel, paralleling the main Moffat tunnel, and that the work on said tunnel will last for some sixteen months. However, at the present time only some twenty-five men, mostly skilled laborers, are employed. West Portal is an unincorporated village situated at the west end of said tunnel. It is some seventy-two miles from Denver.

The applicant testified that there will be quite a demand for motor transportation between Denver and West Portal and between West Portal and Idaho Springs and Fraser, and possibly other points within thirty-five miles of West Portal, to which points the tunnel employes will go for recreation and diversion. He testified that a

great many of the employes when first employed will be unable to pay their fares by rail to the tunnel, and that the applicant would transport them, extending credit for the service, and attempt to collect from employes on their first pay day.

The Denver and Salt Lake Railway Company operates between Denver and West Portal through the said Moffat Tunnel. It runs one train each way daily, the west-bound train leaving Denver at 8:30 a. m., and the east bound train leaving West Portal for Denver at 3:06 p. m. The fare by rail is some $1.50. The fare which the applicant would charge would be a minimum of $2. If only one or two passengers were making the trip, they would have to pay three fares. For taxi operations to nearby points the minimum charge would be thirty cents a mile.

The evidence was not certain as to the hours during which the men on the three shifts would be employed. The applicant testified that the tentative plans are such that the men would be coming off work at 3 o'clock in the afternoon, 11 o'clock at night, and 7 o'clock in the morning. There was some intimation by the attorney for the Railway Company that the hour of departure in the afternoon from Denver to West Portal might be changed.

No other person testified in support of the application except the applicant, the point being made by his attorney that since the employes are not now on the job and are unknown, it is impossible to bring in any of them to show a demand for the service.

The applicant further testified that while the main tunnel was being constructed he operated, without any lawful authority, some two years, rendering a similar service to that which he now proposes; that at the end of said two years he sought for and was denied a certificate of public convenience and necessity, and that he thereafter continued to operate, in spite of the fact that his certificate

had been denied.

While it is true that the evidence in support of the application as to public convenience and necessity is rather meager, yet we believe it is a fair assumption from the record to say that with approximately 1000 men working at West Portal, a reasonable demand will exist for other forms of transportation than is provided by the available railroad facilities. Those who conveniently can do so will undoubtedly use the railroad, due to the cheaper fare, but we believe the public convenience and necessity will require an operation similar to that of applicant.

The fact that applicant some eight or more years ago operated without a certificate is a factor which we have considered. However, in our opinion, this should not preclude him from obtaining a certificate at the present time. The statute of limitations in Colorado is 18 months for prosecutions of misdemeanors and 3 years for most felonies. As the Commission stated in "Re Application of Albert Schwilke for a Class A Private Permit," Decision No. 5137, dated July 24, 1933, "* * * we are inclined to give Mr. Schwilke the benefit of the doubt, and, after careful consideration of the entire record, we have reached the conclusion that he should not be perpetually deprived of the right to operate lawfully as a private carrier for hire."

The violation of the motor vehicle laws on the part of Mr. Schwilke had been much more numerous than those of the present applicant. We do not intend by any means to sanction violations of the motor vehicle laws, but we do feel that, due to the lapse of time between the admitted violation of the law on the part of applicant and the date of his present application, it would be an unjust and arbitrary act upon our part to deny his certificate solely upon that ground.

Applicant's present financial condition and standing and

his ability to conduct his proposed operation were established to the satisfaction of the Commission.

After a careful consideration of the record the Commission is of the opinion, and so finds, that the public convenience and necessity require the motor vehicle operations of applicant for the transportation of passengers between Denver and West Portal, Colorado, and from West Portal to Denver without the right to serve intermediate points in either operation, and to and from points within a radius of thirty-five miles of West Portal.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operation of Charles H. Pierce for the transportation of passengers between Denver and West Portal, Colorado, and from West Portal to Denver without the right to serve intermediate points in either operation, and to and from points within a radius of thirty-five miles of West Portal, 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 Com-

mission 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

Edward V. Carlson

Walter Erickson

Commissioners.

Dated at Denver, Colorado,
this 14th day of March, 1935.

(Decision No. 6377)

a-5-67

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF)
HENRY J. LINDER.)

PRIVATE PERMIT NO. A-567.

March 18, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a written request from the above permit holder that his private permit No. A-567 be cancelled.

After careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. A-567, heretofore issued to Henry J. Linder, be, and the same is hereby, revoked and cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

(Decision No. 6378)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A-879

RE MOTOR VEHICLE OPERATIONS OF)
KENNETH PETERSON, DOING BUSINESS) PRIVATE PERMIT NO. A-879
AS PETERSON TRANSFER COMPANY.)

March 18, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a written communication from the above named Kenneth Peterson, requesting that his private permit No. A-879 be cancelled.

After a careful consideration of said request, the Commission is of the opinion, and so finds, that private permit No. A-879, heretofore issued to Kenneth Peterson, doing business as Peterson Transfer Company, be, and the same is hereby, cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 18th day of March, 1935.

(Decision No. 6579)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

a 807

* * *

RE MOTOR VEHICLE OPERATIONS OF)
FRANK KLEIN AND FRANK RANES, DOING) PRIVATE PERMIT NO. A-807.
BUSINESS AS KLEIN AND RANES.)

March 18, 1935.

S T A T E M E N T.

By the Commission:

On January 28, 1935, the Commission entered its order revoking the private permit heretofore issued to Frank Klein and Frank Ranes, doing business as Klein and Ranes, upon their written request for such action. However, the Commission is now in receipt of a communication from said parties advising that what they desired was a suspension of their permit for a period of six months.

In view of this misapprehension on the part of Klein and Ranes, the Commission is inclined to grant their request. However, in view of our recent practice in said matters, we will revoke the permit with the privilege of reinstatement upon full compliance with all our rules and regulations.

O R D E R.

IT IS THEREFORE ORDERED, That the order of the Commission entered January 28, 1935, be, and the same is hereby, amended to read as follows:

IT IS THEREFORE ORDERED, That motor vehicle private permit No. A-807, heretofore issued to Frank Klein and Frank Ranes, doing business as Klein and Ranes, be, and the same is hereby, revoked; provided, however, that said permit may be reinstated at any time within a period of six months from January 28, 1935, upon the written request of said Klein and Ranes and a full compliance by them with all the laws, rules and regulations of the Commission pertaining to the operations of private carriers.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 18th day of March, 1935.

(Decision No. 6381)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A-932

* * *

IN THE MATTER OF THE APPLICATION)
OF W. L. WOLVERTON FOR A PRIVATE) APPLICATION NO. 2295-PP
CLASS A MOTOR PERMIT.)

March 19, 1935

Appearances: Homer S. McMillan, Esq., Denver, Colorado,
attorney for applicant;
V. G. Garnett, Denver, Colorado,
for The Colorado Rapid Transit Company.

S T A T E M E N T

By the Commission:

This is an application for a Class A motor permit for the transportation of coal from coal mines in the vicinity of Lafayette, Louisville, Marshall and Erie, Colorado, within a radius of 11 miles from the Highway Mine, to Denver and its suburbs, and to Golden, Colorado.

The evidence disclosed that the applicant is amply supplied with equipment; that he has filed his list of customers and the necessary insurance. It does not appear that the operations of any motor vehicle common carrier would be adversely affected.

After careful consideration of the evidence the Commission is of the opinion, and so finds, that the permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, W. L. Wolverton, be granted a private Class A motor vehicle permit, authorizing the transportation of coal from coal mines in the vicinity of Lafayette, Louisville, Marshall and Erie, Colorado, within a radius of 11 miles from the Highway Mine, to Denver and its suburbs, and to Golden, Colorado, to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with

all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of March, 1935.

(Decision No. 6383)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

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

March 21, 1935.

S T A T E M E N T

By the Commission:

On September 10, 1930, H. B. Miner was granted a certificate of public convenience and necessity for the transportation of freight in interstate commerce between Denver and the Colorado-Nebraska state line, via Weldona, New Raymer and Kaufman, Colorado.

We are now in receipt of a communication from the said H. B. Miner advising us that the highway via Weldona, New Raymer and Kaufman, has never been built and that he has always operated over Highway No. 85 to the Wyoming state line and thence through Wyoming into Nebraska. He further states that he was orally advised by the Commission at the time of the granting of his original certificate that he would be permitted to operate over said highway 85. He now requests that his original certificate be amended to grant him permission for such operation.

After a careful consideration of all the facts, the Commission is of the opinion, and so finds, that said request should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the original certificate of public convenience and necessity, heretofore issued to H. B. Miner in Application No. 1631, be, and the same is hereby, amended nunc pro tunc to authorize the transportation of freight between Denver and the Colorado-Wyoming state line, via Highway No. 85, in interstate commerce only.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of March, 1935.

(Decision No. 6384)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
JOHN E. PENSE.)

PRIVATE PERMIT NO. A-835.

March 21, 1955.

S T A T E M E N T.

By the Commission:

The Commission is in receipt of a written communication from the above named John E. Pense requesting that the permit heretofore issued to him be revoked, with the privilege of reinstatement within one year.

After careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R.

IT IS THEREFORE ORDERED, That private permit No. A-835, heretofore issued to John E. Pense, be, and the same is hereby, revoked; provided, however, that same may be reinstated at any time within one year upon his written request for such reinstatement and a full compliance with all the laws, rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of March, 1955.

(Decision No. 6385)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
F. H. AUSTIN AND L. C. AUSTIN,)
DOING BUSINESS UNDER THE FIRM) CASE NO. 1569
NAME AND STYLE OF AUSTIN BROTHERS.)
* * * * * * * * * * * * * * * * * * * *

March 21, 1935.

Appearances: R. E. Conour, Esq., Denver, Colorado,
for the Public Utilities Commission;
Marion F. Jones, Esq., Longmont, Colorado,
for The Colorado Trucking Association;
A. S. Isbill, Esq., Denver, Colorado,
attorney for respondents;
Mr. A. J. Fregeau, Denver, Colorado,
for The Motor Truck Common Carriers' Ass'n;
Mr. Ralph Schofield, Lafayette, Colorado,
for Schofield Brothers.

S T A T E M E N T

By the Commission:

On January 29, 1935, the Commission made an order requiring respondents to show cause why the certificate of public convenience and necessity heretofore issued in Application No. 1382 should not be suspended or revoked by reason of the following violations of the law and the Rules and Regulations of the Commission: (1) hauling commodities not authorized by their certificate; (2) failure to properly report and pay taxes on the freight hauled for hire; (3) violation of various and sundry other regulations of the Public Utilities Commission and laws of the State of Colorado.

The show cause order was issued by reason of a written complaint filed with the Commission by the Colorado Trucking Association. To said show cause order, a written answer was filed by respondents denying the allegations contained in said order and setting forth that if any violations had occurred, the same had been made inadvertently by respondents, and containing an offer to correct any such condition upon their attention being directed to same.

At the hearing, the evidence disclosed that the certificate

owned by respondents authorized a motor truck common carrier service in parts of Boulder and Weld counties for the transportation of milk, cream and dairy products to Denver.

It was further disclosed that in the fall of 1934, respondents had commenced the transportation of ore and concentrates for the St. Joe Mining Company in the Boulder district, which operation consisted of the hauling of ore to the mill of said company near Boulder, as well as the transportation of concentrates from said mill to the Golden Cycle mill at Aysee, Colorado. It appeared that respondents had conveyed the title to a two-ton Reo truck which they owned to the St. Joe Company, which equipment was used for the transportation of said ore and concentrates. However, it appeared clearly that said transfer was made solely for the purpose of evading the payment of any ton-mile tax for the transportation of the ore and concentrates involved, and that said operation was in fact an operation for hire by respondents. They have since filed an application for a Class A private permit covering said operation. (See Application No. 2276-PP)

Respondents have filed with the Commission a report showing the amount of tonnage moved for said St. Joe Mining Company and have paid the road tax thereon. It was the contention of respondents that they were merely supervising the transportation of the St. Joe Company's ore and concentrates, but with this position the Commission did not agree, and at the time of the hearing ordered respondents to immediately cease and desist from said operations. In view of their subsequent actions, we assume that respondents conceded that the position of the Commission was correct.

The evidence further disclosed that in the operation of their milk route respondents had failed and neglected, in their reports filed with the Commission, to include all of the hauling they had done for the first two weeks in January, 1935, and had also failed to report for November and December, 1934, the weight of certain milk which they had transported to the Berkeley Gardens Dairy in Denver. The explanation offered by respondents for this delinquency was that they commenced serving

the Berkeley Gardens Dairy on November 1, 1934, and that L. C. Austin, who made the November report, omitted the Berkeley Gardens haul. His statement was to the effect that he did not have the weights from the Berkeley Gardens Dairy at the time he made the report and "just forgot all about it".

It further appeared that L. C. Austin left about December 11 or 12 to get married, and therefore the December report was made up by Fred H. Austin. His statement was to the effect that as this was the first report he had prepared, he followed the one made by his brother for November and therefore omitted the milk carried to Berkeley Gardens Dairy, and that in his January report he omitted all milk transported for the first two weeks merely through an oversight and error on his part, but with no intent of willfully deceiving the Commission or evading any lawful tax that might be due.

The testimony further developed that respondents had made arrangements with one of the shippers in their territory to transport his milk for the regular price provided in their tariff of 30 cents per hundred, with the understanding and agreement that one-half of this amount should be rebated to the shipper. This agreement was to be in effect for a three-months period. In another instance, respondents offered to pay one shipper $20.00, provided he would again use their services in the transportation of his milk which he had taken away from them to give to an operator in said territory who had applied for a Class A permit, but whose application was subsequently denied by the Commission.

Another witness testified to the effect that since November 1, 1934, respondents had transported his milk at a rate of 20 cents per hundred, although the record shows that the tariff filed by respondents covering said operation would be 30 cents per hundred between November 1, 1934, and January 5, 1935. Respondents claim that they made this rate to the particular shipper involved, due to the fact that he had a much greater volume than any other customer and that they were simply negligent in filing the proper tariff before they did so on January 5, 1935, although there was some evidence

that in the middle of November they attempted to amend their tariff to conform to this rate, but as it was not in proper form, it was returned by the rate expert for the Commission.

Respondents justify their agreement to rebate and their offer to pay one of the shippers for his business upon the ground that they did not realize any violation of law was involved and that they were fighting to retain their business from the encroachment of those who were operating without regulation as to rates by the Commission.

The father of respondents, who was one of the former owners of their certificate, testified that he had written his boys from Chicago to spend whatever money was necessary to protect their business and that he would advance the same.

It is apparent to the Commission that much of the trouble in which respondents now find themselves is due to the fact that two operators, one of whom had worked for respondents and their father for approximately seven years, attempted to establish two independent milk routes in the territory covered by the Austin certificate, and were permitted by the Commission to operate pending a hearing upon their applications for private permits, which were later denied. These two cases were the first instances in which the Commission had held hearings on applications for private permits, the previous policy having been to issue the same as a matter of course.

These derelictions on the part of respondents constitute a rather serious infraction of the rules and regulations of the Commission and of the law with respect to discrimination and preference between various customers. However, in considering the record as a whole, we are inclined to the belief that respondents did not willfully intend to deceive the Commission, particularly relative to their failure to report certain tonnage which it is admitted was left out of their November, December and January reports. It may be stated here that corrected reports have been filed and taxes paid in this connection. We do not feel that respondents are by any means blameless, and their ignorance so far as the law is concerned will not excuse their actions.

After a careful consideration of the record the Commission is of the opinion, and so finds, that the certificate of public convenience and necessity heretofore issued in Application No. 1382 should be suspended for a period of ninety days commencing April 15, 1935.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity, heretofore issued in Application No. 1382 and now owned by Austin Brothers, be, and the same is hereby, suspended for a period of ninety days, commencing April 15, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. C. Fuller

Commissioners.

Dated at Denver, Colorado,
this 21st day of March, 1935.

(Decision No. 6387)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF B. R. PAYTON FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT AND ORE BETWEEN THE MINING DISTRICTS ADJACENT TO BOULDER AND ADJACENT TO IDAHO SPRINGS, CENTRAL CITY, BLACK HAWK AND COLORADO SPRINGS, COLORADO, VIA VARIOUS COUNTY ROADS, COLO. 160, 119, 7, U.S. 285, U.S. 85 AND U.S. 40; ALSO BETWEEN ABOVE DISTRICTS AND LEADVILLE VIA COLO. 91 AND LOVELAND PASS.	APPLICATION NO. 2296-PP.

March 21, 1935.

Appearances: Benjamin R. Payton, Idaho Springs, Colorado, pro se;
J. A. Carruthers, Esq., Colorado Springs, Colo., for the Midland Terminal Railway Company;
T. A. White, Esq., Denver, Colorado, for the Denver & Rio Grande Western Railroad Company;
A. J. Fregeau, Esq., Denver, Colorado, for Weicker Transportation Company;
Marion F. Jones, Esq., Longmont, Colorado, for Colorado Trucking Association.

S T A T E M E N T.

By the Commission:

As limited by his statements at hearing, applicant seeks a motor vehicle Class A private permit authorizing the transportation of ore to Idaho Springs from the mining districts adjacent thereto and from said district to Leadville in lots of not to exceed five tons, and the transportation of mining machinery and mining supplies from Denver to the mines served by his proposed ore haul.

It developed at the hearing that applicant heretofore has not been engaged in hauling. Previously, he has been employed as a miner but was injured in an accident and is no longer able to work in the mines, and in order to have some means of making a livelihood has purchased a 1928, 2½-ton Graham truck and filed this application. He, as yet, has no customers but hopes to get them, if permit is granted.

While, in view of his physical condition, his lack of experience and the character of his equipment, the success of his operation is doubtful, nevertheless, his application cannot be denied on that ground unless the safety of the

traveling public on highways may be endangered.

Also, while the mining territory between Idaho Springs and the mining district adjacent thereto already is more than amply served by private carriers and there is no public need or demand for the contemplated service, we are not authorized to deny the application unless operations of a common carrier service in the territory may be affected to such an extent that the public will not be properly served. It appears that there are no common carrier operations affected, except on the proposed haul between Denver and Idaho Springs. In this connection, it further appears that there is too much competition in that territory now for the good of the public and a further diminution of the common carrier business which applicant expects to effect would work a material hardship on the carriers and endanger the heretofore, so far as we are advised, satisfactory and dependable service afforded the public by them.

After a careful consideration of the record, the Commission is of the opinion and so finds that applicant should be granted a Class A private motor vehicle permit authorizing transportation of ore by him to Idaho Springs from the mines within a radius of 25 miles of Idaho Springs, and the transportation of ore, in lots of not to exceed five tons, from said mines to Leadville; and that his application for a permit, insofar as it relates to the transportation of mining machinery and mining supplies from Denver to the mines served by his proposed ore haul, should be denied.

O R D E R

IT IS THEREFORE ORDERED, That that part of the application of said applicant, Benjamin R. Payton, wherein he seeks a permit for the transportation of mining machinery and mining supplies from Denver to the mines in the Idaho Springs district should be, and hereby is, denied.

IT IS FURTHER ORDERED, That the applicant, Benjamin R. Payton, be, and he is hereby, authorized to operate as a Class A motor vehicle private carrier in the transportation of ore to Idaho Springs from mines adjacent to and within a radius of 25 miles of Idaho Springs, and the transportation of ore in lots of not to exceed 5 tons from said mines to Leadville. Said permit shall issue only if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be

in effect.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of March, 1955.

(Decision No. 6388)

375

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
AUSTIN BROTHERS, A CO-PARTNERSHIP, TO) AMENDED APPLICATION NO. 1382-AAA
EXTEND OR AMEND THEIR CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

March 21, 1935.

Appearances: A. S. Isbill, Esq., Denver, Colorado,
attorney for applicants;
V. G. Garnett, Denver, Colorado,
for Colorado Rapid Transit Company;
Marion F. Jones, Esq., Longmont, Colorado,
for Colorado Trucking Association.

S T A T E M E N T

By the Commission:

Applicants seek authority to extend the route heretofore granted to their predecessors in Application No. 1382 to include the delivery of milk to Boulder dairies. It appears that in the original certificate granted, Denver, Colorado, was designated as the point of delivery, but as the customers of applicants and their predecessors had from time to time requested delivery to the Boulder dairies, applicants have been delivering milk from their territory to Boulder, as well as to Denver, without realizing that the Boulder operation was outside of the authority granted to them in their certificate.

The other common carriers serving the Boulder territory offered no objection to the granting of the extension prayed for, the same to be limited as to territory according to agreement of the parties which was furnished in writing and is part of the record herein. The only objection to the application was made on behalf of two private carriers who are now serving a portion of said territory involved, but the Commission does not feel that it can consider the rights of private carriers in connection with an application of this nature. It would appear that for the benefit of the general public, a common carrier should have the right to deliver said milk to the dairy desired by his customers.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the application for an extension should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity, heretofore issued in the instant application, be, and the same is hereby, extended to include the right to deliver milk to the dairies in Boulder from the territory authorized to be served, as well as to Denver, 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 21st day of March, 1935.

(Decision No. 6589)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
DENVER AND STEAMBOAT SPRINGS STAGE)
COMPANY AND DENVER COLORADO SPRINGS)
PUEBLO MOTOR WAY, INC., FOR AUTHORITY)
TO TRANSFER CERTIFICATES OF PUBLIC) APPLICATIONS NOS. 197-A and 328-A
CONVENIENCE AND NECESSITY NOW OWNED)
BY SAID DENVER AND STEAMBOAT SPRINGS)
COMPANY TO SAID DENVER COLORADO SPRINGS)
PUEBLO MOTOR WAY, INC.)
-)

March 21, 1935.

Appearances: T. A. White, Esq., Denver, Colorado, attorney for applicant;
John R. Turnquist and F. J. Toner, Denver, Colorado, for The Denver and Salt Lake Railway Company and Railway Express Agency, Inc.;
A. M. Gooding, Steamboat Springs, and Sid Pleasant, Craig, Colorado, for Comet Motor Express, Inc.;
C. R. Munson, Steamboat Springs, Colorado, for Larson Transportation Company;
N. R. Carver, Denver, Colorado, for Denver and Steamboat Springs Stage Company.

STATEMENT

By the Commission:

The Denver and Steamboat Springs Stage Company and Denver Colorado Springs Pueblo Motor Way, Inc., filed their application herein, asking for authority to transfer from the former to the latter two certificates of public convenience and necessity issued respectively in Application No. 197 and Application No. 328.

The matter was heard at Craig, Colorado, on March 6, 1935. At the hearing it developed that Denver and Steamboat Springs Stage Company has been operating, weather permitting, their stage line continuously for the past eight or nine years; that there is no indebtedness of any sort outstanding against the company; that the Denver Colorado Springs Pueblo Motor Way, Inc., has purchased the certificates, subject to the approval of the Commission, for $15,000; that said last named company is an experienced operator of motor passenger and other transportation service,

as it is now and for a long period of time has been operating an automobile and light express line over the public highways between Denver, Colorado Springs, Pueblo, Walsenburg and Trinidad, Colorado, and between Pueblo and La Junta, Colorado; that it is in excellent financial condition and is able to render the transportation service, for the operation of which, by assignment, authority is herein sought; that if said transfer is authorized, applicant proposes to operate new 29-passenger busses over the territory in connection with its contemplated through daily service between Denver and Salt Lake City.

Counsel for Denver Colorado Springs Pueblo Motor Way, Inc., stated that transferee waived the right to engage in local service between Denver and Idaho Springs, Colorado.

After careful consideration of the record, the Commission is of the opinion, and so finds, that the public convenience and necessity require that authority should be granted to The Denver and Steamboat Springs Stage Company to transfer to Denver Colorado Springs Pueblo Motor Way, Inc., the said certificate or certificates heretofore issued in Applications Nos. 197 and 328, subject to the condition hereinafter imposed and which, in the opinion of the Commission, the public convenience and necessity require.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to The Denver and Steamboat Springs Stage Company to transfer to Denver Colorado Springs Pueblo Motor Way, Inc., the certificates of public convenience and necessity heretofore issued by the Commission in Applications Nos. 197 and 328 respectively; provided, however, that transferee shall not engage in local service between Denver and Idaho Springs, Colorado.

IT IS FURTHER ORDERED, That this order shall not become effective until transferee shall have filed with the Commission the necessary and proper insurance.

IT IS FURTHER ORDERED, That the tariff of rates, rules and regulations of the transferor herein shall become and remain those of the transferee herein until changed according to law and the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of March, 1935.

(Decision No. 6390)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF DENVER COLORADO SPRINGS PUEBLO MOTOR WAY FOR A PERMIT TO TRANSPORT PASSENGERS IN INTERSTATE COMMERCE BETWEEN DENVER, COLORADO, AND THE COLORADO-UTAH STATE LINE.	)	APPLICATION NO. 2207

March 22, 1935.

Appearances: T. A. White, Esq., Denver, Colorado, attorney for applicant;
D. Edgar Wilson, Esq., Denver, Colorado, for Rocky Mountain Motor Company and the Denver Cab Company;
Elmer L. Brock, Esq., John R. Turnquist, Esq., J. H. Shepherd and F. J. Toner, Denver, Colorado, for The Denver and Salt Lake Railway Company;
S. E. Pleasant, Esq., Craig, Colorado, and A. M. Gooding, Esq., Steamboat Springs, Colorado, for Comet Motor Express Company;
W. M. H. Wadley, Esq., Denver, Colorado, for the Denver and Steamboat Springs Stage Company;
John R. Turnquist, Esq., and F. J. Toner, Denver, for Railway Express Agency, Inc.;
C. R. Munson, Steamboat Springs, Colorado, for Larson Transportation Company.

S T A T E M E N T

By the Commission:

The Denver Colorado Springs Pueblo Motor Way, Inc., filed an application for "a certificate or permit authorizing the establishment and operation of a motor bus system for the transportation of passengers, baggage and express in interstate commerce between Denver, Colorado, and the Colorado-Utah state line, including intermediate points over U. S. Highway No. 40". Protests were filed by the Denver and Salt Lake Railway Company and by Comet Motor Express Company, Inc.

The Denver and Salt Lake Railway Company is operating a steam railroad between Denver and Craig. The Denver and Steamboat Springs Stage Company operates a bus line between the same points, paralleling generally the line of the Railway Company. The Comet Motor Express Company, Inc.,

is operating a bus line in both intrastate and interstate commerce between Craig and the Colorado-Utah state line, the Comet Company having as its terminal point on the west Salt Lake City.

The matter in the first instance was heard in Denver on February 4, 1935. It there appeared that applicant operates a bus line for the transportation of passengers, baggage and express in intrastate commerce between Salt Lake City and Vernal, Utah; that the applicant has been granted by the Public Utilities Commission of the State of Utah a permit to operate a motor bus transportation system in interstate commerce between Salt Lake City and the Utah-Colorado state line over U. S. Highway No. 40, via Vernal; and that applicant has secured an option from the Denver and Steamboat Springs Stage Company to purchase, subject to the approval of this Commission, the Stage Company's two certain certificates of public convenience and necessity, authorizing the operation heretofore described between Denver and Craig.

The matter was taken under advisement by the Commission, and subsequently on February 28, 1935, applicant, with the consent of the Commission, filed an amendment to its application asking intrastate rights, in addition to the interstate rights originally requested over the same route between Craig, Colorado, and the Colorado-Utah state line, and all intermediate points, and to and from said points from and to all points on U. S. Highway No. 40 between Denver and Craig, Colorado.

On the same day, applicant joined with The Denver and Steamboat Springs Stage Company in an application addressed to and filed with the Commission, asking for authority to transfer to applicant the certificates heretofore mentioned, being certificates granted in Applications Nos. 197-A and 328-A, belonging to said Denver and Steamboat Springs Stage Company, said applicant having elected to exercise its option to purchase same.

From the evidence, it appears that the protestant, Comet Motor Express Company, under authority granted by the Commission, has operated and now operates a daytime passenger service in intrastate and interstate commerce between the Colorado-Utah state line and Craig, Colorado, over

U. S. Highway No. 40; that while special equipment is or will be furnished if required, generally speaking, passenger transportation is furnished as an incident to the operation of its mail, freight and express business, passengers, if any, ordinarily being required to ride in the truck cab, which will carry two passengers in addition to the driver.

Passenger revenues of the Comet Company amount to about $2,000.00 per year, five hundred passengers having been handled during the six months' summer period last year. Through service between Salt Lake City and Craig is not furnished.

Mr. Brockman, owner of Comet Motor Express Company, stated that if in his opinion better facilities were required or justified by business in intrastate or interstate commerce, he would furnish them, and that in his opinion the type of equipment proposed to be operated by applicant, being 29-passenger busses, at times could not be operated over proposed routes during the winter months on account of weather conditions, and at all times it would be impossible to make the time contemplated in its schedule.

For applicant, it appeared that Denver Colorado Springs Pueblo Motor Way, Inc., is an experienced operator of motor passenger and other transportation service, for it is now and for a long period of time has been operating an automobile and light express line over the public highways between Denver, Colorado Springs, Pueblo, Walsenburg and Trinidad, Colorado, and between Pueblo and La Junta, Colorado; that it is in excellent financial condition and able to render the transportation service for the operation of which authority is herein sought; that applicant proposes to operate three 29-passenger busses valued at approximately $34,000.00, in its contemplated daily through service between Denver and Salt Lake City, leaving Salt Lake City 4:30 P.M., arriving Denver 10:30 A. M., and leaving Denver 6:30 P. M., arriving Salt Lake City 12:00 noon. Arrangements have been made to connect with local and transcontinental bus lines at Salt Lake City and Denver. Emphasis will be placed on service to through passengers and passengers going to or returning from distant points rather than local business. This feature of the operation seems to appeal

to residents of Maybell, Elk Springs and Craig, for a number of them testified that while the present service most of the time meets the necessities of the public between Craig and the state line, the contemplated service would not unduly interfere with the operation of existing service and would be a great convenience for people residing in that territory desiring to return from or go to Denver and points beyond, and from and to Salt Lake City and points beyond, as well as points intermediate thereto; that there is a daily service from Craig to Elk Springs and tri-weekly service from Elk Springs west; that passengers must lay over at Craig and Vernal; that it is immaterial from their viewpoint that applicant's contemplated service Craig to the state line is a night one.

Other witnesses testified to a number of inquiries being made last summer for service to points beyond Maybell. Maybell appears to be a community having a hotel, two stores, three filling stations and about 200 inhabitants. Elk Springs has about 100 residents, filling stations, a store, etc.

The express service, in addition to handling baggage as proposed by applicant, would exclude local but not interstate service Denver to Craig and intermediate points and be limited to parcels not exceeding 150 pounds, and is chiefly intended to satisfy emergency demands of patrons and shippers along the line.

It further appeared that highways over which applicant expects to operate are largely hard surfaced and that improvements are contemplated by the various agencies charged with up-keep of highways on that part of the highway not improved. Said highways are not overburdened by public use at this time.

Since the hearing, the Commission has entered its order authorizing transfer by Denver and Steamboat Springs Stage Company to applicant company herein, of certificates granted in Applications Nos. 197-A and 328-A.

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

necessity require the motor vehicle system of applicant for the transportation of passengers, baggage and express parcels of not more than 150 pounds, in interstate and intrastate commerce between Denver, Colorado, and the Utah-Colorado state line via U. S. Highway No. 40, including the right to serve to and from all intermediate points, excluding, however, local express service Idaho Springs to Craig and Craig to Idaho Springs and all intermediate points, and excepting all local service between Denver and Idaho Springs and Idaho Springs and Denver.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the motor vehicle system of applicant for the transportation of passengers, baggage and express in intrastate commerce between Denver, Colorado, and the Utah-Colorado state line via U. S. Highway No. 40, including the right to serve to and from all intermediate points, excluding, however, local express service Idaho Springs to Craig and Craig to Idaho Springs and all intermediate points, and excepting all local service between Denver and Idaho Springs and Idaho Springs and Denver, express parcels to be limited to weight not exceeding 150 pounds, 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 Constitution of the United States and the laws of the State of Colorado require the issuance to applicant of an interstate permit authorizing the establishment and operation of a motor bus system for the transportation of passengers, baggage and express in interstate commerce between Denver, Colorado, and the Colorado-Utah state line, including the right to serve all intermediate points, over U.S. Highway No. 40, and this order shall be taken, deemed and held to be an interstate permit 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 forty 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 22nd day of March, 1935.

(Decision No. 6391.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF MELVIN H. KENNEDY, DOING BUSINESS AS ROCKY MT. TRANSIT COMPANY, FOR A PERMIT TO OPERATE AS A CLASS A PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT BETWEEN DENVER AND GRAND JUNCTION AND INTERMEDIATE POINTS VIA FAIRPLAY OVER COLO. NO. 8, VIA HARTSELL OVER COLO. NO. 9, THENCE OVER U.S. 40 S; BETWEEN LEADVILLE AND FAIRPLAY AND INTERMEDIATE POINTS VIA COLO. NO. 9, TO DILLON AND VIA COLO. NO. 91 DILLON TO LEADVILLE, COLORADO.

APPLICATION NO. 2294-PP.

March 22, 1935.

Appearances: William G. Perry and Edwin A. Williams, Esqs., Denver, Colo., attorneys for applicants;
V. G. Garnett, Esq., Denver, Colorado, for Colorado Motor Truck Common Carriers Association;
T. A. White, Esq., Denver, Colorado, for the Rio Grande Transportation Co., and the Denver & Rio Grande Western Railroad Company.

S T A T E M E N T.

By the Commission:

As amended and limited by applicants at hearing the application herein involves granting of a Class A private motor vehicle permit to Melvin H. Kennedy and Henry Michel, doing business as Rocky Mountain Transit Company, to transport freight between Denver and Red Cliff over Colorado Highways 8, 9 and 91, via Dillon to Leadville and over Colorado 9 and U.S. 40 via Hartsell to Leadville, and U.S. 40, Leadville to Red Cliff, and all intermediate points including Bailey, but excepting points intermediate Denver to Bailey. The application originally was made in the name of Melvin H. Kennedy, but, it appearing at the hearing that application should have been made in the name of Melvin H. Kennedy and Henry Michel, as co-partners, amendment of application by interlineation was permitted.

It appears that applicants heretofore have worked for the Wolverton Truck Line and are familiar with territory and have equipment necessary to handle the operation. Also it does not appear that the operation, as limited, will adversely affect the business of any common carrier.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the application should be granted for the territory heretofore described, subject to the conditions hereinafter set forth.

O R D E R

IT IS THEREFORE ORDERED, That the applicants, Melvin H. Kennedy and Henry Michel, doing business as Rocky Mountain Transit Company, be, and they are hereby, authorized to operate as Class A motor vehicle private carriers in the transportation of freight between Denver and Red Cliff over Colorado Highways Nos. 8, 9 and 91, via Dillon to Leadville, and/or Colorado 9 and U.S. 40 via Hartsell to Leadville; and over U.S. 40, Leadville to Red Cliff, and all intermediate points including Bailey, but excepting points intermediate Denver to Bailey. Said permit shall issue only if and when, but not before they have filed a list of customers and the required insurance, and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this order shall be dependent upon their compliance at all times with all the laws, rules and regulations pertaining to their operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. Carlson

Walter Oldham

Melvin Erickson

Commissioners.

Dated at Denver, Colorado,
this 22nd day of March, 1956.

(Decision No. 8892)

614

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF MRS. FLORENCE WYATT FOR AN ORDER AUTHORIZING THE CHANGING OF THE NAME ON P.U.C. CERTIFICATE NO. 614 NOW IN THE NAME OF ERNEST E. WYATT, DECEASED.

APPLICATION NO. 1840-AA.

March 26, 1935.

Appearance: Florence L. Wyatt, Denver, Colorado, pro se.

STATEMENT.

By the Commission:

On January 26, 1934, the Commission entered its order authorizing the transfer by R. E. Knotts, holder of certificate of public convenience and necessity issued by the Commission in Application No. 1840, to E. E. Wyatt, of a portion of the territory embraced in his certificate; towit:

> "Beginning at a point on the Airline Highway, thence east on said Airline Highway to a point midway on the south line of Section 5, Township 5 South, Range 65 West; thence south four miles to a point midway in the south line of Section 29, Township 5 South, Range 65 West, thence in a southwest direction to a point in the north half of Section 6, Township 6 South, Range 65 West, thence northeast to the Smoky Hill road; thence northwest along said road to the place of beginning, a point 1 mile east of the Denver-Parker Highway; provided, however, said territory shall include no territory west of points on the Airline and Smoky Hill Highways one mile east of the Denver-Parker Highway, and shall include no territory, in Douglas County lying in Range 68 West."

In the instant matter, Florence L. Wyatt asks for an order transferring to her that part of the territory embraced in P.U.C. 1840 so assigned to E. E. Wyatt.

At the hearing it developed that applicant is the widow of E. E. Wyatt, also known as Ernest E. Wyatt, who died on the 18th day of September, 1934; that she has been conducting the business since his death under the name of "Smoky Hill Air Line" and wants to continue the operation under the name of Florence L. Wyatt, doing business as "Smoky Hill Air Line." It further appeared that transferee is qualified and able to carry on the operation.

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

name of Florence L. Wyatt substituted as the holder of the certificate of public convenience for that portion of the territory described in the order of the Commission entered on January 26, 1934, which was assigned to E. E. Wyatt by R. E. Knotts.

O R D E R.

IT IS THEREFORE ORDERED, That that portion of the certificate of public convenience and necessity heretofore issued to R. E. Knotts, which by him was assigned to E. E. Wyatt should be, and hereby is, transferred to Florence L. Wyatt, doing business as Smoky Hill Air Line.

IT IS FURTHER ORDERED, That the tariff of rates, rules and regulations of the transferer shall become and remain those of the transferee until changed according to law and the rules and regulations of this Commission.

IT IS FURTHER ORDERED, That this transfer shall not become effective until the transferee shall have on file with the Commission the necessary insurance as required by law and the Rules and Regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of March, 1935.

ROBINSON'S
LEGAL BLANK DEPARTMENT

(Decision No. 6394.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF SELMA MARIA ALMBERG, DOING BUSINESS UNDER THE NAME AND STYLE OF SANTA FE DRIVE MOVING AND STORAGE WAREHOUSE, FOR TRANSFER OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM A. E. ALMBERG TO HERSELF.

APPLICATION NO. 1750-A

March 27, 1955.

Appearances: N. L. Comstock, Denver, Colorado, attorney for applicant.

S T A T E M E N T.

By the Commission:

On February 16, 1951, the Commission, in Application 1750, by order granted a certificate of public convenience and necessity to A. E. Almberg, doing business under the name and style of Santa Fe Drive Moving and Storage Warehouse, for the operation of a motor vehicle system in the transportation of household goods only in the counties of Arapahoe, Adams and Jefferson and also for occasional transportation thereof throughout the State of Colorado, subject to certain conditions therein mentioned.

Petitioner herein, Selma Maria Almberg, asks to have said certificate transferred to herself, doing business under the name and style of Santa Fe Moving and Storage Warehouse.

At the hearing, it appeared that A. E. Almberg died at Denver, Colorado, on the 19th day of May, 1955, leaving a last will and testament in which petitioner, Selma Maria Almberg, was named as sole legatee and devisee; that, as such, she is now the owner of said business and expects to continue its operation in the same manner and with the same rates as said business was conducted by her husband in his lifetime. It appears that the applicant is qualified and pecuniarily able to carry on the business.

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

ORDER

IT IS THEREFORE ORDERED, That said certificate of public convenience and necessity heretofore issued to A. E. Almberg should be, and hereby is, transferred to Selma Maria Almberg, doing business as Santa Fe Drive Moving and Storage Warehouse.

IT IS FURTHER ORDERED, That the tariff of rates, rules and regulations of the transferor shall become and remain those of the transferee until changed according to law and the rules and regulations of this Commission.

IT IS FURTHER ORDERED, That this transfer shall not become effective until the transferee shall have on file with the Commission the necessary insurance as required by law and the Rules and Regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 27th day of March, 1956.

(Decision No. 6395)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE PRIVATE CARRIER MOTOR VEHICLE)
OPERATIONS OF FRANK LANG.) CASE NO. 1575.
PERMIT NO. A-795.)

March 28, 1935.

S T A T E M E N T.

By the Commission:

The records of the Commission show that on July 24, 1934, a permit, No. A-795, was issued to respondent, Frank Lang, authorizing him to operate as a private carrier by motor vehicle in the transportation of milk from an area five miles square in the vicinity of Longmont to Denver.

Several complaints having been received against respondent concerning alleged violations of the law and the terms of his permit, the Commission conducted an investigation of his operations. As a result of this investigation the Commission is informed and believes that said respondent has violated the law applicable to him by making and filing or causing to be made and filed with the Commission, false and perjured monthly reports which show less tonnage than was actually hauled by respondent by at least 68,534 pounds during the months of January and February, 1935. A sworn monthly report of respondent for the month of January, 1935, purports to show that during said month respondent hauled 56,477 pounds of milk to The Windsor Farm Dairy and Garden Farm Dairy in Denver from the aforesaid territory. The Commission is informed that respondent hauled at least 94,640 pounds of milk to said dairies during that month. His report for the month of February, 1935, purports to show that 73,567 pounds of milk were hauled to said dairies from said territory. The Commission is informed that during February, 1935, respondent hauled at least 105,758 pounds of milk to said dairies. This does not include the tonnage of merchandise hauled by respondent without authority.

The Commission is of the opinion that a complaint, investigation and hearing should be entered into, on its own motion, to determine whether or not respondent has, in fact, filed false and perjured monthly reports and has failed to report and pay the highway compensation taxes due and payable to the State

of Colorado, and if so, to assess and collect the amount found to be due, and to also determine whether respondent has otherwise violated the law, rules and regulations of the Commission or the terms and conditions of his said private permit.

O R D E R.

IT IS THEREFORE ORDERED by the Commission, on its own motion, that an investigation and hearing be entered into to determine if respondent has made and filed false and perjured monthly reports and has failed to report and pay highway compensation taxes due and payable to the State of Colorado, and also to determine the amount thereof, and whether respondent has otherwise violated the law, the rules and regulations of the Commission and the terms and conditions of his said permit.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from this date, why it should not enter an order suspending or revoking the permit heretofore issued to said respondent on account of the aforesaid violations of the law, and why it should not enter such other order or orders as may be meet and proper in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing in the Hearing Room of the Commission, 330 State Office Building, Denver, Colorado, on Monday, the 15th day of April, 1955, at 10 A.M., at which time such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of March, 1955.

Form No. 7 (Decision No. 6396)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
) CASE NO. 1576.
WM. F. ACKLEY, Respondent.)
(Snyder, Colo.)

March 28, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission disclose that the above named respondent was (were) heretofore issued a permit No. A-18 under the provisions of Chapter 120, Session Laws of Colorado, 1931, authorizing him, them, it, to engage in the business of a private carrier by motor vehicle.

Information has come to and the records of the Commission disclose that the above named permit holder has violated the Rules and Regulations of the Commission, effective October 1, 1934, in the following particulars, to-wit:

1. By failing to file with the Commission a written statement of the names and addresses of all customers of said permit holder as required by Rule 15.

2. By failing to file with the Commission a statement, under oath, showing a description of all motor vehicles operated by respondent containing the information required by Rule 18.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be entered into to determine if the respondent permit holder has failed or refused to comply with any or all of the above mentioned Rules and Regulations of the Commission governing private carriers, and if so, whether his, their or its permit should therefore be suspended or revoked, and whether any other order or orders should be entered by the Commission in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 330 State Office Building, Denver, Colorado, at 10:00 o'clock A. M. on April 16, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

(Decision No. 6598)

a-934

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF PORFIRIO DE LA TORRE FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT IN INTRASTATE COMMERCE BETWEEN PUEBLO, COLORADO, AND THE NEW MEXICO STATE LINE AND THE KANSAS STATE LINE AND INTERMEDIATE POINTS VIA U.S. 50 & U.S. 85, AND BETWEEN PUEBLO AND SALIDA, COLORADO, VIA U.S. 50 AND INTERMEDIATE POINTS, AND ALSO BETWEEN PUEBLO AND DENVER, COLORADO, AND INTERMEDIATE POINTS VIA U.S. 85.	APPLICATION NO. 2590-PP.

March 28, 1935.

Appearances: Haze de la Torre, Pueblo, Colorado,
for applicants;
A. J. Fregeau, Denver, Colorado,
for the Weicker Transportation Company;
F. F. Keith, Canon City, Colorado,
for Keith Trucking Company;
J. H. Harris, Manzanola, Colorado,
for Fowler Truck Line and Manzanola Truck Line.

S T A T E M E N T.

By the Commission:

Application was filed herein by Porfirio de la Torre requesting that a motor vehicle Class A private permit issue to him, authorizing "contract hauling" intrastate from Pueblo between points on New Mexico state line and Kansas state line and intermediate points via U.S. 50 and 85; between Pueblo and Salida via U.S. 50 and intermediate points; also between Pueblo and Denver via U.S. 85, and intermediate points.

The applicant did not appear in person at the hearing, but his son, Haze de la Torre, appeared and stated that the recitals in the application were not correct; that his father, Porfirio de la Torre, was the owner of the 1935 1-1/2 ton Ford truck which was to be used in the contemplated operation, but that he and his brothers, Joe de la Torre and Ambrose de la Torre expected to conduct the operation under the name of De la Torre Brothers; that they intended to engage in the transportation of coal, only, from the mines in the Walsenburg coal district to Pueblo, Colorado, over U.S. 85 and from the mines in the Canon City coal district to Pueblo over U.S.

Highway 50; that an amended application should be filed to show the facts.

The Commission allowed the amended application to be filed and proceeded with the hearing.

It appeared that said Haze de la Torre and his brothers, Joe and Ambrose, had been conducting the coal haul operation mentioned without a permit since July, 1954, for the customers mentioned in their list of customers filed with the application; that their attention was directed by an inspector for the Commission to the fact that a permit was required for their operations; that they would be willing to make, and would file, a statement with the Commission showing the amount of hauling heretofore done by them and would pay the tax due therefor.

It does not appear that the operations of any motor vehicle common carrier will be adversely affected by the operation as limited.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the permit should be granted, subject to the conditions hereinafter mentioned.

O R D E R.

IT IS THEREFORE ORDERED, That the applicants, Haze de la Torre, Joe de la Torre and Ambrose de la Torre, doing business as De la Torre Brothers, be, and they are hereby, authorized to operate as Class A motor vehicle private carriers in the transportation of coal only from the Walsenburg, Colorado, coal district to Pueblo over U.S. 85, and from the Canon City coal district to Pueblo over U.S. 50, subject to the following conditions:

That the applicants shall, prior to the 8th day of May, 1955, file statements and reports with the Commission showing the amount of coal hauled by them since July 1, 1954, and pay the highway compensation tax due therefor.

Said permit shall issue only if and when, but not before they have filed a list of their customers and the required insurance, and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this order shall be dependent upon their compliance at all times with all the laws, rules and regulations pertaining to their operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made

a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of March, 1935.

[Decision No. 8298]

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF BURLINGTON TRANSPORTATION COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND AUTHORITY TO TRANSPORT PASSENGERS, BAGGAGE AND EXPRESS AND MAIL BETWEEN FORT COLLINS, COLORADO, AND THE COLORADO-WYOMING STATE LINE.	APPLICATION NO. 8298.

March 28, 1935.

Appearances: J. L. Rice, Esq., Denver, Colorado, and Wilford O'Leary, Esq., Cheyenne, Wyoming, attorneys for applicant;
D. Edgar Wilson, Esq., Denver, Colorado, attorney for Colorado Motorway, Inc.

STATEMENT.

By the Commission:

Applicant seeks a certificate of public convenience and necessity authorizing the transportation, in both intrastate and interstate commerce, of passengers, baggage, mail and express, between Fort Collins, Colorado, and a point on the Colorado-Wyoming state line where Colorado State Highway No. 1 crosses the same, via Wellington, Dixon, Bulger, Hesten and Cronus.

Applicant is an Illinois corporation duly authorized to do business in the State of Colorado. It is a subsidiary of the Chicago, Burlington & Quincy Railroad Company, which owns all of its outstanding stock except five qualifying shares of the directors, who are also officers of the parent company. Its financial standing and reliability were established to the satisfaction of the Commission.

Applicant proposes to operate a 25-passenger Studebaker bus valued at $7,500.00 over the route in question. The evidence disclosed that Fort Collins is a town of approximately 12,000 population, and Wellington, which is located 12 miles north of Fort Collins on the proposed route, has a population of approximately 600.

Some evidence was introduced by residents in the territory proposed to be served, including the Mayor of Wellington and the Secretary of the Chamber of Commerce of Fort Collins, to the effect that there was a reasonable convenience and necessity in this territory for the proposed intrastate

operation of applicant. This demand exists primarily on account of the inconvenient train service which is now furnished by the Colorado and Southern Railway Company, whose route parallels the highway over which applicant would operate. No one appeared in opposition to the granting of the application.

Applicant proposes two schedules daily each way between Fort Collins and Cheyenne, Wyoming, leaving Ft. Collins at 5:30 P.M. and 10:10 A.M., arriving at Cheyenne at 6:50 P.M. and 11:30 A.M., respectively. The return schedule would leave Cheyenne at 6:25 A.M. and 1:10 P.M., arriving at Fort Collins at 7:45 A.M. and 2:50 P.M., respectively.

After a careful consideration of the record the Commission is of the opinion, and so finds (1) that the public convenience and necessity require the proposed operation of applicant in intrastate commerce between Fort Collins, Colorado, and the Colorado-Wyoming state line, and intermediate points, via the route hereinafter described; and (2) that the Constitution of the United States and the laws of the State of Colorado require the issuance to applicant of an interstate permit for its proposed operation in interstate commerce between Fort Collins, Colorado, and the Colorado-Wyoming state line, and intermediate points.

O R D E R.

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operations of applicant, Burlington Transportation Company, a corporation, for the transportation of passengers, baggage, mail and express between Fort Collins, Colorado, and the Colorado-Wyoming state line, including service to and from all points intermediate between Fort Collins and said Colorado-Wyoming state line, via Colorado Highway No. 1, 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 Constitution of the United States and the laws of the State of Colorado require the issuance to applicant of an interstate permit authorizing the transportation of passengers, baggage, mail and express in interstate commerce between Fort Collins, Colorado, and the Colorado-Wyoming state line, including service to and from all points intermediate between Fort Collins and the Colorado-Wyoming state line, and this order shall be taken, deemed and held to be an interstate permit 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 28th day of March, 1935.

(Decision No. 6401)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE STAR INVESTMENT COMPANY, a Corporation, Complainant, vs. THE CITY AND COUNTY OF DENVER, AND ITS BOARD OF WATER COMMISSIONERS, Defendants.	INVESTIGATION AND SUSPENSION DOCKET NO. 176.

March 27, 1935.

S T A T E M E N T

By the Commission:

This case was originally set for hearing on January 23. The case was continued to February 25, at the request of the complainant, because of the illness of the Treasurer thereof. When the case was called on the 25th, the Commission had before it a certificate by a physician stating that the health of A. H. Gutheil, Esq., the Treasurer of the complainant, would not permit his attendance. We thereupon continued the case again to March 25. When the case was reached for hearing in regular order on March 25, no appearance of any kind was made for the complainant. A motion was made by the defendants to dismiss the case.

We are of the opinion, and so find, that the motion should be granted and that the case should be discontinued and dismissed.

O R D E R

IT IS THEREFORE ORDERED, That the above entitled matter be, and the same is hereby, discontinued and dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 27th day of March, 1935.

(Decision No. 6402)

G-943 WM

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF J. B. MONTGOMERY, DOING BUSINESS AS MONTGOMERY TRANSFER COMPANY, FOR A PERMIT TO OPERATE AS A CLASS B PRIVATE CARRIER BY MOTOR VEHICLE.

APPLICATION NO. 2280-PP.

April 1, 1935.

Appearances: J. B. Montgomery, Sterling, Colorado, pro se;
Marion F. Jones, Esq., Longmont, Colorado, attorney for applicant;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
V. G. Garnett, Denver, Colorado, for The Colorado Rapid Transit Company.

STATEMENT.

By the Commission:

This is an application of J. B. Montgomery, doing business as Montgomery Transfer Company, for a private Class B motor permit. The evidence at the hearing disclosed that the applicant is engaged in interstate commerce and confines himself to the service of a limited number of regular customers. His testimony was to the effect that his routes in Colorado are not fixed, and that he does not operate to any definite fixed terminus.

The Commission is somewhat doubtful as to whether his operations are really those of a Class A or a Class B carrier. However, so far as the record in the instant case is concerned, we do not have anything upon which to base any finding except that applicant's operations would be those of a Class B private carrier. Therefore, we have concluded that applicant is entitled to have such a permit issued to him, provided, however, that if it should develop that his operations are those of a Class A carrier, the right will be reserved to cancel his B permit and require him to report all tonnage hauled and pay the highway compensation tax upon the same.

ORDER.

IT IS THEREFORE ORDERED, That applicant, J. B. Montgomery, doing

business as Montgomery Transfer Company, be granted a private Class B motor permit, to be dated February 5, 1935, and to be issued if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the permit herein authorized to be issued.

IT IS FURTHER ORDERED, That applicant, at the end of two months from this date, shall file with the Commission a written statement, under oath, of all of the freight hauled by him, stating the point of origin and the point of destination in each case, and the route or routes over which the shipments moved.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of April, 1935.

(Decision No. 8405)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE MOTOR VEHICLE OPERATIONS OF)
JOSEPH E. WOLF.)

PRIVATE PERMIT NO. 895-A.

April 1, 1955.

S T A T E M E N T.

By the Commission:

The Commission heretofore issued a Private Class A motor permit No. 895-A to Joseph E. Wolf. He has advised us that he "will not be hauling in Colorado any more. Not at the present anyway."

The Commission is therefore of the opinion, and so finds, that said permit should be revoked, with the privilege granted of having the same reinstated within one year, subject to the terms hereinafter stated.

O R D E R.

IT IS THEREFORE ORDERED, That private Class A motor vehicle permit No. 895-A, heretofore issued to Joseph E. Wolf, be, and the same is hereby, cancelled.

IT IS FURTHER ORDERED, That the applicant may, at any time within one year, by complying with all rules and regulations and the law, secure the reinstatement of the said permit by writing us a letter advising us of his desire therefor, and by filing the necessary insurance with the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of April, 1955.

(Decision No. 6404)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
F. H. AUSTIN AND L. C. AUSTIN,) CASE NO. 1569
DOING BUSINESS UNDER THE FIRM)
NAME AND STYLE OF AUSTIN BROTHERS.)

April 1, 1935.

S T A T E M E N T

By the Commission:

The Commission made an order herein on March 21, 1935, suspending the certificate of public convenience and necessity of respondents for a period of ninety days. Respondents have requested that the Commission accept a payment, to be made to the Treasurer of the State of Colorado, in some reasonable sum in lieu of said suspension. This order of procedure is in accord with precedent heretofore established by the Commission.

After careful consideration of the matter, the Commission is of the opinion, and so finds, that it should receive a payment of $125.00 to be made to the Treasurer of the State of Colorado, in lieu of the suspension heretofore ordered. The Commission has received a check for that amount, which it will immediately turn over to the State Treasurer.

The Commission feels that it should solemnly warn respondents that in future they must conduct their operations according to law and the rules and regulations of the Commission if they desire to avoid a permanent revocation of their certificate.

O R D E R

IT IS THEREFORE ORDERED, That the suspension order heretofore made by the Commission in the above entitled case on March 21, 1935, be, and the same is hereby, vacated and set aside.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of April, 1935.

(Decision No. 6405)

A-138

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
J. B. MONTGOMERY.)
* * * * * * * * * * * * * * * * * *

PRIVATE PERMIT NO. A-138

- - - - - - - -

April 1, 1935.

- - - - - - - -

S T A T E M E N T

By the Commission:

The Commission is in receipt of a written communication from J. B. Montgomery requesting that the above numbered permit be suspended temporarily. The Commission has adopted the policy of not suspending permits, but of revoking the same with the privilege of reinstatement upon full compliance with our rules and regulations within a certain period.

After careful consideration of the record, the Commission is of the opinion, and so finds, that this policy should be followed in the instant case.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. A-138, heretofore issued to the above named J. B. Montgomery, be, and the same is hereby, revoked; provided, however, that same may be reinstated at any time within a period of six months from the date hereof upon a written request for such reinstatement and a full compliance with the law and our rules and regulations.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward D. Hawley

Commissioners.

Dated at Denver, Colorado,
this 1st day of April, 1935.

(Decision No. 6406)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
J. D. PERRY, DOING BUSINESS AS) CASE NO. 1577
PERRY TRUCK LINE, P.U.C. NO. 662-I.)

April 2, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission show that on October 10, 1932, in Application No. 1956-I, a permit No. 662-I was issued to the respondent J. D. Perry, authorizing the transportation of freight by motor vehicle as a common carrier in interstate commerce only between Denver, Colorado, and the Colorado-New Mexico state boundary line, where U. S. Highway No. 85 crosses the same, and between intermediate points and said line, and that ever since said date respondent has been and now is operating as a motor vehicle carrier in interstate commerce as aforesaid.

Information has come to the Commission that the respondent J. D. Perry has violated the law and the rules and regulations of the Commission by making and filing false and perjured monthly reports for the purpose of avoiding payment of highway compensation taxes required by law to be paid, in the following particulars, to-wit:

That respondent J. D. Perry made, acknowledged and filed, or caused to be made, acknowledged and filed, with the Commission monthly reports for the months of October, November and December, 1934, and January, 1935, which purported to show, and respondent so represented, that he had transported by motor vehicle over the public highways of the State of Colorado during said months under said interstate permit No. 662-I, numerous shipments of freight weighing 425,224 pounds; that said reports, and each of them, were false and fraudulent, and that respondent knew that same were false and fraudulent in that during said months said respondent transported for hire

over the public highways of the State of Colorado, in interstate commerce, numerous shipments of freight weighing much more than 425,224 pounds, the exact weight of which the Commission is at this time unable to state, for the purpose and with the intent to defraud the Commission and the State of Colorado of highway compensation taxes lawfully due and payable.

The Commission is of the opinion, and so finds, that a complaint, investigation and hearing, on its own motion, should be made and entered into to determine if said respondent, J. D. Perry, has violated the law and the rules and regulations of the Commission in the foregoing particulars, and to determine whether or not interstate permit No. 662-I, heretofore issued to said respondent, should be revoked or suspended for the violation of the law and the rules and regulations of the Commission hereinbefore set forth.

O R D E R

IT IS THEREFORE ORDERED, By the Commission, on its own motion, that a complaint be made and that an investigation and hearing be entered into to determine whether or not said respondent has filed false, fraudulent and perjured monthly reports for the months of October, November and December, 1934, and January, 1935, of the freight transported by him in interstate commerce under the aforesaid interstate permit No. 662-I, as aforesaid.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission, within ten days from this date, why the Commission should not make an order revoking or suspending interstate permit No. 662-I, heretofore issued to respondent J. D. Perry, authorizing the transportation of freight by motor vehicle as a common carrier, in interstate commerce only, as aforesaid, and such other order or orders as may be meet and proper in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room,

330 State Office Building, Denver, Colorado, at 10:00 o'clock A. M., on the 29th day of April, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 2nd day of April, 1935.

(Decision No. 6408)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
J. D. PERRY, DOING BUSINESS AS) CASE NO. 1578
PERRY TRUCK LINE, PRIVATE PERMIT)
NUMBER A-1.)

April 3, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission show that on June 19, 1931, private permit No. A-1 was issued to the respondent J. D. Perry, authorizing him to operate as a private carrier by motor vehicle over a route from Colorado Springs to Denver, Colorado. Thereafter said permit was extended to permit service to Pueblo, Walsenburg and Trinidad, and ever since respondent has been and now is engaged in the business of transporting freight for hire by motor vehicle between said points over the public highways of the State of Colorado.

Information has come to the Commission that the respondent J. D. Perry has violated the law and the rules and regulations of the Commission by making and filing false and perjured monthly reports for the purpose of avoiding payment of highway compensation taxes required by law to be paid to the Commission, and has otherwise violated the rules and regulations of the Commission, the particulars of which said violation are hereinafter set forth, to-wit:

1. That the above named respondent is and has been engaged in the business of a motor vehicle common carrier as that term is defined in Section 1(d) of Chapter 134, Session Laws of Colorado, 1927, as amended, without first having obtained from the Commission a certificate of public convenience and necessity authorizing him to operate as a motor vehicle common carrier, as required by law; and that he has violated the permit to operate as a private carrier by motor vehicle heretofore issued to him by holding himself

out to indiscriminately serve the public as a common carrier by generally soliciting and accepting for transportation freight business from the general public; and that said respondent has been and now is hauling freight for such a large number of shippers that his operation has become affected with a public interest, and has become that of a motor vehicle common carrier.

2. That the respondent J. D. Perry made, acknowledged and filed, or caused to be made, acknowledged and filed with the Commission, monthly reports for the months of October, November and December, 1934, and January, 1935, which said reports purported to show, and respondent so represented, that he had transported by motor vehicle over the public highways of the State of Colorado during said months under the authority of said private permit, numerous shipments of freight weighing 3,107,776 pounds; that said reports, and each of them, were false and fraudulent, and that respondent well knew that the same were false and fraudulent in that during said months said respondent transported for hire over the public highways of the State of Colorado numerous shipments of freight weighing not less than 3,500,000 pounds during the months aforesaid; that said reports were further false and fraudulent in that respondent represented that the shipments of freight so transported and shown to have been transported in the aforesaid monthly reports were transported for the following named persons, firms and corporations, to-wit: Morey Mercantile Company, Martin Brothers, Swift & Company, J. S. Brown Mercantile Company, McKesson-Colorado Drug Company, Ford Motor Company, Continental Oil Company, Rocky Mt. Warehouse Company, Montgomery Ward & Company, Universal Carloading and Distributing Co., The Texas Co., Law-Rippey Casket Co., National Biscuit Co., all of Denver, Colorado; Colorado Springs Hide and Tallow Company of Colorado Springs, while in truth and in fact said respondent had also transported freight during said months for a large number of consignors and consignees, including the following named persons, firms and corporations, whose names and addresses do not appear on said reports, to-wit: Brecht Candy Co., Duffy Storage and Moving Co., General Tire Co., Linde Air Products Co., Menasha Paper Products Co., Frigidaire Corporation, Richlow Mfg. Co., Kraft-Phoenix Cheese

Corporation, Continental Can Co., Inc., Acetylene Service Co., Auto Equipment Co., Davis Bros. Drug Co., Perkins-Epeneter Pickle Co., Burke-Donaldson-Taylor, Inc., Pepper Packing and Provision Co., Crane-O'Fallon Co., W. T. Rawleigh Co., Pure Food Mfg. Co., Trinidad Bean and Elevator Co., Thoro Products Co., H. H. Post Co., Flaks, Inc., Motoroyl Oil Co., Prest-O-Lite Corporation, United Motor Service, American Beauty Macaroni Co., Rocky Mt. Container Company, Inland Paper Box Co., Sinclair Oil Co., Firestone Tire and Rubber Co., Seiberling Tire & Rubber Co., all of Denver, Colorado; Colorado Springs Music Co., Glen Schultz, Puffer Mercantile Co., Stone Paper Co., Sparey-Maytag Co., H. A. Marr Grocery Co., Star Baking Co., Palmer Joslyn Co., A. J. Borck, and Sinton Dairy, all of Colorado Springs, Colorado; Kendall Bakery and Trinidad Creamery Co., both of Trinidad, Colorado; Sporleder Selling Co., Baxter Hardware Company, Graves-Klein Motor Co., Dissler Furniture Co., Walsenburg Mercantile Co., all of Walsenburg, Colorado; R. B. Kyle Electric Company, Nuckolls Packing Company, Fox-Viliet Drug Co., Ridenour-Baker Mercantile Co., Otterstein and Popp, Williams Produce Company, Florman Mfg. Company, Colorado Fuel and Iron Co., J. S. Brown Mercantile Company and Pueblo Liquor Company, all of Pueblo, Colorado, as well as numerous other persons, firms and corporations whose names and addresses are unknown to the Commission at this time.

In view of the foregoing facts and circumstances, the Commission is of the opinion, and so finds, that a complaint, investigation and hearing, on its own motion, should be made and entered into to determine if respondent J. D. Perry has violated the law and the rules and regulations of the Commission in the foregoing particulars, and to determine whether or not private permit No. A-1, heretofore issued to said respondent, should be revoked or suspended for the violations of the law and the rules and regulations of the Commission hereinbefore set forth.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a complaint be made and an investigation and hearing be entered into

to determine whether or not the above named respondent has been engaged in the business of a motor vehicle common carrier, without first having obtained a certificate of public convenience and necessity, and in violation of the law and the provisions of the permit to operate as a private carrier by motor vehicle heretofore issued to him, and whether or not said respondent has filed false, fraudulent and perjured reports for the months of October, November and December, 1934, and January, 1935, as aforesaid.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission, within ten days from this date, why the Commission should not make its order requiring said respondent to cease and desist from operating as a motor vehicle carrier unless and until he procures a certificate of public convenience and necessity therefor as required by law, and why an order suspending, cancelling or revoking the permit No. A-1 heretofore issued, authorizing him to operate as a private carrier by motor vehicle, and such other order or orders as may be meet and proper in the premises, should not be made by the 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, 330 State Office Building, Denver, Colorado, at 10:00 o'clock A. M., on the 29th day of April, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of April, 1935.

(Decision No. 6409)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE MOTOR VEHICLE OPERATIONS OF)
JACK PERRY, DOING BUSINESS AS) CASE NO. 1579
SERVICE TRUCK LINE.)

April 3, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission show that on June 24, 1931, a private permit, No. A-16, was issued to the respondent Jack Perry, authorizing him to operate as a private carrier by motor vehicle over a route from Denver to Pueblo, Colorado. Thereafter, on several occasions said permit was extended to permit service to other points in the State of Colorado, and ever since respondent has been and now is engaged in the business of transporting freight for hire between said points by motor vehicle over the public highways of the State.

Information has come to the Commission that the respondent Jack Perry has violated the law and the rules and regulations of the Commission by making and filing false and perjured monthly reports for the purpose of avoiding payment of highway compensation taxes required by law to be paid, and has otherwise violated the rules and regulations of the Commission, the particulars of which are hereinafter set forth.

1. That the above named respondent is and has been engaged in the business of a motor vehicle common carrier as that term is defined in Section 1 (d) of Chapter 134, Session Laws of Colorado, 1927, as amended, without first having obtained from the Commission a certificate of public convenience and necessity authorizing him to operate as a motor vehicle common carrier, as required by law; and in violation of the permit to operate as a private carrier by motor vehicle heretofore issued to him, by holding himself out to indiscriminately serve the public as a common carrier by

generally soliciting and accepting for transportation freight business from the public; and that said respondent has been and now is hauling freight for such a large number of shippers that his operation has become affected with a public interest.

2. That the respondent Jack Perry made, acknowledged and filed, or caused to be made, acknowledged and filed with the Commission monthly reports for the months of October, November and December, 1934, and January, 1935, which said reports purported to show and respondent so represented, that he had transported over the public highways of the State of Colorado during said months under the authority of said private permit, numerous shipments of freight weighing 247,455 pounds; that said reports and each of them were false and fraudulent, and that respondent well knew that the same were false and fraudulent, in that during said months said respondent transported for hire over the public highways of the State of Colorado freight weighing not less than 500,000 pounds, and that said reports filed by respondent were made or caused to be made for the purpose and with the intent to defraud the Commission and the State of Colorado of highway compensation taxes lawfully due and payable.

The records of the Commission also disclose that the said respondent has violated the Rules and Regulations of the Commission, effective October 1, 1934, by failing and neglecting to file with the Commission a written statement of the names and addresses of all customers, both consignors and consignees, as required by Rule 15.

The Commission is of the opinion, and so finds, that a complaint, investigation and hearing, on its own motion, should be made and entered into to determine if respondent Jack Perry has violated the law and the rules and regulations of the Commission in the foregoing particulars, and to determine whether or not private permit No. A-16, heretofore issued to said respondent, should be revoked or suspended for the violations of the law and the rules and regulations of the Commission as hereinbefore set forth.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a complaint be made and that an investigation and hearing be entered into to determine whether or not the above named respondent is and has been engaged in the business of a motor vehicle common carrier, without first having obtained a certificate of public convenience and necessity and in violation of the law and the provisions of the permit to operate as a private carrier by motor vehicle heretofore issued to him, and whether or not said respondent has filed false, fraudulent and perjured monthly reports for the months of October, November and December, 1934, and January, 1935, as aforesaid.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission, within ten days from this date, why the Commission should not enter its order requiring said respondent to cease and desist from operating as a motor vehicle carrier, unless and until he procures a certificate of public convenience and necessity as required by law, and why the Commission should not make an order suspending or revoking the permit No. A-16, heretofore issued, authorizing him to operate as a private carrier by motor vehicle; and why there should not be made such other order or orders as may be meet and proper in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 330 State Office Building, Denver, Colorado, at 10:00 o'clock A. M., on the 29th day of April, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of April, 1935.

(Decision No. 6410)

717

717-9

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
THE COMET MOTOR EXPRESS COMPANY FOR)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO OPERATE MOTOR VEHICLE) APPLICATION NO. 2197
SERVICE FOR THE TRANSPORTATION OF)
PERSONS AND PROPERTY IN BOTH INTRASTATE)
AND INTERSTATE COMMERCE.)

April 4, 1935.

Appearances: Sid Pleasant, Esq., Craig, Colorado, and
A. M. Gooding, Esq., Steamboat Springs, Colorado, attorneys for applicant;
C. R. Munson, Esq., Steamboat Springs, Colorado, for Steamboat Transfer & Storage Company;
John R. Turnquist, Esq. and F. J. Toner, Denver, for the Denver and Salt Lake Railway Co. and Railway Express Agency;
T. A. White, Esq., Denver, Colorado, for the Denver-Steamboat Springs Stage Line.

S T A T E M E N T

By the Commission:

This is an application by the Comet Motor Express Company, Inc., a corporation, for authority to establish motor vehicle service for the transportation of persons and property, both intrastate and interstate between Denver, Colorado, and points Toponas, Colorado, to Meeker, Colorado, between Denver, Colorado, and points Toponas, Colorado, to the state line west on Highway U. S. 40, and between Denver, Colorado, and points Toponas, Colorado, to the state line north on State Highway 13, and all intermediate points and return.

Application is resisted by the Denver-Steamboat Springs Stage Line, the Steamboat Transfer & Storage Company, the Railway Express Agency, and The Denver and Salt Lake Railway Company.

At the hearing at Craig, Colorado, on March 6, applicant waived all local rights between Denver and Toponas and points intermediate thereto, and consented, in the event certificate should issue, to a limitation of 3,500 pounds on express haul. It now owns certificate of public convenience and necessity granted in Application No. 2167 on August 20, 1934, and

thereunder has the right to operate motor vehicles for transportation of freight, passengers and express in intrastate and interstate commerce between Grand Junction and the Colorado-Wyoming line via Meeker and Craig at a point where State Highway 13 crosses the same, and between Grand Junction and a point on the Colorado-Utah boundary line where U. S. Highway 40 crosses same via Meeker and Craig, and between Craig and Meeker and between all points on all the said routes. Applicant, then, in addition to existing rights, seeks intrastate and interstate rights—Craig to Toponas via Steamboat Springs and intermediate points, and Toponas to Denver by way of Gore Canon road, and the combination of local and through hauls on said proposed service with already authorized service.

According to Mr. Brockman, general manager and majority stockholder of the Comet Motor Express Company, applicant proposes to use combination passenger and express busses with carrying capacity of seven to ten passengers and 3,500 to 4,000 pounds express between Denver and Craig, bus to leave Denver at 8:30 P.M. arriving at Craig at 7:10 A.M.; leaving Craig at 8:00 P.M., arriving at Denver, 6:10 A. M. He proposes to absorb three A-permit operations now operating in the territory and to inaugurate daily freight service, which he believes available business justifies between Denver and Craig. He suggested that there had been some discrimination in rates on the part of the Steamboat Transfer and Storage Company in support thereof.

The line of proposed operation between Craig and Toponas practically parallels the line of the Denver and Salt Lake Railway Company which operates daily freight, passenger and express service between Denver, Craig and all intermediate points. The Steamboat Transfer & Storage Company operates a freight service Denver to Craig and intermediate points. The Denver and Steamboat Springs Stage Line operates a daily automobile passenger service between Denver and Craig, except when, in its judgment, weather does not permit. At present operations are discontinued.

Three A permit operators also engage in hauling freight Denver to Steamboat Springs and Craig when business is available and weather is favorable.

There is no authorized bus service from Toponas to Steamboat Springs and intermediate points.

Messrs. Correll, Purcell and Grounds, holders of the three "A" private permits mentioned, in general testified that Gore pass was open practically all the time; that they operate whenever business is available; that in the event a certificate was granted to Comet Motor Express Company, Inc., they expected to assign their permits to applicant; that although no definite understanding or arrangement as toterms of assignment existed, it was contemplated that Mr. Brockman would "farm out" the freight haul to them and retain passenger and express business for himself; that they frequently, at Denver and elsewhere, were solicited by people who wanted passenger transportation over the proposed route of applicant-- prospective passengers, in some instances, however, wanting to ride free or at rates less than those charged by authorized carriers.

A number of witnesses for applicant from Hayden, Oak Creek and Mt. Harris testified that in their opinion daily freight service by truck would be convenient and necessary. With the exception of Witness Clough, who had never shipped by Steamboat Transfer and Storage Company, there seemed to be no fault to find with its service. For the most part, witnesses seemd to be chiefly interested in lower rates.

Witness Charles Wilkins of Mt. Harris stated that an additional passenger service "would be somewhat more convenient" and witnesses D. H. Godfrey and Hugh Mathews of Oak Creek thought that night transportation by bus to and from Denver would be desirable for miners employed at Oak Creek, the only passenger service now available being daily service of the Denver and Salt Lake Railway Company.

For the Denver and Salt Lake Railroad, a witness testified that express revenues were greatly curtailed; that their trains were now operating, and for a number of years had been operating at a loss, and further diminution of revenue would work a material hardship on the railroad and might affect its ability to properly serve the public.

Mr. Larson, for the Steamboat Transfer and Storage Company, testified that it operates two trucks in summer and one truck during the winter to make daily, except Sunday, trips in summer and tri-weekly trips in winter between Denver and Craig, leaving Denver at 5:00 P. M., arriving at Craig at 9:00 A.M.; that he would make daily trips in winter if sufficient business were available; that his company's operation on line haul between Denver and Craig showed a loss of $2,300 in 1934; that his trucks were moving most of the time with less than full loads and that it would be impossible for his company to continue its operation and pay expenses if another line were authorized; that two operators at Steamboat Springe recently discontinued their operations because of inability to meet expenses; that extra equipment was available to haul all freight that might be offered; and that his company had never been guilty of any intentional discrimination in freight rates, and that in all instances cited by Mr. Brockman to the best of his knowledge charges were correct or had been properly adjusted.

Witnesses for the Denver-Steamboat Springs Stage Line testified that that company operated its busses between Denver and Craig regularly from about May 1 to December 1, and ordinarily discontinued business during the period from December 1 to May 1 on account of weather conditions; that there were times during the winter months when passenger cars could be operated, but there was no particular demand for service. W. L. Carver, who operates a filling station and bus depot for carrier at Craig testified that only two inquiries for service since cessation of operations in the fall had been received. N. R. Carver, manager, testified that he operated whenever business was available and weather permitted, four 8-passenger Packard cars between Denver and Craig in daily service; that no complaints had been received about the service; that it was occasionally necessary to put on an extra car out of Steamboat Springs, which he had done; that the amount of business available and public convenience and necessity did not require and would not justify another passenger service between Denver and Craig.

In view of the fact that, aside from the A-permit operations, the

territory is well supplied with railroad and motor vehicle certificated carriers and applicant's proposed service duplicates or at least is designed to compete with their service, it was incumbent upon applicant, before certificate can issue, to show public convenience and necessity, and that, as heretofore held by the Commission in other cases, ordinarily includes proof not only that the existing authorized service is inadequate and insufficient, but also that such service cannot be required by the Commission to be made adequate and sufficient. This, applicant has not done.

It appears that the service rendered by authorized carriers has been satisfactory and that public convenience and necessity do not require an additional service in intrastate commerce for either freight, express or passengers; and that business in said territory is so limited that any diminution of the common carrier business would work a material hardship upon said common carriers and would probably affect their ability to properly serve the public.

Article VII, 1 (b) of the Code of Fair Competition of the Motor Bus Industry, now in effect, in part provides as follows:

> "Passenger motor carriers establishing any new motor bus operation, or extending any motor bus operation after the date of the approval of this Code, shall secure therefor a certificate of convenience and necessity or permit from each and every state in which such operation is conducted authorizing interstate transportation along the route or routes of such new operation or extension of existing operation."

In the matter of the application of Victor A. Cornelison, Application No. 2143, we denied an interstate permit on account of said provision of the Code, because applicant did not have intrastate right over route embraced in his application for interstate certificate. We there held that it is "beyond the power of a state agency to authorize operation in interstate commerce when the Federal government, which has supreme control over such commerce, prohibits such operation."

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the public convenience and necessity do not require the proposed intrastate motor vehicle operation of the applicant,

and further, in view of that finding, that the Constitution of the United States and the laws of the State of Colorado require the Commission to deny a permit for the proposed hauling by applicant of passengers in interstate commerce, and that the Constitution of the United States and the laws of the State of Colorado require the issuance to applicant of an interstate permit, authorizing the establishment of a motor vehicle system for the transportation of freight and express in interstate commerce only between Denver and the Colorado-Utah state line, including intermediate points, over U. S. Highway No. 40, with detour by way of Gore pass, and between Denver and the Colorado-Wyoming state line and intermediate points, in interstate commerce only, over U. S. Highway No. 40 Denver to Craig, with detour by way of Gore pass, and over Highway No. 13 from Craig to State boundary line.

O R D E R

IT IS THEREFORE ORDERED, That this application, so far as it relates to or is concerned with the proposed intrastate operations by applicant, be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the Constitution of the United States and the laws of the State of Colorado require the issuance to applicant, Comet Motor Express Company, Inc., of an interstate permit authorizing the transportation of freight and express in interstate commerce only between Denver and the Colorado-Utah state line, including intermediate points, over U. S. Highway No. 40 with detour by way of Gore pass, and between Denver and the Colorado-Wyoming state line and intermediate points, in interstate commerce only, over U. S. Highway No. 40 Denver to Craig, with detour by way of Gore pass, and over Highway No. 13 from Craig to state boundary line, and this order shall be taken, deemed and held to be an interstate permit 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 April, 1935.

(Decision No. 6412)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
OSCAR HERBEL FOR AUTHORITY TO TRANS-)
FER TO HOWARD SWANK PRIVATE PERMIT)
NUMBER A-746.)

APPLICATION NO. 2315-PP-A.

April 6, 1935.

Appearances: Oscar Herbel, Brighton, Colorado,
pro se;
Howard Swank, Brighton, Colorado,
pro se;
A. J. Fregeau, Denver, Colorado,
for Weicker Transportation Company;
V. G. Garnett, Denver, Colorado,
for Colorado Rapid Transit Company;
J. F. Rowan, Denver, Colorado,
for Motor Truck Common Carriers Ass'n.

S T A T E M E N T

On June 23, 1934, Oscar Herbel was granted private permit No. A-746. He seeks herein to transfer said permit to Howard Swank.

The record and evidence disclose that the permit authorizes a milk haul from the territory near Brighton to Brighton and the right to operate between Greeley and Pueblo and intermediate points.

It also appeared that Herbel has never exercised his right to operate between Pueblo and Greeley or points intermediate thereto, and that Swank does not contemplate operating a freight service between said points, but wants the right to operate in order that he may serve regular customers residing in or near Brighton should occasion require. His responsibility was established to the satisfaction of the Commission.

The Commission is of the opinion, and so finds, that the application of Oscar Herbel for authority to transfer to Howard Swank private permit No. A-746, heretofore issued to said Herbel by the Commission, should be granted, with the proviso that said assignee shall not engage in regular freight service between Greeley and Pueblo, Colorado, or points intermediate thereto, but shall limit his freight service between said points to occasional hauling for his customers residing in the territory described in the original permit near Brighton.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to Oscar Herbel to transfer his private permit No. A-746 to Howard Swank, provided, however, that said transferee shall not engage in regular freight service between Greeley and Pueblo, or points intermediate thereto, but shall limit his freight service between said points to occasional hauling for his customers residing in the territory described in the original permit near Brighton, Colorado.

IT IS FURTHER ORDERED, That the transfer herein authorized shall not become effective until transferee shall have filed with the Commission the necessary insurance and has complied with all the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of April, 1935.

(Decision No. 6413)

2-954

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF J. D. McKENZIE FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER FOR THE TRANSPORTATION OF ORE AND GENERAL FREIGHT BETWEEN BOULDER AND COLORADO SPRINGS, COLORADO, AND INTERMEDIATE POINTS.

APPLICATION NO. 2305-PP

April 6, 1935.

Appearances: J. D. McKenzie, Nederland, Colorado, pro se;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation 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:

As limited by his testimony at the hearing, applicant herein seeks authority to operate as a Class A private carrier by motor vehicle for the transportation of ore only in lots of not to exceed six tons, between Boulder and Colorado Springs, Colorado, excluding intermediate points, over Colorado Highway 7, U. S. 285 and U. S. 85, and for the transportation of general freight between Nederland and Pine Cliff, including intermediate points, over Colorado Highway No. 72.

It appeared at the hearing that applicant is an experienced trucker with adequate equipment, and his financial standing was established to the satisfaction of the Commission. Also it did not appear that the proposed operation would unduly interfere with the operations of any established common carrier system.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the applicant J. D. McKenzie be, and he is hereby, granted a permit to operate as a Class A private carrier

by motor vehicle for the transportation of ore only, in lots not to exceed six tons, between Boulder and Colorado Springs, Colorado, excluding intermediate points, via Colo. Highway 7, U. S. 285 and U. S. 85, and for the transportation of general freight between Nederland and Pine Cliff, including intermediate points, over Colo. Highway No. 72, said permit to issue if and when, but not before applicant has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of April, 1935.

(Decision No. 6414)

a-928

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
VERN AND WAYNE KUTZ, DOING BUSINESS)
AS KUTZ BROTHERS TRUCK LINE, FOR A) APPLICATION NO. 2311-PP
PERMIT TO OPERATE AS A CLASS "A")
PRIVATE CARRIER BY MOTOR VEHICLE.)

April 6, 1935.

Appearances: Vern and Wayne Kutz, Gypsum, Colorado, pro se;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
V. G. Garnett, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
F. J. Toner, Denver, Colorado, for The Denver and Salt Lake Railway Company.

S T A T E M E N T

By the Commission:

Applicants, Vern and Wayne Kutz, doing business as Kutz Brothers Truck Line, seek a permit to operate as a Class A private carrier by motor vehicle for the transportation of freight between Gypsum and Denver, and intermediate points, via U. S. Highway 40, Colorado Highway 91 and Loveland pass, or via U. S. 40, Berthoud pass and Wolcott, or via Colo. 8 and Colo. 91 to Leadville and U. S. 40 South, or over U. S. 40 South by way of Buena Vista, U. S. 40 South to Colorado Springs and U. S. 85 to Denver.

At the hearing, the applicants waived the right to serve intermediate points, except Eagle, Gypsum to Denver, and agreed that transportation of freight by them between Eagle, Gypsum and Denver should be limited to the hauling of cattle, potatoes, farm machinery and heavy material, excepting merchandise, for customers residing at Gypsum and Eagle, with the right to haul freight generally from and to Gypsum to and from points within a radius of fifty miles thereof and from point to point within said radius.

It also appeared that on account of weather and road conditions, it is necessary that applicants be authorized to operate over a number of routes as set forth in their application.

The Commission is of the opinion, and so finds, that the application, as limited, should be granted for the territory and over the routes hereinbefore described, subject to the conditions hereinafter set forth.

O R D E R

IT IS THEREFORE ORDERED, That the applicants, Vern Kutz and Wayne Kutz, doing business as Kutz Brothers Truck Line, be, and they hereby are granted a permit to operate as a Class A private carrier by motor vehicle for the transportation for customers at Gypsum and Eagle, only, of cattle, potatoes, farm machinery and heavy material, excepting merchandise, between Gypsum and Denver, without the right to serve intermediate points except Eagle; also the right to haul freight generally from and to Gypsum to and from points within a radius of fifty miles thereof, and from point to point within said radius, said permit to issue if and when, but not before applicants have filed a list of their customers and the required insurance and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this permit shall be dependent upon their compliance at all times with all the laws, rules and regulations pertaining to their operations which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward E. Keller

H. M. Allen

Marian Epinson

Commissioners.

Dated at Denver, Colorado,
this 6th day of April, 1935.

(Decision No. 6415.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

a 882

RE MOTOR VEHICLE OPERATIONS OF)
T. J. AND PAULINE C. HEYLAND.) PRIVATE PERMIT NO. A-882.

April 6, 1935.

S T A T E M E N T.

By the Commission:

The Commission is in receipt of a written communication from the above named T. J. and Pauline Heyland, requesting that their permit No. A-882 be cancelled, due to the fact that they are disposing of their truck.

After a careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R.

IT IS THEREFORE ORDERED, That private permit No. A-882, heretofore issued to T. J. and Pauline Heyland, be, and the same is hereby, cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of April, 1935.

(Decision No. 6416)

a925

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
CALDWELL AND YATES FOR A PERMIT TO)
OPERATE AS A PRIVATE CARRIER BY)
MOTOR VEHICLE FOR THE TRANSPORTATION) APPLICATION NO. 2313-PP
OF FREIGHT BETWEEN DENVER AND)
HOLYOKE, COLORADO.)
* * * * * * * * * * * * * * * * * * * *

April 6, 1935.

Appearances: L. Caldwell, Denver, Colorado,
for applicants;
J. R. Arnold, Denver, Colorado,
for North Eastern Motor Freight, Inc.;
H. G. Brooks, Sterling, Colorado,
for Brooks Transportation Company;
J. F. Rowan, Denver, Colorado,
for Motor Truck Common Carriers Ass'n.

S T A T E M E N T

By the Commission:

L. Caldwell and Mrs. A. A. Yates, doing business as Caldwell and Yates, applied for a permit to operate as a Class A private carrier by motor vehicle for the transportation of freight between Denver and Holyoke, Colorado, and intermediate points, over U. S. Highway No. 85 and U. S. No. 6.

It appeared at the hearing that applicant L. Caldwell, as an employe of the Gallagher Transfer and Storage Company, holder of common carrier certificate No. 320 and private permit No. A-464, has been hauling the Denver Post and films between Denver and Holyoke; that recently he made arrangements with said company to take over that part of its business and operate on his own account; that in addition to the Denver Post and films, he wants to haul light express in order to serve the convenience of merchants residing in the territory traversed by his line, particularly at Holyoke. He expects to leave Denver in the afternoon.

Mr. Arnold, president of North Eastern Motor Freight, Inc., which operates between Denver and Brush, suggested a limit of 50 pounds be placed on express shipments other than newspapers and films. Mr. Brooks, who operates

Brooks Transportation Company and is engaged in hauling heavy freight under a common carrier certificate between Brush and Holyoke, thought the limitation should be 100 pounds.

The Commission is of the opinion, and so finds, that the suggested operation over the route indicated, if limited to express shipments of not to exceed 75 pounds in weight, newspapers and films, will not unduly affect any existing common carrier service and that a permit so limited should be granted.

O R D E R

IT IS THEREFORE ORDERED, That L. Caldwell and Mrs. A. A. Yates, doing business as Caldwell and Yates, should be and hereby are granted a permit to operate as a Class A private carrier by motor vehicle for the transportation of express in shipments not to exceed 75 pounds, newspapers and films, between Denver and Holyoke, Colorado, and intermediate points, over U. S. Highways Nos. 85 and 6, said permit to issue if and when, but not before applicants have filed a list of their customers and the required insurance and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this order shall be dependent upon their compliance at all times with all the laws, rules and regulations pertaining to their operations which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of April, 1935.

(Decision No. 6418)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
JOE BOUCHARD FOR AN EXTENSION OF HIS)
PRIVATE MOTOR VEHICLE PERMIT NO. A-885)
to include transportation of freight) APPLICATION NO. 2307-PP
between Westcliffe, Colorado, and)
Pueblo, Colorado.)

April 6, 1935.

Appearances: Mr. Joe Bouchard, Westcliffe, Colorado, pro se;
A. J. Fregeau, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
T. A. White, Esq., Denver, Colorado, for The Denver and Rio Grande Western Railroad Company and Rio Grande Motor Way, Inc.;
Mr. Murray Owenby, Longmont, Colorado, for Colorado Trucking Association;
John Hanssen, Jr.,Westcliffe, Colorado, pro se.

S T A T E M E N T

By the Commission:

Applicant seeks an extension of his operation under private permit No. A-885 to include the transportation of freight between Westcliffe, Colorado, and Pueblo, Colorado, over Highway 96. The terms of his permit A-885 allow the transportation of gasoline only between Florence and Westcliffe.

At the hearing, it appeared that the territory is amply served by existing common carriers, supplemented by the private carrier service of John Hanssen, Jr. The Denver and Rio Grande Western Railroad Company operates freight service between Denver and Westcliffe, and the Rio Grande Motor Way, Inc., operates a bus and express service between Westcliffe and Texas Creek, connecting with the Rio Grande railroad and motor truck carriers at said Texas Creek, and one John Loens operates a common carrier service between Canon City and Westcliffe and has recently applied for an extension to Pueblo.

After careful consideration of the record, the Commission is of the opinion, and so finds, that the additional service by motor vehicle proposed would unduly interfere with said common carrier systems and might

necessitate their curtailment to the injury of the public, and that said application should be denied.

O R D E R

IT IS THEREFORE ORDERED, That the said application of Joe Bouchard for an extension of his permit be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of April, 1935.

(Decision No. 6420)

a-554

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
FRANK MILLER FOR AN EXTENSION OF) APPLICATION NO. 2258-PP
PRIVATE PERMIT NO. A-554.)

April 12, 1935.

S T A T E M E N T

By the Commission:

An application for rehearing has been filed herein. We carefully considered the same and are of the opinion, and so find, that the application should be denied.

We feel it is incumbent upon the applicant to inform the Commission, with a degree of certainty that was lacking at the hearing, of the number and names of the customers he expects to serve as a private carrier.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 12th day of April, 1935.

(Decision No. 6421.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF)
BEN ADAMS FOR A CERTIFICATE OF PUBLIC) APPLICATION NO. 2278.
CONVENIENCE AND NECESSITY.)

April 6, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, for the applicant;
Albert S. Isbill, Esq., Denver, Colorado, for Austin Brothers;
V. G. Garnett, Esq., for the Colorado Rapid Transit, Denver, Colorado.

S T A T E M E N T.

By the Commission:

This is an application by Ben Adams for a certificate of public convenience and necessity, authorizing the transportation of dairy products by motor truck between certain territory described in the application and Denver, and the transportation of freight between Niwot and Denver.

Written protests were filed by L. C. Austin and F. H. Austin, doing business as Austin Brothers, and the Colorado Rapid Transit Company. The territory from which the applicant desires to transport milk and cream to Denver is now served by three common carriers, Austin Brothers, the Colorado Rapid Transit Company, and Schofield Brothers, the greater part of the territory being served by Austin Brothers.

Niwot is a small town situated between Boulder and Longmont on the line of the Colorado and Southern Railway Company.

The evidence disclosed quite a little feeling on the part of some of the shippers against Austin Brothers. Some of the testimony was to the effect that the shippers of milk and cream would like to have a choice between two operators. There was some testimony to the effect that the milk hauled by Austin Brothers would have to pass through a milk depot in Niwot, where the same would be tested before being mixed with other milk and carried on to Denver.

The applicant himself testified that there is not enough milk and

cream shipped from the territory in question to warrant the service of two common carriers.

There is some dispute as to the question of the fairness of the tests made at the milk depot at Niwot, some of the testimony being to the effect that the milk showed a lower test there than it would show if tested elsewhere, while other testimony indicated that the tests at Niwot resulted as favorably for the shippers as tests conducted elsewhere. However, we do not need to deal at length with this question, because the evidence shows conclusively that the depot at Niwot has been permanently discontinued, part of the machinery therein having already been sold. The ground stated for closing the station there was that the station was not profitable.

In our opinion, and we find, that the evidence does not show any substantial defect in the service of Austin Brothers, against whom alone the evidence for the applicant as to sufficiency of service was mainly, if not solely, directed.

We are therefore of the opinion, and so find, that the application, so far as the same relates to the transportation of dairy products between the territory in question and Denver, should be denied.

There is no regular common carrier service between Denver and Niwot. The applicant now has a permit authorizing him as a private carrier to transport milk and cream to Denver from territory contiguous to or near Niwot.

We are of the opinion, and so find, that the public convenience and necessity require the transportation by the applicant as a common carrier of freight other than milk and cream between Denver and Niwot, but not to or from any other points.

O R D E R.

IT IS THEREFORE ORDERED, That the application, so far as it relates to the transportation of dairy products or milk and cream be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the public convenience and necessity require the motor vehicle system of the applicant for the transportation of freight other than milk and cream between Denver and Niwot, but not to or from any other points, and this order shall be taken, deemed, and held to be a certificate of public convenience and necessity therefor.

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of April, 1935.

(Decision No. 6422)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
DONALD E. WOODS FOR A CERTIFICATE OF) APPLICATION NO. 2209
PUBLIC CONVENIENCE AND NECESSITY.)

April 10, 1935.

S T A T E M E N T

By the Commission:

On February 27 the Commission made an order granting a certificate of public convenience and necessity in the above entitled application to Donald E. Woods. At the hearing preceding the granting of the certificate, proof was made that the applicant proposed to organize a corporation to which the certificate would be issued. However, before the applicant had filed a copy of his certificate of incorporation, the order had been issued granting the certificate to him.

Since the order was made the attorney for the applicant Donald E. Woods has filed with the Commission a copy of the certificate of incorporation of Grand Lake Light Company, which has been organized under and by virtue of the laws of the State of Colorado, and a letter requesting that the certificate now be transferred from Woods to the corporation.

In view of all the facts and circumstances, the Commission is of the opinion, and so finds, that said Donald E. Woods be, and he hereby is authorized to transfer to Grand Lake Light Company, a corporation, the certificate of public convenience and necessity heretofore granted to said Woods in Application No. 2209.

O R D E R

IT IS THEREFORE ORDERED, that authority be and the same is hereby granted to Donald E. Woods to transfer to Grand Lake Light Company, a corporation, the certificate of public convenience and necessity heretofore granted to said Woods in Application No. 2209.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 10th day of April, 1935.

(Decision No. 6423)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE CLOSING OF AGENCY STATION AT MOSCA, COLORADO, BY THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY.) I. & S. DOCKET NO. 210

April 12, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of the following letter from applicant in the above entitled matter:

"Re: I&S Docket 210
The Public Utilities Commission
of the State of Colorado,
State Office Building,
Denver, Colorado.

Gentlemen:

On behalf of the railroad company I desire to withdraw its application to close Mosca station which was the subject of the Commission's above numbered investigation and suspension docket. I therefore respectfully request the Commission to dismiss the above proceeding, without prejudice.

Very truly yours,
T. R. WOODROW
General Attorney."

After a careful consideration of the above request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the application filed in the above entitled matter be, and the same is hereby, dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 12th day of April, 1935.

(Decision No. 6424)

a-939

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
PAUL H. HULBERT FOR A PERMIT TO)
OPERATE AS A CLASS "A" PRIVATE CARRIER)
BY MOTOR VEHICLE FOR THE TRANSPORTATION) APPLICATION NO. 2304-PP
OF FREIGHT AND EXPRESS BETWEEN STERLING)
AND FORT MORGAN, COLORADO.)

April 12, 1935.

Appearances: John R. Coen, Esq., Denver, Colorado,
attorney for applicant;
A. J. Fregeau, Denver, Colorado,
for Weicker Transportation Company;
J. R. Arnold, Denver, Colorado,
for North Eastern Motor Freight, Inc.

S T A T E M E N T

By the Commission:

This is an application by Paul H. Hulbert for a permit to operate as a Class A private carrier by motor vehicle for the transportation of light freight and express between Sterling, Colorado, and Fort Morgan, Colorado, over U. S. Highway No. 6.

At the hearing, it developed that applicant has a contract with the Sterling Advocate to haul its afternoon newspapers from Sterling to Atwood, Merino, Hillrose, Brush and Fort Morgan, receiving therefor the sum of $30.00 monthly, and that as the amount received from that source is insufficient to pay expenses, he wants the right to haul freight in order to increase his revenue; that there is a demand by merchants in the towns above mentioned for an afternoon light freight motor service out of Sterling, and that the Sterling Advocate is a newspaper widely read, not only in said towns, but throughout northeastern Colorado; that he expects to leave Sterling at 4:00 P.M. in time to make connection at Brush with the Burlington mail train; that the last southbound train before 12:00 midnight leaves Sterling at 2:30 P.M.; that the daily southbound bus leaves at 1:00 P. M., and the daily southbound truck of North Eastern Motor Freight ordinarily leaves sometime between 7:00 P.M. and 10:00 P.M.,

depending upon the arrival of trucks from the east connecting with its line at Sterling.

Mr. Arnold, president of North Eastern Motor Freight, stated that he formerly operated a local out of Sterling, leaving about 2:30 P. M., but discontinued the service on account of loss of business due to abandonment by Morey Mercantile Company and J. S. Brown Mercantile Company of their wholesale warehouses in Sterling, and that he could not put on a truck to take care of the newspaper haul.

Applicant has filed his list of customers, and has established his ability and financial responsibility to the satisfaction of the Commission. While his contemplated operation may interfere somewhat with existing carrier systems, in view of the fact that we believe there is a demand on the part of residents of the territory to be served by proposed operation for prompt delivery of their daily newspapers, and that the existing motor vehicle common carrier does not care to put on a truck to handle the newspapers, the Commission is of the opinion, and so finds, that the applicant should be authorized to operate as a Class A private carrier by motor vehicle for the transportation of light freight and express between Sterling, Colorado, and Fort Morgan, Colorado, and intermediate points, via U.S. Highway No. 6, his operations, however, to be restricted and limited to serving the customers whose names were furnished with application and without the right to add thereto, except with the permission of the Commission.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, Paul H. Hulbert, be, and he hereby is granted a permit to operate as a Class A private carrier by motor vehicle for the transportation of light express and freight between Sterling, Colorado, and Fort Morgan, Colorado, and intermediate points, over U. S. Highway No. 6, his operation, however, to be restricted and limited to serving customers whose names were filed with his application and without the right to add thereto except with the permission of the Commission, said permit to issue if and when, but not before he has filed

the required insurance and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 12th day of April, 1935.

Form No. 1.

(Decision No. 6426)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
L. E. Jennings.) CASE NO. 1581

April 15, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission disclose that the above named respondent was heretofore issued a permit No. A-779 under the provisions of Chapter 120, Session Laws of Colorado, 1931, authorizing him to engage in the business of a private carrier by motor vehicle.

Information has come to the Commission that said respondent has failed to file an insurance policy or surety bond as required by Section 16 of Chapter 120, Session Laws of Colorado, 1931, and by Rule 10 of the Rules and Regulations of the Commission governing private carriers by motor vehicle.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be entered into to determine if the above named respondent has failed or refused to file an insurance policy or surety bond as required by law and the Rules and Regulations of the Commission, and if so, whether his permit should therefore be suspended or revoked, and whether any other order or orders should be entered by the Commission in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 330 State Office Building, Denver, Colorado, at 10:00 o'clock A.M., on Wednesday, May 8, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Form No. 6.

(Decision No. 6427)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
A. L. LEVY, doing business as)
LEVY'S TRANSFER & STORAGE CO.)

CASE NO. 1582

(Walsenburg, Colo.)

April 15, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission disclose that the above named respondent was heretofore issued a certificate of public convenience and necessity under the provisions of Chapter 134, Session Laws of Colorado, 1927, authorizing him to engage in the business of a common carrier by motor vehicle. (Application 1587)

Information has come to the Commission, that said respondent has failed to file an insurance policy or surety bond as required by Section 17 of Chapter 134, Session Laws of Colorado, 1927, and by Rule 33 of the Rules and Regulations of the Commission governing common carriers by motor vehicle.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be entered into to determine if the above named respondent has failed or refused to file an insurance policy or surety bond as required by law and the Rules and Regulations of the Commission, and if so, whether his certificate should therefore be suspended or revoked, and whether any other order or orders should be entered by the Commission in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 330 State Office Building, Denver, Colorado, at 10:00 o'clock A. M., on Wednesday, May 8, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Form No. 1.

(Decision No. 6428)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
J. F. WATTERS.) CASE NO. 1580
(Cheraw, Colo.))

April 15, 1935

S T A T E M E N T

By the Commission:

The records of the Commission disclose that the above named respondent was heretofore issued a permit No. B-859 under the provisions of Chapter 120, Session Laws of Colorado, 1931, authorizing him to engage in the business of a private carrier by motor vehicle.

Information has come to the Commission that said respondent has failed to file an insurance policy or surety bond as required by Section 16 of Chapter 120, Session Laws of Colorado, 1931, and by Rule 10 of the Rules and Regulations of the Commission governing private carriers by motor vehicle.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be entered into to determine if the above named respondent has failed or refused to file an insurance policy or surety bond as required by law and the Rules and Regulations of the Commission, and if so, whether his permit should therefore be suspended or revoked, and whether any other order or orders should be entered by the Commission in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 330 State Office Building, Denver, Colorado, at 10:00 o'clock A.M., on May 8, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

(Decision No. 6431.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

CITY OF FORT COLLINS, COLORADO, a Municipal Corporation, Complainant, vs. PUBLIC SERVICE COMPANY OF COLORADO, a Corporation, Defendant.	)	CASE NO. 1571.

April 17, 1935.

S T A T E M E N T

By the Commission:

Since the decision and order were made herein, the defendant has filed an application for rehearing.

The Commission has carefully considered said application and each and every alleged ground as stated in support thereof.

We are of the opinion and so find that said application should be denied.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 17th day of April, 1935.

(Decision No. 6432.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF A GENERAL INVESTIGATION OF THE FREIGHT RATES, AND CLASSIFICATION OF FREIGHT, OF ALL COMMON AND PRIVATE MOTOR VEHICLE CARRIERS.

CASE NO. 1585.

April 17, 1935.

S T A T E M E N T.

By the Commission:

The provisions of Section 10 of Chapter 120, Session Laws of 1931, have been amended by the passage of Senate Bill No. 294, effective April 3, 1935, to provide as follows:

"Every Private Carrier is hereby forbidden, by discrimination or unfair competition, to destroy or impair the service or business of any motor vehicle common carrier or the integrity of the State's regulation of any such service or business; and to that end, the Commission is hereby vested with power and authority and it is hereby made its duty to prescribe minimum rates, fares and charges to be collected by private carriers when competing with duly authorized motor vehicle common carriers, which rates, fares and charges shall not be less than the rates prescribed for motor vehicle common carriers for substantially the same or similar service. Under such rules and regulations as the Commission may prescribe, every private carrier, subject to the provisions of this Act, shall file with the Commission within such time and in such form as the Commission may designate, and shall keep on file with the Commission at all times, schedules showing rates, charges and collections, collected or enforced, or to be collected or enforced, which in any manner affect or relate to the operations of any such private carrier, and the Commission shall have full power to change, amend or alter any such tariff or, after hearing, fix the rates of any private carrier, or carriers, subject to the provisions of this Act and competing with a motor vehicle common carrier."

The clearly mandatory provisions of the law make it necessary that the Commission take immediate steps to conduct a general investigation of the rates, fares and charges of all motor vehicle carriers of freight, both common and private, for the purpose of prescribing freight classifications and a schedule of minimum rates, fares and charges, charged and collected by all motor carriers in the future which will be reasonable and just to the public, as well as compensatory to the motor carriers for the service rendered.

Heretofore, the Commission has made no effort to prescribe a uniform tariff of motor carrier rates. Therefore, many different schedules of rates are being charged by the several motor truck common carriers, which rates are based primarily upon considerations of competition. To conduct such a general rate investigation will require several hearings at various points in Colorado, and require considerable time. The present discriminatory and unfair competitive conditions in the motor transportation industry make it imperative that some fair schedules of intrastate rates must immediately be placed in effect in Colorado, and be charged and collected by all competing motor carriers operating over the various highways pending a final determination of this rate investigation.

Each motor vehicle common carrier operating under the jurisdiction of the Commission has on file with the Commission, a tariff showing its rates, fares, charges, rules and regulations. Inasmuch as the rates, etc., of the respective motor vehicle common carriers on file with the Commission have not been complained against, the Commission is of the opinion, and finds, that these several schedules of rates should be prescribed as the minimum rates and charges to be assessed and collected by private carriers by motor vehicle wherever their respective operations are in competition with duly authorized motor vehicle common carriers, until a different schedule of rates, etc., shall be prescribed for all motor vehicle common carriers and private carriers in competition therewith, upon final determination of this matter.

At the several hearings which will be had in this case, all common and private carriers by motor vehicle should attend prepared to supply the Commission with full information concerning the cost of their respective operations over the highways, their revenues, and all other pertinent information.

The Commission is of the opinion, and so finds, that it should on its own motion institute a complaint against, and an investigation of, and shall hold a hearing concerning the rates, fares and charges of all common and private motor vehicle carriers operating in the state of Colorado, for the purpose of prescribing a schedule or schedules of rates to be charged and collected for the transportation of the various classes of freight by all motor vehicle common carriers, and all private carriers by motor vehicle when competing with any such motor vehicle common carrier or carriers, and the rules and practices under which any such transportation service is to be rendered.

The Commission is further of the opinion, and so finds, that pending the final determination of this case, the rates charged and collected by the several motor vehicle common carriers, for the transportation of freight, and the classifications in effect, should be prescribed as the minimum rates to be charged and collected and the classifications to be used by all private carriers by motor vehicle who compete with, and render substantially the same or similar service rendered by any one or more of said motor vehi cle common carriers, unless otherwise ordered by the Commission.

O R D E R.

IT IS THEREFORE ORDERED, By the Commission, on its own motion, that there be, and there is hereby instituted, a complaint against, and an investigation of, the reasonableness of the rates, fares and charges of all common and private motor vehicle carriers operating over the public highways of the State of Colorado, for the purpose of prescribing a schedule or schedules of rates to be charged and collected for the transportation of the various classes of freight by all motor vehicle common carriers, and all private carriers by motor vehicle competing with any such motor vehicle common carrier or carriers, and the rules and practices under which any such transportation service is rendered.

IT IS FURTHER ORDERED, By the Commission, on its own motion, that, pending final determination of this case, the rates charged and collected by the several motor vehicle common carriers for the transportation of freight intrastate, and the classifications in effect, be, and the same are hereby, prescribed as the minimum rates to be charged and collected by all private carriers by motor vehicle wherever they compete with, and render substantially the same or similar service as, any one or more of said motor vehicle common carriers. When competing with any two or more connecting motor vehicle common carriers who have on file with the Commission a joint through tariff, every private carrier by motor vehicle shall charge rates not less than those provided in such joint tariff applicable to the points served, but if no joint through rates are published, then such private carrier shall charge a rate which shall not be less than the combination of local rates prevailing between the points served.

IT IS FURTHER ORDERED, By the Commission, that any person objecting to any prevailing rate of any such motor vehicle common carriers, pending final determination of this case, shall file with the Commission a complaint against the specific rate complained of and ask an immediate hearing thereon.

IT IS FURTHER ORDERED, By the Commission, that every motor vehicle common carrier operating under authority of the Commission in intrastate commerce shall immediately furnish the Commission with a sufficient number of copies of their several effective tariffs so that all private carriers competing with any of such motor vehicle common carriers may be supplied with copies thereof.

IT IS FURTHER ORDERED, By the Commission, that this Case be set down for hearing at such times and places as the Commission may hereafter fix.

IT IS FURTHER ORDERED, By the Commission, that this order shall be and become effective on May 1, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado
this 17th day of April, 1935.

(Decision No. 6433)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF INCREASES)
) CASE NO. 1409.
IN FREIGHT RATES AND CHARGES)

April 15, 1935.

Appearances: J. A. Gallaher, Esq., 429 Equitable Building, Denver, Colorado, for petitioners;
Lowe P. Siddons, Esq., Colorado Springs, Colorado, for Holly Sugar Corporation;
D. C. Stone, Esq., 330 U.S. National Bank Building, Denver, Colorado, for Denver Fire Clay Company and Western Feldspar Milling Company;
J. D. Blunt, Esq., Canon City, Colorado, for Southwestern Transportation Company;
Albert L. Vogl, Esq., Patterson Building, Denver, Colorado, for Northern Colorado Coals, Inc.;
F. O. Sandstrom, Esq., Boston Building, Denver, Colorado, for Colorado and New Mexico Coal Operators' Association;
T. S. Wood, Denver, Colorado, Rate Expert, The Public Utilities Commission of the State of Colorado.

S T A T E M E N T.

By the Commission:

On August 27, 1934, substantially all the class I railroad carriers in the continental United States joined in a petition to the Interstate Commerce Commission seeking authority to make certain increases of a general nature in their freight rates and charges.

That petition was later supplemented by others on behalf of short lines composing the American Short Line Railroad Association, by certain short-line subsidiaries of the original petitioners, and by a number of other short-line railroads and switching companies.

On September 6, 1934, a similar petition was filed with this Commission by the following carriers by steam railroads operating in the State of Colorado for application on Colorado intrastate traffic:

The Atchison, Topeka and Santa Fe Railway Company;
Chicago, Burlington & Quincy Railroad Company;
The Chicago, Rock Island and Pacific Railway Company, Debtor, Frank O. Lowden, James E. Gorman and Joseph B. Fleming, Trustees;
The Colorado and Southern Railway Company;
The Denver and Salt Lake Railway Company;
The Denver and Rio Grande Western Railroad Company;
Missouri Pacific Railroad Company, Debtor, L. W. Baldwin and Guy A. Thompson, Trustees;
The Rio Grande Southern Railroad Company, Victor A. Miller, Receiver;
Union Pacific Railroad Company.

In the petition they allege that they are confronted with very substantial increases in their operating expenses, due principally to an increased level of wages and increased prices of material and supplies, which increased expenses will seriously impair their financial resources and threaten to impair their capacity to continue in the public interest an efficient and adequate railway transportation service; that it is necessary in the public interest, as well as in the interest of the petitioners, that increases in freight rates and charges be made effective at the earliest practicable date; that the conditions which require an advance in interstate freight rates and charges apply equally to intrastate freight rates and charges; that an advance in the latter rates and charges equal and corresponding to those proposed for interstate application is necessary in order both to afford the petitioners the minimum measure of relief necessary in the present emergency and to avoid undue and unreasonable discrimination against interstate commerce and undue prejudice against shippers and localities in interstate commerce.

Petitioners further ask that they be permitted to make the increases in freight rates and charges proposed effective by the publication of a single master tariff showing all increases and filing blanket supplements to existing tariffs making all rates therein subject to the increases shown in said master tariff.

The petition concludes with a request that authority be granted them to file tariffs in the form hereinbefore set forth, to make increases in all intrastate freight rates and charges in the state of Colorado corresponding to those which shall be authorized or directed by the Interstate Commerce Commission in the aforesaid proceeding with respect to interstate freight rates and charges, such increases to become effective on the date on which the increases in interstate freight rates and charges shall become effective.

Hearings on this petition were held on April 10 and 15, 1935, in Denver, Colorado. In support of the petition before this Commission the carriers introduced in evidence the report and orders of the Interstate Commerce Commission in the interstate case, which is known as "Emergency Freight Charges, 1935, Ex Parte No. 115", reported in 208 I.C.C. 4-85, with a request that the record in the interstate case be made a part of the record in the instant case. No objection was made to this request, and it was so ordered.

Protests were made at the hearing by the Northern Colorado Coals, Incorporated, Colorado and New Mexico Coal Operators' Association and Holly Sugar Corporation relative to the proposed increases on coal, beet sugar, molasses and wet beet pulp.

The representatives of the coal producers presented testimony to the effect that a great many of the present rates on coal were established by the carriers to meet truck competition and to keep the sugar factories from installing gas in lieu of coal. They are fearful that any increase in the coal rates will be detrimental to both the carriers and the producers, the first by loss of traffic and the second by a curtailment in production due to a switch or change from coal to gas for heating and power purposes.

It further developed at the hearing that in the Interstate Case the carriers informed the Interstate Commerce Commission that they proposed no increases in the rates and charges on bituminous coal of all sizes, from Colorado mines to Denver, Colorado Springs, and Pueblo, Colorado, and on slack coal from northern and southern Colorado and from points on the Moffat Road "to sugar factory points in the North Platte Valley," said points being in both the State of Wyoming and the State of Nebraska; and that in reliance upon said statement the coal operators and others interested in coal rates went their way without introducing any evidence with respect to the matter of an increase in such rates.

However, the carriers now take the position that they should not be bound by the statement made by them, on which coal operators and others relied. Their reason for their present position is that since the Interstate Commerce Commission did not grant them all the increases which they asked, they are not bound by their statement respecting the increases in rates on coal.

In view of the fact that the carriers expressly stated to the Interstate Commerce Commission that the rates on the movement of coal from and to certain points named were not proposed to be increased, it seems obvious to us that the reasonableness of those increases has never really been presented to that Commission. At any rate, the parties interested in the rates have not had an opportunity to be heard on a question vitally affecting their interests. Neither have the carriers presented any facts to this Commission, aside from the bare record made before the Interstate Commerce Commission,

tending to justify the increases in the coal rates which they now claim the right to make, in spite of the statement to the Interstate Commerce Commission with respect thereto.

It is elementary that in order to avoid the denial of due process of law, the parties whose rights and interests are vitally affected by an order of a board, commission, or tribunal, should have an opportunity to be heard and present their case.

The representative of the Holly Sugar Corporation testified that the factory located at Johnstown, Colorado, is the only one in the United States capable of manufacturing beet sugar molasses, and that any increase whatsoever in rates on such molasses would curtail the movement. He further testified that he is opposed to any increase in the rates on wet beet pulp.

It appears unnecessary for this Commission to deal at any length with a description of the hearings and decision in Ex Parte No. 115. It is sufficient to say that hearings were held in various cities (Denver being included) throughout the United States; that on March 26, 1935, a report and order was made; that the record in Ex Parte No. 115 is a part of the record in our case.

After careful consideration of the evidence, we are of the opinion, and so find, that such increases in freight rates and charges as are authorized in the report and order of the Interstate Commerce Commission, except as hereinafter set forth, are justified, warranted and reasonable, and should be authorized to be made on traffic moving from point to point within the State of Colorado.

We further find, therefore, that the carriers' petition to increase the rates and charges on bituminous coal of all sizes, and coke from Colorado mines to Denver, Colorado Springs and Pueblo, Colorado, and on slack coal to sugar factory points on and east of the Colorado common points should be denied.

We find also from the evidence introduced before this Commission that authority to make any increases in the rates and charges on wet beet pulp and on beet sugar molasses should be denied.

We further find that the question of the increases in freight rates and charges on coal and coke to other intrastate points should temporarily be denied, and a further hearing be held relative to this issue on May 15, 1935,

at 10:00 A.M. at the Hearing Room of the Commission, 330 State Office Building, Denver, Colorado.

We further find that we should reserve the right at any time to suspend any of the other increases authorized on any of the commodities that were exempted in the original petition of the carriers upon complaint being filed with the Commission within sixty days. In the latter event, the matter will be assigned for hearing and determination.

We further find that inasmuch as this is a permissive order it may apply to all class I, II, and III, carriers on intrastate traffic in the State of Colorado.

An appropriate order will be entered.

O R D E R.

IT APPEARING, That the Commission having on the date hereof made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof,

IT IS ORDERED, That all common carriers by railroad operating as such within the State of Colorado, according as they participate in the transportation, be, and they are hereby, authorized to establish the emergency charges as approved by the Interstate Commerce Commission in its report and findings in Emergency Freight Charges, 1935, Ex Parte No. 115, 208 I.C.C. 4, which report is hereby adopted and made a part hereof, except as hereinafter set forth, upon notice to this Commission and to the general public, by not less than one day's filing and posting in the manner prescribed in Section 16 of The Public Utilities Act.

IT IS FURTHER ORDERED, That the carriers' petition to increase the rates and charges on bituminous coal of all sizes, and coke from Colorado mines to Denver, Colorado Springs and Pueblo, Colorado, and on slack coal to sugar factory points located on and east of the Colorado Common points; and on wet beet pulp and beet sugar molasses, be, and the same is hereby, denied.

IT IS FURTHER ORDERED, That the carriers' petition to increase the rates and charges on coal and coke to other intrastate points be, and the same is, hereby temporarily denied, and that a further hearing be held relative to this issue on May 15, 1935, at 10:00 A.M. at the Hearing Room of the Commission, 330 State Office Building, Denver, Colorado.

IT IS FURTHER ORDERED, That reservation is hereby made by the Commission

of the right to suspend any of the other increases authorized, on any of the commodities that were exempted in the original petition of the carriers, subject to complaint being filed with the Commission within sixty days, and in which event the matter will be assigned for hearing and determination.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
15th day of April, 1935.

(Decision No. 6434)

A-929

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF WAYNE BEACH FOR AN EXTENSION OF HIS CLASS "A" PRIVATE CARRIER PERMIT TO INCLUDE HAULING OF ORE OVER HIGHWAYS U.S. 40, 103, COLO. 91 and 119 AND COUNTY AND COUNTRY ROADS WITHIN A RADIUS OF TWENTY MILES OF DUMONT, COLORADO, INTO DUMONT.

APPLICATION NO. 2288-PP-B

April 23, 1935.

Appearances: Mr. Wayne Beach, Idaho Springs, Colorado, pro se.

S T A T E M E N T

By the Commission:

Applicant seeks an extension of his operations under the private permit granted by the Commission on March 9, 1935, Decision No. 6360, to include the transportation of ore only from mines within a radius of twenty miles of Dumont to Dumont.

The evidence disclosed that applicant was granted a private permit on March 9, which authorizes the transportation of ore from the Bismark and Black Eagle mines and one other unnamed mine in the same vicinity to Idaho Springs, and for the occasional hauling of mine supplies from Idaho Springs to the said mines; that he now proposes to haul ore from properties operated or to be operated by Christianson and Boland to a mill formerly known as the Myers Mill at Dumont, which mill Christianson and Boland expect to reopen. He also intends to haul ore from other mines within a radius of twenty miles of Dumont to said mill if the mill will accept custom shipments.

The record does not disclose that, as limited above, the operation under the proposed extension would unduly interfere with any established common carrier transportation system.

After a careful consideration of the record, the Commission is

of the opinion, and so finds, that the applicant's request for an extension of routes should be granted.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to applicant Wayne Beach to extend his routes to include the transportation of ore only from mining territory within a radius of twenty miles of Dumont to the Myers mill at Dumont, which is to be reopened by Christianson and Boland.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the original permit No. A-929, heretofore issued by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 23rd day of April, 1935.

(Decision No. 6435)

At a General Session of The Public Utilities Commission of The State of Colorado, held at its office at Denver, Colorado, April 19, 1935.

INVESTIGATION AND SUSPENSION DOCKET NO. 212

IT APPEARING, That on April 9, 1935, The Western Union Telegraph Company, by the General Manager of its Mountain Division, filed with the Commission a notice of its proposed intention to close its office in the town of Julesburg, Colorado, and have its business thereafter transacted at the depot of the Union Pacific Railroad Company at said place to be effective on and after May 8, 1935, alleging that the business of said telegraph company could be satisfactorily handled at the depot, and

IT APPEARING, That on April 17, 1935, the Commission received a copy of the resolutions adopted by the Board of County Commissioners of Sedgwick County, Colorado, protesting the proposed abandonment of the up-town office of said company in the town of Julesburg, alleging that such action on the part of the aforesaid telegraph company would deprive the public of a necessary convenience, and that the present decrease in business is only temporary and does not constitute a sufficient reason for the proposed action, and

IT APPEARING FURTHER, and the Commission finds that the proposed closing and abandonment of the up-town office of the Western Union Telegraph Company in the town of Julesburg and the transference of its business to the depot of the Union Pacicic Railroad Company at said place might injuriously affect the rights and interests of the public,

IT IS THEREFORE ORDERED, That the proposed effective date of the closing of the up-town office of the Western Union Telegraph Company in the town of Julesburg and the transference of its business to the depot of said railroad company be suspended for one hundred twenty days from May 8, 1935, or until September 5, 1935, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the proposed change in the office facilities of the Western Union Telegraph Company in the town of Julesburg, Colorado, be made a subject of investigation and determination by the Commission

within said period of time or such further time as the same might be lawfully suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the aforesaid notice of abandonment of the up-town office of the Western Union Telegraph Company in the town of Julesburg, Colorado, and the transference of its business to the depot of the Union Pacific Railroad Company at said place, and copies hereof be forthwith served on the Western Union Telegraph Company, the petitioner, and the Board of County Commissioners of Sedgwick County, Colorado, the protestants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado, this
19th day of April, 1935.

(Decision No. 6436)

At a General Session of The Public Utilities Commission of The State of Colorado, held at its office at Denver, Colorado, April 19, 1935.

INVESTIGATION AND SUSPENSION DOCKET NO. 213

IT APPEARING, That on April 9, 1935, The Western Union Telegraph Company, by the General Manager of its Mountain Division, filed with the Commission a notice of its proposed intention to close its up-town office in the town of Brighton, Colorado, and thereafter have its business transacted at the depot of the Union Pacific Railroad Company at said place, to be effective on and after May 8, 1935, alleging that its telegraphic service could be satisfactorily handled at said depot, and

IT APPEARING FURTHER, That on April 18, 1935, the Commission received a letter from the President of the Kuner-Empson Company of Brighton, Colorado, protesting the soundness of such move as herein proposed by the Western Union Telegraph Company, alleging that such action would be detrimental to the interests of said Company, and the business interests of Brighton, and

IT APPEARING FURTHER, That the Commission finds that the proposed closing of the up-town office of The Western Union Telegraph Company in the town of Brighton and the transference of its telegraph business to the depot of the Union Pacific Railroad Company at said place might injuriously affect the rights and interests of the said Kuner-Empson Company and other business interests in the town of Brighton,

IT IS THEREFORE ORDERED, That the proposed effective date of the closing of the up-town office of The Western Union Telegraph Company in the town of Brighton, Colorado, and the transference of its telegraph business to the depot of the aforesaid railroad company be suspended for one hundred twenty days from May 8, 1935, or until September 5, 1935, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the proposed changes in the office facilities of The Western Union Telegraph Company in the town of Brighton, Colorado, as herein specified, be made a subject of investigation and deter-

mination by the Commission within said suspension period of time, or such further time as the same might be lawfully suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the aforesaid notice of The Western Union Telegraph Company proposing to close its up-town office in the town of Brighton, Colorado, and to thereafter have its telegraph business handled at the depot of the Union Pacific Railroad Company at said place, and copies hereof to be forthwith served on The Western Union Telegraph Company, the petitioner, and the Kuner-Empson Company, Brighton, Colorado, the protestant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 19th day of April, 1935.

(Decision No. 6437)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE UNION ICE AND FUEL COMPANY, Complainant,	)	
vs.	)	CASE NO. 1435
THE COLORADO AND SOUTHERN RAILWAY COMPANY, Defendant.	)	

April 26, 1935.

Appearances: J. L. Rice, Esq., Denver, Colorado, for defendant;
T. S. Wood, Denver, Colorado, for Public Utilities Commission.

S T A T E M E N T

By the Commission:

Complaint was filed with the Commission by The Union Ice and Fuel Company against The Colorado and Southern Railway Company, alleging that on August 15, 1934, there was shipped from the Mountain Ice and Fuel Company, Pueblo, to the Union Ice and Fuel Company, complainant, at Colorado Springs, one car of ice containing 60,800 pounds, and that a like shipment was made on August 20, 1934, of another car of ice containing 60,000 pounds.

It was further alleged that defendant attempted to assess as freight charges upon said shipment a rate of 8 cents per cwt. or $1.60 per ton, which was the published tariff rate of defendant at said time covering said movement.

It further appears that contemporaneously there was in effect a tariff rate of defendant of 40 cents per ton on ice from Colorado Springs to Pueblo, Colorado. A further allegation is made that there is no such difference in volume of movement or transportation conditions as to justify such a wide disparity between the rates applicable from Pueblo to Colorado Springs and Colorado Springs to Pueblo, and that by reason of this fact the rate of $1.60 per ton from Pueblo to Colorado Springs was excessive, unjust and unreasonable to the extent that it exceeds the rate of 40 cents per ton

applicable from Colorado Springs to Pueblo.

The defendant indicated that it was willing to protect the rate of 40 cents per ton on the shipments which moved, provided it could be authorized to do so without publishing said rate for future application.

It was also developed that said rate of 40 cents per ton from Colorado Springs to Pueblo had been cancelled since the movement of the two cars in question, and that defendant now has applicable a rate of $2.00 per ton for the movement of ice from Pueblo to Colorado Springs and from Colorado Springs to Pueblo.

It appearing from the record that movement of ice between Pueblo and Colorado Springs by defendant is practically nil, there appears to be no good reason why defendant should not be permitted, upon the shipments in question, to waive the collection of any sum in excess of 40 cents per ton upon said cars, without requiring defendant to maintain said rate of 40 cents per ton in the future.

After careful consideration of the record, the Commission is of the opinion, and so finds, that the relief prayed for should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the defendant, The Colorado and Southern Railway Company, be, and it is hereby, authorized and directed to waive collection of $66.64 on two carload shipments of ice weighing in the aggregate 120,800 pounds, from the Mountain Ice and Fuel Company, Pueblo, to the Union Ice and Fuel Company, Colorado Springs, on August 15 and August 20, 1934.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of April, 1935.

(Decision No. 6439)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
W. T. HEDRICK, DOING BUSINESS AS) PRIVATE PERMIT NO. A-769
HEDRICK TRUCK LINE.)

April 26, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a written communication from the above named permit holder, requesting that his private permit No. A-769 be cancelled.

After a careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. A-769, heretofore issued to W. T. Hedrick, doing business as Hedrick Truck Line, be, and the same is hereby, cancelled.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of April, 1935.

(Decision No. 6440)

A-939

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF L. V. SHUTT FOR A PERMIT TO OPERATE AS A PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT BETWEEN NORTHDALE, COLORADO, AND GRAND JUNCTION, COLORADO, AND BETWEEN NORTHDALE AND DOLORES AND CORTEZ, COLORADO.

APPLICATION NO. 2322-PP

April 26, 1935.

S T A T E M E N T

By the Commission:

This is an application for a Class A private permit to operate as a private carrier by motor vehicle for the transportation of freight, Northdale to Grand Junction and return, and Northdale to Dolores and Cortez, Colorado, and return. William Craig, who holds P. U. C. No. 283, filed a protest against that part of the application which asks for permission to operate a freight line between Dolores and Cortez, and Cortez and Dolores.

The matter was regularly set for hearing in Denver on April 15 at 2:00 P. M. There were no appearances for applicant or protestant.

The protest on file alleges that protestant, William Craig, for many years has been, and now is, operating a freight line in the transportation of freight between Dolores and Cortez, and Cortez and Dolores; that said service is adequate and satisfactory; that an additional truck line would injure his business to such an extent that it probably would be necessary to abandon the service.

After a careful consideration of the record, the Commission is of the opinion, and finds, that that part of the application which involves a permit for the transportation of freight between Dolores and Cortez, and Cortez and Dolores, should be denied; and that applicant should be granted a Class A permit to operate as a private carrier by motor vehicle for the transportation of freight from Grand Junction via Northdale to Dolores, and

from Dolores via Northdale to Grand Junction, over U. S. Highways Nos. 50, 450 and 160.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, L. V. Shutt, be granted a private Class A motor vehicle permit, authorizing the transportation of freight from Grand Junction via Northdale to Dolores, and from Dolores via Northdale to Grand Junction, over U. S. Highways Nos. 50, 450 and 160.

That portion of the application which relates to the transportation of freight between Dolores and Cortez, and Cortez and Dolores, is hereby, denied.

IT IS FURTHER ORDERED, That said permit shall issue if and when, but not before applicant has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of April, 1935.

(Decision No. 6441)

a-933

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
JOHN WEGHER FOR A PERMIT TO OPERATE)
AS A CLASS "A" PRIVATE CARRIER BY) APPLICATION NO. 2316-PP
MOTOR VEHICLE IN RENDERING A DELIVERY)
SERVICE ON THE STREETS OF THE CITY)
OF TRINIDAD, COLORADO, EXCLUSIVELY.)

April 26, 1935.

Appearance: Henry J. Job, Esq., Trinidad, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

Applicant seeks a Class "A" private permit to operate as a carrier by motor vehicle.

The matter was regularly set for hearing before the Commission in Trinidad on April 9th at 2:00 o'clock P. M. At the hearing, it developed that applicant seeks to operate a delivery service over the streets of Trinidad, Colorado, exclusively; that Safeway Stores, Inc., has contracted for the services of applicant and his truck at the monthly salary of $180.00. Applicant is to deliver all Safeway merchandise from its bakery, produce house and wholesale house, located in Trinidad, to the various retail stores in Trinidad, as well as merchandise interchanged between the various retail stores, bakery, produce house and wholesale house.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that the permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, John Wegher, be, and hereby is authorized to operate as a Class A motor vehicle private carrier in the transportation of merchandise for Safeway Stores, Inc., over the streets of Trinidad, Colorado, from its bakery, produce house and wholesale house, located in Trinidad, to the various retail stores in Trinidad, and merchandise

interchanged between the various retail stores, bakery, produce and wholesale houses; said permit to issue if and when, but not before, he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of April, 1935.

(Decision No. 6443)

A-498

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF W. J. CLARK FOR AN EXTENSION OF HIS CLASS "A" PERMIT TO OPERATE AS A PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT TO INCLUDE SERVICE BETWEEN DEL NORTE AND CREEDE, COLORADO, VIA U. S. 160 & COLO. 149, BETWEEN SAGUACHE AND ALAMOSA, COLORADO, VIA COLO. 15 & COLO. 17, & BETWEEN FT. GARLAND, SAN LUIS, MESITA, SAN ACACIA, LA JARA & ALAMOSA, COLORADO, VIA COLO. 159, COLO. 99, COLO. 136 & COLO. 158. (ALL INTERMEDIATE POINTS TO BE CONSIDERED.)

APPLICATION NO. 2318-PP.

April 26, 1935.

Appearances: Jean S. Breitenstein, Esq., Symes Building, Denver, Colorado, attorney for applicant;
A. J. Fregeau, Denver, Colorado, for the Weicker Transportation Company;
T. A. White, Esq., Denver, Colorado, for the Rio Grande Motor Way, and the Denver & Rio Grande Western Railroad Company;
E. B. Faus, Esq., Monte Vista, Colorado, for the Pueblo-San Luis Valley Transportation Company;
J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers' Association;
Richard E. Conour, Esq., Denver, Colorado, for the Public Utilities Commission of the State of Colorado.

S T A T E M E N T

By the Commission:

Applicant, W. J. Clark, herein seeks to extend his operation under private permit No. A-498 to include freight hauling between Del Norte and Creede, Colorado, via U. S. highway 160 and Colorado highway 149, and between Saguache and Alamosa via Colorado 15 and Colorado 17, and between Ft. Garland, San Luis, Mesita, San Acacia, La Jara and Alamosa via Colorado 159, Colorado 99, Colorado 136 and Colorado 158. He is now authorized to transport freight between Denver and Del Norte, Colorado, and intermediate points, including Monte Vista, Center, Saguache and Antonito, Colorado, via U. S. 85 and U. S. 450.

At the hearing, it developed that applicant seeks an extension of his route in order to handle delivery of freight generally throughout the San Luis Valley under contract for the Morey Mercantile Company of Denver. The Rio Grande Motor Way and the Pueblo-San Luis Valley Transportation Company now serve substantially the same territory, and it also appears from the application that applicant already is authorized to transport freight over different routes from those for which he seeks an extension to most of the towns embraced in his extension application.

He stated that he is willing to limit his haul under extension to freight originating in Denver or Pueblo for delivery at points indicated in his application, without a point to point service. It did not appear, except as to the proposed service between Del Norte and Creede that his contemplated operation will affect the ability of any common carrier to properly serve the public.

The territory, Del Norte to Creede is served by the Denver & Rio Grande Western Railroad Company and Rio Grande Motor Way. A dependable common carrier motor vehicle passenger, freight and express service between Creede and Del Norte is necessary. The evidence disclosed that any diminution of the Rio Grande Motor Way's business between Del Norte and Creede would work a material hardship on it and endanger continuance of the heretofore satisfactory and dependable service afforded the public by it.

There was some evidence that the Rio Grande Motor Way refused to accept freight from truckers for shipment to Creede. This practice, if it exists, should be discontinued immediately.

It also appeared that applicant has not always complied with the Commission's rules that he cannot haul freight for unlisted customers, and that whoever pays the freight, whether consignor or consignee, is the customer. He claimed that these rule violations were inadvertent and not premeditated. They should not occur again.

Applicant's financial ability was established to the satis-

faction of the Commission.

After careful consideration of the evidence, the Commission is of the opinion, and finds, that applicant's request for an extension of his permit should be granted for transportation of freight originating in Denver or Pueblo for the Morey Mercantile Company, only, to points between Saguache and Alamosa via Colorado Highway No. 15 and Colorado Highway 17, and Ft. Garland, San Luis, Mesita, San Acacia, La Jara and Alamosa, via Colorado 159, Colorado 99, Colorado 136 and Colorado 158, without the right to increase the number of his customers under the extension, except upon special permission of the Commission.

O R D E R

IT IS THEREFORE ORDERED, That the application of W. J. Clark for an extension of his permit No. A-498 should be, and hereby is, granted and the said W. J. Clark is authorized to extend his routes to include the transportation of freight originating in Denver and Pueblo for the Morey Mercantile Company, only, to points between Saguache and Alamosa via Colorado Highway 15 and Colorado Highway 17, and Ft. Garland, San Luis, Mesita, San Acacia, La Jara and Alamosa via Colorado Highways 159, 99, 136, and 158; without the right to increase the number of his customers under the extension, except upon special permission of the Commission.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the original permit No. A-498, heretofore issued by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 26th day of April, 1935.

(Decision No. 6444.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF WILLIAM H. CHAPMAN FOR AUTHORITY TO TRANSFER TO SOUTHWESTERN TRANSFER AND STORAGE COMPANY PRIVATE PERMIT NO. A-594, AUTHORIZING THE TRANSPORTATION OF FREIGHT BETWEEN COLORADO SPRINGS, COLORADO, AND CANON CITY, CRIPPLE CREEK AND VICTOR, COLORADO, AND ALL INTERMEDIATE POINTS VIA 40-S, 67 and 143; ALSO ALL OTHER ROUTES CONTAINED IN PERMIT A-594.	APPLICATION NO. 2323-PP-A.

May 1, 1935.

S T A T E M E N T.

By the Commission:

The Commission is in receipt of a letter from the Southwestern Transfer and Storage Company, requesting dismissal of the above styled application.

After careful consideration of the record and said request, the Commission is of the opinion, and finds, that said request for dismissal should be granted.

O R D E R.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of May, 1935.

(Decision No. 6445)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
A. P. HAMILTON, A. R. HAMILTON)
AND BARNEY GROSS, CO-PARTNERS,)
DOING BUSINESS UNDER THE FIRM) CASE NO. 1586.
NAME AND STYLE OF DENVER-LOS)
ANGELES TRUCK LINE.)
- - - - - - - - - - - - - - - - -

- - - - - - -
May 2, 1935.
- - - - - - -

S T A T E M E N T

By the Commission:

The records of the Commission disclose that the above named respondents were heretofore issued a private permit, No. A-913, under the provisions of Chapter 120, Session Laws of Colorado, 1931, authorizing them to engage in business of a private carrier by motor vehicle for the transportation of freight in interstate commerce only between Denver and the Colorado-New Mexico State line, at a point where U. S. Highway No. 85 crosses the same, and to and from all points intermediate to Denver and said State line, which said permit was issued pursuant to an order of the Commission duly made and entered on March 4, 1935, in Application No. 2266-PP.

Information has come to the Commission that the above named respondents have violated the law and the terms and provisions of their said permit by transporting on April 18, 1935, approximately 15,000 pounds of fresh meat and packing house products, margarine and butter from Denver to Colorado Springs and Pueblo for Swift and Company in intrastate commerce, in violation of the authority heretofore granted them.

The Commission is of the opinion, and so finds, that a complaint and investigation should be instituted of its own motion, and a hearing be entered into to determine if said respondents have violated the law and the terms and provisions of their said permit to operate as a private carrier by motor vehicle in interstate commerce, by accepting and transporting freight from point to point within the State of Colorado in intrastate commerce as aforesaid.

O R D E R

IT IS THEREFORE ORDERED, by the Commission on its own motion, that a complaint and investigation be instituted and a hearing be entered into to determine if the above named respondents have violated the law and the terms and conditions of their permit by operating in intrastate commerce as aforesaid.

IT IS FURTHER ORDERED, That said respondents show cause, if any they have, by a written statement filed with the Commission within ten days from this date, why it should not enter an order revoking or suspending the private permit heretofore issued to said respondents on account of the aforesaid delinquencies; and why it should not enter such other order or orders as may be meet and proper in the premises.

IT IS FURTHER ORDERED, That said matter be set down for hearing before the Commission in its hearing room, 330 State Office Building, Denver, Colorado, at 2 o'clock P.M. on the 15th day of May, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward C. O'Keefe

Commissioners.

Dated at Denver, Colorado,
this 2nd day of May, 1935.

(Decision No. 6446)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF G..O. ANDERSON, DOING BUSINESS AS THE CASTLE ROCK TRANSFER, TO MAKE HIS CERTIFICATE OF CONVENIENCE AND NECESSITY MORE DEFINITE AND CERTAIN SO THAT HIS RIGHTS THEREUNDER MAY BE CLEARLY DEFINED.	)	APPLICATION NO. 1981-B

May 2, 1935.

Appearances: Ira L. Quiat, Esq., Denver, Colorado, attorney for applicant;
J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
T. K. Earley, Denver, Colorado, Asst. General Freight Agent for The Denver and Rio Grande Western Railroad Company.

S T A T E M E N T

By the Commission:

Applicant seeks an order of the Commission making more definite and certain the territory which he is authorized to serve under the certificate of public convenience and necessity owned by him.

In the original order granting his certificate in Application No. 1981, said applicant was authorized to transport milk, cream and dairy products from points within a radius of six miles of Castle Rock to Denver. At the same time, in Application No. 1987, L. V. Roper, doing business as Castle Rock Truck Line, was granted authority to transport milk, cream, poultry, eggs, live stock and farm products, to Denver from points situated within three miles of U. S. Highway No. 85 more than six miles south of Castle Rock and within three miles of Larkspur.

It further appears that applicant heretofore succeeded to all rights of L. V. Roper under a former certificate issued to him in Application No. 778, which authorized the transportation of freight between Denver and Castle Rock, but not intermediate points, as well as the rights of the said L. V. Roper under the certificate granted in Application No. 1987.

Applicant now contends that he understood at the time he succeeded to the rights of Roper that he had the right to haul freight "in and from the vicinity of Larkspur and the vicinity of Castle Rock to Denver". What is really sought in the instant case is an extension of the rights of applicant to include the above service.

It developed from the evidence that no other person or party had any objection to the granting to applicant of the right to serve this additional territory, and that the public would be benefited by granting applicant the right to serve his dairy products customers in the transportation of other classes of freight.

After a careful consideration of the record the Commission is of the opinion, and so finds, that the prayer of applicant's petition should be granted.

O R D E R

IT IS THEREFORE ORDERED, That in the transportation of general freight, applicant be authorized to haul the same from and to Denver from and to Larkspur and within a radius of four miles of Larkspur, and from and to Denver from and to Castle Rock and a radius of six miles thereof, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That 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 the 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 May, 1935.

(Decision No. 6447)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY TO WITHDRAW ITS AGENT AT THE STATION OF ROMEO, COLORADO, FROM JANUARY 15 TO JULY 15 OF EACH YEAR.	INVESTIGATION AND SUSPENSION DOCKET NO. 209

May 2, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a letter from The Denver and Rio Grande Western Railroad Company, asking leave to withdraw its petition herein and for an order of the Commission dismissing the proceeding without prejudice.

The Commission is of the opinion, and so finds, that said request should be granted.

O R D E R

IT IS THEREFORE ORDERED, By the Commission, that The Denver and Rio Grande Western Railroad Company be, and it hereby is permitted to withdraw its petition in the above entitled matter, and it is further ordered that the said proceeding be, and the same is hereby, dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 2nd day of May, 1935.

(Decision No. 6448)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY TO WITHDRAW ITS AGENT FROM THE STATION OF MOFFAT, COLORADO.

INVESTIGATION AND SUSPENSION
DOCKET NO. 211

May 2, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a letter from The Denver and Rio Grande Western Railroad Company, asking leave to withdraw its petition herein, and for an order of the Commission dismissing the proceeding without prejudice.

The Commission is of the opinion, and so finds, that said request should be granted.

O R D E R

IT IS THEREFORE ORDERED, By the Commission, that The Denver and Rio Grande Western Railroad Company be, and it hereby is permitted to withdraw its petition in the above entitled matter, and it is further ordered that said proceeding be, and the same is hereby, dismissed without prejudice.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 2nd day of May, 1935.

Form No. 4. (Decision No. 6449)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
FRANK COMSTOCK.) CASE NO. 1587
(Gunnison, Colo.))

May 2, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission show that a certificate of public convenience and necessity was heretofore issued to the above named respondent, authorizing his operations as a motor vehicle carrier. (Application No. 2129)

The records of the Commission further disclose that said respondent has failed to file monthly reports and has failed to pay highway compensation taxes as follows, to-wit:

Monthly Reports Not Received

July, August, September, October, November, December, 1934, and January, February and March, 1935.

The records of the Commission also disclose that respondent has failed to keep on file with the Commission an effective insurance policy or surety bond as required by Section 17 of Chapter 134, Session Laws of Colorado, 1927, and by Rule 33 of the Rules and Regulations of the Commission governing motor vehicle common carriers.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be entered into to determine if the above named respondent has failed to file monthly reports or pay highway compensation taxes as above set forth, in violation of law and of the Rules and Regulations of the Commission governing motor vehicle carriers, and has failed to keep on file with the Commission the necessary insurance policy 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 this date, why it should not enter an order suspending or revoking the certificate heretofore issued to said respondent on account of the aforementioned delinquency, and why it should not enter such other order or orders as may be meet and proper in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 330 State Office Building, Denver, Colorado, at 10:00 o'clock A. M., on May 15, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF A GENERAL INVESTIGATION OF THE FREIGHT RATES AND CLASSIFICATION OF FREIGHT, OF ALL COMMON AND PRIVATE MOTOR VEHICLE CARRIERS.

CASE NO. 1585

May 1, 1935.

S T A T E M E N T

By the Commission:

On April 17, 1935, in the above entitled matter, the Commission entered an order instituting a general investigation of the rates and charges of all motor vehicle carriers of freight, both common and private, for the purpose of prescribing freight classifications and a schedule of rates and charges, to be charged and collected for the intrastate transportation of the various classes of freight by all motor vehicle common carriers, and all private carriers by motor vehicle when competing with any such motor vehicle common carrier or carriers. The Commission also included in said order a requirement that, pending final determination of this case, the rates charged and collected by the several motor vehicle common carriers for the transportation of freight intrastate, and the classification in effect, should be prescribed as the minimum rates to be charged and collected by all private carriers by motor vehicle wherever they compete with, and render substantially the same or similar service as any one or more of said motor vehicle common carriers.

At the time of entering the initial order herein, the Commission anticipated that some complaints would be made concerning certain specific rates, and that such complaints could be disposed of prior to final disposition of this case by holding hearings and making such rate adjustments as might be necessary and proper. However, such a large number of complaints have been received that it now becomes impossible to hear and dispose of such complaints prior to a final determination of this proceeding, and the Commission fears that many cases of discrimination would result if the rate fixing provisions of our order of April 17, 1935, are allowed to go into effect prior to a final determination of this proceeding, and that the public interest would best be served by a speedy determination herein.

The Commission is of the opinion, and so finds, that its order of April 17, 1935, should be vacated, insofar as the same concerns the rates to be charged and collected by private carriers by motor vehicle competing with any one or more motor vehicle common carriers and rendering substantially the same or similar service, until the final determination of this case or until the further order of the Commission.

O R D E R

IT IS THEREFORE ORDERED, That the order of the Commission dated April 17, 1935, be, and the same is hereby, vacated, insofar as the same concerns the rates to be charged and collected by private carriers by motor vehicle competing with any one or more motor vehicle common carriers and rendering substantially the same or similar service, pending final determination of this case, or until the further order of the Commission.

IT IS FURTHER ORDERED, That this case be, and the same is hereby, set down for hearing before the Commission at 10 o'clock A. M. on the dates and at the places as follows: May 27, 1935, 330 State Office Building, Denver, Colorado; June 4, 1935, District Court Room, Grand Junction, Colorado; June 6, 1935, District Court Room, Pueblo, Colorado; June 11, 1935, 330 State Office Building, Denver, Colorado, at which times and places all interested parties may appear and introduce such evidence as is proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,

(Decision No. 6451)

519

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF M. A. HARSCH FOR AN EXTENSION OF HIS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

APPLICATION NO. 1609-B.

May 6, 1935.

Appearances: Colin A. Smith, Esq., Denver, Colorado, attorney for applicant;
George H. Swerer, Esq., Denver, Colorado, for Charles P. Blakeley, George W. Stockton and P. C. McKee, protestants;
D. Edgar Wilson, Esq., Denver, Colorado, for Chicago, Rock Island and Pacific Railway Company;
J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company.

S T A T E M E N T.

By the Commission:

Applicant now has authority to transport livestock from point to point within the territory extending 18 miles north, 20 miles east, 20 miles south and 10 miles west of Greeley, and from points within said territory to other points within the State of Colorado.

In the instant application, he seeks to extend his authority under said certificate heretofore granted to a point 38 miles north of Greeley to the Colorado-Wyoming state line, east 100 miles, south 155 miles, and west 100 miles, with authority to operate from point to point within said extended territory, as well as from and to any point within said territory to and from all other points within the State of Colorado. His former certificate was limited to the transportation of livestock, and he seeks to include in the present authority requested the right to transport farm equipment and supplies from and to the same points described above, in connection with his livestock movements only.

It is the contention of the applicant, substantiated by some of the testimony introduced at the hearing, that the methods of raising, feeding and marketing livestock in Colorado have materially changed in recent years,

and that the driving of livestock to feed lots, to markets and railroad loading points, has decreased materially, due to the difficulties of that method of movement.

It was further developed that applicant is possessed of two 3-ton trucks and trailers, as well as one 2-ton truck and trailer, with which he is able to transport a large number of cattle in one movement. It was further shown that some considerable demand exists for large movements of livestock by truck from and to various points within the above described territory, from farms to feed lots and from feed lots to farms, as well as to other points in the State of Colorado.

On behalf of protestants, evidence was introduced to show that applicant has been violating the terms of his certificate by transporting livestock outside of his territory, heretofore authorized. However, it was further disclosed that the majority of the operators holding certificates somewhat similar to that of applicant had likewise not confined their operations to the territory which they were authorized to serve. Protestants Charles P. Blakeley and George W. Stockton, both admitted that they had transported livestock that did not originate in, or was destined to, Denver and yet their certificates, which were made a part of the record in the instant case, are limited to such transportation. Other protestants testified to the effect that there was not sufficient demand for any increased operation on the part of applicant and that they had equipment which was idle part of the time, although they were prepared to take care of all business that might be offered them. It was further claimed that the drought conditions existing in certain sections of Colorado, together with government buying of cattle, has resulted in such a shortage of livestock that the public needs do not require any further certificates. However, we believe from the record as a whole that it was fairly well established that some demand does exist on the part of the public for the proposed extension of operations which applicant seeks.

Due to the fact that he has persistently and continuously violated the authority granted in his former certificate, the Commission would not be inclined to grant any further extension of territory, but when we consider that his main competitors who are protesting against his application in the instant case have been guilty of the same acts, the Commission is inclined to condone the departures that have been made by applicant from the terms of his original

certificate. At least, applicant is now endeavoring to bring his operations within the law and the Commission feels that some of the protestants should do likewise."

A number of certificates of other operators transporting livestock in Colorado were made a part of the record in the instant case, which said certificates have been considered in arriving at our decision in this case.

After a careful consideration of the entire record, the Commission is of the opinion, and so finds, that the public convenience and necessity require the proposed motor vehicle operations of applicant for the transportation of livestock between the points heretofore enumerated, as well as the transportation of farm equipment and supplies between said points; provided, however, that the transportation of farm equipment and supplies shall be limited to service to the same customer and at the same time applicant is transporting livestock for said customer.

O R D E R.

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operation of applicant, M. A. Harsch, for the transportation of livestock and farm equipment and supplies from point to point within the territory described as follows: 38 miles north of Greeley to the Colorado-Wyoming state line, 100 miles east, 155 miles south and 100 miles west of Greeley, and between points within said territory and other points within the state of Colorado; provided, however, that the transportation of farm equipment and supplies shall be limited to service to the same customer and at the same time applicant is transporting livestock for said customer, 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 com-

pliance 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 6th day of May, 1935.

(Decision No. 6452.)

A-333

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF ED HAINES FOR AN EXTENSION OF ROUTE UNDER HIS PRIVATE PERMIT NO. A-333.

APPLICATION NO. 2329-PP.

May 7, 1955.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, for applicant;
J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
V. G. Garnett, Denver, Colorado, for Colorado Rapid Transit Company;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
R. M. Spahr, Esq., Denver, Colorado, for The Atchison, Topeka and Santa Fe Railway Company.

S T A T E M E N T.

By the Commission:

As limited at the hearing, it appears that applicant herein seeks authority to extend his operation under private permit No. A-333 to include the transportation of beer and empties only for The Philip Schneider Brewing Company from and to Trinidad, Colorado, to and from Denver, Colorado, over U.S. Highway 85, Lamar, Colorado, via Pueblo over U.S. Highway 350, and intermediate points. Applicant is now authorized to operate between Trinidad and Pueblo over U.S. Highway 85.

It further appeared at the hearing that applicant has a contract with the Philip Schneider Brewing Company to haul beer in the territory now served by Private Carrier, Joe Zucca. Unless the brewery avails itself of the service of common carriers now operating in the territory, should this permit be denied, only Joe Zucca would lose business to applicant Haines, so we cannot say that common carrier operations would be adversely affected by the proposed operation.

The financial responsibility of applicant was established to the satisfaction of the Commission.

After careful consideration of the record, the Commission is of the opinion, and finds, that extension of permit No. A-333 should issue for the points and over the routes requested for the transportation of beer

and empties only for the Philip Schneider Brewing Company, without the right to increase the number of his customers except upon special permission of the Commission.

O R D E R

IT IS THEREFORE ORDERED, That said Ed Haines be, and he hereby is, granted authority to extend his permit No. A-333 to include the transportation of beer and empties only for The Philip Schneider Brewing Company from and to Trinidad, Colorado, to and from Denver, Colorado, over U.S. Highway 85, Lamar, Colorado, via Pueblo, Colorado, over U.S. Highways 85 and 50 and La Junta, Colorado, over U.S. Highway 350, and intermediate points, without the right, however, to increase the number of his customers except upon special permission of the Commission.

IT IS FURTHER ORDERED, That this order be made a part of the original permit No. A-333 heretofore issued to applicant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 7th day of May, 1935.

(Decision No. 6453)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
LEONARD GRAY.)

CASE NO. 1563

May 6, 1935.

S T A T E M E N T

By the Commission:

On January 31, 1935, the Commission made its order revoking private permit No. B-810 for the failure of respondent to keep on file with the Commission the necessary public liability and property damage insurance.

Since then respondent has made the necessary arrangements to secure the proper insurance and has otherwise complied with our rules and regulations. He now requests the reinstatement of his permit.

After a careful consideration of the entire record, the Commission is of the opinion, and so finds, that said permit should be reinstated as of this date, without, however, changing the expiration date thereof, which will be on July 1, 1935.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. B-910, heretofore issued to Leonard Gray, be, and the same is hereby, reinstated as of this date, provided, however, that said reinstatement shall not affect the expiration date of said permit, to-wit, July 1, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of May, 1935.

a 969

(Decision No. 6454)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF ALEX GOODMAN FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF ORE CONCENTRATES FROM RUSSELL GULCH, COLORADO, TO CENTRAL CITY, BLACK HAWK, IDAHO SPRINGS, BOULDER, DENVER, COLORADO SPRINGS AND LEADVILLE, COLORADO.	)	APPLICATION NO. 2321-PP

- - - - - -

May 7, 1935.

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Appearances: A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
V. G. Garnett, Denver, Colorado, for Colorado Rapid Transit Company and J. D. McKenzie;
J. A. Carruthers, Esq., Colorado Springs, for Midland Terminal Railway Company.

S T A T E M E N T

By the Commission:

On March 18, 1935, applicant filed his application for a permit to operate as a Class A private carrier by motor vehicle. The matter was regularly set for hearing in Denver on April 15 at 2:00 P. M., notice of hearing being forwarded to applicant.

At the time appointed for hearing, applicant failed to appear either in person or by counsel. Mr. J. A. Carruthers, as attorney for The Midland Terminal Railway, moved dismissal of the application for lack of prosecution.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that said application should be dismissed for lack of prosecution.

O R D E R

IT IS THEREFORE ORDERED, That said application be, and the same is hereby, dismissed for lack of prosecution.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 7th day of May, 1935.

Commissioners

(Decision No. 6457.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE MOTOR VEHICLE OPERATIONS OF)
JACK PERRY, DOING BUSINESS AS) CASE NO. 1588.
SERVICE TRUCK LINE.)

MAKE No Copy

May 9, 1955.

S T A T E M E N T.

By the Commission:

The records of the Commission show that on June 24, 1951, a private permit, No. A-16, was issued to the respondent, Jack Perry, authorizing him to transport freight as a private carrier by motor vehicle over the route, Denver to Pueblo, Colorado. Thereafter, on August 25, 1951, the route was extended from Denver to Gunnison, and on December 7, 1951, a further extension was granted authorizing respondent to operate between Pueblo and Lamar; Denver and Greeley, ~~Denver and Greeley~~, Greeley and Fort Collins via Severance, and Fort Collins to Denver. Ever since, said respondent has been, and now is, authorized to engage in the business of transporting freight for hire over the public highways of the State of Colorado, over the aforesaid routes.

Information has come to the Commission that respondent, Jack Perry, has violated the law and the rules and regulations of the Commission by operating as a private carrier by motor vehicle as that term is defined in Section 1 (h), Chapter 120, Session Laws of 1951, as amended, between Pueblo and Trinidad, Colorado, without first having obtained a permit authorizing him to operate as a private carrier by motor vehicle over said route as required by said law.

The Commission is further informed that respondent has been, and now is, transporting shipments between Trinidad and Toltec, Gordon, Alamo and Tiega, Colorado, none of which points are on or near any routes over which he has authority to operate.

The Commission is of the opinion, and so finds, that a complaint, investigation and hearing on its own motion should be made and entered into to determine if the respondent, Jack Perry, has violated the law by operat-

ing as a private carrier by motor vehicle over the state highways of the State of Colorado between Pueblo and Trinidad, Colorado, and between Trinidad and Toltec, Gordon, Alamo and Tioga, Colorado, without first having obtained permission to operate as a private carrier by motor vehicle over the highways of this state between said points; and to determine whether or not private permit No. A-16, heretofore issued to said respondent, should be revoked or suspended for the violations of the law, as hereinbefore set forth.

O R D E R.

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that a complaint be made, and that an investigation and hearing be entered into, to determine whether or not the above named respondent, Jack Perry, has violated the law by operating as a private carrier by motor vehicle over the public highways of this state without first having obtained a private permit as required by law between the points in the particulars set forth.

IT IS FURTHER ORDERED, That respondent show cause, if any he have, by written statement filed with the Commission within ten days from this date why the Commission should not enter its order requiring the respondent to cease and desist from operating as a private carrier by motor vehicle over the routes and between the points aforesaid unless and until he secure a private permit as required by law, and why the Commission should not make an order suspending or revoking private permit A-16, heretofore issued, authorizing him to operate as a private carrier by motor vehicle, and why there should not be such other order, or orders, as may be meet and proper herein.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its hearing room, 330 State' Office Building, Denver, Colorado, at 10 o'clock, A.M., on the 21st day of May, 1955, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 9th day of May, 1955.

(Decision No. 6455)

A-968

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF)
PAT W. ROACH FOR A PERMIT TO OPERATE)
AS A CLASS "A" PRIVATE CARRIER BY)
MOTOR VEHICLE IN RENDERING A PICKUP) APPLICATION NO. 2310-PP.
AND DELIVERY SERVICE FOR CUSTOMERS)
WITHIN THE RADIUS OF FORTY MILES)
OF TRINIDAD, COLORADO.)

May 1, 1935.

Appearances: Henry J. Job, Esq., Trinidad, Colorado,
attorney for applicant;
Ralph T. Hunter and W. L. Couey, doing business as
Couey Transfer & Storage Company, Trinidad, Colorado.

S T A T E M E N T.

By the Commission:

Applicant, Pat W. Roach, herein seeks a Class "A" permit to operate as a private carrier by motor vehicle. All Montgomery Ward & Company freight shipped by railroad into Trinidad, except so-called "free zone freight," is to be transported by him from various depots in Trinidad to its store in Trinidad, said freight averaging, now, less than 1,000 pounds daily. Also, he is to deliver all merchandise sold to its customers within a radius of 40 miles of Trinidad and in addition he is to assemble stoves and ranges and uncrate furniture, refrigerators, etc., so delivered. The equipment to be used in this operation is owned by him. He is to pay all maintenance charges, taxes, license fees, insurance, road tax, etc. For this service he is to receive a salary of $30.00 weekly. Heretofore, Montgomery Ward & Company's "pick-up service" in Trinidad has been handled by Couey Transfer & Storage Company, who opposed granting permit for that phase of proposed operation only. While the proposed operation will take some business away from the Couey Transfer & Storage Company, we cannot say from the evidence that it will be of such magnitude as to jeopardize the interests of the public, or that it will be of sufficient volume to materially interfere with his business.

Applicant's service is to be rendered for only one customer and involves more than mere transportation of merchandise. If Montgomery Ward & Company wants to contract for such service, by lease or otherwise, it should be able to do so.

The Commission is of the opinion, and so finds, that Pat W. Roach should be granted a Class "A" private permit to operate as a private carrier by motor vehicle, for the transportation of freight for Montgomery Ward & Company, only, shipped by railroad into Trinidad, except so-called "free zone" freight, from the various freight depots in Trinidad to its store in Trinidad, and to deliver merchandise sold by Montgomery Ward & Company to the purchasers thereof within a radius of 40 miles of Trinidad, Colorado.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, Pat W. Roach, be granted a private Class A motor vehicle permit, authorizing the transportation of freight for Montgomery Ward & Company, only, shipped by railroad into Trinidad, except so-called "free zone" freight, from the various freight depots in Trinidad to its store in Trinidad. He is also authorized to deliver merchandise sold by Montgomery Ward & Company to the purchasers thereof within a radius of 40 miles of Trinidad, Colorado.

Said permit shall issue if and when, but not before, he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of May, 1935

(Decision No. 6459)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

D. C. FRAZER ET AL, MEMBERS OF AND THE PARK HILL SUBURBAN IMPROVEMENT ASSOCIATION, an Incorporated Association,

Complainants,

vs.

CASE NO. 1384.

THE CITY OF PUEBLO AND S. F. RENO HARPER GARDNER AND HOWARD E. WHITLOCK, AS TRUSTEES OF PUEBLO WATER WORKS,

Defendants.

May 10, 1935.

APPEARANCES: Floyd F. Miles, Esq., Denver, Colorado, for Complainants,

J. W. Preston, Esq., and Harry S. Peterson, Esq., Pueblo, Colorado, for Defendants.

S T A T E M E N T

By the Commission:

This case was instituted by the filing of a complaint by some fifty consumers of water which is being furnished to complainants by trustees of Pueblo Water Works.

The statement is made in the brief filed in behalf of complainants that "The issue in this case, as presented by the evidence, is that of discrimination only."

It is stated in the complaint:

> "That the complainants herein are the only domestic consumers of respondents who are required to install and pay for water meters for the measurement of water used for domestic purposes, and who are required to pay for water consumed on the basis of the number of gallons used; that consumers within the City of Pueblo, as well as in numerous other suburban districts surrounding the said city, are furnished water at a flat rate based upon the number of rooms in a residence and the amount of ground to be irrigated; that in all instances where water meters are required to be used, except with respect to these complainants, such meters are owned, installed, and maintained by respondents; that in establishing a just and reasonable rate the said respondents should be required to discontinue the use of water meters as the basis for fixing charges

for the use of water for domestic purposes and should be required to refund to complainants the sums they have severally paid for the cost and installation of said water meters.

"SIXTH: That by reason of the facts stated in the foregoing paragraphs, each of the complainants has been subjected to the payment of rates for the use of water for domestic purposes and for the cost, installation and maintenance of water meters, which were when exacted, and still are, unjust and unreasonable in violation of Section 2924 of the Compiled Laws of Colorado, 1921, and that each of the complainants has been injured thereby to his or her damage in the amount of the difference between the charges paid as set forth in Appendix A, hereto, and the amounts which the several complainants would have paid for the use of water for domestic purposes at the just and reasonable rates hereinbefore set forth in Paragraph "Fifth."

Section 2924 requires that "All charges" of a public utility shall be just and reasonable.

The complaint requests reparation.

At points in the complainants' brief it appears that the discrimination alleged to exist is as to the difference in treatment accorded to complainants and other suburban customers. On pages 16 and 17 of said brief is found the following language:

"The burden of the complaint here is solely one of discrimination; it involves no question of the reasonableness of the rates within the City of Pueblo. Whether they are too high or too low, reasonable or unreasonable and whether in their establishment the factors were considered which ought to have been considered, is not a matter with which we are concerned. The point in this case is whether the rates charged complainants are discriminatory as compared with other suburban consumers without the City of Pueblo served by its municipal water works."

At other points it rather appears that the claimed discrimination is based upon the difference in treatment accorded the consumers within the City and that accorded complainants.

The following language is taken from pages 22 and 23 of the brief of complainants:

"It seems clear that the service rendered complainants, the conditions under which they use the water and the purpose to which it is put, is exactly the same as that of domestic consumers in the other suburban districts as well as within the city itself. Under such circumstances the law enjoins upon the utility, whether it be municipally owned or otherwise, that the treatment accorded all consumers must be uniform in its application for substantially the same service, rendered under the same or similar conditions. By this is meant that the basis of charges shall be the same for all consumers, where the services are identical."

On page 29 of the brief, in the first numbered paragraph of "Conclusion" it is stated:

"We submit that the evidence of both parties, discloses that complainants are charged upon a wholly different basis from other consumers of respondents, for the identical kind and quality of service, and that this constitutes unlawful discrimination, compelling an adjustment of rates as well as of the basis of charges, to the end that all consumers shall be charged the same rate for the same service, subject to such reasonable differential as may be justified under the law upon the rate tax basis."

The position taken by the trustees of Pueblo Water Works, for whom alone a brief was filed, is fairly shown by the points made under "Conclusion" in their brief, namely: that it is not within the province of the commission to compare "outside" rates with those charged the consumers within the city; that the commission has no power or authority to make any order or ruling which would "entail the placing of further restrictions on the use of water by resident consumers"; that during the irrigation season of each year there is no surplus water whatsoever, and that the Park Hill suburban users, including complainants, are being furnished water as a matter of grace rather than of right; that the rates now being charged the non-resident consumers in Park Hill are not excessive and arbitrary, but are inadequate and insufficient, and therefore should not be further reduced.

The city of Pueblo is a charter or home-rule city, having been organized under Article XX of the Constitution of the State of Colorado.

The history of early water service in the city of Pueblo is stated in Donahue v. Morgan, 24 Colo. 389. Prior to the year 1886 there existed in Pueblo county three separate municipalities whose territory was practically contiguous, viz: The city of Pueblo, the town of Central Pueblo, and the city of South Pueblo. The two former were on the north side of the Arkansas river, the third being on the south side thereof. The city of Pueblo owned and operated its own system of water works; Central Pueblo got its supply from wells and wagons; South Pueblo was supplied with water by a private corporation to which, in April, 1885, a twenty-year franchise was granted.

Acting under the authority of an act passed by the Legislature in the year 1885, the three municipalities were in 1886 consolidated into one city, known as the city of Pueblo. One of the articles of consolidation provided that the title to the Pueblo Water Works, made up of all its various items of property, should vest in the aldermen in the consolidated city from the wards north of the river, and their successors in office as trustees, to be known as "Trustees of the Pueblo Water Works." Another article provided that the water works and system of water supply then existing in the city of South Pueblo should remain "intact, the same as though the consolidation herein contemplated was never effected." The last article referred to, being Article XIV, continued as follows:

> "The water works now owned by the city of Pueblo shall not, nor shall any water works which may be hereafter owned or controlled by the consolidated city during the lifetime of the contract with the South Pueblo Water Company furnish or supply any water to any portion of the consolidated city lying south of the Arkansas river, nor shall the mains or other works belonging to said city of Pueblo, or owned or controlled by said consolidated city, be extended into or upon any part of the territorial limits of said consolidated city lying south of said river, nor shall it be lawful for the said The South Pueblo Water Company, to extend its mains or system of supply of water to any part or portion of said consolidated municipality lying north of said river."

In 1905 the Legislature passed an act providing for the creation of public water works districts in cities having a population of ten thousand or over. Sec. 9316 et seq., C. L. 1921. The water works of South Pueblo Water Company were acquired by Pueblo Water Works District No. 2, organized pursuant to the said statute.

The charter adopted by the city of Pueblo in 1911 provided that title to the property of Pueblo Water Works should vest in three trustees to be selected from time to time in a manner provided in the charter, and that they should have sole operation, management and control thereof.

The two said water districts are entirely separate and distinct one from the other. Pueblo Water Works does not furnish any water to consumers situated south of the river, and Pueblo Water Works District

No. 2 furnishes no water to consumers north of the river. The only connection between the two properties is certain pipe connections, which are opened only in cases of emergency.

Complainants herein reside in what is known as the Park Hill district, being a district lying east of and contiguous to a portion of the city of Pueblo, which lies north of the river.

The total number of domestic consumers residing in the district at the time of the hearing was 355. Originally the consumers were served with water on a flat rate basis. Due to the fact that the district was sparsely settled, and the fact that the soil thereof is suited to the raising of garden crops, the practice of gardening and farming was continually increasing. As a result thereof, complaints were made to the trustees of the district by both city consumers and representatives of irrigating ditch companies supplying water to farmers situated in the Arkansas Valley east of Pueblo. The trustees, therefore, adopted a resolution in January, 1925, placing the domestic consumers in the Park Hill district on a meter rate basis, meters thereafter being installed for all consumers in the district, with some four exceptions.

One exception is in the case of a consumer who is employed by the Federal Emergency Relief Association, and who is unable to make a deposit on the installation of a meter, his service being temporary and for household purposes only until such time as a deposit can be made. Another exception is of a consumer residing in a one-room shack, water being furnished for drinking purposes and use on a garden approximately ten by twelve feet in size. A third exception is of a small church or mission, the practice of the trustees being to make no charge for water furnished buildings used for religious purposes either in or out of the city. A fourth exception is the case of a consumer who is blind, and whose total income is $15 a month.

Other outside districts served by Pueblo Water Works are the Smelter and Kelly districts, both being in a territory called Goat Hill. Another district referred to in the testimony is called the Santa Fe district. The evidence showed that the Goat Hill district is at a rather high elevation and that the soil is largely shale, and wholly unsuited to and is not used for gardening and lawns. A large part of the water used by the residents of that district is taken from a few hydrants.

The houses in the Santa Fe district are for the most part adobe. Meters at one time were in the houses, but they have been taken out and the water has been completely shut off.

The evidence showed that with the exceptions mentioned, and possibly one or two cases of property owned by the district and occupied by an employe or two, all water furnished to consumers by Pueblo Water Works is metered.

The complainants gave some evidence with respect to some districts lying outside of the city of Pueblo, to the consumers in which water is furnished by Pueblo Water Works District No. 2, particularly with respect to the City Park and Bohemia districts. Testimony was given by complainants to the effect that in both districts the water is sold on a flat rate basis, and that there are fine homes as well as acreage in the City Park district, and that there are some very good homes in Bohemia. Minnequa Heights lie south of the city, but complainants' evidence showed that there are no lawns in the said district, and that the houses are few.

The defendants offered no evidence as to why the service to consumers in Bohemia and City Park is not metered, taking the position that the two municipal water works districts are entirely separate and that no discrimination could be charged against Pueblo Water Works because of what Pueblo Water Works District No. 2 may or may not do. We might say in passing that Exhibit No. 3, being a map, shows that Bohemia is a very small district and that the southern part of the City Park district is traversed by a ditch. It may be that lawns and gardens in the latter district are

supplied with irrigation water from the ditch.

Pueblo Water Works requires the consumers in the Park Hill district to purchase the meters. We assume that the meters continue to be the property of the consumers, although the attorney for the complainants on the last page of his brief states that the purchase of the meters by the consumers is a contribution to "capital equipment." There is some dispute as to which consumers have paid in full for their meters, the answer of the defendants showing that in most cases the consumers still are indebted for a portion, in many cases the greater portion, of the price of the meter.

There was some evidence introduced as to the capital structure, the physical condition of the property, and the net profit or loss resulting from the operations by Pueblo Water Works. However, as has been stated, the complainants do not contend that the district (meaning Pueblo Water Works) is earning an unreasonable return for the service generally, or for the service to them alone. We are unable to make any findings from the record before us to the effect that the return from all of the operations or from those devoted to the service of the complainants is unreasonable or excessive.

There was testimony to the effect that if there were no meters on the premises of the complainants, they would use an amount of water greatly in excess of what they now use with their meters. This evidence is based on some questionable assumptions which are not proved to be correct. For instance, it was assumed that flat-rate consumers in the city irrigate constantly during hours in which irrigation is permitted, and that complainants would do likewise if their service were not metered.

However, we believe the evidence shows that for the amount of water the domestic consumers in the district consume, the present rate charges alone to residents of Park Hill are higher than those to the residents of the district. At least, we shall so assume in making our decision.

The city of Pueblo was shown by the evidence to be in a serious, not to say an alarming condition so far as its water supply is concerned. On one or two occasions during the summer of 1934 the District used all the water to which it was entitled, and diverted some water from the Arkansas river, its only source of supply, to which it was not entitled. Moreover, the evidence shows that the possibilities of procuring further water from the river have been almost completely exhausted. Lawn sprinkling hours during which consumers residing within the city were permitted to irrigate were greatly restricted during the past summer.

Certain meter rates to the complainants were made effective by the District on April 1, 1925. Effective June 1, 1932, a revised and lower schedule of rates to complainants was put into effect.

On July 6, 1932, Park Hill Suburban Improvement Association filed an informal complaint with this commission, alleging discrimination and the charging of excessive rates. The commission had its railway and hydraulic engineer make an investigation. He thereafter recommended a new schedule of rates which constituted a further reduction. This new schedule was put into effect by the District on January 1, 1933.

From the evidence which we have detailed with respect to the two water works districts, the Commission is of the opinion and so finds, that there are two distinct and separate municipal corporations. We think it makes no difference that both of them are within the boundaries of another municipality, namely, the city of Pueblo. There cannot therefore be any discrimination on the part of Pueblo Water Works because it has a different policy with respect to non-resident consumers than has another corporation.

Now, as to the question of discrimination as regards the difference in treatment of the complainants and the consumers within the District, we do not believe it would serve any useful purpose for us to discuss a number of cases which have been referred to and quoted from by the attorney for complainants, including Denver vs. Mountain States Telephone and Telegraph Co., 67 Colo. 225, Atchison, Topeka and

Santa Fe Railroad Co. vs. the Public Utilities Commission, 68 Colo. 92, City of Pueblo vs. Public Utilities Commission, 68 Colo. 155, and Ft. Collins vs. the Public Utilities Commission, 69 Colo. 554.

It is enough to say generally that the law is well settled in Colorado that we have no jurisdiction over rates charged and service rendered by a municipal corporation to customers within the limits of the municipality; that we have no jurisdiction over the rates and service of a privately owned utility to customers within the limits of a charter or home-rule city; that, however, we do have jurisdiction over the rates and service of a municipal corporation outside the limits of the municipality operating the utility, and over the rates and service of a privately owned utility operating outside of a charter or home-rule city. In addition to the cases cited by the attorney for complainants, see Town of Holyoke vs. Smith, 75 Colo. 286; People vs. Loveland, 76 Colo. 188; Lamar vs. Wiley, 80 Colo. 18; and Public Utilities Commission vs. Loveland, 87 Colo. 556.

The question of the comparative duty of a municipally owned utility to outside and inside consumers, and what constitutes unlawful discrimination against outside and in favor of inside consumers, has not often been dealt with by the courts in Colorado or by this commission.

We believe it is clear that a private utility which is engaged in serving consumers within a city would assume an equal duty to consumers in territory contiguous to the city by extending its service to those consumers. In other words, a private utility owes an equal duty to all consumers to which it has dedicated its service, whether they reside within a city or municipal district where service was originally instituted, or elsewhere, so far as rates or service are concerned. Of course, we do not mean to say that the rates to the consumers within a city must always be no less than those charged to consumers outside.

We do mean to say, however, that any difference in rates charged by a privately owned utility must be based on a difference in conditions as, for instance, higher cost of serving sparsely settled outside territory.

The question here is whether or not a municipal utility owes a duty and obligation to those outside of the boundaries of the municipality equal to that owed to those within, or whether the duty to the consumers within is a superior and prime one as compared with an inferior and subordinate responsibility to those outside.

In the case of a municipal utility we doubt whether it is possible for it to assume a duty to outside consumers equal to that which it owes to inside consumers. With respect to the contention that a city operating its own water works "has not the power to enter into a contract for the sale of water," the Supreme Court in Colorado Springs vs. Colorado City, 42 Colo. 75, 85-86, quoted with apparent approval from Pikes Peak Power Co. vs. Colorado Springs, 105 Fed. 1:

> "'It is true, as counsel for the city assert, that the water, the water system, and other public utilities of a municipality are held by it and by its officers in trust for its citizens, and for the public; that neither the city nor its officers can renounce this trust, disable themselves from performing their public duties, or so divert or impair these utilities that they are rendered inadequate to the complete performance of the trust under which they are held. But it is equally true that municipalities and their officers have the power, and it is their duty, to apply the surplus power and use of all public utilities under their control for the benefit of their cities and citizens; provided, always, that such application does not materially impair the usefulness of these facilities for the purposes for which they were primarily created.'"

In answer to the argument by Colorado Springs that the enforcement of the contract there in question might some day "result in the deprivation to its citizens of the water which they own," the court said:

> "That condition does not exist at present, and there is no great likelihood of its ever existing. When it transpires that the water supply is not sufficient to meet the demands of Colorado Springs and those with whom she has made contracts, a question will be presented that may call for the interposition of a court of equity; until that time arrives the contract Colorado Springs has entered into with reference to the excess of water should be enforced."

It is apparent from the language quoted that the trustees of the District can do nothing that will disable them from serving the citizens of the District. In other words, the rights of outside consumers, to whom surplus water only may be sold, are always subordinate to the rights of the real beneficiaries of the trust, at least so far as the general duty to serve is concerned.

In Re Public Service Company of Colorado, 7 Colo. P.U.C. 1304, we rejected the contention that a difference in rates to two different consumers served by a privately owned utility is lawful merely because the higher rate charged one consumer would not result in an unreasonable return if it were charged to all similarly situated. But we are of the opinion that if it were proved that gross revenue from intra-city operations were only sufficient to cover all operating costs, including depreciation, etc., that fact alone would not bar the District from insisting on earning a reasonable profit or return for service rendered outsiders. We quote from a decision by the Wisconsin Railroad Commission in Re Oconomowoc Water & Electric Depts., P.U.R. 1927 E, 440:

> ". . . if the city chooses to supply water to its citizens at cost or substantially so, it is under no obligation, we believe, to serve outside the city on the same basis."

If, then, there is no duty resting upon a municipal utility to accord equality in rates to outside consumers, what limit does the law place upon the rates that may be charged such consumers? We know of no answer other than that the rates must not result in an unreasonable return on that fraction of the rate base that may properly be allocated to those consumers.

Complainants have not presented any evidence on which we can make any finding as to what that return is. They disclaim any intention of entering upon a consideration of reasonableness of return on the rate base or any fraction thereof.

Moreover, even though the law should require equality of treat-

ment for outside consumers, equality of treatment does not mean identity of treatment. Two different classes of consumers may properly be charged on a different basis without working any unlawful preference or discrimination. For instance, it is generally held that the States in enacting laws, in the exercise of what are generally referred to as police powers, may not discriminate against interstate carriers in favor of intrastate carriers. However, it is also held that such discrimination does not exist merely because a tax for the use of the highway by interstate carriers is a different kind of tax from that imposed upon intrastate carriers. Interstate Busses Corporation v. Blodgett, 276 U. S. 245, 48 S.Ct. 230. In other words, the burden may be approximately equal, although the nature thereof is different.

The cases are not harmonious in dealing with the question of whether the mere fact that some classes of service are metered and others are not constitutes discrimination. The Arizona Corporation Commission stated in Tiffany vs. East Side Water Co., P.U.R. 1935 C, 157, cited in the brief for complainants:

> "Hence as a broad general principal the service must be all metered or all on flat rates."

On the other hand, it was held in Richardson vs. City of Greensboro, et al, 94 S.E. (N.C.) 3, that a city might properly enforce an ordinance providing that "water meters will be used wherever and whenever in the judgment of the Board they should be attached," in the absence of any evidence or charge that the meter rate is unreasonable, a portion of the court's language following:

> "Unless the city authorities are permitted to exercise some reasonable control over those who use the flat rate, that system may be grossly abused. These matters are purely administrative, and must of necessity be left to the sound discretion of the municipal authorities.
>
> "It is well settled that there is not necessarily any discrimination because meter rates are charged against certain consumers and flat rates against other consumers of the same class, nor because small consumers are charged by the room and

large consumers according to the quantity of water used. 4 McQuillin on Mun. Corp. p. 3591."

To somewhat the same effect is Consolidated Ice Co. vs. City of Pittsburgh, 118 Atl. (Pa.) 544. A number of decisions on the point are digested in 2 P.U.R. Digest, p. 1169.

There are many cases holding that the common law did not make all discrimination unlawful. Re Public Service Co. of Colo. 7 Colo. P.U.C. 1304. A typical statement of the rule is found in Consumers Light Co. v. Phipps, 251 Pac. (Okla.) 63, P.U.R. 1927C, 216, the court quoting Fletcher on Corporations:

> ". . . It is only arbitrary discriminations that are unjust. If the difference in rates is based upon a reasonable or fair difference in conditions, which equitably and logically justifies a different rate, it is not an unjust discrimination. In fact, this question of discrimination narrows itself to a question of determination of whether discrimination, conceding it to exist, is just; i. e., based on reasonable grounds, or is unjust; i. e., merely arbitrary. There is no unjust discrimination if all persons similarly situated affected by like conditions and subject to like circumstances are given the same rate."

We are inclined to believe, however, that the word "discrimination" carries the meaning not only of a difference, but of an unreasonable and unfair difference in treatment. Our statute prohibits "any preference or advantage" and "any unreasonable difference as to rates, charges, service" etc. Sec. 2929, C. L. of Colo. 1921. If we are right, the question would then be whether there is any unreasonable difference in rates and service, or whether there is discrimination.

Even if the complainants here were served by a privately owned corporation operating within the city limits of Pueblo, we believe that if there were any special ground for requiring their service to be metered, and such ground did not exist for making the same requirement of the users within the city, the difference in treatment would not be an unreasonable one. Of course, we would still have the question whether or not the rates charged for the water metered were reasonable.

Further assuming that a municipal utility could require no

greater burden to be borne by outside consumers than by the inside ones, except such as might be warranted by difference in cost of service, etc., it is well to bear in mind that there are a number of burdens which inside consumers are bearing which at first blush might not be apparent.

For instance, it is elementary that depreciation is one of the ordinary costs of operation. The only way to require outside consumers of a private utility to make good their fair share of depreciation is to collect it from them in current rates. It is impossible in the future to require them to pay rates that will cover depreciation in the past, because past depreciation is a past operating expense. Current rates can be high enough to include only current operating expenses and a profit sufficient to give a reasonable return. It is a familiar rule that a private utility may not charge its customers excessive rates for current service because it failed to charge adequate rates for past service. Re Long Island Lighting Co., P.U.R. 1922B, 1, Capital City Water Co. v. Public Service Commission, 298 Mo. 524, 252 S.W. 446. See also cases cited in 5 P.U.R. Digest, p. 4019, and in 4 P.U.R. Digest, p. 3111.

However, in the case of inside consumers served by a municipal utility, the utility may omit all depreciation charges from current rates, and later require those consumers to pay for both current and past depreciation through higher rates, or cause a tax to be levied and thus require the property owners to make good the past depreciation. Logan City v. Public Utilities Commission, 27 Pac. (Utah), P.U.R. 1929A, 378.

Moreover, the position is generally taken that a municipal utility in fixing rates for outside consumers may include in operating expenses properly allocated to such consumers taxes which the inside consumers or property owners (somewhat but not exactly identical) pay, and also the taxes which would be paid if the municipal utility were privately owned. Such is the position which has been taken in numerous cases over a period of many years by the Wisconsin Railroad Commission. We quote as

follows from the decision of that commission in Re. City of Kaukauna, P.U.R. 1922C, 839, 840-841:

> "This Commission has given consideration to the question of taxes in every case which has been before it involving the rates of municipally owned plants. The Commission has expressed itself in regard to interest, taxes, and depreciation as follows:
>
> "'In estimating the costs for municipal as well as for privately owned plants, it would seem to be necessary to take into consideration the operating expenses, depreciation, taxes, and interest on the investment. Operating expenses, including depreciation, are always present and must be actually met, no matter by whom the plants are operated. Taxes and interest charges may, in a sense, be dispensed with for municipal plants. That is, neither taxes nor interest may be actually assessed against such plants. On the other hand, taxes and interest charges are present in some form in all industrial activities. Water works represent property that is of value and in which money has been invested. They constitute a part of the capital of the city. If such items as fixed charges are not considered by municipal plants in fixing rates for private consumers, it would seem that these consumers would be favored as against the taxpayers. There does not, on the whole, appear to be any equitable ground upon which such charges can be entirely eliminated in any industry or in connection with the services of any public utility.'
>
> "Re Madison City Water Works (1909) 3 Wis. R.C.R. 299, 320.
>
> "'No charge for taxes has been made by the city in the past. In order to determine the true cost of service for which consumers should pay there should be included an allowance for estimated taxes. A private plant would have to pay taxes, and if a municipal plant is exempted, taxes on other property holders throughout the city must be raised as a result. The resulting increase is as truly a cost of furnishing a utility service as is any other cost of operation.'"

To the same effect is the following language found In Re Stoughton Water Works, P.U.R. 1924E, 475, 476-477:

> "The Commission has pointed out in previous decisions that if the city and its tax payers have foregone anything which they were not obliged to or which they would not have foregone if the water service had been supplied by a privately owned utility, then it would seem just and reasonable that the city and its tax payers might require that such benefits should accrue only to consumers residing within the city limits. On the other hand, consumers located outside, who have foregone nothing as tax payers, shared no risk in building up the plant, and whose property stands security neither for the payment of bonds or delinquent debts, cannot expect to share in the benefits accruing from these advantages."

The matter of including constructive taxes in the rates charged outside consumers was considered at some length by the Montana Public Service Commission in Re City of Laurel P.U.R. 1921D, 817. That commission emphatically rejected the proposition that merely because a municipally owned utility could not be compelled to serve outside consumers or has no power under its charter to serve them, "it may do as it pleases when it does serve" saying that the contention is "without reason, and ignores the whole principle upon which public regulation rests--voluntary service." However, it pointed out that the property owners in a city may be required to bear a part of their or the inside consumers' burden in the form of municipal taxes. It then pointed out that since the city has no general taxing power beyond its limits, the burden borne by the outside consumers must all be included in the rates charged them. The commission continuing, said:

> "The water rates to consumers within or without the city are, in this case, equal and uniform for the same service, and hence apart from the question of reasonableness are not open to attack, and we do not understand that, taken by themselves, they are the subject of objection. In order, however, that the consumers living beyond the city limits may properly share in the taxpayers' burden, resulting from the construction and installation of the system, it is necessary to fix a differential which shall equalize the disparity between rates and taxes."

That commission took the position that the mere fact that the water users outside of the city limits constructed their own connections and extended their mains at their own expense could not "be said to offset the taxes paid by the improvement district taxpayer within the city limits." Toward the end of the decision the Commission said:

> "The outside consumer is constantly comparing himself with the intracity consumer, constantly endeavoring to realize the same advantages, while escaping many of the general obligations of the city taxpayer."

The commission concluded by finding that a reasonable differential to be charged the extra-territorial consumers to make up for the taxes levied upon the intra-city consumers was $1.50 per month, or $18 per year per customer.

There is nothing in the record before us to show that the inside consumers, treating them and the taxpayers of the District as being identical, are bearing any less burden for the water which they consume than is being borne by complainants for water consumed by the latter.

There has been some difference of opinion as to whether or not a utility should be permitted to require its consumers to purchase meters. We are inclined to believe that it is a better practice to require the utility to furnish meters at its own expense. However, many years ago this commission made a general order doing away with such a requirement. Of course, it is assumed that in the event the consumer does furnish his meter, his rate should be somewhat less than the rate that he would pay if the utility furnished the meter.

We are, therefore, of the opinion, and so find, that the evidence introduced herein does not show that the rates charged complainants are unjust or unreasonable when considered alone, or that they are discriminatory when considered in connection with either the rates paid by consumers inside the District, or those paid by other outside consumers served by the District.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of May, 1935.

(Decision No. 6460)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE RATE ON COAL IN CARLOADS FROM CRESTED BUTTE, COLORADO, TO GUNNISON, COLORADO.	INVESTIGATION AND SUSPENSION DOCKET NO. 208

May 10, 1935.

Appearances: J. A. Gallaher and George Williams, Denver, for The Denver and Rio Grande Western Railroad Company;
A. L. Vogl, Denver, Colorado, for Rocky Mountain Fuel Company;
J. G. Berryhill and J. E. Frye, Denver, for Crested Butte Coal Company;
G. A. Alf, Denver, Colorado, for Colorado Fuel and Iron Company.

S T A T E M E N T

By the Commission:

The present rate on coal between Crested Butte and Gunnison is $1.38 per ton, and between Baldwin and Gunnison the rate is $1.00 per ton. Heretofore, the respondent, The Denver and Rio Grande Western Railroad Company, asked leave to publish on short notice a reduced rate of $1.00 per ton from Crested Butte to Gunnison, which would have made the rate from Crested Butte and Baldwin to Gunnison the same. This application was denied by the Commission unless respondent would contemporaneously make the same percentage reduction of its rate from Baldwin that it proposed from Crested Butte.

Thereafter, respondent published on statutory notice a $1.00 rate from Crested Butte, making no change in the $1.00 rate from Baldwin. This proposed reduction was suspended by the Commission and the matter set down for hearing.

A complaint was also filed by the Rocky Mountain Fuel Company, alleging that the rate from Baldwin to Gunnison was excessive and unreasonable; that the publication of the $1.00 rate from Crested Butte without a corresponding reduction from Baldwin would result to the prejudice and disadvantage of the Rocky Mountain Fuel Company.

The distance from Crested Butte to Gunnison is approximately 27 miles, and from Baldwin to Gunnison approximately 17 miles. The distance

from Baldwin to Gunnison is 63% of the distance from Crested Butte to Gunnison, while the rate now in effect from Baldwin to Gunnison is 72% of the rate now in effect from Crested Butte to Gunnison. Respondent contends that different rates should not be maintained between Baldwin and Crested Butte to Gunnison, and the evidence disclosed that, commencing at points a short distance east, as well as west, of Gunnison, the rates are blanketed from both the Baldwin and Crested Butte districts. None of said points to which blanket rates apply are intermediate to Baldwin and Gunnison or to Crested Butte and Gunnison.

Exhibits were introduced showing that in other localities in Colorado, group rates do apply from various Colorado mines for the purpose of rate making, and in some instances the distances involved are as much or greater than exist in the instant case.

It was further maintained by respondent that the proposed reduction would have the effect of restoring to the Rio Grande some coal traffic which is now moving by truck. But the Commission seriously doubts whether the proposed reduction would in fact bring about such results. Without going into the details of the truck movement, it would appear that truck competition is practically the same along the Baldwin branch as the Crested Butte line.

Exhibit No. 5, introduced by respondent, discloses that the present Crested Butte rate yields a per car mileage revenue of $1.23, while the Baldwin rate yields a per car mileage revenue of $1.39. The proposed reduction would reduce the per car mileage revenue from the operation from Crested Butte to 89 cents.

It was further disclosed that the b-t-u content of the Crested Butte coal is superior to that of the coal shipped from the Baldwin district, particularly the Alpine mine. We believe it is a fair inference that the Baldwin coal is inferior to the Crested Butte coal. The Code Authority makes a twenty-cent differential in mine price on slack coal from Baldwin under Crested Butte slack coal.

The coal industry carried on in the two fields in question has been developed over a period of many years on the rates now in effect. If the two fields were just now being opened, we might have a different situation.

On the record made, we find that the proposed reduction has not been justified, due to the fact, which we find, that a reduction in the rate from Crested Butte without a relative reduction from Baldwin would result in preferential and advantageous treatment of Crested Butte to the prejudice and disadvantage of Baldwin.

We further find that a rate of $1.00 per ton of 2,000 pounds on coal from Baldwin to Gunnison is not excessive or unreasonable.

O R D E R

IT APPEARING, That by order dated January 21, 1935, 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 same until the 19th day of May, 1935.

IT FURTHER APPEARING, That on January 16, 1935, a complaint was filed with the Commission attacking the reasonableness of a rate of $1.00 per ton of 2,000 pounds on coal from Baldwin to Gunnison, Colorado.

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 report is hereby referred to and made a part hereof;

IT IS ORDERED, That respondent, The Denver and Rio Grande Western Railroad Company, be, and it is hereby, notified and required to cancel said schedules on or before May 25, 1935, upon notice to this Commission and to the general public by not less than one day's filing and posting in the manner prescribed in section 16 of the Public Utilities Act, and that this proceeding be discontinued.

IT IS FURTHER ORDERED, That the complaint attacking the reasonableness of the rate of $1.00 per ton of 2,000 pounds on coal from Baldwin to Gunnison, Colorado, be, and the same is hereby, dismissed, and

that this proceeding be discontinued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. Carr

Walter McCallum

Malcolm Erickson

Commissioners.

Dated at Denver, Colorado,
this 10th day of May, 1935.

(Decision No. 6461)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

a 607

* * *

RE MOTOR VEHICLE OPERATIONS OF)
WILLIAM L. SIMPSON, DOING BUSINESS) PRIVATE PERMIT NO. A-607
AS SIMPSON TRANSPORT SERVICE.)

May 14, 1935.

S T A T E M E N T

By the Commission:

On March 13, 1935, the Commission made its order revoking private permit No. A-607, heretofore issued to the above named William L. Simpson, doing business as Simpson Transport Service, with the privilege of reinstatement at any time within one year upon written request for such reinstatement and the filing of the necessary insurance.

The Commission is in receipt of a request for reinstatement of said permit and the necessary insurance has been filed.

After a careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. A-607, heretofore issued to William L. Simpson, doing business as Simpson Transport Service, be, and the same is hereby, reinstated as of May 13, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 14th day of May, 1935.

(Decision No. 6462.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

#19

IN THE MATTER OF THE APPLICATION OF)
ANGELO BAUDINO, DOING BUSINESS AS) APPLICATION NO. 1414.
BAUDINO TRANSFER, FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY)

May 10, 1935.

S T A T E M E N T

By the Commission:

On January 8, 1935, the Commission entered its order suspending the certificate of public convenience and necessity heretofore issued in the instant application until April 1, 1935, due to the illness of Angelo Baudino, the holder thereof.

It now appears that Mr. Baudino has filed the necessary insurance required by law and that his reports and taxes are all in proper order, and a request has been made to reinstate said certificate.

After a careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R.

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity, heretofore issued to Angelo Baudino, doing business as Baudino Transfer Company, be, and the same is hereby, reinstated as of April 1, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of May, 1935.

(Decision No. 6463)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE MOTOR VEHICLE OPERATIONS OF)
JOHN L. ROZMAN.) PRIVATE PERMIT NO. A-745.

May 10, 1935.

S T A T E M E N T

By the Commission:

On December 1, 1934, private permit No. A-745, of John L. Rozman, was suspended at his request until May 1, 1935. The Commission is in receipt of a letter from Mr. Rozman asking that period of suspension be extended indefinitely.

The granting of his request would be inconsistent with policy of the Commission. Ordinarily, permits are revoked with the right of reinstatement within specified time.

After careful consideration of his request, the Commission is of the opinion, and so finds, that said permit should be revoked with permission, however, to reinstate same at any time prior to September 1, 1935, by filing his list of customers and proper insurance, and otherwise complying with our rules and regulations.

O R D E R.

IT IS THEREFORE ORDERED, That private permit No. A-745, heretofore issued to John L. Rozman, be, and the same hereby is, revoked; provided, however, that same may be reinstated at any time prior to September 1, 1935, by filing a list of customers and proper insurance and full compliance with our rules and regulations.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of May, 1935.

(Decision No. 6464)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF)
BEN ADAMS FOR A CERTIFICATE OF PUB-) APPLICATION NO. 2278.
LIC CONVENIENCE AND NECESSITY.)

May 10, 1935.

S T A T E M E N T.

By the Commission:

Since the Commission made an order herein denying the application, a petition for rehearing has been filed. We have carefully considered said application, and are of the opinion and so find, that the same should be denied.

O R D E R

IT IS THEREFORE ORDERED, That the petition for rehearing filed 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 10th day of May, 1935.

O R D E R.

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to George Croft, doing business as Croft Truck Line, to transfer to Roy E. Woodworth, doing business as Parker Transfer Company, the certificate of public convenience and necessity heretofore issued in Application No. 1859.

IT IS FURTHER ORDERED, That the authority herein granted shall not become effective until transferee shall have on file with the Commission the necessary insurance required by law.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations of transferor herein shall become and remain those of the transferee herein until changed in accordance with law and the Rules and Regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of May, 1935.

(Decision No. 6466.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF THE COLORADO-UTAH STAGES, INC., FOR PERMISSION TO TRANSFER ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO THE SOUTHERN KANSAS STAGE LINES COMPANY. 377

APPLICATION NO. 1181-AAA.
APPLICATION NO. 2110-A

May 20, 1935.

Appearances: Clarence Werthan, Esq., Denver, Colorado, attorney for applicants;
T. A. White, Esq., Denver, Colorado, attorney for Rio Grande Motor Way, Inc.

S T A T E M E N T.

By the Commission:

Authority is sought to transfer the certificates of public convenience and necessity, heretofore issued in the instant application to Colorado-Utah Stages, Inc., to the Southern Kansas Stage Lines Company.

The evidence disclosed that the consideration to be paid for the transfer of said certificate is the sum of $1,000, of which $500 is to be paid in cash and $500 in the corporate stock of the transferee. Both transferor and transferee are corporations, and exhibits were introduced showing the authority of both said companies to complete the sale.

Under the certificate in question, transferor has the right to transport passengers in interstate commerce only between Pueblo, Colorado, and the Colorado-Utah state line, via Canon City, Salida, Leadville and Glenwood Springs, over U. S. Highway No. 50. No intrastate rights are involved.

It was further brought out that transferee is a responsible company and has had considerable experience in the transportation of passengers and is already operating in the State of Colorado under other certificates.

Transferee assumes and agrees to pay any and all obligations that may exist at the present time against the operations of transferor to the full extent of the consideration paid for said certificate.

After careful consideration of the record the Commission is of the

opinion, and so finds, that the authority herein sought should be granted.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to The Colorado-Utah Stages, Inc., to transfer to Southern Kansas Stage Lines Company the certificates of public convenience and necessity and Application No. 2110
heretofore issued in Application No. 1181/to said The Colorado-Utah Stages, Inc., subject to the following condition:

(a) That transferee assumes and agrees to pay all outstanding obligations of transferor in connection with its previous operation under said certificate.

IT IS FURTHER ORDERED, That the authority herein granted shall not become effective until transferee shall have on file with the Commission the necessary insurance required by law and our Rules and Regulations.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations of the transferor shall become and remain those of the transferee herein until changed according to law and the Rules and Regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward E. Keeler

Commissioners.

Dated at Denver, Colorado,
this 20th day of May, 1935.

(Decision No. 6467)

a 971

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF FRANK PRECHTEL FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE.	))))	APPLICATION NO. 2352-PP

May 20, 1935.

Appearances: Mr. J. F. Schneider, Majestic Building, Denver, Colorado, for applicant;
Mr. V. G. Garnett, Denver, Colorado, for Motor Truck Common Carriers' Association.

S T A T E M E N T

By the Commission:

As limited by his statement at the hearing, applicant Frank Prechtel seeks a motor vehicle Class A private permit authorizing the transportation of freight and livestock via Colorado Highways numbered 8 and 9 between Denver, Colorado, and territory within a radius of 25 miles of Dillon, Colorado, with the right to serve the intermediate points of Pine, Bailey, Grant, Jefferson and Como.

It did not appear at the hearing that the territory sought to be served by applicant is served by a motor vehicle common carrier.

Applicant's pecuniary responsibility and operating experience were established to the satisfaction of the Commission.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the permit should be granted for the territory as limited at the hearing.

O R D E R

IT IS THEREFORE ORDERED, That applicant Frank Prechtel be, and he hereby is granted a Class A motor vehicle private carrier permit authorizing the transportation of freight and livestock from and to Denver, Colorado, to and from points within a radius of 25 miles of Dillon, with

the right to serve the intermediate points of Pine, Bailey, Jefferson, Grant and Como, said permit to issue if and when, but not before applicant has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operations which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it hereby is made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 20th day of May, 1935.

376

(Decision No. 6468)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
CHRIS CHRISTENSEN.)

CASE NO. 1448

May 20, 1935.

S T A T E M E N T

By the Commission:

On January 11, 1935, the Commission made its order cancelling the certificate of public convenience and necessity, heretofore issued to the above named respondent, for failure to keep on file with the Commission the necessary insurance required by law. Since the entry of said order, respondent has filed the required insurance, and now requests the reinstatement of his certificate;

After careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted, with a warning to respondent, however, that in future he must fully comply with the law and our rules and regulations or more drastic action will be taken.

O R D E R

IT IS THEREFORE ORDERED, That the order entered by the Commission on January 11, 1935, revoking the certificate of convenience and necessity issued to Chris Christensen in Application No. 1375, be, and the same is hereby set aside and said certificate reinstated as of this date.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 20th day of May, 1935.

(Decision No. 6469)

315

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF)
COLO-MEX. TRANSPORTATION COMPANY) APPLICATION NO. 1769.
FOR A CERTIFICATE OF PUBLIC CON-)
VENIENCE AND NECESSITY.)

May 21, 1935.

S T A T E M E N T

By the Commission:

A certificate of public convenience and necessity was granted to the applicant in the above entitled application on January 24, 1931. On October 28, 1934, we made an order at the request of the holder of said certificate, suspending the same until June 1, 1933. Other extensions have been made, the last one having been made on May 14, 1934, suspending the certificate until May 15, 1935.

The Commission is now in receipt of a letter dated April 25, 1935, from the holder of the certificate, asking for a further suspension for one year "insofar as it relates to the operation between Denver and the Colorado-New Mexico State line, and between Ft. Garland and Alamosa."

The records of the Commission show that the holder of this certificate has conducted no operations whatever since April, 1934. We are therefore of the opinion, and so find, that the said certificate of public convenience and necessity should be revoked and cancelled, upon the condition, however, that at any time within six months from May 15, 1935, the holder of the certificate may secure the reinstatement of the same by resuming operations after fully complying with the law and all the rules and regulations of the Commission.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity heretofore issued in Application No.1769, be, and the same is hereby, revoked and cancelled.

IT IS FURTHER ORDERED, That the holder of said certificate may at any

time within six months from May 15, 1935, secure the reinstatement of said certificate by the resumption of operations after having complied with all the requirements of law and the rules and regulations of this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 21st day of May, 1935.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
E. B. KENT AND FORREST GEORGE, DOING)
BUSINESS AS GOLD BELT LINE, FOR A) APPLICATION NO. 2519-PP
PERMIT TO OPERATE AS A CLASS "A")
PRIVATE CARRIER BY MOTOR VEHICLE.)

May 21, 1935.

Appearances: Mr. W. D. Paulson, Manitou, Colorado,
for Manitou Fuel & Transfer Company
and Leslie Sutherland;
E. B. Kent and Forrest George, Colorado
Springs, Colorado, pro se;
Mr. A. J. Fregeau, Denver, Colorado,
for Motor Truck Common Carriers Ass'n;
C. A. Bliley, Canon City, Colorado,
for Southwestern Transportation Company;
J. A. Carruthers, Esq., Colorado Springs, Colorado,
for The Midland Terminal Railway Company.

S T A T E M E N T

By the Commission:

This is an application by E. B. Kent and Forrest George, doing business as Gold Belt Line, for a Class A motor vehicle private permit to transport freight between Colorado Springs and Cripple Creek and Victor and intermediate points, via U. S. 40 to Divide and Colo. 67. The matter was set for hearing on April 11, 1935, at 10:30 A. M.

At the hearing, in behalf of applicants, it appeared that E. B. Kent had been engaged for a number of years in the wholesale fruit and vegetable business, buying his fruits and vegetables at Colorado Springs and reselling them, after transportation by him to Victor and Cripple Creek, to merchants in those towns. He was unable to make enough money out of the business to continue. Since he discontinued his business, various business houses in Victor and Cripple Creek have requested him to reinstate his service. He wants to satisfy this demand, and applicant Forrest George wants to join with him as a partner. However, in view of Kent's former experience, applicants are of the opinion that they cannot derive sufficient revenue from the business to conduct it profitably and desire to supplement their

income by engaging in the hauling of groceries only for Kent's customers in Victor and Cripple Creek, being two stores belonging to Fraser and one store each belonging to Jones, Coppage and Dewar, Breese Cash Grocery and Victor Cash Market. There are 70 business houses in Victor and Cripple Creek.

It appeared that the territory is not served by any motor vehicle common carrier, although the C. & S. Truck Line, a private carrier, and the Midland Terminal Railway Company operate over substantially the same route.

Mr. Kent stated that his proposed rate of 30 cents per cwt. is about the same as the rate charged by C. & S. Truck Line. It appeared from the testimony of Mr. Winslow, general traffic manager of the Midland Terminal Railway, that its produce rate Colorado Springs to Cripple Creek is 75 cents per cwt.

Applicants waived the right to serve intermediate points. Their pecuniary responsibility was established to the satisfaction of the Commission.

After careful consideration of the evidence, the Commission is of the opinion, and so finds, that a Class A motor vehicle private permit should issue to applicants for the transportation of fruit, vegetables and groceries, only, between Colorado Springs and Cripple Creek and Victor, without the right to serve intermediate points, for the stores of Fraser, Jones, Coppage and Dewar, Breese Cash Grocery and Victor Cash Market, via U. S. Highway No. 40 and Colorado Highway No. 67.

O R D E R

IT IS THEREFORE ORDERED, That the applicants, E. B. Kent and Forrest George, doing business as Gold Belt Line, be, and they are hereby authorized to operate as a Class A private carrier by motor vehicle in the transportation of fruit, vegetables and groceries only, for the stores belonging to Fraser, Jones, Coppage and Dewar, Breese Cash Grocery and Victor Cash Market, between Colorado Springs and Cripple Creek and Victor, over U. S. Highway No. 40 and Colorado Highway No. 67, without the right to serve intermediate points, said permit to issue if and when, but not before applicants have filed a

list of their customers and the required insurance, and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this order shall be dependent upon their compliance at all times with all the laws, rules and regulations pertaining to their operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of May, 1935.

(Decision No. 6471)

337

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

In the matter of the application of The Kennicott Warehouses, Inc., for an order authorizing the transfer of the certificate of public convenience and necessity now in the name of Kennicott Patterson Warehouse Corporation to The Kennicott Warehouses, Inc.

APPLICATION NO. 1293-A

May 21, 1935.

Appearances: J. F. Rowan, Denver, Colorado, for applicants.

S T A T E M E N T

By the Commission:

Authority is sought to transfer the certificate of public convenience and necessity, heretofore issued in Application No. 1293, from Kennicott Patterson Warehouse Corporation to The Kennicott Warehouses, Inc.

The evidence disclosed that transferor has been in the hands of a receiver and that a sale of all of its assets, including the instant certificate, has been made for the benefit of its creditors, all of said acts having been performed under and duly authorized by an order of Court.

It further appears that transferee is a suitable company to conduct a motor vehicle operation under a certificate of public convenience in this State.

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

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to Kennicott Patterson Warehouse Corporation to transfer to The Kennicott Warehouses, Inc., the certificate of public convenience and necessity heretofore issued in Application No. 1293.

IT IS FURTHER ORDERED, That the authority herein granted shall not become effective until transferee shall have filed with the Commission the necessary insurance required by law and the Rules and Regulations of the Commission.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations of the transferor herein shall become and remain those of the transferee herein until changed according to law and the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of May, 1935.

(Decision No. 6472)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE MOTOR VEHICLE OPERATIONS OF)
A. L. LEVY, DOING BUSINESS AS) CASE NO. 1582.
LEVY'S TRANSFER & STORAGE COMPANY.)

May 21, 1935.

S T A T E M E N T

By the Commission:

On April 15, 1935, the Commission entered its order requiring respondent to show cause why the certificate of public convenience and necessity, heretofore issued to him in Application No. 1587, should not be suspended or revoked for his failure to keep on file with the Commission the necessary insurance required by law.

At the hearing, it developed that respondent had filed his insurance on May 6, 1935, and he now requests dismissal of the instant case.

After careful consideration of the record, the Commission is of the opinion, and so finds, that said case should be dismissed, with a warning to respondent, however, that hereafter he must be more prompt in his compliance with the law and our rules and regulations, or more drastic action will be taken.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of May, 1935.

(Decision No. 6473)

B-961

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF)
W. H. ROLLER FOR A PERMIT TO OPERATE)
AS A CLASS "B" PRIVATE CARRIER BY) APPLICATION NO. 2333-PP.
MOTOR VEHICLE FOR THE TRANSPORTATION)
OF ORE.)

May 21, 1935.

Appearances: W. H. Roller, Idaho Springs, Colorado,
pro se;
V. G. Garnett, 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 by W. H. Roller for a motor vehicle Class B private permit authorizing the transportation of ore from mines within a radius of 15 miles of Idaho Springs to Idaho Springs.

At the hearing, it appeared that applicant is an experienced trucker and for some time has been engaged in hauling ore for himself in the same territory. It also appeared that the territory is not served by any motor vehicle common carrier.

The pecuniary responsibility of applicant was established to the satisfaction of the Commission.

After a careful consideration of the evidence the Commission is of the opinion, and so finds, that the permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That applicant W. H. Roller be, and he hereby is, granted a Class B motor vehicle private carrier permit, authorizing the transportation of ore from mines within a radius of 15 miles of Idaho Springs to Idaho Springs, said permit to issue if and when, but not before he has filed the required insurance and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of May, 1955.

(Decision No. 6474)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
FRANK COMSTOCK.) CASE NO. 1587

May 21, 1935.

Appearances: Mr. E. S. Johnson, Denver, Colorado,
for the Public Utilities Commission.

S T A T E M E N T

By the Commission:

On May 2, 1935, the Commission entered its order requiring respondent to show cause why the certificate of public convenience and necessity heretofore issued in Application No. 2129, should not be suspended or revoked for his failure to file monthly reports, pay highway compensation taxes, and keep on file with the Commission the necessary insurance required by law.

At the hearing, the evidence disclosed that respondent had failed to make any monthly reports from July, 1934, to March, 1935, inclusive. It was further developed that respondent's insurance was cancelled on September 5, 1934, and has not since been renewed.

After careful consideration of the record, the Commission is of the opinion, and so finds, that the certificate of public convenience and necessity, heretofore issued in Application No. 2129, should be revoked on account of the above delinquencies.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity, heretofore issued to respondent Frank Comstock in Application No. 2129, be, and the same is hereby, revoked for failure to file monthly reports and keep on file with the Commission the necessary

insurance or surety bond required by law.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of May, 1935.

(Decision No. 6475)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

***

RE MOTOR VEHICLE OPERATIONS OF A. P. HAMILTON, A. R. HAMILTON AND BARNEY GROSS, CO-PARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF DENVER-LOS ANGELES TRUCK LINE.	CASE NO. 1586

May 21, 1935.

Appearances: Mr. Barney Gross, Denver, Colorado, for respondents.
Mr. J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Association.

S T A T E M E N T

By the Commission:

On May 2, 1935, the Commission entered its order requiring respondents to show cause why private permit No. A-913 authorizing the transportation of freight in interstate commerce only, should not be suspended or revoked due to the fact that under said interstate permit respondents have been operating intrastate.

At the hearing, respondents admitted that on April 18, 1935, they had transported approximately 15,000 pounds of fresh meat and packing house products from Denver to Colorado Springs and Pueblo for Swift & Company, which they acknowledged was in violation of the authority granted to them under said permit. In extenuation of said action on their part, they stated that they had been called by Swift & Company to transport the freight in question and had been advised that it was more or less of an emergency matter and no other suitable equipment was available to handle this shipment.

The Commission is not impressed with the explanation made as to why the shipment was moved, although we are impressed with the frank admissions of respondents and their apparent sincere regret that the violations occurred. We might at this point call attention to the fact that under the law the shipper who aids and abets a carrier in the violation of our motor vehicle laws, is equally guilty with the carrier. If any order

is to be brought out of the more or less chaotic condition in which the motor vehicle transportation industry in Colorado finds itself at present, we feel that such results will only be accomplished by a strict enforcement of the laws governing said industry, and those truck operators who believe that said truck laws may be violated with impunity, are due for a severe awakening.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that private permit No. A-913, heretofore issued to respondents, should be suspended for a period of thirty days as a penalty for the violation of the law and the terms of said permit by operating in intrastate commerce within the State of Colorado without authority.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. A-913, heretofore issued to A. P. Hamilton, A. R. Hamilton and Barney Gross, doing business as Denver-Los Angeles Truck Line, be, and the same is hereby, suspended for a period of thirty days, commencing June 1, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. Keeler

Commissioners.

Dated at Denver, Colorado,
this 21st day of May, 1935.

(Decision No. 6476)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE MOTOR VEHICLE OPERATIONS OF)
G. H. SAUM) CASE NO. 1590.

May 21, 1935.

S T A T E M E N T.

By the Commission:

The records of the Commission disclose that the above named respondent was heretofore issued a private permit, No. A-890, under the provisions of Chapter 120, Session Laws of Colorado, 1931, authorizing him to engage in business of a private carrier by motor vehicle for the transportation of freight in interstate commerce only between Fort Morgan and the Colorado-New Mexico State line, at a point where U.S. Highway No. 85 crosses the same, and to and from all points intermediate to Fort Morgan and the said state line, and to operate over various other highways in interstate commerce only, which said permit was issued Feb. 1, 1935, effective as of date, December 1, 1934.

Information has come to the Commission that the above named respondent has violated the law and the terms and provisions of his said permit by transporting on May 11, 1935, approximately 15,000 pounds of fresh meat and packing house products, from Denver to Colorado Springs and Pueblo for Swift and Company in intrastate commerce and in violation of the authority heretofore granted them.

The Commission is of the opinion, and so finds, that a complaint and investigation should be instituted of its own motion, and a hearing be entered into to determine if said respondent has violated the law and the terms and provisions of his said permit to operate as a private carrier by motor vehicle in interstate commerce only, by accepting and transporting freight from point to point within the State of Colorado in intrastate commerce as aforesaid without first having obtained authority so to do from this Commission.

O R D E R

IT IS THEREFORE ORDERED, By the Commission on its own motion, that a complaint and investigation be instituted and a hearing be entered into to determine if the above named respondent has violated the law and the terms and conditions of his permit by operating in intrastate commerce as aforesaid without authority.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by a written statement filed with the Commission within ten days from this date, why it should not enter an order revoking or suspending the private permit heretofore issued to said respondent on account of the aforesaid delinquencies; and why it should not enter such other order or orders as may be meet and proper in the premises.

IT IS FURTHER ORDERED, That said matter be set down for hearing before the Commission in its hearing room, 330 State Office Building, Denver, Colorado, at 10 o'clock A.M. on the 14th day of June, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of May, 1935.

(Decision No. 6477)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE COLORADO RAPID TRANSIT COMPANY,
Complainant,
vs.
J. B. LANG,
Defendant.

CASE NO. 1570

May 22, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, attorney for defendant;
V. G. Garnett, Denver, Colorado, for Colorado Rapid Transit Company, complainant;
J. F. Rowan and A. J. Fregeau, Denver, Colorado, for Motor Truck Common Carriers Association;
R. E. Conour, Esq., Denver, Colorado, for Public Utilities Commission.

S T A T E M E N T

By the Commission:

On February 1, 1935, an order issued in the above styled matter directing defendant Lang to satisfy or answer the complaint filed against him January 29, 1935, by The Colorado Rapid Transit Company, wherein it was alleged that defendant Lang, beginning with the month of October, 1934, and ever since, had been illegally hauling freight as a common carrier without a certificate or permit from Denver to Frederick, Firestone and Dacona. Lang answered denying operation as a common carrier and further denying that he was operating without a permit.

The matter in part was heard in Denver on April 1, 1935, being continued to April 18, 1935, for further hearing. From the record and evidence, it appeared that on August 8, 1931, permit No. A-155 was issued to Lang for territory or route described as, "Nine miles east of Longmont to Niwot, and return through Longmont to home"; that Lang lives in Section 1, Township 2, Range 68 West, being about eight miles east of Longmont; that on September 27, 1935, said Lang wrote the Commission stating in part, "Within

the past week our milk route formerly being hauled to a milk substation at Niwot, has been changed and we are now hauling it straight into Denver." In reply, on September 28, 1934, he was informed by the Commission as follows:

> "We note from your letter of the 27th instant that you have been operating under No. A-155 and desire to extend your operation from the sub-station at Niwot into Denver.
>
> "We are willing to grant you this extension of your operation, but before this can be done, you must file with the Commission the necessary insurance required by law."

On October 4, 1934, he again wrote the Commission stating:

> "Am writing you with regards to my permit No. 155-A and of the extension of the same into Denver. I have been hauling into Denver since September 1, 1934, and want to make a report and return it to you."

Defendant and W. L. Lang, his driver, who is also his son, admitted more or less regular hauling by them of merchandise from wholesale houses in Denver to Jackovette Brothers at Firestone, Joe Ravielo and A. C. Magine at Frederick, and John Poggas at Dacona. They sought to justify haul by statement that in letter to Commission of September 27, 1934, defendant intended to ask for leave to haul freight on back haul from Denver. Notwithstanding said letter was written September 27, 1934, W. L. Lang testified that merchants' suggestion that he haul for them first occurred in October and he commenced operation about November 1. Here attention should also be directed to the fact that witness W. L. Lang admitted he had solicited business from Dacona Mercantile Company and other shippers.

While it is true that the haul under said permit was not limited to milk, it unquestionably appears that the permit applied for was for that purpose and that for years the sole commodity hauled was milk from the territory described by witness W. L. Lang as beginning at a point 7 miles northwest of his home, then east from that point 8 miles, then south five miles, and west and north to place of beginning; and, in any event, the extension of route requested and allowed to Denver from Niwot sub-station was for the purpose of hauling milk, only. The reason assigned in letter asking for change was "Within the past week our milk route formerly being

hauled to a milk sub-station at Niwot has been changed, and we are hauling it straight into Denver." Applicant said nothing about hauling out of Denver, and we think it may be said that the correspondence alone, without considering history of the operation, cannot fairly be construed to imply either a request for or a grant of the right or privilege of transporting general freight of any kind over any route from Denver to Frederick, Firestone, Dacona or other towns.

However, in view of the state of the record, we cannot say that defendant's violation of the law was willful. He may have been acting in good faith as he contends, and the violation may have been unintentional.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the complaint of The Colorado Rapid Transit Company was and is justified, and that the transportation of general freight by defendant J. B. Lang and his son W. L. Lang from Denver to Frederick, Firestone and Dacona, was and is illegal and without authority.

O R D E R

IT IS THEREFORE ORDERED, That defendant J. B. Lang, his agents and employes, cease and desist from transporting general freight from Denver to Frederick, Firestone and Dacona, and hereafter confine his operations under extension of Private Permit No. A-155 to the hauling of milk and milk cans from and to his milk route territory to and from Denver.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 22nd day of May, 1935.

(Decision No. 6478)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF E. G. HUESTED FOR A PERMIT TO OPERATE AS A PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT BETWEEN SPRINGFIELD, COLORADO, AND GOLDEN, COLORADO, AND INTERMEDIATE POINTS.

APPLICATION NO. 2343-PP.

May 22, 1935.

Appearances: Mr. Alfred A. Arraj, Denver, Colorado, for applicant;
Mr. J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
Mr. Marion F. Jones, Longmont, Colorado, for The Colorado Trucking Association;
Mr. R. M. Spahr, Denver, Colorado, for The Atchison, Topeka & Santa Fe Railway Company.

S T A T E M E N T.

By the Commission:

As limited by his testimony at the hearing, it appears that applicant herein seeks authority to transport intoxicating liquors, keg and bottled beer, and empties from and to Golden, Denver, Pueblo, Colorado, to and from Springfield, Pritchett, Two Buttes, Campo, Vilas, Walsh and Kim.

At the hearing it further appeared that Mr. Huested is engaged in the drug business in Springfield, Colorado, and as an incident thereto sells beer and intoxicating liquors; that he has a commercial carrier permit to transport the beer and liquor so sold by him and has been transporting Coor's, Tivoli and Walter's beer to Springfield; that the Coor's brewery is in Golden; the Tivioli brewery is in Denver, and the Walter's brewery is in Pueblo; that it is somewhat difficult to order beer in advance, as the amount to be needed is uncertain; that a number of dealers in beer in Baca County have requested him to haul their beer; that keg beer requires special treatment, and the common carrier operating between Lamar and Springfield, who did not appear in opposition to this application, is not equipped to properly ice and care for said beer.

The pecuniary responsibility of applicant was established to the satisfaction of the Commission.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, E. G. Huested, be granted a private Class A motor vehicle permit, authorizing the transportation of intoxicating liquors, keg and bottled beer and empties, from and to Golden, Denver and Pueblo, Colorado, to and from Springfield, Pritchett, Kim, Campo, Vilas, Two Buttes and Walsh, via U. S. Highways 40, 85 and 50 and Colo. Highway 59, said permit to issue if and when but not before applicant has filed a list of his customers and the required insurance and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 22nd day of May, 1935.

(Decision No. 6479)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

CADILLAC SIGHT SEEING COMPANY, ET AL, Complainants, vs. MANITOU AND PIKES PEAK RAILWAY COMPANY, ET AL, Defendants.	)	CASE NO. 1167 CASE NO. 1170.

May 21, 1935.

Appearances: Colin A. Smith, Esq., Denver, Colorado, for complainants;
J. A. Carruthers, Esq., Colorado Springs, Colorado, for Manitou and Pikes Peak Railway Company and Broadmoor Hotel Corporation;
T. A. White, Esq., Denver, Colorado, for Rio Grande Motor Way, Inc.;
Merrill E. Shoup, Esq., Colorado Springs, Colorado, for The Antlers' Livery & Taxicab Company.

S T A T E M E N T.

By the Commission:

The statement of the history of these two cases is taken largely from the statement of the attorney for the petitioners made in his brief filed with the Commission on May 4.

On or about May 27, 1933, Manitou and Pikes Peak Railway Company, hereinafter referred to as the Cog Road, filed with the Commission Amendment No. 4 to its Local and Joint Tariff No. 10, being Amendment No. 4 to Colo. P.U.C. No. 60, reducing the round-trip fare for the rail trip to the summit of Pikes Peak from $5.00 to $3.50, upon short notice authority No. 7764 granted by this Commission, as is the custom in applications made by railroad companies generally to reduce fares. Ever since, and at the present time, the $3.50 round-trip rate has been in effect on the Cog Road.

For a number of years prior to May 27, 1933, and ever since, the farecharged by the many automobile sight-seeing companies operating in the Pikes Peak region for an automobile round-trip to the summit of Pikes Peak has been $4.00, with each passenger being required to pay in addition a toll charge of $2.00 for the use of the private highway. Immediately after the said reduction was made in the fare by the Cog Road, a number of sight-seeing operators in the Pikes Peak region instituted Cases No. 1167 and No. 1170.

On July 7 the Commission in a joint decision made an order authorizing a reduction of the automobile fare for the Pikes Peak trip from $4.00 to $3.00, the effective date of the order with respect to said change being made July 15.

An application for rehearing was filed, and a number of operators who had favored a reduction in the said rate changed their minds and asked the Commission to continue in effect the old $4.00 rate. On July 13 another order was made withdrawing the authority to make said reduction, and denying said authority.

On June 12, 1934, petitioners herein filed a petition to reopen said cases and asked for authority to reduce not only the Pikes Peak rates, but also rates for other automobile sight-seeing trips in the Pikes Peak region. The Commission thereupon reopened the cases and set them for further hearing on July 2, 1934. At that time the sight-seeing operators were in the midst of their short sight-seeing season. Wherefore, the Commission vacated the hearing, notifying the parties to the cases that the cases would "be re-set at a later date."

On March 6 petitioners by letter written by their attorney to us requested the cases be set for hearing. They were set for hearing and were heard on April 11. A further hearing was held on April 23. Briefs were thereafter filed.

In our order of July 7, 1933 is found the following:

> "We have heretofore had considerable difficulty in the Pikes Peak region with respect to the cutting or reducing of fares by motor sight-seeing operators, particularly during and at the beginning of the sight-seeing season. We have pointed out repeatedly that we stand ready and willing to consider the matter of the rates at any time

> from September until June, the period during which the said operators are inactive; that we do not like and do not consider it best for operators to change rates on the eve of and during the season. Advertising matter is sent out all over the United States to various tour agencies, in which are contained the rates of the various trips. Plans and contracts are made based upon those rates and an objectionable situation arises when, during the season, the parties rush in and seek to make adjustments, usually at the expense of some of their competitors. It is only because of the competitive situation which exists between defendant and the motor vehicle carriers that we have concluded to authorize the reduction at this time of the Pike's Peak motor trip. There is no such reason existing for the reduction of the fares for other trips. It is quite possible that on a few of those trips the fares are unreasonably high as compared with other trips. However, sightseeing operators in the region, which are a very considerable number, have all been charging the rates now in effect. They have been arrived at after years of experience and after extended and repeated conferences with this Commission. We do not believe it in the public interest to reduce those rates at this time. Moreover, if the rates in question were reduced, we should feel like requiring the complainants to reduce rates on other trips which they have omitted. The reduction of the particular rates named without reducing the others would, in our opinion, be discriminatory and unreasonable."

As was brought out in the hearing held in April, a number of the automobile sight-seeing operators in the Pikes Peak region have made arrangements in the East for business this summer on the rates that have been in effect for a number of years. The petitioners herein should have asked that the petition be heard in the fall of 1934, before advertising of the rates now in effect had been broadcast over a large portion of the country, and business had been solicited on the basis of said rates.

We may say that generally the railroads have more thorough records showing costs of operation than do automobile companies. It has been the general practice, with some rare exceptions, to permit railroad carriers to fix their rates as low as they desire. Usually, we have permitted motor carriers to fix their rates as low as they desire. However, the sight-seeing business is rather sui generis. The season is short and rather strenuous. There are a large number of operators—many more than are needed—due to the fact that when the Commission began regulating the motor vehicle business we found the field crowded, and hesitated to grant certificates to some and deny them to others. There has been a tendency during or immediately before the sight-seeing season begins to begin cutting rates. Obviously, this introduces con-

fusion in the business. If the operators are not all on the same basis and required to stand by their rates, the public suffers by being annoyed by various operators persistently soliciting them on the basis of lower rates than are charged by competitors. As is stated in our former order, the rates now in effect were arrived at after years of experience and after extended and repeated conferences between representatives of the motor sight-seeing operators and of this Commission.

The evidence of some of the petitioners was to the effect that in order to compete with the Cog Road, it is necessary that the round-trip fare for the automobile Pikes Peak trip be reduced to $3.00 and that in order to secure a greater return or to cut down the loss now resulting from operations, it is necessary to make other reductions, all of the fares proposed being as follows:

Pikes Peak, round trip, without toll	$3.00
Same, party rate	2.50
Big Circle Trip	7.50
Same, party rate	6.00
Cripple Creek	5.00
Same, party rate	4.00
Little Circle Trip	2.50
Same, party rate	2.00

There are many other trips listed in petitioners' tariffs for which no reductions are proposed.

The present rates are referred to in the brief for the petitioner as "satisfactory for normal times, and excessive at the present time."

On the other hand, Rio Grande Motor Way, Inc., Pikes Peak Automobile Company, and the Antlers Livery and Taxicab Company, being three of the largest operators in the region, take the position that while they have felt somewhat the effect of the competition of the Cog Road, the reduction in question would result in lessening an already inadequate return from the sight-seeing operations in question.

The petitioners stated that the present rates "are not based upon any computation or data such as cost of operation, gross revenues, or otherwise, and that the proposed reductions should now be considered from a practical common sense point of view, rather than in the light of a technical, dogmatic formula."

We might say that while we had some evidence introduced as to

costs of operation generally, and as to the net result from all operations, the evidence as to particular trips, and as to the fares that should be charged therefor, was largely confined to the Pikes Peak trip.

The evidence given by the petitioners as to costs of operation was very vague and was based on little else than their estimates or guesses. Moreover, their testimony as to results of operation somewhat differed from the information given the Commission in reports filed by the witnesses.

Mr. J. B. Shabouh testified that he thought reduction in rates was justified on account of economic conditions and competition of the Cog Road, and that such reduction would bring about an increase in business sufficient to more than make up for revenue loss due to such reduction; that he operated "up the Peak" with an average load of three at a loss. He could not give any information about costs of hauling passengers per mile per trip or per passenger, or otherwise. F. S. Ordelheide, a sight-seeing operator since 1922, could not give any information as to operating costs. Mr. Frank Snell, Jr., an associate of Mr. Shabouh's, stated that he could not give any accurate information about operating costs. He thought it would cost about $8.00 to make the trip to Pikes Peak and return. Mr. D. B. Snouffer, another operator, stated that he had no information relative to operating costs, except that it took ten gallons of gasoline and a quart of oil to make the trip.

The witnesses for the petitioners, as did all the witnesses in the case, testified that the sight-seeing season of 1933 had been very poor, and that the business in 1934 was the best the operators had had for a number of years.

The power of this Commission over the rates of motor carriers is to be found in the Public Utilities Act, Chapter 127, Laws of 1913, since Section 27 of Chapter 134, Session Laws of 1927 provides:

> "All provisions of the Public Utilities Act of the state of Colorado, chapter 127, Laws of 1913, and all acts amendatory thereof or supplemental thereto, shall, insofar as applicable, apply to all motor vehicle carriers subject to the provisions of this act."

Various provisions of the Public Utilities Act, including section 23, being section 2934, C. L. 1921, give this Commission complete jurisdiction over the rates of motor carriers and power to fix maximum as well as minimum rates.

Of course the reason for the creation of this Commission was the public interest. We owe a duty to protect the public from excessive rates. We owe a duty also to prevent the petitioners and their competitors from making effective rates which "are insufficient." Sec. 2934 , C. L. 1921. Obviously, service to the public cannot be adequate and dependable if rates are too low.

Some argument is devoted in briefs to the matter of the burden of proof. The decision of the Interstate Commerce Commission in Pig Iron from Southern Points, 159 I.C.C. 671, is referred to, the Commission having said in that case:

> "These respondents contend that because they are proposing reduced rather than increased rates the burden of justifying the proposed schedules is not upon them. With this we do not agree. The burden of justifying suspending schedules is not upon them. With this we do not agree. The burden of justifying suspended schedules is upon the respondent carriers who have proposed them. Sublimed Lead to Trunk Line Points, 68 I.C.C. 343; Truck-Line and Ex-Lake Iron Ore Rates, 69 I.C.C. 589, Lake Cargo Coal, 139 I.C.C. 367, and other cases."

We do not believe it necessary in this case to deal with the question of the location of the burden of proof. Evidence has been submitted by both parties, and our findings will be based on the whole evidence.

Antlers Livery and Taxicab Company gave us detailed figures bearing on the costs of its sightseeing business. In presenting its figures it excluded an expense of $1,005.28 incurred in the hiring of outside equipment to handle overflow business. The distance operated by that company in 1934 was 53,008 miles. The total operating expense was $16,335.69, or 30.8 cents per mile. The total gross revenue was $16,437.72. Net profit was $102.03, without any deduction for interest on investment. The distance to and from the summit of Pike's Peak is sixty miles. The average cost for the Pikes Peak trip was $18.48. The evidence showed that that company's average number of passengers, which

is substantially higher than that of the petitioners, is 5.39 per trip. The total average revenue therefore from the trip was $21.56. The "gross profit" per trip was $3.08 per car. If the rate reduction desired were authorized to be made, the revenue from the same average number of passengers, namely, 5.39, would be $16.17, or $2.31 less than the cost of the trip. If we assume that seven passengers should be carried in addition to the driver, the gross revenue per trip would be $21.00, leaving a gross profit per trip of $2.52, or $.56 less than the present gross profit per trip.

When passengers are members of an organized party the present rate is $3.00. The Antlers Company's average revenue per passenger on the Pikes Peak trip in 1934 was $3.39 per passenger.

The Pikes Peak Automobile Company's evidence showed that it had a record of costs of operation; that such costs included all items of expense except interest on investment. The evidence further showed that the average number of passengers carried in automobile on the Pikes Peak trip in the season of 1934 was 5.71; that the revenue was 29.69 cents per vehicle mile, the cost 29 cents leaving a profit of .69 cents per vehicle mile. The net profit for the Pikes Peak trip was 43 cents per trip per car, while other trips showed a net profit of $519.54 for the year, or a total profit for the year from the Pikes Peak trips of $178.17. The company had a deficit for all operations of $656.46, after deducting an expense of $1601.24 for non-revenue mileage.

Rio Grande Motor Way also presented detailed figures. Its evidence showed a net revenue for the year 1934 of $1529.29. The evidence likewise showed that if the proposed rates were put into effect and the volume of business remained the same, the deficit would be $1318.71; that the net earnings per car mile of 1.8 cents for the year 1934 would, with the same volume of business, result in a deficit of 1.6 cents under the proposed rates. The Motor Way's evidence showed also that if the new rates were made effective and the volume of business increased twenty-five per cent, with an estimated increase of expense of ten per cent, the net earnings per car mile would be .2 cents;

that if the proposed rates became effective and business increased fifty per cent, with a twenty-five per cent increase in expense, the earnings per car mile would be 1.2 cents. No interest on investment is included in the figures given.

As we have stated, the evidence for the petitioners is very vague, and is apparently based on no statistics or records whatever. Business has not been as profitable to these operators as they would like. They have a mere feeling that reducing rates would increase their net profits or cut down their losses. It is obvious that an automobile will hold only about so many passengers, and that the limit has been nearly reached by the three protesting companies. Of course, some economy can be effected by carrying a full load, but when a car has been filled, other passengers must be carried in other cars. Of course the more cars that are used, the more gross expense there will be. It is certain that in all operations a point of diminishing return exists. When that point is reached the more business done the worse off the one doing it is.

There is no evidence upon which we could base finding that reduced rates would increaase or develop business sufficient in volume to balance revenue lost by decrease in rates, or to justify the hope or belief of some witnesses that such reduction would increase their per car load enough to make each trip a profitable one.

After careful consideration of the evidence the Commission is of the opinion and so finds that the proposed rates desired to be made effective by the petitioners are "insufficient;" that they would result in a net loss to those operators who are now making a slight profit and in a greater loss to those operators who are already suffering a loss; that therefore it is not in the public interest to authorize such proposed rates.

We are inclined to believe that the sight-seeing business will gradually improve with better business conditions, and that with such improvement the dissatisfaction with the present rates will disappear.

O R D E R

IT IS THEREFORE ORDERED, That the petition of the applicants for authority to reduce the rates for sight-seeing automobile trips in the Pikes Peak region be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 21st day of May, 1935.

(Decision No. 6486)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE PRIVATE CARRIER MOTOR VEHICLE)
OPERATIONS OF FRANK LANG.) CASE NO. 1575.
PERMIT NO. A-793.)

May 23, 1935.

Appearances: Mr. Thomas F. Dillon, Denver, Colorado, for the Public Utilities Commission; Frank Lang, 321 Atwood Street, Longmont, Colorado, pro se.

S T A T E M E N T

By the Commission:

By order made and entered by Commission on March 28, 1935, the above named Frank Lang was required to show cause in writing why his permit A-793 should not be suspended or revoked on account of the making and filing by him personally, or by agent, of false and perjured reports purporting to show tonnage hauled by him during months of January, 1935 and February, 1935, in that he reported hauls of 56,477 pounds and 73,367 pounds for said months of January and February, respectively, instead of 96,640 pounds and 103,738 pounds for said respective months, which the Commission had been informed that he hauled.

Evidence was offered at the hearing by Inspector Dillon for the Commission substantiating charges and Lang admitted matters complained of were true. By way of excuse he stated that his reports were prepared while he was away from home; that his wife prepared them; that figures obtained from dairies upon which reports were based were incomplete and that her estimate made as to volume handled but not returned by dairy was too small. His wife did not appear at the hearing.

The Commission is not impressed with the excuse offered. Assuming that Lang's wife prepared the reports, it was his duty to check them; if not when made, then, thereafter. This he had ample time and opportunity to do.

After a careful consideration of the record the Commission is of the opinion, and so finds, that Private Permit A-793, issued to Frank

Lang, should be suspended for a period of thirty days commencing June 10, 1935.

O R D E R

IT IS THEREFORE ORDERED, That Private Permit A-793, issued to Frank Lang, and all rights and privileges accruing to him by virtue thereof, be, and they are hereby, suspended for a period of thirty days commencing June 10, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 23rd day of May, 1935.

(Decision No. 6482)

a- 942

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF J. F. BOLAS AND JOHN DELAMERE, DOING BUSINESS AS BOLAS & DELAMERE, FOR A CLASS "A" PERMIT TO OPERATE AS A PRIVATE CARRIER BY MOTOR VEHICLE.

APPLICATION NO. 2337-PP

May 28, 1935.

Appearances: Mr. W. C. Kirk, Denver, Colorado, attorney for applicants.

S T A T E M E N T

By the Commission:

Applicants herein seek a Class A permit to operate as a private carrier by motor vehicle for hire for the transportation of ore and concentrates from the Saratoga and Delmonico mines in Russell Gulch, Gilpin County, Colorado, to the Saratoga mill at Idaho Springs and to mills at Central City and/or Blackhawk, Colorado, via Colorado Highway 119 and various other mine roads.

The evidence disclosed that applicants are the owners of three Ford trucks and that they are willing to limit their operations to the transportation of ore and concentrates for the Saratoga Gold Corporation, owner of the Saratoga Mine, and the Quartz Hill Mines, Inc., owner of the Delmonico Mine.

The responsibility of applicants was established to the satisfaction of the Commission.

The record does not disclose that, as limited above, the operation would impair the efficient public service of any authorized motor vehicle common carrier or carriers.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that applicants' request for a permit as limited should be granted.

O R D E R

IT IS THEREFORE ORDERED, That applicants, J. F. Bolas and John Delamere, doing business as Bolas and Delamere, should be, and they hereby are granted a Class A private permit to operate as a private carrier by motor vehicle for the transportation of ore and concentrates from the Saratoga and Delmonico mines in Russell Gulch, Gilpin County, Colorado, to the Saratoga Mill at Idaho Springs and to mills at Central City and/or Blackhawk, Colorado, via Colo. Highway 119 and various mine roads, said permit to issue if and when, but not before applicants have filed a list of their customers and the necessary insurance with the Commission, and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this order shall be dependent upon their compliance at all times with all the laws, rules and regulations pertaining to their operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of May, 1935.

(Decision No. 6483)

a-430

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
BENNIE GOLDSTEIN FOR AN EXTENSION)
[redacted]RRIER PERMIT NO.)
A-430 TO INCLUDE HAULING OF FREIGHT) APPLICATION NO. 2327-PP-B
BETWEEN PUEBLO, COLORADO, AND THE)
COLORADO NEW-MEXICO STATE LINE,)
BOTH INTRASTATE AND INTERSTATE.)

May 28, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado,
attorney for applicant;
A. J. Fregeau, Denver, Colorado,
for Weicker Transportation Company;
J. F. Rowan, Denver, Colorado,
for Motor Truck Common Carriers Ass'n;
R. M. Spahr, Denver, Colorado,
for The Atchison, Topeka and Santa Fe
Railway Company.

S T A T E M E N T

By the Commission:

Applicant now has authority to operate between Denver and the Colorado-Wyoming state line and intermediate points, via U. S. Highways Nos. 85 and 285, as well as between Denver and Pueblo via U. S. Highway No. 85, In the instant application, he seeks authority to extend his route from Pueblo to the Colorado-New Mexico state line, including intermediate points, with the right to serve in both intrastate and interstate commerce.

On behalf of applicant, it was disclosed that his present operation consists largely of the transportation of groceries and meats, and he desires to accommodate his present customers by transporting their freight from Denver to Trinidad instead of having to stop his operation at Pueblo. His customers consist of a few large shippers, and applicant testified that he had been requested by said shippers to secure the authority above outlined.

The evidence developed on the part of protestants was to the effect that a reliable common carrier operation now exists between Pueblo and Trinidad and intermediate points; that the tonnage transported by said common carrier

has decreased materially in the past two years, and that while formerly three trucks a day were necessary to transport the freight carried by said common carrier, only one truck is in use at the present time.

It was further developed that some twenty-two private carriers are now operating between Pueblo and Trinidad, and approximately twelve are operating between Denver and Trinidad. Section 3 of Senate Bill No. 294, Session Laws of 1935, provides, inter alia, as follows:

> "No application for permit nor for any extension or enlargement of existing permit shall be granted by the Commission until after a hearing, nor shall any such permit or any extension or enlargement thereof, be granted if the Commission shall be of the opinion that the proposed operation of any such private carrier will impair the efficient public service of any other motor vehicle common carrier or carriers then adequately serving the same territory over the same general highway route or routes."

In Application No. 2271-PP, Decision No. 6372, made March 14, 1935, the Commission denied to William Goldstein, father of the present applicant, a private permit for the same operation covered by the extension asked for in the instant application. This denial was based on the assumption that the territory in question was adequately served by common carriers and that the granting of any further private permits would unquestionably impair the efficient public service of said motor vehicle common carriers.

In view of the law, as well as our decision in the said Application No. 2271-PP, and after a careful consideration of the record, the Commission is of the opinion, and so finds, that the said application should be denied insofar as the same applies to intrastate commerce.

The Commission is further of the opinion, and so finds, that the Constitution and laws of the United States require us to permit the applicant to operate as a Class A private carrier in interstate commerce only between Pueblo and the Colorado-New Mexico state line, via U. S. Highway No. 85.

O R D E R

IT IS THEREFORE ORDERED, That the application of Bennie Goldstein to operate as a private Class A motor vehicle carrier in intrastate commerce, via U. S. Highway No. 85, from Pueblo south to the Colorado-New Mexico state

line, and intermediate points, should be, and the same is hereby denied.

IT IS FURTHER ORDERED, That the applicant, Bennie Goldstein, be, and he is hereby, granted an extension of his present Class A motor vehicle private permit No. A-430, authorizing him to engage in the transportation of freight in interstate commerce only between Pueblo, Colorado, and the Colorado-New Mexico state line, via U. S. Highway No. 85.

IT IS FURTHER ORDERED, That this order be made a part of the original permit No. A-430, heretofore issued to applicant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of May, 1935.

(Decision No. 6484)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF HUGH KYLE FOR A CLASS "B" PERMIT TO OPERATE AS A PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT AND EXPRESS OVER IRREGULAR ROUTES.

APPLICATION NO. 2541-PP

May 28, 1935.

Appearances: Mr. Hugh Kyle, Pagosa Springs, Colorado, pro se;
Mr. V. G. Garnett, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
Mr. A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company.

S T A T E M E N T

By the Commission:

Applicant herein filed his application asking for a Class "B" permit to operate as a private carrier by motor vehicle for the transportation of freight and express over irregular routes.

At the hearing, it developed that applicant has a mail route between Pagosa Springs and Lumberton, New Mexico, over State Highway No. 17; that he wants to transport freight and express in connection therewith between Pagosa Springs and the Colorado-New Mexico state line, and intermediate points, also that in the past he has transported, and now wants to transport road machinery, farm machinery and other heavy machinery from, to and between points in the State of Colorado.

The financial responsibility of applicant and his trucking experience were established to the satisfaction of the Commission. It did not appear that the efficienty of any established motor vehicle common carrier system would be unduly affected by the proposed operation.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that said application for a Class "B"

permit should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, Hugh Kyle, be, and he hereby is granted a permit to operate as a Class "B" private carrier by motor vehicle for hire in the transportation of freight from and to Pagosa Springs, Colorado, to and from a point on State Highway No. 17 where said highway crosses the Colorado-New Mexico state line, and also for the transportation of road machinery, farm machinery and other heavy machinery from, to and between points in the State of Colorado, said permit to issue if and when, but not before applicant has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operations which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of May, 1935.

(Decision No. 6485)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF E. F. PARRISH FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF CONTRACTORS' OUTFITS AND SUPPLIES OVER IRREGULAR ROUTES.	)	APPLICATION NO. 2340-PP

May 28, 1955.

Appearances: Mr. E. F. Parrish, Denver, Colorado, pro se;
Mr. R. M. Spahr, Denver, Colorado, for The Atchison, Topeka and Santa Fe Railway Company;
Mr. A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
Mr. V. G. Garnett, Denver, Colorado, for Moter Truck Common Carriers Ass'n.

S T A T E M E N T

By the Commission:

By application filed herein, applicant E. F. Parrish asked for a Class A permit to operate as a private carrier by motor vehicle for the transportation of contractors' outfits and supplies over irregular routes.

At the hearing, it developed that applicant's operations would require a "B" permit instead of an "A" permit, and he was permitted to amend his application in that particular.

It further appeared that he owns two Coleman trucks and has been engaged generally in hauling heavy highway equipment, material and supplies, including gravel, for road contractors from and to and to and from various points in the State where highway projects were being carried out. Applicant stated that he was not aware a permit was needed for this kind of work until a few weeks ago.

The financial responsibility and trucking experience of the applicant were established to the satisfaction of the Commission.

It did not appear that the operations proposed would unduly interfere with any established motor vehicle common carrier system.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the application for a permit, as amended, should be granted.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same hereby is granted to applicant E. F. Parrish to operate as a Class "B" private carrier by motor vehicle for hire in the transportation of contractors' outfits and supplies, including highway equipment, material and gravel, from, to and between points in the State of Colorado, said permit to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of May, 1935.

(Decision No. 6486)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
J. T. TAYLOR, DOING BUSINESS AS) CASE NO. 1572
TAYLOR TAXI AND TRANSFER.)

May 28, 1935.

Appearances: Arthur L. Olson, Esq., Trinidad, Colorado, attorney for respondent;
Frank H. Hall, Esq., Trinidad, Colorado, attorney for Fouret Brothers.

S T A T E M E N T

By the Commission:

The instant matter was instigated by the Commission on its own motion for the purpose of determining the status of the certificate of public convenience and necessity heretofore issued to J. T. Taylor in Application No. 1070, the particular question involved being whether or not said certificate had been abandoned and should for that reason be revoked.

The evidence disclosed that on September 11, 1928, in Application No. 1070, J. T. Taylor, doing business as Taylor Taxi and Transfer, was issued a certificate of public convenience and necessity authorizing a taxicab operation within the City of Trinidad only. Said certificate provides, inter alia,"that the applicant shall be limited to his present equipment of two sedan cars and one touring car with truck body". It also contained the usual provision requiring applicant to file tariffs of rates, rules and regulations.

The evidence also disclosed that on March 1, 1932, respondent requested a discontinuance of his taxi service for a period of six months on the ground that business did not justify his operation. This request was granted by the Commission in a letter dated March 4, 1932, as follows:

> "The Commission has concluded to authorize you to suspend your taxi service for six months from March 1, 1932, This is with the distinct understanding that you are not to operate a taxi until and unless insurance thereon is filed with this Commission."

In May, 1933, respondent advised the Commission that he would like to continue to hold his certificate, although he was not yet in position to operate under same due to illness. Apparently, no reply was made by the Commission to this letter. In any event, Mr. Taylor did not start operating again under his certificate until the month of January, 1935.

On January 17, 1935, the Commission wired Mr. Taylor that his insurance had notyet been received, but that he could start operations as soon as the original policy was filed in our office. While it appears that operations were commenced in January, 1935, it was disclosed by the evidence that Mr. Taylor had not commenced these operations himself, but had arranged with one Holcomb to start the same for him, and the car in use is one that is owned by Holcomb. The arrangement is that Holcomb pays all of the expenses of the operation and is entitled to retain the first $100 per month of the gross revenue derived from same. At the time of the hearing Mr. Taylor had not even had a statement from Mr. Holcomb as to what the operation had amounted to in a financial way, and had received no compensation whatever. It was further developed that Holcomb had been refused a certificate for a similar operation by the Commission prior to his commencement of the Taylor operation.

It was further disclosed that the car of Holcomb now in use is a Studebaker 1927 model, on which two mortgages exist. The hearing further developed that the operations had not been confined to the city of Trinidad as provided in Taylor's certificate, but that trips were made to outside points. Mr. Taylor explained that he was not aware that his operations were limited to the city limits of Trinidad, but even after he was fully informed in regard to this matter, he failed to advise Holcomb that the operations should be so restricted.

On behalf of protestants, Fouret Brothers, it was developed that formerly there were three taxi operations in the City of Trinidad, and after Taylor ceased operating, they had bought out the other operator on the assumption that the Taylor operation had been definitely abandoned. It was further

disclosed that sufficient business did not exist at the present time in Trinidad to justify more than one operation. In fact, the said operation now being conducted by Fouret Brothers is not upon a paying basis, due to lack of volume.

During the depression period, the Commission has in several instances permitted certificate holders to suspend operations until such time as business conditions warranted a resumption thereof, and in the instant case if the resumption of service had in fact been made by Mr. Taylor, we believe a different question might be presented. However, it seems clear to the Commission that the present operation is not that of Taylor, but clearly that of Holcomb, who as a matter of fact is attempting to use the Taylor certificate to conduct a taxi operation in Trinidad which was denied him by the Commission.

Considering the further fact that the requirement of the original certificate that the present equipment only of applicant could be used in the operation, and that now without any authority from the Commission, new equipment belonging to another individual has been substituted, and considering the further fact of the length of time during which no operations were conducted under this certificate and the further fact, which may not be entirely clear from the record, that the present operator is not confining himself to any tariffs filed with the Commission, the Commission is of the opinion, and so finds, that as a matter of fact said certificate has been abandoned and should be revoked upon said grounds.

O R D E R

IT IS THEREFORE ORDERED, That the certificate of public convenience and necessity, heretofore issued to respondent in Application No. 1070, be, and it is hereby, revoked and cancelled for failure for a reasonable length of time to operate under the same.

IT IS FURTHER ORDERED, That C. L. Holcomb shall immediately

cease and desist from any operations purporting to be under said certificate.

Commissioner Erickson did not participate in this hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 28th day of May, 1935.

(Decision No. 6487)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
A. P. HAMILTON, A. R. HAMILTON)
AND BARNEY GROSS, CO-PARTNERS,) CASE NO. 1586
DOING BUSINESS UNDER THE FIRM)
NAME AND STYLE OF DENVER-LOS)
ANGELES TRUCK LINE.)

May 31, 1935.

S T A T E M E N T

By the Commission:

The Commission made an order herein on May 21, 1935, suspending interstate private permit No. A-913, heretofore issued to respondents, for a period of thirty days. Respondents have requested that the Commission accept a payment to be made to the Treasurer of the State of Colorado in some reasonable sum in lieu of said suspension. This order of procedure is in accord with precedent heretofore established by the Commission.

After careful consideration of the matter, the Commission is of the opinion, and so finds, that it should receive a payment of $25.00 to be made to the Treasurer of the State of Colorado in lieu of the suspension heretofore ordered. The Commission has received a check for that amount, which it will immediately turn over to the State Treasurer. The Commission feels that it should solemnly warn respondents that in future they must conduct their operations according to law and the rules and regulations of the Commission if they desire to avoid the permanent revocation of their certificate.

O R D E R

IT IS THEREFORE ORDERED, That the suspension order heretofore made by the Commission in the above entitled case on May 21, 1935, be, and the same is hereby, vacated and set aside.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 31st day of May, 1935.

Ex 2 Case 1603
mb
10-28-35

(Decision No. 6488)

a-944

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF TED SMITH FOR A PERMIT TO OPERATE AS A CLASS A PRIVATE CARRIER BY MOTOR VEHICLE.

APPLICATION NO. 2379-PP

June 1, 1935.

Appearances: Mr. L. H. Snyder, Colorado Springs, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

Applicant seeks authority to transport milk and cream from a point ten miles west of Elbert west to Highway No. 83, thence south to U. S. Highway No. 85 near Breed, Colorado, thence over Highway 85 to Colorado Springs. He also desires to transport general freight back from Colorado Springs to his milk customers only, and no general service is proposed between Colorado Springs and Elbert, Colorado, or any intermediate points.

As so limited, no objection was made by the common carrier authorized to serve said territory.

The customers that applicant desires to serve have been shipping their milk to Denver, and a petition has been filed with the Commission by said milk shippers requesting that they be allowed transportation facilities into Colorado Springs in order that they may have a choice of two markets for their product.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the application of Ted Smith for a Class A private permit should be granted.

O R D E R

IT IS THEREFORE ORDERED, That applicant Ted Smith be, and he is hereby, granted a Class A permit to operate as a private carrier by motor vehicle in the transportation of milk and cream only from the territory

described in said application to Colorado Springs, Colorado, and for the transportation of supplies back from Colorado Springs to the milk customers of applicant, said permit to issue if and when, but not before applicant has filed a list of his customers and the required insurance and has secured identification card.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operations which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward E. Wheeler

W. C. Danks

Nelson Emerson

Commissioners.

Dated at Denver, Colorado,
this 1st day of June, 1935.

(Decision No. 6489)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF W. L. WOLVERTON FOR AUTHORITY TO TRANSFER TO JOHN SHULL PRIVATE PERMIT NO. A-650, AUTHORIZING THE TRANSPORTATION OF FREIGHT BETWEEN DENVER, COLORADO, AND BRECKENRIDGE, COLORADO, AND INTERMEDIATE POINTS.	)	APPLICATION NO. 2352-PP

May 31, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, attorney for applicants;
Richard E. Conour, Esq., Denver, Colorado, for the Public Utilities Commission.

S T A T E M E N T

By the Commission:

On March 15, 1934, permit No. A-650 issued to William Wolverton, authorizing operation as a private carrier by motor vehicle between Denver and Breckenridge and intermediate points, over Colorado Highways 8 and 9, and between Denver and the Colorado-Wyoming state line and intermediate points over U. S. 85, and any other routes thereafter to be described to the Commission in writing. On April 24, 1934, by letter, Wolverton extended his route to Gunnison, Colorado, and intermediate points, over Highways Colorado 8, 4, 82 and 6, and by letter on May 8, 1934, extended permit from Breckenridge to Dillon and from Dillon to Leadville over Colorado Highways 9 and 91.

He now seeks authority to transfer his permit as extended to John Shull, who is the owner of private permit No. A-695, operating between Denver and Cripple Creek and Victor by way of Colorado Springs.

At the hearing, Shull stated that he did not desire to serve Aspen, Gunnison, points intermediate Grand Junction to Gunnison, or points on U. S. 40 South between Glenwood Springs and Grand Junction.

The financial responsibility of transferee was established to the satisfaction of the Commission. It also appeared that transferor's road tax accruing during the months of March and April, is unpaid.

After careful consideration of the record, the Commission is of the opinion, and so finds, that the transfer of permit, as limited, should be granted, subject, however, to assumption of and payment by transferee of unpaid road taxes incurred by transferor under his permit No. A-630.

O R D E R

IT IS THEREFORE ORDERED, That, provided transferee shall assume and pay all unpaid road tax incurred by transferor under said permit No. A-630, authority should be, and the same hereby is granted to William L. Wolverton to transfer private permit No. A-630 to John Shull, said permit when assigned to authorize the said John Shull to transport general freight by motor vehicle from and to Denver, Colorado, to and from Grand Junction, Colorado, over Colorado Highway No. 8 to Fairplay, Highways 8 and 4 by way of Buena Vista, Fairplay to Leadville, and/or Highways 9 and 91 by way of Dillon Fairplay to Leadville, and U. S. 40 South, Leadville to Grand Junction, with the right to serve all intermediate points along said routes, except points intermediate Glenwood Springs and Grand Junction, said transfer to be effective if and when, but not before transferee has filed the necessary insurance and has otherwise complied with all the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward W. Stead

Hoyt Allen

XXXXXXXXXXXXXXXXXXXXXX

Grace Emison

Commissioners.

Dated at Denver, Colorado,
this 31st day of May, 1935.

(Decision No. 6490)

At a General Session of The Public Utilities Commission of The State of Colorado, held at its office at Denver, Colorado, June 3, 1935.

INVESTIGATION AND SUSPENSION DOCKET NO. 214

IT APPEARING, That on May 20, 1935, The Chicago, Rock Island and Pacific Railway Company, by its attorneys, Messrs. Hodges and Wilson, filed with the Commission a notice of its proposed intention to close the railroad's agency-telegraph station and discontinue its agency facilities at Bethune, Colorado, and substitute in lieu thereof a custodian to care for the business of said station to be effective on June 20, 1935, alleging that the cost of operating and maintaining said Bethune station as an agency-telegraph station is not justified by the business there transacted or the revenues received therefrom, and

IT APPEARING FURTHER, That on May 31, 1935, the Commission received a communication from the Mayor of the Town of Bethune in behalf of the Town Council, protesting the aforesaid proposed action of said rail carrier in regard to the discontinuance of the agency station at Bethune, Colorado, and

IT APPEARING FURTHER, That the Commission finds that the proposed closing of the agency-telegraph station and the discontinuance of the agency facilities of The Chicago, Rock Island and Pacific Railway Company at the town of Bethune, Colorado, and the substitution in lieu thereof of a custodian might injuriously affect the rights and interests of the town of Bethune and the patrons of said rail carrier at said place.

IT IS THEREFORE ORDERED, That the proposed effective date of the proposed discontinuance of the aforesaid station agency facilities of The Chicago, Rock Island and Pacific Railway Company at Bethune, Colorado, be suspended for one hundred twenty days from June 20, 1935, or until October 18, 1935, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the proposed discontinuance of the present station agency facilities of The Chicago, Rock Island and Pacific Railway Company at the town of Bethune, Colorado, as herein specified

be made a subject of investigation and determination by the Commission within said suspension period of time or such further time as the same might lawfully be suspended.

IT IS FURTHER ORDERED, That a copy of this order be filed with the aforesaid notice of The Chicago, Rock Island and Pacific Railway Company proposing to discontinue its present station agency facilities and substituting in lieu thereof a custodian at the town of Bethune, Colorado, and that copies hereof be forthwith served on The Chicago, Rock Island and Pacific Railway Company, the petitioner, and on Honorable Earl Chapman, the Mayor of Bethune, Colorado, the protestant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of June, 1935.

(Decision No. 6492)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

D. C. FRAZER, ET AL., MEMBERS OF AND THE PARK HILL SUBURBAN IMPROVEMENT ASSOCIATION, AN INCORPORATED ASSOCIATION, Complainants, vs. THE CITY OF PUEBLO AND S. F. RENO, HARPER GARDNER AND HOWARD E. WHITLOCK, AS TRUSTEES OF PUEBLO WATER WORKS, Defendants.	)	CASE NO. 1384.

June 10, 1935.

S T A T E M E N T.

By the Commission:

Since the decision was made herein dismissing the complaint, a petition for rehearing has been filed. The Commission has carefully considered the same. It is of the opinion and finds that the same should be denied.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of June, 1935.

(Decision No. 6493.)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF JOHN STICKLER FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF LIVESTOCK BETWEEN PUEBLO AND MONTE VISTA, COLORADO, AND INTERMEDIATE POINTS.

APPLICATION NO. 2348-PP.

June 10, 1935.

Appearances: Mr. A. J. Fregeau, Denver, Colorado, for Pueblo-San Luis Valley Transportation Company; Mr. J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n and Wes V. McKaughan.

S T A T E M E N T.

By the Commission:

Applicant herein seeks a Class A permit to operate as a private carrier by motor vehicle for the hauling of livestock between Pueblo and Monte Vista and intermediate points, over Highways 85 and 160, between Monte Vista and Creede over Highways 160 and 149.

The matter was regularly set for hearing at Denver, Colorado, on May 14, 1935, at 10:00 o'clock A.M. Although applicant was given due notice of said hearing, he failed to appear.

At the hearing, it was regularly moved by A. J. Fregeau for Pueblo-San Luis Valley Transportation Company, that said application be dismissed for lack of prosecution by applicant.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that said application should be dismissed for lack of prosecution.

O R D E R.

IT IS THEREFORE ORDERED, That the instant application be, and the same is hereby, dismissed for lack of prosecution.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of June, 1935.

(Decision No. 6495)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF TOM GRAHAM FOR A CLASS "B" PERMIT TO OPERATE AS A PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT.

APPLICATION NO. 2342-PP

June 10, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, attorney for applicant;
V. G. Garnett, Denver, Colorado, for Motor Truck Common Carriers Ass'n.

S T A T E M E N T

By the Commission:

By application herein, applicant sought a Class "B" private permit to operate as a private carrier by motor vehicle for the transportation of freight.

At the hearing, it developed that he proposes to haul grain from farms in the vicinity of Longmont to Mead and Johnstown elevators; grain from elevators to mill in Denver; mill products from mill in Denver to Mead and Johnstown, and lumber, mining equipment, machinery, etc., from Denver to a mine now being opened at Dacona, gravel into Mead and cement from Fort Collins to Mead, Johnstown and Platteville.

The Colorado Truckmen's Association and Motor Truck Common Carriers Association were notified of the hearing.

It would appear that Consolidated Motor Freight, McKie Transfer Company, Colorado Rapid Transit Company, Milliken-Johnstown Truck Line and Inter-City Truck Line, may be affected by the operation. Section 5 of Chapter 120, Session Laws of 1931, in part provides:

> "No application for permit, nor for any extension, or enlargement of an existing permit, shall be granted by the Commission until after a hearing, nor shall any such permit, nor any extension or enlargement thereof, be granted if the Commission shall be of the opinion that the proposed operation of any such private carrier will impair the efficient public service of any authorized motor vehicle common carrier or carriers then adequately serving the same territory over the same general highway route or routes. The Commission shall give written notice of such hearing to all persons, firms or corporations interested in or affected by the issuance of such

permit at least ten (10) days prior to the time fixed for such hearing."

After a careful consideration of the record and evidence, the Commission is of the opinion, and so finds, that this matter should be set down for further hearing and all common carriers who might be affected by the proposed operation of applicant given notice thereof and an opportunity to be heard in opposition if they shall be so advised.

O R D E R

IT IS THEREFORE ORDERED, By the Commission, on its own motion, that this matter be set down for further hearing on the 24th day of June, 1935, at 10:00 o'clock A. M., in the Hearing Room of the Commission, 330 State Office Building, Denver, Colorado, and that all motor vehicle common carriers who are or may be affected by the proposed operation of applicant herein, be given notice of the filing of said application and of said hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward D. Hall

Walter Quinton

Commissioners.

Dated at Denver, Colorado,
this 10th day of June, 1935.

(Decision No. 6497)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
CLIFF BURNHAM AND O. L. DEARDORFF,) CASE NO. 1095
DOING BUSINESS AS MIDWEST PRODUCE)
COMPANY.)

June 10, 1935.

S T A T E M E N T

By the Commission:

On December 9, 1933, Permit No. A-248 was cancelled for failure to keep the necessary insurance on file. Thereafter, said insurance was filed and respondent requested that his permit be reinstated. He was told verbally at the time that this would be done, but apparently the matter has been overlooked, and in conformity with said agreement and after careful consideration of the matter, the Commission is of the opinion, and so finds, that said permit should be reinstated.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. A-248 be, and the same is hereby, reinstated as of January 1, 1934.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. Creede

Walter Erickson

Commissioners.

Dated at Denver, Colorado,
this 10th day of June, 1935.

A-248

(Decision No. 6498)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
CLIFF BURNHAM, DOING BUSINESS AS)
BURNHAM TRUCK LINE, TO AMEND HIS)
PERMIT NO. A-248 to INCLUDE THE) APPLICATION NO. 2347-PP
INTRASTATE POINTS OF WAGON WHEEL)
SPRINGS, IDALIA, COPE, ARMEL AND)
WILLOWDELL.)

June 10, 1955.

Appearances: Mr. Cliff Burnham, St. Francis, Kansas,
pro se;
Mr. J. F. Rowan, Denver, Colorado,
for Wood Truck Line;
Mr. Frank E. Hassig, Cope, Colorado,
pro se.

S T A T E M E N T

By the Commission:

As limited at the hearing, applicant herein seeks authority to extend his private carrier permit No. A-248, under which he has been operating between the Colorado-Kansas state line and Denver, Colorado, over Colorado State Highway No. 36, to include the right to serve from, to and between the points of Denver, Idalia, Cope, Willowdell, Wagon Wheel Springs and Armel in intrastate commerce.

The application was protested by J. F. Rowan for Woods Truck Line, Elmo Motsinger, P.U.C. 600, in writing, and Frank E. Hassig, P. U. C. 414, in person, the protest of Woods Truck Line, however, having been withdrawn by letter since the hearing. Protestant Motsinger did not appear at the hearing.

The evidence disclosed that applicant has been hauling cattle in interstate commerce under Interstate Permit No. 700-I from St. Francis, Kansas, to Denver, and, also, lately due to discontinuance of regular carrier service, at the request of a number of merchants residing in towns mentioned along Highway No. 36 between state line and Denver, he has been

hauling cream into Denver for and groceries from Denver to them, and he has done some hauling for "A" carriers, particularly one Kniese, who did not want to make the trip with the limited amount of freight available. He thought he was authorized to do this under permit No. A-248. However, on investigation, he has discovered that said permit, in terms, does not grant him right to serve points intermediate along Highway No. 36, state line to Denver.

Protestant Hassig stated that due to decrease in business on account of economic conditions, he had been unable, except at intervals, to operate for about two years; that he made arrangements with Kniese and other "A" carriers to haul for him; that he did not know that Kniese had arranged with Burnham to do his hauling; that although granting of permit, in his opinion, would decrease the value of his common carrier certificate, it would not affect his revenue, because he can haul his part of the business anyway. It did not appear that Motsinger's operations would be affected by the proposed operation of applicant herein.

The financial responsibility and trucking experience of applicant were established to the satisfaction of the Commission, and since there seems to be a need for the transportation service between the towns mentioned, and since Hassig has not been hauling regularly under his certificate on account of lack of business, it does not appear that the efficiency of any common carrier service would be unduly affected by the proposed extension, the Commission is of the opinion, and so finds, that the application for extension, as amended, should be granted.

O R D E R

IT IS THEREFORE ORDERED, That Clifford Burnham, doing business as Burnham Truck Line, be, and he hereby is authorized to extend his operations as a Class A private carrier by motor vehicle under Permit No. A-248 to include the transportation of freight generally over Colorado Highway No. 56 from and to Denver, Colorado, to and from a point on the Colorado-Kansas state line where it is intersected by said Colorado Highway No. 36, with

the right to serve the intermediate points of Idalia, Cope, Willowdell, Wagon Wheel Springs and Armel, said extension to become effective if and when, but not before applicant has filed his list of customers and the necessary insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That this order be, and it is hereby, made a part of the original permit No. A-248, heretofore issued by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 10th day of June, 1935.

(Decision No. 6500)

9-948

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
ALEX LONG FOR A CLASS "A" PERMIT TO) APPLICATION NO. 2360-PP
OPERATE AS A PRIVATE CARRIER BY MOTOR)
VEHICLE.)

June 11, 1935.

Appearances: Mr. Alex Long, Victor, Colorado, pro se;
Mr. A. J. Carruthers, Colorado Springs, Colorado, Attorney for The Midland Terminal Railway Company;
Mr. A. J. Fregeau, 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 Alex Long, of Victor, Colorado, for a Class A permit to operate as a private carrier by motor vehicle for hire in the transportation of ore, coal and general freight between Canon City and the Florence coal fields and Cripple Creek and Victor, and intermediate points, over U. S. Highway No. 50 and Colorado 67.

At the hearing, it developed that applicant's operations, so far as the hauling of coal has been or will be involved, do not require a private permit. He has been buying and selling coal, and will require a commercial carrier permit for this operation.

Applicant stated that he was willing to waive his request for authority to haul freight and would limit his hauling, should permit be granted, to the transportation of ore from various mines in the Victor-Cripple Creek district to the railroad.

It further appeared that applicant is the owner of three trucks, which he estimated to be worth $3000, less a mortgage of $650.

The evidence also disclosed that there are no motor vehicle common carriers operating in the territory where he proposes to operate.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the applicant Alex Long be, and he hereby is authorized to operate as a Class A motor vehicle private carrier in the transportation of ore only from the mines in the Cripple Creek-Victor district to railroad loading points at Victor and Cripple Creek, said permit to issue if and when, but not before applicant has filed with the Commission a list of his customers and the required insurance and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 11th day of June, 1935.

391

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF RALPH SEE AND W. LEE SHARP FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT SERVICE BETWEEN RED WING, COLORADO, AND WALSENBURG, COLORADO.	)	APPLICATION NO. 1372-A

June 11, 1935.

S T A T E M E N T

By the Commission:

Ralph See and Lee Sharp heretofore have been engaged as co-partners in the operation of the Huerfano Freight Line under a certificate of public convenience and necessity issued by the Commission in Application No. 1372. The Commission is in receipt of a sworn statement subscribed by Ralph See and Lee Sharp, from which it appears that the partnership was dissolved as of March 1, 1933, all assets of the partnership being transferred to, and all debts thereof being assumed by Lee Sharp. They request the transfer of said certificate No. 391, issued in Application No. 1372, to Lee Sharp.

After a careful consideration of said request and the record, the Commission is of the opinion, and so finds, that the transfer should be allowed.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby granted to Ralph See and Lee Sharp to transfer to Lee Sharp the certificate of public convenience and necessity heretofore issued in Application No. 1372.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations of transferors herein shall become and remain those of the

transferee herein until changed according to law and the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 11th day of June, 1935.

(Decision No. 6502)

2-967

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION OF)
R. M. CAMERON AND GUY W. REASONER,)
Co-partners, doing business as) APPLICATION NO. 2211-PP
CAMERON AND REASONER, for a Class A)
Private Permit.)

June 13, 1935.

Appearances: Mr. W. W. Gaunt, Brighton, Colorado, for the applicants.

Mr. V. G. Garnett, Denver, Colorado, for the Colorado Rapid Transit Company, and Colorado Milk Haulers Association.

Mr. J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.

S T A T E M E N T

By the Commission:

This is an application by R. M. Cameron and Guy W. Reasoner, co-partners, doing business as Cameron and Reasoner, for a Class A private motor permit, authorizing the transportation by them of milk and freight generally between the vicinity of Barr Lake and Denver and intermediate points.

At the time of the hearing of the application, applicants were hauling to Denver milk of their own and of six neighbors, and some farm supplies occasionally for the milk customers. They began by hauling their own milk. Then a few of their neighbors who had had their milk transported to Denver by authorized carriers were no longer able to find any market in Denver for their milk. They called upon the applicants who found purchasers and took on the transportation of the milk for the neighbors. Part of the time applicants made no charge for their service. It is evident that the service of the neighbors was prompted more by a desire to be of aid and benefit to the neighbors than to earn any profit from serving them.

The applicants testified that the reason they did not seek a permit sooner was that they had been advised by an attorney that since they were engaged chiefly in agriculture, they needed no authority. This advice was erroneous, of course, as the law has been construed.

At the time of the hearing the applicants had six customers whose names were stated by the applicants.

After careful consideration of the evidence, we are of the opinion, and so find, that a permit should be issued to the applicants authorizing them to transport milk to Denver and farm supplies from Denver for the six customers who were named by them at the hearing. We further find that if the applicants were authorized to serve more customers or to transport more freight than we have herein authorized, the common carrier motor service available in the territory would be substantially impaired.

O R D E R

IT IS THEREFORE ORDERED, That a private Class A permit be issued to the applicants R. M. Cameron and Guy W. Reasoner, co-partners doing business as Cameron and Reasoner, authorizing the transportation by them of milk to Denver and farm supplies from Denver for the six customers named by them at the hearing, said permit to issue if and when, but not before they have filed a list of their six customers and the required insurance, and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this order shall be dependent upon their compliance at all times with all the laws, rules and regulations pertaining to their operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and is hereby made a part of the permit herein authorized to be issued.

IT IS FURTHER ORDERED, That except as herein ordered, the application should be, and the same is hereby, denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 13th day of June, 1935.

(Decision No. 6503)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF THE AUTO RENTAL SERVICE, INC., a corporation, for a certificate of public convenience and necessity.) Application No. 2309

June 12, 1935.

Appearances: A. D. Quaintance and E. B. Evans, Denver, Colorado, for the applicant.
D. Edgar Wilson, Denver, Colorado, for the Rocky Mountain Motor Company and the Denver Cab Company.
J. Q. Dier, Denver, Colorado, for the Colorado and Southern Railway Company.
Robert Gee, Fairplay, Colorado, for Park County.
Carl A. Kaiser, Breckenridge, Colorado, for the Board of County Commissioners of Summit County, the Dillon Chamber of Commerce, and the Summit County Metal Mining Association.
Floyd F. Walpole, Denver, Colorado, for Lloyd S. Cooper.
Harry A. Feder for Harry J. Seerey.

S T A T E M E N T

By the Commission:

An application was filed with the Commission on March 15 of this year by The Auto Rental Service, Inc., a corporation, for a certificate of public convenience and necessity authorizing it, under the name of the Alma Denver Bus Lines to operate a motor vehicle system for the transportation of passengers and light express between Alma and Denver and intermediate points. Protests were made by the Colorado and Southern Railway Company, the Board of County Commissioners of Summit County, the Board of County Commissioners of Park County, the Mayor and Board of Trustees of the town of Breckenridge, the Summit County Metal Miners Association, the Dillon Chamber of Commerce, the Rocky Mountain Motor Company, the Denver Cab Company, Lloyd S. Cooper, doing business as Bear Creek Transfer Company, the Bank of Fairplay, and Harry J. Seerey.

The protests of Seerey, the Rocky Mountain Motor Company, the Denver Cab Company, and Lloyd S. Cooper were based on the desire of these protestants to protect themselves, all of them except Seerey now having certain certificated rights. Seerey had previously filed an

application of his own, being No. 2148, asking for authority to operate a motor passenger and express line between Denver and Leadville. A hearing was had on Seerey's application, resulting in a denial thereof. The last order made in the said application was dated June 6, 1934, granting a rehearing therein, "provided, however, that any further rehearing in said matter shall be confined solely to proof of any reduction of service over that furnished on April 5, 1934, by either The Colorado and Southern Railway Company or The Denver and Rio Grande Western Railroad Company."

Seerey's protest filed herein admits there has been no change in the service being rendered by the Colorado and Southern. He says that the granting of a certificate herein "would be in direct conflict with the application now on file before this Commission on behalf of this objector" etc.

The operations conducted by the other protestants are confined to a portion of the east end of the route in question. The applicant herein made it clear at the hearing that it would waive its application so far as it asked for authority to conduct any service in competition with said protestants.

The following persons approved the application or made a written statement to the Commission that they have no objection thereto: The Evergreen Transfer Company; Park County Metal Mining Association; W. E. Barlow, Park County's Business and Professional Women, C. V. Whitehead, and M. L. Miller, doing business as M. L. Miller Truck Lines.

In Application No. 1053, the Commission granted a certificate of public convenience and necessity to M. L. Miller, authorizing him to transport by motor vehicle passengers, freight, merchandise, baggage, and express, between Alma, Fairplay, Garo, and Como, and intermediate points. Thereafter said certificate was transferred to Richard Spurlock, who at the time of the transfer had a contract for the carrying of mail between Fairplay, Alma, and Como. On January 11, 1935, the Commission revoked the said certificate because of the failure of Spurlock to carry insurance as is required by law and the rules and regulations of

the Commission. The person now having the mail contract has no certificate or permit to carry any passengers, although the evidence showed that he occasionally does carry one or more passengers in a truck used for the transportation of the mail. If there is more than one passenger, he is required to ride in the body of the truck, there being room for only one in the cab.

For many years the Colorado and Southern Railway Company has been operating a line of narrow gauge railroad between Denver and Leadville, with a branch extending over a circuitous route to Fairplay, thence to Alma. It is engaged also in the operation of a narrow-gauge line extending from Denver to Central City, Idaho Springs, Georgetown, and Silver Plume, this latter line of railroad being known as the Clear Creek branch or division.

Some years ago Colorado and Southern sought an order in Finance Docket No. 7132 from the Interstate Commerce Commission authorizing abandonment of the Denver-Leadville line, or that portion thereof extending from Watertown west. After an extensive hearing and oral argument following briefs, the Interstate Commerce Commission denied the application "without prejudice to its renewal by the applicant after the expiration of thirty-six months from the date hereof if it can show that the situation has not materially improved."

In the said decision that Commission suggested that the people served by the road "should realize that the continuation of the service is dependent primarily on the traffic furnished. If the people desire to retain the service of the railroad, they will no doubt appreciate the necessity of providing it with sufficient traffic to enable it to live."

That Commission stated that "The locomotives are old and some of them are stated to be in very poor condition." (486) The Commission suggested in its said decision that "possible economies in operation . . . . might be effected by . . . . . and perhaps improvement of equipment."

The evidence in this case showed that some of the locomotives in use are forty years old. It is common knowledge that the equipment of the Colorado and Southern on this line is very ancient and out of date and inefficient. In the matter of the application of J. H. Connell et al, Application No. 2147 we said

> "Unquestionably, the people living along the line of the Colorado and Southern, particularly in the Fairplay and Alma district, are not being furnished the passenger service to which they may feel they are entitled, and as a result thereof are forced to suffer considerable inconvenience in traveling between said points and Denver. We believe that the Colorado and Southern should consider very carefully the question of the installation of some automotive unit that could furnish daily service between Denver and Leadville and intermediate points in the transportation of passengers and express, and which, due to its low cost of operation and probable increase in business due to better service, would, we believe, be a wise move from a business standpoint. However, the question of enforcing the installation of such equipment is not an issue in the instant cases."

The Commission has done all in its power to retain business for the Colorado and Southern along the Leadville and Clear Creek lines. On November 29, 1921, in Case No. 231, we authorized the Colorado and Southern to discontinue its passenger train service between Denver and Silver Plume during the winter months of 1921 and 1922. On June 13, 1924, we authorized it to discontinue "its regularly operated tri-weekly mixed train." On July 26, 1924, we authorized it to close its station agency at Alma. On January 31, 1925, we authorized it to curtail its train service then being operated between Black Hawk and Central City. On May 25, 1927, we authorized it to discontinue its passenger, baggage and express service on the Clear Creek branch for a period of one year. In the same application on May 14, 1928, we authorized it to discontinue indefinitely its passenger, baggage and express service on the Clear Creek branch. On May 29, 1928, we authorized it to curtail its mixed train service on the Como-Alma branch to two regular scheduled round trips per week, with a mixed train carrying carload and less than carload freight and passengers. On March 21, 1929, we authorized it to close its station agency at Silver Plume. On January 14, 1932, in I. & S. No. 157, we authorized it to close its station agency at Dillon. On January 16, 1932, I. & S. 158, we authorized it to close its station agency at Georgetown. On

January 18, 1932, I. & S. No. 160, we authorized it to close its station agency at Jefferson. On January 18, 1932, in I. & S. No. 161, we authorized it to close its station agency at Sheridan Junction. On January 27, 1932, in Application No. 1939, the Commission authorized it to limit its freight train operation between Idaho Springs and Georgetown and Silver Plume to one train per week to Georgetown, which was required to be operated to Silver Plume "when there is one carload of freight or more to be moved either to or from Silver Plume." On April 9, 1932, in I. & S. No. 159, we authorized it to close its station agency at Fairplay.

Moreover, we have repeatedly refused to authorize any common carrier motor vehicle operation between what is called the South Park District and outside points. In the matter of the application of M. L. Miller, Application No. 1520, we refused to authorize the operation of a truck line between Alma and Colorado Springs and intermediate points. In the second order therein we pointed out that what the public convenience and necessity of one community required might not be required by another. We continued:

> "We have repeatedly found that the public convenience and necessity require motor vehicle truck operations, when undoubtedly in those applications we would not have so found if it had appeared that the granting of a certificate of public convenience and necessity might contribute to the loss of the only railroad serving the public in question."

In the application of J. H. Connell et al, Application No. 2147, we denied an application for authority to operate a truck line between Denver and Leadville and intermediate points along the line of the Colorado and Southern, saying that "heretofore the Commission has consistently taken the position that no operation would be authorized which might tend in any way to bring about the abandonment of said line."

The financial responsibility of the applicant is reasonably satisfactory. It has had substantial experience in the operation of

motor vehicles. Necessarily the matter of volume of business, etc., is a matter of opinion, as there is no way of determining exactly what the results of the operation, authority for which is sought, would be. It proposes to operate a Lincoln seven-passenger sedan over the route in question, which from Alma to Denver is some ninety-six miles. It has all necessary emergency equipment available at all times. It proposes to leave Alma in the morning at 8:30 and arrive in Denver at 12:45, and to leave Denver at 4:45 in the afternoon and arrive at Alma at 9 o'clock in the evening.

The evidence showed convincingly that long anticipated improvements in the rail service available to the people residing in the Alma and Fairplay districts have not been made and that it now is wholly inadequate. There is, one might say, practically no rail passenger service between Alma and Fairplay and Como. Nobody rides in the passenger car attached to the freight train running from Como to those two points. It is therefore in the first place necessary for one desiring to make a trip from either Fairplay or Alma to Denver, to find a way of getting to Como. There is no certificated carrier operating between those points. One passenger it appears may, although unlawfully, purchase transportation in the cab of the mail truck. Others riding in the said truck are required to sit in the bed of the truck in the rear of the cab. Even if a passenger finds it possible to get to Como, the train schedule is such that it requires him practically four days to get to Denver and transact any business and get back home again. The train schedule between Como and Denver is as follows:

Leave	Denver	8:15 A. M.,	Monday, Wednesday, Friday
Arrive	Como	1:20 P. M.,	" " "
Leave	Como	12:01 P. M.,	Tuesday, Thursday, Saturday
Arrive	Denver	4:50 P. M.,	" " "

One of the leading mining men of the Alma District, being J. Price Briscoe, testified that he employs some one hundred men in his mining operations, and that it is the sense of the local citizenship that they must have better passenger service. He is obviously

a friend of the railroad and desires to see it reasonably protected, but his opinion is that it is too much to expect that the public will be satisfied with and use to any extent the rail passenger service now available.

The population of the mining districts of Fairplay and Alma has increased greatly in the past few years. Mr. Briscoe testified that in his opinion the population of Alma is now five times as great as it was a few years ago. Many of the miners and other people desire to make trips to Denver and be able to get back without spending the time now necessary for that purpose if rail facilities are used.

We need not spend much time on the showing of the revenues and expenses of the Colorado and Southern. It is sufficient to say that we appreciate fully that the railroad is still as much as ever entitled to support, even sacrifice on the part of the public being served. However, we are no longer living in the horse and buggy age. There is a limit to what may be reasonably expected of the public. Whatever the alternative might be, we regard it as simply out of the question to insist that the people of the Fairplay and Alma districts patronize the railroad passenger trains now in service between Como and Denver. They simply will not do it, and it is not reasonable to expect them to, and neither would any other people who might be similarly situated.

The Colorado and Southern introduced some evidence showing that the company has under consideration the matter of installing and operating some very modern equipment over the line in question. It appeared that the local officers have recommended immediate modernized service which could be installed and run at very low cost. The evidence showed that one unit including a car with an engine in it and a trailer could be purchased for some $10,000, with an extremely low operation expense.

It is our opinion that the Railroad Company is entitled to all reasonable protection in its attempt to serve the people in

question. We have concluded that if the company will within a reasonable time modernize its equipment and render a more expeditious service, the application of the applicant herein should be denied.

This case was closed on May 3. It is now over a month since the case was heard. We have concluded to allow the Colorado and Southern Railway Company until July 15, 1935, in which to advise the Commission definitely and in detail as to what if any steps have been taken toward the installation of suitable equipment and the inauguration of convenient passenger service upon the line in question. If it does furnish said information on or before said time, and the Commission is satisfied that suitable equipment and convenient passenger service has been or will be furnished by said Colorado and Southern Railway Company without undue delay, then and in that event the Commission will make an order denying the instant application. If such information is not furnished the Commission within the time specified, or if the Commission is not satisfied that suitable equipment and convenient passenger service will without undue delay be furnished by said Colorado and Southern Railway Company, the Commission will, on our own motion, reopen the application of Harry J. Seerey and authorize him at an early date, to be fixed by the Commission, to make further proof in support of his application, setting down for further hearing at that time the instant application.

O R D E R

IT IS THEREFORE ORDERED, That this application be, and the same is hereby denied, subject to the terms and conditions hereinbefore stated, and jurisdiction of the instant case is hereby retained to the end that such further orders may be made herein as to the Commission may seem meet and proper.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward E. Seerey
W. L. Davis
Walter Wilson
Commissioners

Dated at Denver, Colorado,
this 12th day of June, 1935.

(Decision No. 6510)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF INCREASES IN FREIGHT RATES AND CHARGES.) CASE NO. 1409

June 18, 1935

Appearances: Same as those shown in Decision dated April 15, 1935.

SUPPLEMENTAL STATEMENT

By the Commission:

By our decision No. 6433, dated April 15, 1935, we authorized all common carriers by railroad operating as such within the State of Colorado, according as they participate in the transportation to establish the emergency charges, as approved by the Interstate Commerce Commission in its report and findings in Emergency Freight Charges, 1935, Ex Parte No. 115, 208 I. C. C. 4, except on bituminous coal of all sizes, and coke, from Colorado mines to Denver, Colorado Springs and Pueblo, Colorado, and on slack coal to sugar factory points located on and east of the Colorado Common Points, and on wet beet pulp and beet sugar molasses, and that the carriers' petition to increase the rates and charges on coal and coke to other intrastate points be temporarily denied, and that a further hearing be held relative to that issue on May 15, 1935.

At the hearing on May 15, 1935, the carriers sought no increases on slack coal from any producing point of origin to any sugar factory point of destination, nor on coal, all sizes, from northern and southern Colorado, including Canon City and Pikeview to destinations where truck competitive rates have been established.

Due to the fact that the so-called truck compelled rates from northern Colorado to points in northeastern Colorado were published to expire with June 30, 1935, the representatives of the Northern Colorado Coals, Inc., requested that the carriers be required to present evidence showing

exactly what points of destination would be affected by the application of the emergency charges, and whether they proposed to extend the expiration date of the reduced rates beyond June 30, 1935.

The carriers agreed to furnish the information sought and the proceeding was assigned for further hearing on May 20, 1935.

Exhibits of record show that no increase is proposed from northern Colorado to points on the lines of the Chicago, Burlington & Quincy Railroad Company in Colorado, except at Grover and Hereford; to points on the lines of the Union Pacific Railroad Company in Colorado, except at Sedgwick, Ovid, Julesburg and all points on the Kansas Pacific line, Watkins and east; from Walsenburg, Canon City, Pikeview and Trinidad groups to points on the lines of The Chicago, Rock Island and Pacific Railway Company west of Limon, Colorado; to points on the lines of the Missouri Pacific Railway Company west of Galatea, Colorado; to all points in Colorado on the lines of The Atchison, Topeka and Santa Fe Railway Company. There is no proposed exemption from any of the producing points to destinations on the lines of The Colorado and Southern Railway Company in northern Colorado, which undoubtedly was inadvertently omitted by the carriers in presenting their proposed exemptions, because this carrier is either in direct or cross country competition with the Burlington and/or Union Pacific at practically all points on its lines north of Denver.

The temporary reduced rates from northern Colorado which are now scheduled to expire with June 30, 1935, will be extended for a further period of one year, or until June 30, 1936.

The Denver and Rio Grande Western Railroad Company, hereinafter referred to as the Rio Grande, does not desire to continue the present reduced temporary rates in the local territory on its lines west of the Colorado Common Points after June 30, 1935. It desires to publish a new line of temporary rates for application in its local territory on a somewhat higher basis than the present rates but lower than the normal rates which would prevail after the reduced rates have expired. Its traffic representative stated that this action seems necessary because the Rio Grande is desirous of having the

emergency increase applied to its temporary local coal rates, but cannot do so under the report of the Interstate Commerce Commission, viz., "No emergency charges are authorized in connection with rates established to meet truck or water competition (and so indicated in tariffs) if no less than carload emergency charge is authorized between same points", on account of the measure of its first-class rates and because the carriers in this proceeding are asking for the same treatment which was given by the Interstate Commerce Commission. However, it is the position of the Rio Grande that this proceeding would not prevent it from establishing new temporary rates as hereinbefore indicated.

The Rio Grande has temporarily reduced its coal rates from practically all of its producing points in Colorado to points on its lines, which reductions range from approximately ten per cent to forty per cent, and it believes that in some instances the reduced rates were established on a lower level than was really necessary in order to retain the traffic to the rails. All of the reduced rates are now scheduled to expire with June 30, 1935.

The Colorado and New Mexico Coal Operators' Association, through its traffic representative, objects to the authorization of any increase on coal from the southern Colorado fields and Routt County to all destinations where there is no proposed increase from the northern Colorado fields for the reason, inter alia, that the relationship between the various fields would be further broadened.

Exhibits of record show the following average differences in the rates on lump coal from Walsenburg and northern Colorado to representative points on the Burlington and Union Pacific in northeastern Colorado:

Western coal rates effective June, 1923	Northern Colorado	Walsenburg over northern Colorado	Walsenburg Present Rate	Northern Colorado Present Rate
354	255	99	350	221

Walsenburg over northern Colorado	Walsenburg I.C.C. Ex Parte 115, Colo. Case 1409	Northern Colorado I. C. C. Ex Parte 115, Colo. Case 1409	Walsenburg over northern Colorado
129	365	222	143

The witness for this Association also opposes any increase in the rates on coke to points where there are sugar factories located, stating in substances that the coke manufactured in Colorado is somewhat inferior in quality to that manufactured in Illinois and Wisconsin, and that the cost of manufacturing coke in Colorado is considerably higher than in Illinois and Wisconsin. With these handicaps to begin with, any increase in the rates will aggravate the difficulties of the coke manufacturers in Colorado in attempting to compete with the eastern manufacturers in bidding for the business of the sugar factories.

After careful consideration of the evidence, we are of the opinion, and so find, that such increases in freight rates and charges on coal and coke as are authorized in the report and order of the Interstate Commerce Commission, except as hereinafter set forth, are justified, warranted and reasonable, and should be authorized to be made on coal and coke traffic moving from point to point within the State of Colorado.

We further find that the proposed increases in rates and charges on coal and coke in carloads, on the present effective rates in the local territory on the lines of the Rio Grande west of the Colorado Common Points are justified, warranted and reasonable, and should be authorized.

We further find that no emergency increase shall be made in the rates on coal in carloads, now scheduled to become effective July 1, 1935, or which may be established in lieu of the said July 1st rates, in the local territory on the lines of the Rio Grande west of the Colorado Common Points.

We further find that no increase shall be made in the rates and charges on coal of all sizes from Trinidad, Walsenburg, Canon City, Pikeview

and northern Colorado, Groups Nos. 1, 2, 3, 4 and 7, as described in Agent J. E. Buckingham's Colorado-New Mexico Coal and Coke Tariff No. 1-G, Colo. P.U.C. No. 10, also Routt County, Oak Hills district to the following points of destination, viz.: On the lines of The Atchison, Topeka and Santa Fe Railway Company; on the lines of the Chicago, Burlington & Quincy Railroad Company; on the lines of The Colorado and Southern Railway Company, exeept its narrow gauge lines; on the lines of The Chicago, Rock Island and Pacific Railway Company (Frank O. Lowden, James E. Gorman and Joseph B. Fleming, Trustees), west of Limon, Colorado; on the lines of The Midland Terminal Railway Company; on the lines of the Missouri Pacific Railroad Company (L. W. Baldwin and Guy A. Thompson, Trustees), west of Galatea, Colorado; on the lines of the Union Pacific Railroad in northern and northeastern Colorado, west of Sedgwick, Colorado, including Lowry, Sandown and Roydale, Colorado.

We further find that no increase shall be made in the rates on slack coal and coke in carloads from points of production to points of destination where sugar factories are located.

An appropriate order will be entered.

O R D E R

IT APPEARING, That the Commission having on April 15, 1935, made and filed its original statement, containing its findings of fact and conclusions thereon, and having on that date entered its original order, effective upon notice to this Commission and to the general public by not less than one day's filing and posting in the manner prescribed in Section 16 of The Public Utilities Act, in which the said original statement was referred to and made a part thereof, and the Commission having on the date hereof made a supplemental statement on further consideration, intended to supplement its original statement and order, which said original statement and order and the supplemental statement on further consideration are hereby referred to and made a part hereof.

IT IS THEREFORE ORDERED, That the said original statement and order be, and they are hereby, supplemented according to the findings contained in the said supplemental statement.

IT IS FURTHER ORDERED, That in all other respects our original statement and order shall be and remain in full force and effect.

Commissioner Danks did not participate in this proceeding.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward J. Flynn

Malcolm Eickhoff

Commissioners.

Dated at Denver, Colorado,
this 18th day of June, 1935.

(Decision No. 6511)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF)
COLORADO-UTAH STAGES, INC. FOR PER-)
MISSION TO TRANSFER ITS CERTIFICATE) APPLICATION NO. 1181-AAA
OF PUBLIC CONVENIENCE AND NECESSITY)
TO THE SOUTHERN KANSAS STAGE LINES.)

June 15, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission disclose that on May 20, 1935, authority was granted in the above entitled matter to the Colorado-Utah Stages, Inc. to transfer to the Southern Kansas Stage Lines Company the certificate of public convenience and necessity, heretofore issued in application No. 1181, subject to the condition that transferee assume and pay all outstanding obligations of the transferor in connection with its previous operation under said certificate.

The Commission has been advised that Colorado-Utah Stages, Inc. is indebted to Southwestern Greyhound Lines, Inc. in the sum of $55.11 for ticket reclaims between May 18, 1934 and November 30, 1934 and that said indebtedness was incurred in connection with the previous operations of Colorado-Utah Stages, Inc. under said certificate.

Since this matter was not brought to the attention of the Commission at the time of the hearing for said transfer, the Commission is of the opinion, and so finds, that pursuant to said order herin the Southern Kansas Stage Lines Company should pay said claim or show cause why the same should not be paid.

O R D E R

IT IS THEREFORE ORDERED, That the Southern Kansas Stage Lines Company, transferee in the above entitled matter, be, and it is hereby, required to pay to Southwestern Greyhound Lines, Inc. the sum of $55.11, or show cause within ten days from this date why said claim should not be paid.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

W. C. Banks

Commissioners

Dated at Denver, Colorado,
this 15th day of June, 1935.

(Decision No. 6512)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

RE IDLEDALE WATER WORKS,)
IDLEDALE, COLORADO .)

INVESTIGATION AND SUSPENSION
DOCKET NO. 205.

June 15, 1935.

S U P P L E M E N T A R Y O R D E R.

By the Commission:

IT APPEARING, That the Commission was not able through lack of funds to complete the improvements in the Idledale Water Works, as provided in the Commission's order of March 26, 1934, Decision No. 5647, by June 1, 1935, and

IT APPEARING FURTHER, That on June 3, 1935, the Commission received a petition signed by nearly all of the water users of the Idledale Water Works requesting the Commission to continue its operation of said Idledale Water Plant until the necessary improvements to the plant for the proper service of its patrons can be completed, and

IT APPEARING FURTHER, That the Commission finds that said continuance of the control and operation of said water plant by a trustee under the jurisdiction of the Commission will be in accordance with the intent of the arrangements made with the owners of said plant, as set out in the order of the Commission, herein referred to, and

IT APPEARING FURTHER, That since the trustee, Mr. W. L. Burton, appointed by the Commission, has not been able on account of his other personal business to give his duties proper attention, the Commission finds it necessary to make a change in the trustee without, however, in any manner reflecting on the excellent service Mr. Burton has rendered in his trusteeship; therefore, in accordance with its findings, the Commission will now make its order.

O R D E R

IT IS THEREFORE ORDERED, That the Commission retain control and jurisdiction of the operation of the Idledale Water Works, Idledale, Colorado, by a trustee appointed by the Commission until the improvements are completed for the efficient service of the customers of said plant so far as practicable from funds derived from the water rentals of said

plant, or such other funds as may be available, and as provided in the order of the Commission under date of March 26, 1934, said jurisdiction to terminate on or before June 1, 1936, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That Mr. C. S. Scanland, Idledale, Colorado, is hereby appointed trustee of said Idledale Water Works in place of Mr. W. L. Burton to be effective June 15, 1935, said Scanland to perform the duties of trustee of the Idledale Water Works as provided in the order of the Commission herein referred to.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 15th day of June, 1935.

(Decision No. 6513)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF THE GREAT WESTERN RAILWAY COMPANY TO DISCONTINUE ITS AGENCY STATION AT MEAD, COLORADO.

APPLICATION NO. 2392½

June 18, 1935.

S T A T E M E N T

By the Commission:

On May 27, 1935, the Great Western Railway Company filed a petition (which we have designated an application), seeking authority to close and discontinue its agency station at Mead, Colorado, on and after June 29, 1935. Thereafter the Town of Mead, by I. J. Doke, its attorney, filed a protest against said application. Thereafter applicant and the attorney for the Town of Mead filed with the Commission a stipulation relative to said matter, wherein it was agreed and stipulated that said agency station at Mead may be discontinued by applicants during the period June 12, 1935, to August 31, 1935, inclusive, and providing further that said agency station at Mead shall be reinstated by applicants September 1, 1935; provided, however, that the reinstatement of said agency station shall be without prejudice to the right of petitioner to initiate such proceedings as it may deem advisable relative to the discontinuance of said agency station at any time subsequent to September 1, 1935.

After a careful consideration of the record, the Commission is of the opinion and so finds that the terms of such stipulation, which are hereby approved by the Commission, should be made effective by an appropriate order of the Commission.

O R D E R

IT IS THEREFORE ORDERED that the Great Western Railway Company may discontinue its agency station at Mead, Colorado, during the period from June 12, 1935, to August 31, 1935, inclusive.

IT IS FURTHER ORDERED that said company shall reinstate said agency station at Mead September 1, 1935.

IT IS FURTHER ORDERED that the reinstatement of said agency station on September 1, 1935, shall be without prejudice to the right of said Great Western Railway Company to initiate such proceedings as it may deem advisable relative to the discontinuance of said agency station at any time subsequent to September 1, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 18th day of June, 1935.

(Decision No. 6514)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF THE GREAT WESTERN RAILWAY COMPANY TO DISCONTINUE ITS AGENCY STATION AT SEVERANCE, COLORADO.

APPLICATION NO. 2391½

June 18, 1935.

S T A T E M E N T

By the Commission:

On May 27, 1935, the Great Western Railway Company filed a petition (which we have designated an application), seeking authority to close and discontinue its agency station at Severance, Colorado, on and after June 29, 1935. Thereafter the Town of Severance, by J. C. Nixon, its attorney, filed a protest against said application. Thereafter applicant and the attorney for the Town of Severance filed with the Commission a stipulation relative to said matter, wherein it was agreed and stipulated that said agency station at Severance may be discontinued by applicants during the period June 11, 1935, to August 31, 1935, inclusive, and providing further that said agency station at Severance shall be reinstated by applicants September 1, 1935; provided, however, that the reinstatement of said agency shall be without prejudice to the right of petitioner to initiate such proceedings as it may deem advisable relative to the discontinuance of said agency station at any time subsequent to September 1, 1935.

After a careful consideration of the record, the Commission is of the opinion and so finds that the terms of such stipulation, which are hereby approved by the Commission, should be made effective by an appropriate order of the Commission.

O R D E R

IT IS THEREFORE ORDERED that the Great Western Railway Company may discontinue its agency station at Severance, Colorado, during the period from June 11, 1935, to August 31, 1935, inclusive.

IT IS FURTHER ORDERED that said company shall reinstate said agency station at Severance September 1, 1935.

IT IS FURTHER ORDERED that the reinstatement of said agency station on September 1, 1935, shall be without prejudice to the right of said Great Western Railway Company to initiate such proceedings as it may deem advisable relative to the discontinuance of said agency station at any time subsequent to September 1, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 18th day of June, 1935.

(Decision No. 6515)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF O. C. BARTH FOR AN EXTENSION OF HIS CLASS "A" MOTOR VEHICLE PRIVATE PERMIT TO INCLUDE AN OPERATION BETWEEN YUMA, COLORADO, AND THE COLORADO-NEBRASKA STATE LINE, BOTH INTRASTATE AND INTERSTATE.

APPLICATION NO. 2388-PP-B

June 19, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a letter from Mr. Marion F. Jones, attorney for applicant in the above entitled application, requesting that said application be dismissed.

After a careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the application of O. C. Barth for an extension of his private permit be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 19th day of June, 1935.

(Decision No. 6517)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF TED CARPENTER & SON TRANSFER AND STORAGE COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE TRUCK SERVICE BETWEEN FORT COLLINS AND SURROUNDING TERRITORY WITHIN A RADIUS OF 15 MILES AND ALL POINTS IN THE STATE OF COLORADO IN IRREGULAR SERVICE.	APPLICATION NO. 2189

June 19, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a petition for a rehearing in the above entitled matter. After a careful consideration of same, the Commission is of the opinion, and so finds, that no good purpose could be served by granting said petition for rehearing.

O R D E R

IT IS THEREFORE ORDERED, That said 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 19th day of June, 1935.

(Decision No. 6518)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF M. L. SEAMON FOR A CLASS "A" PERMIT TO OPERATE AS A PRIVATE CARRIER FOR THE TRANSPORTATION OF FREIGHT AND ORE BETWEEN POINTS WITHIN A RADIUS OF FIVE MILES OF ALMA, COLORADO.

APPLICATION NO. 2364-PP

June 24, 1935.

Appearances: Mr. M. L. Seamon, Alma, Colorado, pro se;
Mr. A. J. Fregeau, Denver, Colorado, for Motor Truck Common Carriers Ass'n.

S T A T E M E N T

By the Commission:

Applicant herein seeks a permit to operate as a Class A private carrier by motor vehicle for hire in the transportation of ore from mines within a radius of five miles of Alma to railroad loading points in Alma, and mine supplies from Alma to the mines so served by him.

At the hearing, it developed that there is no motor vehicle common carrier operating in the territory where applicant proposes to operate; that he is the owner of one Rugby, 1930 model, 1½-ton truck; that he has had some experience in operating a truck and that he heretofore has not engaged in hauling for hire.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the applicant, M. L. Seamon, be and he hereby is granted a permit to operate as a Class A private carrier for the transportation of ore from mines within a radius of five miles of Alma, Colorado, to railroad loading points in Alma, and mine supplies from Alma to the mines so served by him, said permit to issue if and when, but not before he has filed a list of his customers and the required

insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 24th day of June, 1935.

(Decision No. 6519)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

RE MOTOR VEHICLE OPERATIONS OF)
WILLIAM WOLVERTON.)

CASE NO. 1574

June 24, 1935.

Appearances: T. A. White, Esq., Denver, Colorado,
for The Denver and Rio Grande Western
Railroad Company;
R. E. Conour, Esq., Denver, Colorado,
for the Public Utilities Commission;
William Wolverton, Denver, Colorado,
pro se.

S T A T E M E N T

By the Commission:

On March 14, 1935, the Commission entered its order requiring respondent to show cause why permit No. A-630, heretofore issued to him, should not be suspended or revoked by reason of certain violations of the terms and conditions of said permit, including advertising, operating as a common carrier, operating off his route, and failing to report certain tonnage which he had transported.

The principal evidence against respondent was given by two former drivers who worked for him, and their testimony was flatly denied by respondent. Without going into a general discussion in detail of the charges and evidence, it is sufficient to say that in the opinion of the Commission the record does not disclose that the violations complained of were willful or intentional on the part of respondent.

Since the hearing, an application has been filed to transfer said permit from respondent to a third party.

After a careful consideration of the entire record, the Commission is of the opinion, and so finds, that the instant case should be dismissed.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 24th day of June, 1935.

(Decision No. 6521)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF COLUMBUS NIELSEN AND WALTER PETERSEN, Co-partners, doing business under the firm name and style of NIELSEN AND PETERSEN.

CASE NO. 1591.

June 26, 1935.

S T A T E M E N T

By the Commission:

The records of the Commission disclose that the above named respondents were heretofore issued an interstate permit No. 727-I, in Application No. 2206-I, under the provisions of Chapter 134, Session Laws of 1927, authorizing them to transport freight by motor vehicle as a common carrier in interstate commerce only, between Denver, Colorado and the Colorado-Nebraska State line, where U. S. Highway No. 138 crosses the same, and not to any intermediate points.

Information has come to the Commission that the above named respondents have violated the law and the terms and provisions of their said interstate permit by transporting thirteen pieces of freight from Rosenthal Auction Company, Denver, Colorado, to Porter Oil Company, Julesburg, Colorado, in intrastate commerce and in violation of the authority heretofore granted them.

The Commission is of the opinion and so finds that a complaint and investigation should be instituted of its own motion, and a hearing be entered into to determine if said respondents have violated the law and the terms and provisions of the said interstate permit by accepting and transporting freight from point to point within the State of Colorado in intrastate commerce.

O R D E R

IT IS THEREFORE ORDERED by the Commission on its own motion that a complaint and investigation be instituted and a hearing be entered into to determine if the above named respondents have violated the law and the terms and conditions of their said interstate permit by accepting and transporting freight from point to point within the State of Colorado in intrastate commerce.

IT IS FURTHER ORDERED that said respondents show cause, if any they have, by a written statement filed with the Commission within ten days from this date, why it should not enter an order revoking or suspending the interstate permit heretofore issued to said respondents on account of the aforesaid delinquencies, and why it should not enter such other order or orders as may be just and proper in the premises.

IT IS FURTHER ORDERED that said matter be set down for hearing before the Commission in its hearing room, 330 State Office Building, Denver, Colorado, at 10 A. M. on the 16th day of July, A. D. 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of June, 1935.

A 339

(Decision No. 6522)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF J. W. KIRWIN FOR AN EXTENSION OF HIS CLASS "A" PRIVATE CARRIER PERMIT TO INCLUDE THE TRANSPORTATION OF FREIGHT BETWEEN STERLING, COLORADO, AND WRAY, COLORADO, AND INTERMEDIATE POINTS.

APPLICATION NO. 2382-PP.

June 26, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, attorney for applicant;
J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n.

S T A T E M E N T

By the Commission:

Applicant seeks an extension of his present Class A permit No. A-339 to authorize the transportation of freight between Sterling, Colorado, and Wray, Colorado, and intermediate points, via Highway 61 through Kelly and Otis.

At the hearing, applicant agreed that said extension might be limited to the transportation of freight for the Safeway, Piggly Wiggly and MacMarr stores to their own retail stores at Yuma and Wray. Heretofore, applicant has had authority to operate between Denver and Yuma, via Fort Morgan and Akron, and has been engaged in the transportation of freight for Safeway Stores between said points. It now develops that said shipper is distributing its merchandise for said area from Sterling instead of Denver, and in order to retain said business, applicant must secure the authority sought. As so limited, it does not appear that the operation of applicant would unduly interfere with the operations of any certificated motor vehicle common carrier.

After careful consideration of the record, the Commission is of the opinion, and so finds, that the route of applicant under his Class A private permit No. A-339 should be extended as stated.

O R D E R

IT IS THEREFORE ORDERED, That the route of applicant authorized under permit A-339 be, and the same is hereby, extended to include the transporta -

tion of freight for the Safeway, Piggly-Wiggly and MacMarr companies only to their own retail stores in Wray and Yuma from Sterling, Colorado, via Kelly and Otis.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect, including immediate payment of any and all past due highway compensation taxes now due the State of Colorado by reason of applicant's operations under said permit No. A-339.

IT IS FURTHER ORDERED, That this order shall be made a part of the permit heretofore granted to applicant and herein authorized to be extended.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of June, 1935.

(Decision No. 6523)

B-953

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF SILER DRILLING CORPORATION FOR A PERMIT TO OPERATE AS A CLASS B PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF CONTRACTORS' OUTFITS AND SUPPLIES.

APPLICATION NO. 2385-PP

June 26, 1935.

Appearances: Marion F. Jones, Longmont, Colorado, attorney for applicant;
J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
George H. Swerer, Esq., Denver, Colorado, for McKie Transfer Company;
T. A. White, Esq., Denver, Colorado, for The Denver and Rio Grande Western Railroad Company;
J. H. Shepherd, Denver, Colorado, for The Denver and Salt Lake Railway Company.

S T A T E M E N T

By the Commission:

Applicant seeks a Class B permit authorizing the transportation of contractors' outfits and supplies from and to various points within the State of Colorado.

His financial standing and reliability were established to the satisfaction of the Commission. He formerly operated under a Class B private permit, which expired in January, 1935.

His equipment consists of two large trucks which are equipped to handle heavy machinery, pumps and boilers. He transports only capacity loads and is willing that his permit should be limited to the transportation of heavy machinery, boilers, casings and oil well equipment. As so restricted, it does not appear that his operations would unduly interfere with those of any other motor vehicle common carrier operator.

After careful consideration of the record, the Commission is of

the opinion, and so finds, that a Class B private permit should be issued to Earl F. Siler, doing business as Siler Drilling Corporation, for the transportation of freight as limited above.

O R D E R

IT IS THEREFORE ORDERED, That a Class B permit be issued to Earl F. Siler, doing business as Siler Drilling Corporation, for the transportation only of heavy machinery, boilers, casings and oil well equipment, said permit to issue if and when, but not before applicant has filed proper insurance and a list of his customers with the Commission, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of June, 1935.

(Decision No. 6524)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
J. F. WATTERS.) CASE NO. 1580

June 26, 1935.

S T A T E M E N T

By the Commission:

On April 15, 1935, the Commission entered its order requiring respondent to show cause why permit No. B-859, heretofore issued to him, should not be suspended or revoked for his failure to file insurance.

At the time of the hearing, respondent promised immediately to secure and file with the Commission the proper and necessary insurance, and for that reason no decision was made in the instant case. Our records now disclose that said permit expired by limitation on June 11, 1935, and the Commission is therefore of the opinion and so finds, that the instant case should be dismissed.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward E. Wheeler

W. L. Davis

Miriam Ericson

Commissioners.

Dated at Denver, Colorado,
this 26th day of June, 1935.

(Decision No. 6526)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
G. H. SAUM.) CASE NO. 1590

June 26, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado,
attorney for respondent;
Richard E. Conour, Esq., Assistant Attorney General,
for the Commission.

STATEMENT

By the Commission:

On May 21, 1935, the Commission entered its order requiring respondent to show cause why permit No. A-890, heretofore issued to him, should not be suspended or revoked on account of unlawful operations thereunder.

The evidence disclosed that respondent was issued a Class A private permit authorizing the transportation of freight between Fort Morgan and the Colorado-New Mexico state line, and intermediate points, via U. S. Highways Nos. 6 and 85, and between Fort Morgan and the Colorado-Kansas state boundary line, and intermediate points, via Colorado Highway No. 54, and between Greeley and the Colorado-Wyoming state boundary line and intermediate points via U. S. Highway 85 and Colorado Highway No. 14, in interstate commerce only.

It was further stipulated that on or about May 11, 1935, respondent transported approximately 15,000 pounds of fresh meat for Swift & Company from Denver to Colorado Springs and Pueblo, which movement was entirely intrastate and in violation of his permit.

The evidence further disclosed that respondent had reported said operation in his monthly report, and respondent testified that he thought the words "intermediate points" gave him authority to serve said points even though the operation was in interstate commerce.

The Commission fails to see how respondent could help but realize

that he was operating unlawfully, but in the instant case we are inclined to give him the benefit of the doubt as he reported his intrastate operations and paid the highway tax due upon the same.

In view of these facts, we have determined to dismiss the instant case, with a warning to respondent that hereafter he must be more careful in observing the law and our Rules and Regulations governing his operations upon the public highways of Colorado.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 26th day of June, 1935.

(Decision No. 6527)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
ERNEST WESTLAKE.)

CASE NO. 1093

July 1, 1935.

S T A T E M E N T

By the Commission:

On February 17, 1933, the Commission suspended private permit No. A-223, heretofore issued to the above named respondent, for a period of six months. Said suspension period has expired, but respondent has now filed the necessary insurance and requests the reinstatement of said permit.

It does not appear that he has been operating since said permit was suspended, and after a careful consideration of the record, the Commission is of the opinion, and so finds, that said request should be granted.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. A-223, heretofore issued to Ernest Westlake, be, and the same is hereby, reinstated as of this date.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 1st day of July, 1935.

Form No. 4. (Decision No. 6528)

2 PSC

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
R. S. TARTER AND S. V. KEY, d/b/a) CASE NO. 1592
BROKERS FREIGHT FORWARDING CO.)
(1418 W. 9th St., Kansas City, MO.) July 1, 1935

S T A T E M E N T

By the Commission:

The records of the Commission show that a certificate of public convenience and necessity was heretofore issued to the above named respondent, authorizing his operations as a motor vehicle carrier. (Application No. 2194-I)

The records of the Commission further disclose that said respondent has failed to file monthly reports and has failed to pay highway compensation taxes as follows, to-wit:

Monthly Reports Not filed

February, March, April and May, 1935.

Highway Compensation Taxes Unpaid

	Month	Tax	Penalty	Total
1935	January	$53.54	2.41	$55.95

The records of the Commission further disclose that respondent company has failed to keep on file with the Commission an effective insurance policy or a surety bond, as required by Section 17 of Chapter 154, Session Laws of Colorado, 1927, and By Rule 33 of the Rules and Regulations of the Commission governing motor vehicle carriers.

O R D E R

IT IS THEREFORE ORDERED, by the Commission, on its own motion, that an investigation and hearing be entered into to determine if the above named respondent has failed to file monthly reports or pay highway compensation taxes as above set forth, in violation of law and of the Rules and Regulations of the Commission governing motor vehicle carriers.

IT IS FURTHER ORDERED, That said respondent show cause, if any he have, by written statement filed with the Commission within ten days from this date, why it should not enter an order suspending or revoking the certificate heretofore issued to said respondent on account of the aforementioned delinquency, and why it should not enter such other order or orders as may be meet and proper in the premises.

IT IS FURTHER ORDERED, That said matter be, and the same is hereby, set down for hearing before the Commission in its Hearing Room, 330 State Office Building, Denver, Colorado, at 2:00 o'clock P. M., on July 16, 1935, at which time and place such evidence as is proper may be introduced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

(Decision No. 6529)

a-983

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
ROBERT SNEDDEN FOR A CLASS "A" PERMIT)
TO OPERATE AS A PRIVATE CARRIER BY) APPLICATION NO. 2361-PP
MOTOR VEHICLE FOR THE TRANSPORTATION)
OF MILK PRODUCTS IN THE VICINITY)
OF JOHNSTOWN, COLORADO.)

July 3, 1935.

Appearances: Mr. Robert Snedden, Johnstown, Colorado, pro se;
Mr. A. J. Fregeau, Denver, Colorado, for Motor Truck Common Carriers Ass'n.

S T A T E M E N T

By the Commission:

Applicant herein seeks authority to transport milk for hire as a Class A private carrier by motor vehicle for the Colorado Condensed Milk Company to its plant at Johnstown from various producers residing along the "20-mile" milk route set forth in Exhibit No. 1.

The evidence disclosed that until recently William Rowden and Earl Trimble were hauling this milk; that when they discontinued the service, applicant herein, without authority from the Commission, assumed the operation. Upon learning that a permit was required before he could engage in the transportation business, he made this application; that he has not reported to the Commission the amount of milk hauled by him and the tax therefor has not been assessed or paid.

His financial responsibility and operating experience were established to the satisfaction of the Commission.

It also did not appear that his proposed operation would be in competition with any common carrier motor vehicle service.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that provided applicant shall forthwith

report to the Public Utilities Commission the amount of milk hauled by him since he started his milk haul, and pay the mill tax thereafter assessed by the Commission on account thereof, permit as requested should issue to him.

O R D E R

IT IS THEREFORE ORDERED, That, provided applicant, Robert Snedden, shall report to the Commission the amount of milk hauled by him from the commencement of his hauling operation to date, and pay the mill tax assessed by the Commission on account thereof, authority should be, and hereby is granted to the said Robert Snedden to transport milk products as a Class A private carrier by motor vehicle for hire for the Colorado Condensed Milk Company to its plant at Johnstown, Colorado, from various producers residing along the milk route described in Exhibit No. 1, which said exhibit by reference is made a part hereof, said permit to issue if and when, but not before applicant has filed with the Commission a list of his customers and the necessary insurance, and has secured an identification card.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of July, 1935.

(Decision No. 6530)

MAKE NO Copy

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE PRIVATE CARRIER MOTOR VEHICLE)
OPERATIONS OF FRANK LANG, PERMIT) CASE NO. 1575
NUMBER A-793.)

July 3, 1935.

S T A T E M E N T

By the Commission:

The Commission made an order herein on May 23, 1935, suspending private permit No. A-793, heretofore issued to the above named respondent, for a period of thirty days. Respondent has requested that the Commission accept a payment, to be made to the Treasurer of the State of Colorado, in some reasonable sum in lieu of said suspension. This order of procedure is in accord with precedent heretofore established by the Commission.

After a careful consideration of the matter, the Commission is of the opinion, and so finds, that it should receive a payment of $9.71 to be made to the Treasurer of the State of Colorado, in lieu of the suspension heretofore ordered. The Commission has received a check for that amount, which it will immediately turn over to the State Treasurer.

The Commission feels that it should solemnly warn respondent that in future he must conduct his operations according to law and the rules and regulations of the Commission if he desires to avoid a permanent revocation of his permit.

O R D E R

IT IS THEREFORE ORDERED, That the suspension order heretofore made by the Commission in the above entitled case on May 23, 1935, be,

and the same is hereby, vacated and set aside.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of July, 1935.

(Decision No. 6531)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

37

* * *

IN THE MATTER OF THE APPLICATION)
OF ROY WOODWORTH, DOING BUSINESS) APPLICATION NO. 307-AAAAA
AS THE PARKER TRANSFER COMPANY,)
FOR REENSTATEMENT OF P.U.C. NO. 37.)

July 3, 1935.

Appearances: Mr. Roy E. Woodworth, Parker, Colorado, pro se;

S T A T E M E N T

By the Commission:

On January 27, 1934, by Decision No. 4988, the Commission authorized Charles H. O'Brien, doing business as Parker-Denver Truck Line, to assign and transfer to Albert Mikelson, Martin Mikelson and Roy E. Woodworth, co-partners, doing business as Franktown Truck Line, that portion of his certificate of public convenience and necessity dated May 6, 1925 (Decision No. 838) P. U. C. No. 37, authorizing the transportation of freight between Denver and Parker and intermediate points, said operation to be conducted under P. U. C. 202. The said Albert Mikelson, Martin Mikelson and Roy E. Woodworth recently dissolved partnership. Woodworth, since the dissolution of said partnership, has been conducting the operation formerly conducted by Charles H. O'Brien prior to the transfer aforesaid by him to the said partnership under P. U. C. No. 37. He also purchased from George Croft the certificate of public convenience and necessity granted in Application No. 1839, said transfer being authorized by the Commission in its Decision No. 6465, of date May 10, 1935.

On May 10, 1935, said Roy E. Woodworth and Mikelson Brothers filed their application herein, requesting that the said Roy E. Woodworth be authorized to use P. U. C. No. 37 to designate his said Parker-Denver Truck Line operation, inasmuch as the said Mikelson Brothers retained and are continuing to use the Franktown Truck Line number, P. U. C. 202.

After a careful consideration of the evidence, the Commission is

of the opinion, and so finds, that the division of assets among the co-partners, Albert Mikelson, Martin Mikelson and Roy E. Woodworth, upon the dissolution of their said co-partnership, whereby the said Mikelson Brothers retain the ownership of the so-called Franktown Truck Line operating under P. U. C. 202, and the said Roy E. Woodworth takes for his separate property the so-called Parker-Denver Truck Line, P. U. C. No. 37, ahould be, and the same is hereby, confirmed and approved.

O R D E R

IT IS THEREFORE ORDERED, That the said Roy E. Woodworth should be, and he hereby is authorized to use "P.U.C. No. 37" as his certificate number for the operation of the Parker-Denver Truck Line.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations of the said Albert Mikelson, Martin Mikelson and Roy E. Woodworth, doing business as Franktown Truck Line in their operation of the Parker-Denver line, shall become and remain those of the said Roy E. Woodworth, operating as an individual, in his operation of the Parker-Denver Truck Line, until changed according to law and the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of July, 1935.

a-969

(Decision No. 6532)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF ALEX GOODMAN FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF ORE CONCENTRATES FROM RUSSEL GULCH, COLORADO, TO CENTRAL CITY, BLACK HAWK, IDAHO SPRINGS, BOULDER, DENVER, COLORADO SPRINGS AND LEADVILLE, COLORADO.

APPLICATION NO. 2321-PP.

July 3, 1935.

S T A T E M E N T

By the Commission:

On May 7, 1935, this Commission, in Application No. 2321-PP (Dec. No. 6454), dismissed the application for lack of prosecution, the applicant having failed to appear either in person or by counsel on the day set for the hearing.

It now appears from the statement of the applicant that his failure to appear was on account of his lack of understanding the procedure of the Commission, and believing that when he had arranged for insurance and complied with other details brought to his attention it would not be necessary for him to appear at the hearing.

The Commission being convinced of the sincerity of this applicant finds that the order of dismissal should be vacated and set aside, and this application set for further hearing.

O R D E R.

IT IS THEREFORE ORDERED, That the order heretofore entered dismissing the original application be, and it is hereby, vacated and

set aside and that said application be set down for further hearing on July 15, at the hearing room of the Commission, at ten o'clock, A. M.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 3rd day of July, 1935.

(Decision No. 6533)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
C. F. AND H. G. DRESCHER, DOING)
BUSINESS AS DRESCHER BROTHERS, FOR)
A CLASS "B" PERMIT TO OPERATE AS A) APPLICATION NO. 2358-PP
PRIVATE CARRIER BY MOTOR VEHICLE)
FOR THE TRANSPORTATION OF FREIGHT.)

July 3, 1935.

Appearances: Mr. C. F. Drescher, Greeley, Colorado,
for applicants;
Mr. A. J. Fregeau, Denver, Colorado,
for Weicker Transportation Company;
Mr. J. F. Rowan, Denver, Colorado,
for Motor Truck Common Carriers Ass'n.

S T A T E M E N T

By the Commission:

This application was originally heard on May 24, 1935, and a further hearing was had on June 10, 1935. C. F. Drescher and H. G. Drescher, doing business as Drescher Brothers, herein apply for a Class B motor vehicle private carrier permit to transport farm products only from the farms in various farming districts of the State to railroad shipping points or the nearest market.

At the hearing, it appeared that for many years applicants had been engaged in buying, baling and selling hay, and dealing in other farm products during seasonal crop movements in the various farming districts of the State. They have a commercial carrier permit.

From time to time, during the rush season in crop movements, various farmers residing in the sections where applicants have operated have asked them to haul hay and other crops for hire. They want to be authorized to render this service.

It appeared that they are financially responsible and the evidence did not disclose that their proposed operation will adversely affect the efficient operation of any common carrier motor vehicle service.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the permit requested, as limited at the hearing should be granted.

ORDER

IT IS THEREFORE ORDERED, That C. F. Drescher and H. G. Drescher, doing business as Drescher Brothers, be, and they hereby are granted a permit to operate as a Class B private carrier by motor vehicle for hire for the transportation of farm products only during seasonal movements thereof from the farms in various farming districts of the State to the respective railroad shipping points or nearest market in said districts, said permit to issue if and when, but not before applicants have filed a list of their customers and the required insurance, and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. [illegible]
W. L. Danks
[illegible] Ericson

Commissioners.

Dated at Denver, Colorado,
this 3rd day of July, 1935.

a-957

(Decision No. 6534)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
C. VAN DOLAH FOR A PERMIT TO OPERATE)
AS A CLASS "A" PRIVATE CARRIER BY)
MOTOR VEHICLE FOR THE TRANSPORTATION)
OF FREIGHT AND ORE BETWEEN THE MINING) APPLICATION NO. 2389-PP
DISTRICTS ADJACENT TO BLACKHAWK AND)
CENTRAL CITY, COLORADO, AND DENVER,)
AND INTERMEDIATE POINTS.)

July 3, 1935.

Appearances: C. Van Dolah, Central City, Colorado,
pro se;
Arthur F. Aldridge, Esq., Idaho Springs, Colorado,
for Curnow Auto Livery;
J. F. Rowan, Denver, Colorado,
for Motor Truck Common Carriers Ass'n;

S T A T E M E N T

By the Commission:

As limited at the hearing, applicant herein seeks a Class A permit to operate as a private carrier by motor vehicle for hire for the transportation of ore from the Gregory Bates mines in the Blackhawk-Central City mining districts to the Gregory Bates mill at Blackhawk, and the Sampler mill at Idaho Springs, Colorado, and the transportation of mining supplies only for the Gregory Bates Mining Company to its said mines from Denver, Colorado, via State Highway No. 96 through Golden Gate Canon, without the privilege of adding to his list of customers.

The Curnow Livery and Transfer Company withdrew its objection to the issuance of the permit after it developed that applicant did not intend to engage in the transportation of freight generally from Denver to the aforesaid mining districts over U.S. 40 and would limit his operation to the transportation of mining supplies only for the Gregory Bates Mining Company.

It did not appear that the operation, as limited, would adversely affect or impair the efficient public service of any authorized motor vehicle common carrier.

The responsibility of applicant was established to the satisfaction of the Commission.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that applicant's request for a permit, as limited, should be granted.

O R D E R

IT IS THEREFORE ORDERED, That applicant, C. Van Dolah, be, and he hereby is granted a Class A private permit to operate as a private carrier by motor vehicle for the transportation of ore from the Gregory Bates mines in the Blackhawk-Central City districts to the Gregory Bates mill at Blackhawk and the Sampler mill at Idaho Springs, Colorado, and the transportation of mining supplies only for the Gregory Bates Mining Company to its said mines from Denver, Colorado, via State Highway No. 96, through Golden Gate Canon, without the right to add to his list of customers, said permit to issue if and when but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. Steele

W. L. Danks

Marian Erickson

Dated at Denver, Colorado,
this 3rd day of June, 1935.

(Decision No. 6536)

B-95-8

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF ARMORED MOTORS OF COLORADO, INC., FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF VALUABLES BETWEEN COLORADO SPRINGS AND DENVER, COLORADO, VIA U. S. HIGHWAY NO. 85.

APPLICATION NO. 2405-PP.

July 3, 1935.

Appearances: Mr. John J. Morrissey, Denver, Colorado, for the applicant, Armored Motors of Colorado, Inc.

S T A T E M E N T

By the Commission:

As limited at the hearing applicant, a Corporation, herein seeks a Class A permit to transport gold bullion from the Golden Cycle Mill in Colorado Springs to the Mint in Denver, Colorado. It further appeared that gold shipments from the Golden Cycle Mill to the Mint heretofore have been handled by the Railway Express Agency, and that said proposed operation will not compete with any motor vehicle common carrier now operating.

After a careful consideration of the evidence, the Commission is of the opinion and finds that said application should be granted.

O R D E R

IT IS THEREFORE ORDERED, That Armored Motors of Colorado, Inc., a Colorado corporation be, and it hereby is granted a Class A permit to operate as a private carrier by motor vehicle for hire for the transportation of gold bullion only from the Golden Cycle Mill at Colorado Springs to the Mint in Denver, Colorado, over U. S. Highway No. 85, said permit to issue if and when, but not before it has filed the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon its compliance at all times with all the laws, rules and regulations pertaining to its operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. Meek

W. L. Danks

Helen Grimson

Commissioners.

Dated at Denver, Colorado,
this 3d day of July, 1935.

(Decision No. 6538)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
RICHARD POSTEL FOR A PERMIT TO)
OPERATE AS A CLASS "B" PRIVATE CARRIER) APPLICATION NO. 2384-PP
FOR THE TRANSPORTATION OF FREIGHT)
FROM MONTE VISTA, COLORADO, TO ANY)
POINTS WITHIN THE STATE OF COLORADO.)

July 6, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado,
attorney for applicant;
J. F. Rowan, Denver, Colorado,
for Motor Truck Common Carriers Association,
E. B. Faus and Pueblo-San Luis Valley
Transportation Company;
A. J. Fregeau, Denver, Colorado,
for Weicker Transportation Company;
T. A. White, Esq., Denver, Colorado,
for Rio Grande Motor Way, Inc.

S T A T E M E N T

By the Commission:

Applicant seeks a Class B permit, which as limited by the evidence at the hearing, would authorize him to transport livestock, potatoes, flour and coke from point to point within a radius of 16 miles of Monte Vista, Colorado, and from points within said radius to and from any point within the State of Colorado.

This is another application wherein it was clearly demonstrated that applicant was of the opinion that a private permit would authorize him to serve anyone within the area in which he was authorized to operate. However, when the matter was explained, he testified that he would be willing to confine his operations strictly to those of a private carrier and would serve only those customers whose names were on file with the Commission.

The evidence disclosed that two motor vehicle common carriers have authority under rovers' certificates to operate in the Monte Vista territory, but the record does not disclose that the operations of applicant limited as to the nature of the commodities which he proposes to transport would unduly affect the operations of said common carrier motor vehicle operators.

The financial standing and reliability of applicant were established to the satisfaction of the Commission.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that a Class B private permit should issue to Richard Postel for the transportation of livestock, potatoes, flour and coke over irregular routes.

O R D E R

IT IS THEREFORE ORDERED, That applicant be granted a private Class B motor vehicle permit for the transportation of livestock, potatoes, flour and coke from point to point within a radius of 16 miles of Monte Vista, Colorado, and from points within said radius to and from any point within the State of Colorado, said permit to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 6th day of July, 1935

(Decision No. 6540)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
L. GREENFIELD.)

PRIVATE PERMIT NO. A-735

a 735-

July 6, 1935.

S T A T E M E N T

By the Commission:

On October 8, 1934, at the request of the above named L. Greenfield, private permit No. A-735 was suspended for a period of six months. The Commission is now in receipt of a request from the said L. Greenfield that said permit be reinstated.

It appears that all rules and regulations of the Commission have been complied with relative to filing a list of customers, securing identification cards and filing the necessary insurance.

After a careful consideration of said request, the Commission is of the opinion, and so finds, that same should be granted.

O R D E R

IT IS THEREFORE ORDERED, That private permit No. A-735, heretofore issued to L. Greenfield, be, and the same is hereby, reinstated as of July 1, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of July, 1935.

(Decision No. 6541)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION OF A. E. GOSNELL, DOING BUSINESS AS INLAND PACIFIC STAGES, AND RIO GRANDE MOTOR WAY, INC. FOR AUTHORITY TO TRANSFER INTERSTATE PERMIT NOW OWNED BY SAID A. E. GOSNELL TO RIO GRANDE MOTOR WAY, INC.	)	APPLICATION NO. 2055-A

July 6, 1935.

Appearances: Mr. A. E. Gosnell, Salt Lake City, Utah, Pro Se, and for Inland Pacific Stages.
T. A. White, Esq., Denver, Colorado, for the Rio Grande Motor Way, Inc.

S T A T E M E N T

By the Commission:

Authority is sought in the instant application to transfer the interstate permit heretofore issued herein to A. E. Gosnell, to Rio Grande Motor Way, Inc., a corporation.

The evidence disclosed that A. E. Gosnell recently incorporated in the State of Utah his business formerly conducted by him under name "Inland Pacific Stages" as Inland Pacific Stages, Inc., which company as yet has not been formally vested with ownership of permit herein sought to be transferred; that the consideration to be paid for the transfer of the certificate and other operating rights in the State of Utah is $9000. Mr. Gosnell also agreed to withdraw his opposition to the granting of a certificate of convenience and necessity to Rio Grande Motor Way in Application No. 2325, now pending before this Commission, for bus service between Pueblo and the Colorado-Utah State line, over U. S. Highways 40 south and 50, and to withdraw his pending application No. 2394 for a certificate to operate a bus line between Denver, Buena Vista, and Grand Junction, by way of Colorado Springs, and to operate pursuant to an operating agreement, copy of which was filed with the

Commission, the present motor bus line service now operated under Interstate Permit No. 716 between Grand Junction and the Colorado-Utah State line, until such time, not exceeding ninety days from June 10, 1935, as Rio Grande Motor Way, Inc. shall be prepared to operate under said certificate. It also appeared that all obligations of transferor incurred up to the time of the execution of said agreement, including road tax for the month of April, A. D. 1935, had been paid, and that transferee was willing to assume and pay any and all obligations that may exist at the present time against the transferor on account of his operations up to the time of said transfer, to the full extent of the consideration paid for said permit.

It also appeared that transferee is a responsible company with assets in excess of $400,000, and a record of successful and profitable transportation operations by bus and truck, and that it proposes to operate its said bus line under said permit in connection with its contemplated interstate operations, Salt Lake City to Pueblo, Colorado, in the event that a certificate of public convenience and necessity and interstate permit be granted therefor.

After a careful consideration of the record, the Commission is of the opinion and finds that the authority herein sought should be granted.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same hereby is granted to A. E. Gosnell individually, and A. E. Gosnell, doing business as Inland Pacific Stages, and Inland Pacific Stages, Inc., a corporation, as their interests may appear, to transfer to Rio Grande Motor Way, Inc., a corporation, Interstate Permit No. 716, issued by the Commission under date of August 15, 1934, in application No. 2055, decision No. 5849, provided that the transferee assumes and agrees to pay all outstanding obligations of transferor incurred in connection with operations under said permit.

IT IS FURTHER ORDERED, That the authority herein granted shall not become effective until transferee shall have on file with the Commission the necessary insurance required by law and our rules and regulations.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations of the transferor herein shall become and remain those of the transferee herein, until changed according to law and the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of July, 1935.

(Decision No. 6542)

692

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF ELIZABETH MORRISON, doing business as THE INTER CITY TRUCK LINE, FOR EXTENSION OF CERTIFICATE OF CONVENIENCE AND NECESSITY NO. P.U.C. 692.

APPLICATION NO. 1211-B

July 6, 1935.

Appearances: Elizabeth Morrison, Denver, Colorado, pro se.
Mr. A. J. Fregeau, Denver, Colorado, for the Weicker Transportation Company.
Mr. V. G. Garnett, Denver, Colorado, for the Motor Truck Common Carriers Association.
Marion F. Jones, Esq., Longmont, Colorado, for the Colorado Trucking Association.

STATEMENT

By the Commission:

Applicant now has authority to transport freight between the City of Denver and the towns of Windsor and Severance, Colorado, but not to or from intermediate points. In the instant application she seeks an extension of said route to include the right to transport freight between Greeley, Colorado, Bracewell, Farmers Spur, Windsor, Johnstown, and Severance. She proposes to operate a tri-weekly service, commencing at Greeley, thence west and north to Windsor, thence east to Severance, thence south to Greeley, or the reverse thereof.

The record disclosed that a need exists on the part of the public for the proposed operation, and the financial standing and reliability of applicant was established to the satisfaction of the Commission. All objections to the granting of the certificate prayed for were withdrawn by protestants present at the hearing.

After careful consideration of the record 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 extension of her route to include the transportation of freight between Greeley, Bracewell, Farmers Spur, Windsor, Johnstown, and Severance.

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 extension of her route to include the transportation of freight between Greeley, Colorado, Bracewell, Farmers Spur, Windsor, Johnstown, and Severance, 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 6th day of July, 1935.

(Decision No. 6544)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF A. C. CALHOUN FOR A PERMIT TO OPERATE AS A CLASS "B" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT.

APPLICATION NO. 2393-PP.

July 6, 1935.

Appearances: Hume S. White, Esq., Eagle, Colorado, for the applicant.
T. A. White, Esq., Denver, Colorado, for the Rio Grande Motor Way.
Marion F. Jones, Esq., Longmont, Colorado, for the Colorado Trucking Association.
Mr. J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.

S T A T E M E N T

By the Commission:

Applicant herein seeks a Class B permit to operate as a private carrier by motor vehicle for hire, for the transportation of ties and general freight.

At the hearing it developed that applicant wants to haul timber, ties, and other lumber products, coal, potatoes, hay, and general freight from point to point within a radius of fifty miles of Gypsum, Colorado. As so limited, protestants withdrew their objections to issuance of permit.

It further developed at the hearing that applicant is pecuniarily responsible and is adequately equipped to engage in the contemplated transportation operation, and that there is no common carrier motor vehicle transportation system carrying on the same or a similar operation in the territory in question.

After a careful consideration of the evidence, the Commission is of the opinion and finds that permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That applicant A. C. Calhoun should be, and he hereby is granted a Class B permit to operate as a private carrier by motor vehicle for hire for the transportation of timber, ties, and other lumber products, coal, potatoes, hay, and general freight from point to point within a radius of fifty miles of Gypsum, Colorado, said permit to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 6th day of July, 1935.

(Decision No. 6545)

B-986

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
W. M. BERQUIST FOR A PERMIT TO OPERATE)
AS A CLASS "B" PRIVATE CARRIER BY) APPLICATION NO. 2392-PP
MOTOR VEHICLE FOR THE TRANSPORTATION)
OF FREIGHT.)

July 6, 1935.

Appearances: Hume S. White, Esq., Eagle, Colorado, for the applicant.
T. A. White, Esq., Denver, Colorado, for the Rio Grande Motor Way.
Marion F. Jones, Esq., Longmont, Colorado, for the Colorado Trucking Association.
Mr. J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.

S T A T E M E N T

By the Commission:

Applicant herein seeks a Class B permit to operate as a private carrier by motor vehicle for hire.

At the hearing it developed that he wants to transport potatoes and hay from farms, wool from sheep camps, ties, poles, lumber, and timber from tie camps and sawmills within a radius of fifty miles of Gypsum to railroad loading points, and coal, groceries, and supplies from said points to said farms, camps, and mills, with the right and privilege to hereafter change the field of his tie hauling operations, should the timber camp of Eric Nelson, for whom he is now hauling ties, be moved to some point outside the aforementioned area. As so limited protestants withdrew their objections to the issuance of permit.

It developed at the hearing that applicant is pecuniarily able and adequately equipped to engage in the contemplated hauling service, and that no common carrier by motor vehicle is operating in the territory mentioned.

After a careful consideration of the record, the Commission is of the opinion and finds that the permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the said W. M. Berquist should be, and hereby is granted a Class B permit to operate as a private carrier by motor vehicle for hire, for the transportation of potatoes and hay from farms, wool from sheep camps, ties, poles, lumber, and timber from tie camps and sawmills within a radius of fifty miles of Gypsum to railroad loading points, and coal, groceries, and supplies from said points to said farms, camps, and mills, and in the event that tie camp of Eric Nelson hereafter is moved from its present location, applicant should be and hereby is granted authority to extend his tie hauling operations to include the territory where said Nelson may be located, in the territory in which he, Berquist, is authorized to operate, said permit to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edmund D. Carr

M. A. Danks

Mac Ericson

Commissioners.

Dated at Denver, Colorado,
this 6th day of July, 1935.

(Decision No. 6546)

BT64

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF)
JOHN E. ANDERSON & SON FOR A CLASS B)
PERMIT TO OPERATE AS A PRIVATE CARRIER) APPLICATION NO. 2373-PP
BY MOTOR VEHICLE OVER IRREGULAR ROUTES.)

July 6, 1935.

Appearances: L. R. Temple, Esq., Fort Collins, Colorado, for the applicants.
Marion F. Jones, Esq., Longmont, Colorado, for the Colorado Trucking Association.
Mr. J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.
Mr. A. J. Fregeau, Denver, Colorado, for the Weicker Transportation Company.

S T A T E M E N T

By the Commission:

Applicants seek a Class B private permit for the irregular transportation of general freight. As limited by the evidence at the hearing, such operation would be restricted to the movement of freight originating within a radius of twenty-five miles of the City of Fort Collins, Colorado, from point to point within said area, and the transportation of building materials and commissary supplies originating within the said area to points within the State not located upon highways now served by motor vehicle common carriers.

Further authority is sought to transport hay from the North Park area to the above described Fort Collins area, including the right to distribute hay from such area to any point within the State of Colorado, excepting Denver. As so limited, all objection of protestants was withdrawn to the granting of the application.

After careful consideration of the record, the Commission is of the opinion, and so finds, that the authority sought should be granted.

O R D E R

IT IS THEREFORE ORDERED, That a Class B permit be issued to applicants authorizing the transportation of general freight originating within a radius of twenty-five miles of the City of Fort Collins, Colorado, from point to point within said area, and the transportation of building materials and commissary supplies originating within the said area to points within the State not located upon highways now served by motor vehicle common carriers; and the transportation of hay from the North Park area to the above described Fort Collins area, including the right to distribute hay from such area to any point within the State of Colorado, excepting Denver, said permit to issue if and when, but not before the applicants have filed a list of their customers and the required insurance, and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicants to operate under this order shall be dependent upon their compliance at all times with all the laws, rules and regulations pertaining to their operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 6th day of July, 1935.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RE MOTOR VEHICLE OPERATIONS OF)
SANFORD AND WAYNE TAYLOR, DOING)
BUSINESS AS TAYLOR MERCANTILE) CASE NO. 1449.
COMPANY.)

July 6, 1935.

S T A T E M E N T

By the Commission:

On January 11, 1935, an order was entered cancelling the certificate of convenience and necessity theretofore issued to Sanford Taylor and Wayne Taylor, doing business as Taylor Mercantile Company, because the respondents failed to file the necessary insurance.

After careful consideration of the record in this matter, which discloses that the necessary certificate of insurance as required by law has now been filed, and upon request of respondents, the Commission is of the opinion and finds that the cancellation order dated January 11, 1935, should be revoked and set aside, and the certificate of convenience and necessity issued pursuant to Application No. 1394 to Sanford Taylor and Wayne Taylor, doing business as the Taylor Mercantile Company, should be reinstated.

O R D E R

IT IS THEREFORE ORDERED, That the cancellation order dated January 11, 1935, be, and the same is hereby revoked and set aside, and the certificate of convenience and necessity issued pursuant to Application No. 1394 to Sanford Taylor and Wayne Taylor, doing business as the Taylor Mercantile Company, be, and the same is hereby reinstated, with the injunction that the respondents will strictly comply with all of the rules and regulations promulgated by the Commission,

and at all times keep on file a proper certificate showing that they are carrying the required insurance. Any further delinquencies will be treated in a drastic manner by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 6th day of July, 1935.

(Decision No. 6552)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF C. E. CROFT AND GEORGE CROFT FOR AUTHORITY TO PURCHASE FROM M. E. SPRATLIN AND JOE C. ROSE, DOING BUSINESS AS FARMERS AND MERCHANTS TRUCK COMPANY, THE RIGHT TO USE AND TO OPERATE UNDER CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 267, AUTHORIZING THE TRANSPORTATION OF MILK AND CREAM IN THE TERRITORY DESCRIBED HEREINAFTER.

267

APPLICATION NO. 1412-A

July 6, 1935.

Appearances: R. H. Blackman, Esq., Denver, Colorado, attorney for applicants;
A. J. Fregeau, Denver, Colorado, for Motor Truck Common Carriers Ass'n.

S T A T E M E N T

By the Commission:

On November 4, 1929, by Decision No. 2609, the Commission approved and confirmed transfer of Certificate of Public Convenience and Necessity No. 267 to M. E. Spratlin and Joe C. Rose, doing business as Farmers and Merchants Truck Company, and thereby authorized them to operate a motor vehicle system for the transportation of milk to Denver from territory indicated and described on map thereafter filed by them with the Commission on May 27, 1930.

On May 10, 1935, they filed their application herein for leave to sell and transfer said certificate and all their operating rights thereunder, as well as certain personal property used in connection therewith, to C. E. Croft and George Croft.

The evidence disclosed that all debts and obligations of transferors, including taxes, ton mile tax, etc. have been paid; that transferees are experienced truckers and dairymen and are well equipped financially and otherwise to conduct the operation.

After a careful consideration of the evidence, the Commission is of the opinion, and so finds, that the transfer requested should be permitted.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to M. E. Spratlin and Joe C. Rose, doing business as Farmers and Merchants Truck Company, to transfer to C. E. Croft and George Croft, their certificates of public convenience and necessity heretofore issued in Applications Nos. 922, 981 and 1412, and all operating rights thereunder, more particularly described and set forth by the Commission in its Decision No. 2609 of date November 4, 1929, and map filed by transferors with the Commission on May 27, 1930.

IT IS FURTHER ORDERED, That this transfer shall not become effective until transferees shall have on file with the Commission the required insurance.

IT IS FURTHER ORDERED, That tariffs of rates, rules and regulations of transferors shall become and remain those of the transferees herein until changed according to law and the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 6th day of July, 1935.

(Decision No. 6553)

a-973

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF RAY HINES AND HOMER E. DOBBINS, CO-PARTNERS, DOING BUSINESS AS RED BALL TRUCK LINE, FOR A CLASS A PERMIT TO OPERATE AS A PRIVATE CARRIER BY MOTOR VEHICLE IN THE TRANSPORTATION OF FREIGHT BETWEEN DURANGO, COLORADO, AND DENVER, AND INTERMEDIATE POINTS VIA U.S. 160 AND U.S. 85.

APPLICATION NO. 2378-PP.

July 6, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, for the applicant;
Mr. A. J. Fregeau, Denver, Colorado, for the Weicker Transportation Company, and Pueblo, San Luis Valley Transportation Company;
Mr. J.F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.

STATEMENT.

By the Commission:

Applicants seek a Class A permit to haul general freight originating at Pueblo, Colorado Springs, or Denver, consigned to Ignacio, Pagosa Springs, Bayfield or Durango, and freight originating at Ignacio, Pagosa Springs, Bayfield or Durango, consigned to Pueblo, Colorado Springs and Denver, without a point to point service, over U.S. Highways Nos. 85 and 160.

At the hearing it developed that Red Ball Truck Line is a co-partnership consisting of Ray Hines and Homer E. Dobbins; that they own an International 1935 two-ton truck and intend to buy a Dodge truck; that they own other property and are financially able to buy additional equipment if necessary; and that they are experienced truckers and capable of rendering a satisfactory transportation service. Messrs. Fregeau and Rowan in behalf of their clients withdrew protests to the granting of application for service as outlined by the applicants. It did not appear that the proposed operation will impair the efficient public service of any authorized motor vehicle common carrier service now adequately serving the same territory over the same general highway route or routes.

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

the opinion and finds that the permit requested should be granted.

O R D E R

IT IS THEREFORE ORDERED, That a Class A permit to operate as a private carrier by motor vehicle for hire for the transportation of freight originating at Pueblo, Colorado Springs or Denver, consigned to Ignacio, Pagosa Springs, Bayfield or Durango, and freight originating at Ignacio, Pagosa Springs, Bayfield or Durango, consigned to Pueblo, Colorado Springs or Denver, without a point to point service, over U.S. Highways Nos. 85 and 160 issue to Ray Hines and Homer E. Dobbins, co-partners doing business as Red Ball Truck Line, said permit to issue if and when, but not before they have filed a list of their customers and the required insurance, and have secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 6th day of July, 1935.

(Decision No. 6555)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

149

* * *

IN THE MATTER OF THE APPLICATION OF RIO GRANDE MOTOR WAY, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE TRANSPORTATION OF PASSENGERS, BAGGAGE, EXPRESS AND PACKAGE FREIGHT IN INTRASTATE COMMERCE AND INTERSTATE COMMERCE BETWEEN PUEBLO AND THE COLORADO-UTAH STATE LINE VIA CANON CITY, SALIDA, BUENA VISTA, LEADVILLE, GLENWOOD SPRINGS AND GRAND JUNCTION AND ALL INTERMEDIATE POINTS, OVER U. S. HIGHWAYS NOS. 50 and 40 SOUTH.

APPLICATION NO. 2325.

July 16, 1935.

Appearances: T. A. White, Esq., Denver, Colorado, for the Rio Grande Motor Way, and for the Denver and Rio Grande Western Railroad Company;
J. Q. Dier, Esq., Denver, Colorado, for the Denver, Colorado Springs, Pueblo Motor Way, Inc., and for The Colorado and Southern Railway Company;
B. C. Jensen, Esq., Salt Lake City, Utah, for A. E. Gosnell, and Inland Pacific Stages;
Mr. J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association;
Mr. E. A. Bloomquist, Pueblo, Colorado, for the Colorado State Legislative Board for the Brotherhood of Firemen and Engine Men;
Mr. John M. O'Connell, Salida, Colorado, for the City of Salida;
Troy E. Wade, Esq., Cripple Creek, Colorado, for the Midland Terminal Railway, and the Cripple Creek, Colorado Springs Stage Company;
Mr. J. D. Blount, Canon City, Colorado, for the Southwestern Transportation Company;
Mr. S. A. Hammond, Red Cliff, Colorado, for the Battle Mountain Transportation Company;
Mr. W. G. Lyons, Pueblo, Colorado, for the Pueblo Chamber of Commerce;
Mr. U. S. Read, 230 W. 5th, Salida, Colorado, for the U. S. Read Truck Lines.

S T A T E M E N T

By the Commission:

This is an application by Rio Grande Motor Way, Inc., a Colorado corporation, for a certificate of public convenience and necessity, and for an interstate permit authorizing the transportation of passengers, baggage, express, and package freight by motor vehicle between Pueblo, Colorado, and the Colorado-Utah State Line, where said State line is intersected by U. S.

Highway No. 50, via Canon City, Salida, Buena Vista, Leadville, Glenwood Springs, and Grand Junction, over U. S. Highways Nos. 50 and 40 South, including all intermediate towns and points along said route.

The matter was heard in Pueblo, Colorado, on June 6 and 7, pursuant to notice.

At the hearing applicant waived right to carry passengers locally between Minturn and Red Cliff and Pueblo and Canon City and intermediate points. Thereupon the Battle Mountain Transportation Company withdrew its objection to issuance of certificate.

A. E. Gosnell protested the application for himself and the Inland Pacific Stages, Inc., but subsequent to the hearing filed formal motion withdrawing his protest to the issuance of the certificate prayed for herein.

A stipulation entered into by Rio Grande Motor Way and J. W. Hayden was introduced, wherein Rio Grande Motor Way waived the right to handle passengers, baggage, express, and freight locally between Grand Junction and Mack, Colorado.

Applicant is a Colorado corporation. It has been operating transportation freight and express services by motor vehicle under certificate of convenience and necessity on the Western Slope and in the San Luis Valley for a number of years. It has assets in excess of $400,000, and its financial statement shows that it is able to finance the proposed operation without borrowing additional money. It also operates motor vehicle passenger freight and express service in the State of Utah, and since the hearing herein has acquired the local and interstate operating rights of the Inland Pacific Stages, Inc., and A. E. Gosnell between Salt Lake City, Utah, and Grand Junction, Colorado. It proposes to operate three stream line motor bus coaches of the latest type in its service between Salt Lake City, Utah, and Colorado-Utah State line, and Pueblo, Colorado. The busses are to be of twenty-one to twenty-five passenger capacity, and to be capable of handling a thousand pounds of express, to consist chiefly

of ice cream, bread, flowers, drugs, automobile parts, newspapers, and emergency shipments. It also proposes to coordinate the operation with the present transportation service now conducted by it.

It appeared that there is no present bus service between Colorado-Utah State line and Pueblo, Colorado, and intermediate points, except for local services between Mack and Grand Junction, Minturn and Red Cliff, and Canon City and Pueblo.

Passenger service between Grand Junction and Pueblo is now limited to two trains daily by way of the Denver and Rio Grande Western Railroad, an additional train being operated by said railroad between Grand Junction and Denver by way of Dotsero. One of these trains from Pueblo is a through train to Salt Lake, and the train operated by way of Dotsero also is a through train to Salt Lake.

The Denver and Rio Grande Western Railroad did not object to the granting of certificate. On the contrary, it appeared that eighty per cent of the outstanding stock of the Rio Grande Motor Way is owned by the Denver and Rio Grande Western Railroad Company, and that the proposed bus service and railroad service are to be coordinated and to be supplemental to each other, the highway and railway being substantially parallel.

Grand Junction, Colorado, is a city of eleven thousand people. It is the business center of the entire Western Slope. Glenwood Springs is a city of two thousand people. It is a summer resort with extensive health features consisting of hot baths, cave baths, swimming pools, etc., and is the business center of a considerable area contiguous thereto. Rifle is a town of about thirteen hundred people, and is the gateway to the "Meeker Country," which is visited extensively by sportsmen. A number of other towns and cities along the route have a considerable population and attractions for tourists.

Mr. John M. O'Connell, Editor of the Salida Mail, in behalf of the town of Salida, made the majority stock ownership of the Denver and Rio Grande Western Railroad Company the basis of Salida's objections to the issuance of application. While not contending that there is a public convenience and

necessity for a bus service, he took the position that if a certificate were to be granted to a bus line, it would be better to grant it to an independent bus line rather than a railroad owned bus line, and, that if granted, the certificate should not be exclusive.

Resolutions from the Board of Directors of the Chambers of Commerce of Grand Junction, Leadville, Eagle, Eagle County, and Rifle, the Boards of County Commissioners of the Counties of Fremont, Eagle, and Garfield, and the Councils of the towns and cities of Red Cliff, Minturn, Glenwood Springs, New Castle, Grand Junction, Debeque, Eagle, and Florence were offered in evidence in support of the application, and various witnesses from said communities testified that public convenience and necessity require the operation of a bus line for the transportation of passengers, baggage, and express. It appeared from their testimony that people residing along the proposed route need both local and through bus service; that there are frequent demands on the part of visitors to our State during the summer time for bus connections from Salt Lake to Grand Junction and Pueblo and points intermediate thereto, and at Pueblo and Denver for points Canon City to Grand Junction and intermediate thereto; that the proposed bus line would make connections at Pueblo with bus service north, south, east, and west; that Glenwood Springs, Grand Junction, Rifle, and Leadville and other Western Slope communities have been deprived of considerable tourist business because a great number of tourists arriving by bus at Denver, Colorado Springs, Pueblo, and Salt Lake City would not go to the points mentioned when they discovered that there were no connecting bus services available thereto. That there is no comparable area or territory in the United States without bus service.

Mr. Gosnell testified that during the month of May he handled eighty-six bus passengers at Grand Junction destined Pacific Coast, and 114 destined Utah points, and that he had more calls for passenger service east out of Grand Junction locally and interstate than passenger service west; and that there are extensive scenic attractions along the proposed line, and that people want to travel it. He and a number of other witnesses testified that a bus line develops business; that it is a more flexible ser-

vice than rail service; that its depots are located in the center of towns as a rule, not the outskirts; that while the railways lost passengers last year, the busses carried more passengers than any year in their history; that more than one thousand passengers daily passed through the Salt Lake City union bus depot. Local witnesses, almost without exception, believed that bus service was inevitable; that it was a progressive step; and that the Rio Grande Motor Way, a subsidiary of the Denver and Rio Grande Western Railway Company, on account of its connections with the railway that had pioneered transportation service on the Western Slope and paid heavy taxes in all counties along the proposed route, should be granted the certificate.

The objections of the Railway Brotherhoods to the granting of the certificate as expressed by Mr. Bloomquist, were based upon the contention that the railroad service is adequate, that there is no necessity for bus service, and that the railways are equipped to handle present and reasonable anticipated future demands for transportation along Highway No. 50, and that the inauguration of bus service might mean a reduction in the number of passenger trains operated between Pueblo and Grand Junction, with consequent loss of employment to railway employes.

The record does not disclose that the railroad contemplates reducing its train service, and in view of the fact that numerous witnesses testified that the bus would develop additional business chiefly among people who refused to ride the railroads, it would appear that Mr. Bloomquist's fears are ill founded. The railroad probably realized that the public demands bus service and prefers to furnish that service rather than have it provided by others.

After a careful consideration of the record, the Commission is of the opinion and so finds: (1) that the public convenience and necessity require the proposed operation of applicant in intrastate commerce along U. S. Highways 50 and 40 south, between Pueblo, Colorado, and a point on said U. S. 40 south where it intersects the Colorado-Utah State line, and (2) that the Constitution of the United States and the laws of the State of Colorado require the issuance to applicant of an interstate permit for

its proposed operation in interstate commerce between Pueblo and the Colorado-Utah State line where U. S. Highway 40 South intersects the same; both findings 1 and 2 being subject to the conditions hereinafter expressed.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operation of the applicant, Rio Grande Motor Way, a corporation, for transportation of passengers, baggage, and express in intrastate commerce between Pueblo, Colorado, and the Colorado-Utah State Line, at a point where U. S. Highway South 40 intersects said line, and all intermediate points over U. S. Highways Nos. 50 and 40 South, except local service between Mack and Grand Junction, and between Minturn and Red Cliff and points intermediate thereto, and between Canon City and Pueblo and points intermediate thereto, 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 Constitution of the United States and the laws of the State of Colorado require the issuance to applicant Rio Grande Motor Way, Inc., of an interstate permit authorizing the transportation of passengers, baggage, and express in interstate commerce between Pueblo, Colorado, and the Utah-Colorado State line, at the point where U. S. Highway 40 South crosses the same over U. S. Highways 50 and 40 South and intermediate points, and this order shall be taken, deemed, and held to be an interstate permit therefor.

IT IS FURTHER ORDERED, That the authority herein granted shall not become effective until applicant has on file with the Commission the proper and necessary insurance required by law and the rules and regulations of the Commission.

IT IS FURTHER ORDERED, That applicant shall file its tariffs of rates, rules and regulations, and time and distance schedules, as required by law and 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

Edward V. Sieber

W. L. Danks

Walter Tipton

Commissioners.

Dated at Denver, Colorado,
this 16th day of July, 1935.

(Decision No. 6556)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF)
LESLIE GILDER FOR A CLASS "B" PERMIT)
TO OPERATE AS A PRIVATE CARRIER BY)
MOTOR VEHICLE FOR THE TRANSPORTATION) APPLICATION NO. 2362-PP.
OF FREIGHT.)

July 16, 1935.

Appearances: Mr. Leslie Gilder, Center, Colorado, pro se;
Mr. A. J. Fregeau, Denver, Colorado, for the Motor Truck Common Carriers Association.

S T A T E M E N T

By the Commission:

Applicant herein seeks a Class B permit, which as limited by the evidence at the hearing, would authorize him to transport livestock, potatoes, and coal from point to point within a radius of twenty-five miles of Center, Colorado, and from and to points in said radius to and from Walsenburg, Colorado, Pueblo and Denver, Colorado, without the right to render point to point service between Walsenburg, Pueblo and Denver, and intermediate points.

It further appeared that applicant was under the impression that he could haul for anyone residing within said district, but upon examination stated that he would be willing to and would confine his operations to those of a private carrier and the service of a selected list of customers. It did not appear that the contemplated operations of applicant as limited will impair the efficient public service of any authorized motor vehicle common carrier or carriers now adequately serving the same territory over the same general highway route or routes.

The financial standing and reliability was established to the satisfaction of the Commission.

After a careful consideration of the record the Commission is of the opinion and finds that a Class B private permit should issue to applicant for the transportation of livestock, potatoes, and coal from point to point within a radius of twenty-five miles of Center, Colorado, and from and to said points to and from Walsenburg, Pueblo, and Denver, without the

right to render point to point service between Walsenburg and Denver and intermediate points.

O R D E R

IT IS THEREFORE ORDERED, That applicant be, and he hereby is, granted a Class B permit to operate as a private carrier by motor vehicle for hire for the transportation of livestock, potatoes, and coal from point to point within a radius of twenty-five miles of Center, Colorado, and from and to said points to and from Walsenburg, Pueblo, and Denver without the right to render point to point service between Walsenburg and Denver and intermediate points, said permit to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 16th day of July, 1935.

(Decision No. 6558)

B-1343

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF GEORGE NAIR FOR A CLASS "A" PERMIT TO OPERATE AS A PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FREIGHT BETWEEN DENVER AND GRAND LAKE, COLORADO, AND INTERMEDIATE POINTS VIA U. S. 40 AND COLO. 16, AND BETWEEN GRAND LAKE AND OAK CREEK, COLORADO, VIA U. S. 40, COLO. 84 AND COLO. 131.

APPLICATION NO. 2381-PP.

July 17, 1935.

Appearances: Mr. Arthur E. Aldrich, Idaho Springs, Colorado, for the Curnow Livery & Transfer Company.
Mr. J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.
John R. Turnquist, Esq., Denver, Colorado, for the Denver and Salt Lake Railway Company.
Marion F. Jones, Esq., Longmont, Colorado, for the Colorado Trucking Association.

S T A T E M E N T

By the Commission:

Although the above styled matter was regularly set for hearing, of which setting applicant was duly notified, said applicant failed to appear at the hearing. Thereupon the protestants regularly moved that said application be dismissed for lack of prosecution.

After a careful consideration of the record, the Commission is of the opinion and finds that said application should be dismissed for lack of prosecution.

O R D E R

IT IS THEREFORE ORDERED, That said application for private permit be, and the same hereby is dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 17th day of July, 1935.

(Decision No. 6559)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * * * *

RE RATES ON GRAIN)
AND GRAIN PRODUCTS) CASE NO. 314
- - - - - - - - - - -)

- - - - - - -
July 17, 1935.
- - - - - - -

S T A T E M E N T

By the Commission:

On January 25, and February 14, 1933, Decisions Nos. 4853 and 4910, we prescribed for application to the intrastate transportation of grain and grain products, in straight or mixed carloads, between points in the State of Colorado, maximum scales of rates, also rules, regulations, minimum weights and practices in connection therewith.

In our Decision No. 4853, we stated: "Since the companion interstate case is still pending, and since it is desirable, if not necessary in many cases, to cooperate with the Interstate Commerce Commission in the fixing of rates, the Commission is of the opinion, and so finds, that jurisdiction over this case should be retained for such further hearings and orders as may be appropriate".

On October 22, 1934, the Interstate Commerce Commission rendered its decision on further hearing in the interstate case and on July 1, 1935, the rates became effective on interstate traffic.

On July 9, 1935, all common carriers by railroad, hereinafter referred to as respondents, operating as such within the State of Colorado, filed a petition with the Commission to vacate and set aside its findings of fact and conclusions based thereon, and also its orders relative thereto, made and entered herein on January 25, and February 14, 1933, prescribing rates on grain and grain products, and to authorize respondents herein to cancel, effective on one day's notice, the rates published in conformity therewith and in lieu thereof to

make effective on Colorado intrastate traffic on the same date, on one day's notice, the rates on grain, grain products and related articles which have been published, effective July 1, 1935, for application on interstate traffic between Colorado points.

After full consideration of all the facts the Commission is of the opinion, and so finds, that Case No. 314 should be reopened for the purpose of realigning the rates on grain and grain products, also rules, regulations, minimum weights and practices in connection therewith, with such rates, rules, regulations, minimum weights and practices as was prescribed by the Interstate Commerce Commission in its decision dated October 22, 1934.

O R D E R

IT IS THEREFORE ORDERED, That Case No. 314, Rates on Grain and Grain Products, be, and the same is hereby, reopened for the purpose, inter alia, of realigning the rates, rules, regulations, minimum weights and practices with those prescribed by the Interstate Commerce Commission in its decision dated October 22, 1934, 205 I.C.C. 301-510.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward E. Wheeler

W. L. Danks

Malcolm Erickson

Commissioners.

Dated at Denver, Colorado,
this 17th day of July, 1935.

(Decision No. 6561)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * * *

IN THE MATTER OF THE APPLICATION OF)
THE AUTO RENTAL SERVICE, INC., A) APPLICATION NO. 2309
CORPORATION, FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY.)

July 17, 1935.

S T A T E M E N T

By the Commission:

On June 12, 1935, the Commission made its order in the instant case, wherein it was provided, inter alia, that if The Colorado and Southern Railway Company did not advise the Commission on or before July 15, 1935, definitely and in detail as to what, if any, steps had been taken by said Company toward the installation of suitable equipment and the inauguration of convenient passenger service on its so-called South Park Branch Line, then in that event the Commission would upon its own motion reopen Application No. 2148 of Harry J. Seerey for the purpose of further hearing, and at the same time set for further hearing the instant application.

Our records disclose that no information of any kind has been submitted to the Commission by said Colorado and Southern Railway Company in conformity with said order of June 12, 1935.

After a careful consideration of the record, the Commission is therefore of the opinion, and so finds, that the instant application should be set down for further hearing in conjunction with Application No. 2148, for the sole purpose of determining whether either or both of said applicants shall be granted a certificate of convenience and necessity as prayed for in their said applications; provided, however, that no testimony shall be taken relative to the question of public convenience and necessity.

O R D E R

IT IS THEREFORE ORDERED, That the instant application be, and the same is hereby, set down for further hearing on Tuesday, the 30th day

of July, 1935, at 10:00 o'clock A. M. in the Hearing Room of the Commission, 330 State Office Building, Denver, Colorado, provided, however, that no testimony shall be taken relative to the question of public convenience and necessity.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward E. Wheeler

W. L. Danks

Malcolm Erickson

Commissioners.

Dated at Denver, Colorado,
this 17th day of July, 1935.

(Decision No. 6562)

116

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE APPLICATION OF TANNER MOTOR LIVERY, LTD.,AND THE PIKE'S PEAK AUTOMOBILE COMPANY FOR AUTHORITY TO SELL, TRANSFER AND ASSIGN THE CERTIFICATE AND RIGHTS OF THE SAID TANNER MOTOR LIVERY, LTD., TO THE PIKE'S PEAK AUTOMOBILE COMPANY TO OPERATE EIGHT MOTOR VEHICLES IN THE SIGHTSEEING BUSINESS IN THE PIKES PEAK REGION.	APPLICATION NO. 594-AAAA

July 18, 1935.

Appearances: J. A. Carruthers, Esq., and Thomas L. Reasoner, Colorado Springs, for applicants.

S T A T E M E N T

By the Commission:

The Tanner Motor Livery, Ltd., is the owner of a certificate of public convenience and necessity heretofore issued in Application No. 594-A-3, authorizing it to operate eight cars in the sightseeing business in the Pikes Peak region. Authority is sought to transfer said certificate to the Pike's Peak Automobile Company.

The transferor and transferee are both corporations. The consideration to be paid for the said transfer and certain personal property belonging to Tanner Motor Livery, Ltd., is $5,000.00. It was represented that all bills of Tanner Motor Livery, Ltd., had been paid, but the Pikes Peak Automobile Company stated that it would assume payment of taxes and other bills incurred by the said Tanner Motor Livery, Ltd., in its operation under said certificate should it later develop that such accounts were outstanding and unsatisfied.

The financial responsibility of transferee was established to the satisfaction of the Commission.

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

the opinion, and so finds, that the authority herein sought should be granted.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same is hereby, granted to Tanner Motor Livery, Ltd., a corporation, to transfer to The Pike's Peak Automobile Company, a corporation, the certificate of public convenience and necessity, heretofore issued in Application No. 594-A-3, authorizing the operation of eight cars in the sightseeing business in the Pikes Peak region, subject to the condition that the transferee assumes and agrees to pay all outstanding obligations of transferor if any there be in connection with transferor's previous operations under said certificate.

IT IS FURTHER ORDERED, That this transfer shall not become effective until transferee shall have on file with the Commission the required insurance required by law.

IT IS FURTHER ORDERED, That the tariffs of rates, rules and regulations of the transferor herein shall become and remain those of the transferee herein until changed according to law and the rules and regulations of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 18th day of June, 1935.

(Decision No. 6563)

A-748

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE MOTOR VEHICLE OPERATIONS OF)
JOSEPH MAPELLI, DOING BUSINESS) PRIVATE PERMIT NO. A-748
AS NORTHERN DISTRIBUTING COMPANY.)

July 18, 1935.

S T A T E M E N T

By the Commission:

The Commission is in receipt of a written request from permittee to suspend its permit No. A-748 for one year.

The Commission sometime ago adopted a policy of revoking, not suspending permits for a period of six months only, with the right of reinstating at any time upon request within said period.

After a careful consideration of the record herein, the Commission is of the opinion and finds that said permit should be revoked, with the proviso that it may be reinstated at any time within six months from the date hereof upon written request of permittee.

O R D E R

IT IS THEREFORE ORDERED, That said permit should be, and it hereby is revoked, subject, however, to the right of permittee to reinstate the same at any time within six months of the date hereof, upon written request and full compliance with our rules and regulations.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 18th day of July, 1935.

(Decision No. 6565)

a-969

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
ALEX GOODMAN FOR A PERMIT TO OPERATE)
AS A CLASS "A" PRIVATE CARRIER BY)
MOTOR VEHICLE FOR THE TRANSPORTATION)
OF ORE CONCENTRATES FROM RUSSELL GULCH) APPLICATION NO. 2321-PP
COLORADO, TO CENTRAL CITY, BLACKHAWK,)
IDAHO SPRINGS, BOULDER, DENVER, COLO-)
RADO SPRINGS AND LEADVILLE, COLORADO.)

July 18, 1935.

Appearances: B. A. Gates, Esq., Denver, Colorado,
for the applicant;
J. F. Rowan, Denver, Colorado,
for Motor Truck Common Carriers Ass'n;
A. J. Fregeau, Denver, Colorado,
for Weicker Transportation Company.

S T A T E M E N T

By the Commission:

As limited at the hearing, applicant herein seeks a Class A permit to operate as a private carrier by motor vehicle for hire, for the transportation of ore concentrates from mill of the Russell Gulch Mining and Smelting Company, situate about three miles south of Blackhawk, and for the occasional emergency transportation of mining repairs and machinery from said mill to Denver, and from Denver to said mill.

The evidence disclosed that applicant is the owner of a Chevrolet one and one-half ton truck; that he has been engaged in hauling concentrates since September, 1934, for the Russell Gulch Mining and Smelting Company only; that upon learning in March of this year that a permit was required before he could engage in hauling concentrates, he filed the application herein; that he has been paying road tax and filing the required reports with the Commission.

Protestants withdrew objections to issuance of permit as limited. It did not appear that any motor vehicle common carrier is engaged in a substantially similar operation in the same territory.

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

the opinion and finds that applicant should be granted a Class A private permit for the transportation of ore concentrates from the mill of Russell Gulch Mining and Smelting Company, about three miles south of Blackhawk, Colorado, to railroad loading point at Blackhawk, and for the occasional emergency transportation of mill machinery from said mill for repairs to Denver and from Denver to said mill.

O R D E R

IT IS THEREFORE ORDERED, That applicant, Alex Goodman, should be and he hereby is granted a Class A private permit to operate as a private carrier by motor vehicle for the transportation of ore concentrates from the mill of the Russell Gulch Mining and Smelting Company, situate about three miles south of Blackhawk, to Blackhawk, Colorado, and for the occasional emergency transportation of mill machinery for purposes of repair only from said mill to Denver, and occasional emergency shipments of repair parts for machinery and repaired machinery from Denver to said mill, said permit to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward E. Wheeler

W. L. Danks

Mason Wilson

Commissioners.

Dated at Denver, Colorado,
this 18th day of July, 1935.

(Decision No. [redacted])

A-966

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF E. L. BRINLEE FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF COAL FROM THE CANON CITY, COLORADO, DISTRICT TO PUEBLO, COLORADO, VIA MINE ROADS AND U. S. HIGHWAY NO. 50.	)	APPLICATION NO. 2399-PP

July 18, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado,
attorney for applicant;
Mr. J. F. Rowan, Denver, Colorado,
for Motor Truck Common Carriers Association.

S T A T E M E N T

By the Commission:

Applicant herein seeks a Class A permit to operate as a private carrier by motor vehicle for hire for the transportation of coal only from the coal mining district in Canon City to Pueblo, Colorado, via mine roads and U. S. Highway No. 50, for Gordon Scott Fuel Company, of Pueblo, Colorado.

The evidence disclosed that applicant owns a Chevrolet 1934, one and one-half ton truck and other property, his net worth being approximately $1700.00; that his proposed operation will not conflict with the operation of any motor vehicle common carrier.

The Motor Truck Common Carriers Association, through its representative, Mr. J. F. Rowan, withdrew objections to issuance of permit as limited.

After a careful consideration of the record, the Commission is of the opinion that applicant's request for a permit should be granted.

O R D E R

IT IS THEREFORE ORDERED, That applicant, E. L. Brinlee, should be and hereby is granted a Class A private permit to operate as a private carrier by motor vehicle for hire, for the transportation of coal only from mines in the Canon City, Colorado, coal field to Pueblo, Colorado,

for Gordon Scott Fuel Company, by various mine roads and U. S. Highway No. 50, said permit to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operations which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 18th day of July, 1935.

(Decision No. 6570)

B-974

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF C. R. MARKHAM FOR A PERMIT TO OPERATE AS A CLASS "B" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF FARM PRODUCTS, GRAVEL, LUMBER AND CEMENT BETWEEN POINTS WITHIN AN AREA OF 50 MILES AROUND MEAD, COLORADO OVER IRREGULAR ROUTES.	APPLICATION NO. 2383-PP

July 22, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, attorney for applicant;
J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
George H. Swerer, Esq., Denver, Colorado, for McKie Transfer Company, Inc.

STATEMENT

By the Commission:

Applicant seeks a Class B private permit authorizing the transportation of farm products, coal, gravel, cement and lumber between points within a radius of ten miles of Mead, Colorado, to and from points within a radius of 50 miles of Mead, no pickups of freight to be made except within the ten-mile radius of Mead except only for delivery within said ten-mile area.

Mead is a small town of approximately 150 population, situated 35 miles south of Fort Collins, Colorado. At the hearing, applicant waived any request for authority to serve Denver, Colorado, and stated that Boulder, which is 27 miles from Mead, is the farthest point that he would desire to serve.

It was further stipulated that in the transportation of freight between points served by common carrier line haul operators, applicant would charge at least twenty per cent more than the tariff rate of said common carrier.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that applicant is entitled to a Class B permit for the service requested and as above limited to an operation within a radius of 30 miles of Mead, Colorado.

O R D E R

IT IS THEREFORE ORDERED, That a Class B permit be issued to applicant authorizing the transportation of farm products, gravel, cement, coal and lumber from point to point within an area not exceeding 30 miles from Mead, Colorado, subject to the following conditions;

(a) No pickup of freight shall be made except within a 10-mile radius of Mead, excepting such freight as is picked up within said 10-mile area for delivery within a thirty mile radius of Mead.

(b) In the transportation of any freight authorized to be handled under this permit, where the operation is between points served by a motor vehicle common carrier, applicant shall charge not less than 20 per cent more than the tariff rate of such common carrier.

IT IS FURTHER ORDERED, That said permit shall not issue until applicant shall have filed a list of his customers and the required insurance with the Commission, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 22d day of July, 1935.

(Decision No. 6571)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

THE TOWN OF SPRINGFIELD, COLORADO, A CORPORATION, Plaintiff, vs. HIGHLAND UTILITIES COMPANY, Defendant.	)	CASE NO. 1183
RE RATES OF HIGHLAND UTILITIES COMPANY.	)	I. & S. DOCKET NO. 202

July 23, 1935.

Appearances: Lowell D. Hunt, Esq., Denver, Colorado, for Highland Utilities Company;
Mr. Alfred A. Arraj, Springfield, Colorado, for the towns of Springfield, Pritchett, Two Buttes and Vilas;
French L. Taylor, Esq., Thatcher Building, Pueblo, Colorado, and Chas. A. Petrie, Esq., Eads, Colorado, for the Town of Eads;
S. W. Carpenter, Esq., Mancos, Colorado, and John J. Downey, Esq., Cortez, Colorado, for the Towns of Cortez, Dolores, and Mancos.
R. E. Conour, Esq., Denver, Colorado, for The Public Utilities Commission.

S T A T E M E N T

By the Commission:

CASE NO. 1183

This case was instituted July 24, 1933, by the filing of a complaint against the Highland Utilities Company, defendant, by the Town of Springfield, Colorado, complainant, wherein it was alleged that the rates charged in Springfield by said utility to the inhabitants, as well as the municipality, were excessive, and praying for a reduction to a fair and reasonable basis.

Thereafter, petitions in intervention were filed by the towns of Pritchett and Two Buttes, seeking similar relief.

INVESTIGATION AND SUSPENSION DOCKET NO. 202

On October 23, 1933, defendant filed proposed tariffs providing for increased rates in the various communities served by it (excepting Kit Carson) in the State of Colorado. The increase proposed consists of a service charge of 50 cents (residential) and $1.00 (commercial) per month per meter. The various communities affected protested said increases, and said proposed schedules were suspended by the Commission. Both matters were consolidated for hearing and duly heard.

Thereafter, on March 13, 1935, both of said cases were reopened for the purpose of taking evidence "(1) on the question of the reasonable value of the service being rendered by Highland Utilities Company in the various districts served by it, and (2) as to what the actual revenues of the company in the various districts were for the year 1934." Further evidence was introduced at said reopened hearings upon both of the above questions.

CORPORATE AND FINANCIAL HISTORY

Highland Utilities Company was incorporated in this State in 1928. It is described as "an associated company" with the William A. Baehr Organization, Inc., both said companies being subsidiaries of North Continent Utilities Corporation.

Its executive offices are located at Chicago, Illinois, and it operates three separate properties in Colorado designated as follows:

Baca County Division - Power plant and principal operating office located at Springfield, and serving the towns of Springfield, Walsh, Two Buttes, Vilas, Pritchett, Kleison City (North Vilas), and adjacent territory.

Mesa Verde Division - Principal operating office located at Cortez, and serving the towns of Cortez, Mancos, Dolores, and adjacent territory.

Eads Division - Power plant and principal operating office located at Eads, serving the town of Eads and adjacent territory, also a power plant at Kit Carson serving the town of Kit Carson and adjacent territory.

On April 12, 1928, defendant acquired the property of the Baca County Power Company (not incorporated), Dwight Chapin, owner, consisting of an electrical and ice business at Springfield. This property was first purchased by the said William A. Baehr Organization for a stated consideration of $44,000.00. The Baehr Company transferred title to the North Continent Utilities Company, and the latter conveyed same to defendant in full payment for one thousand shares of its common stock.

The authorized capital stock of the Highland is $2,000,000.00, of which $800,000.00 has been issued and is outstanding as follows:

Class	No. of Shares authorized	Par Value per share	Total par value authorized	Par Value issued and outstanding
Common	20,000	$100.00	$2,000,000.00	$800,000.00

Issued for the Following Considerations:

Acquisition of electric plant and distribution system and ice plant at Springfield		$100,000.00
Acquisition of light and ice plant at Ulysses, Kansas		60,000.00
Acquisition of light plants at Dolores and Cortez, and a coal mine at Cortez, and 100 shares par $100.00 of common stock and property of Montezuma Electric Co. at Mancos as follows:		67,000.00
Dolores property	$15,000.00	
Cortez "	40,000.00	
Mancos "	12,000.00	
Acquisition of light plants at Eads and Kit Carson and water plant at Eads -		573,000.00
		$800,000.00

The records indicate that no dividends have been paid to January 1, 1934. (Ex. 4, page 4)

In 1929, defendant extended its system to Pritchett, Vilas, Walsh and Two Buttes. North Continent Utilities Company has advanced to defendant to July 31, 1934, $181,495.29, exclusive of the amount advanced for purchase of property, which including expenses totals $49,654.66, and for which the stock above mentioned was issued. Of this amount, $81,248.32 has been repaid, but with accumulated interest of $54,227.13, a balance of $154,474.10 was due July 31, 1934. (Ex. 3, page 15)

ESTIMATES OF ENGINEERS OF REPRODUCTION COST NEW OF BACA COUNTY DIVISION

Defendant has prepared and introduced in evidence a complete detailed inventory of its Baca County Division property. (Ex. No. 1) At the hearing, it was conceded that said inventory was correct. The said inventory contains also a valuation of the various items of property therein listed, and relative to said valuations, E. R. Foster, chief engineer in charge of valuations and rates for the Baehr Organization, testified as follows:

> "The inventory proper, which is the Company's Exhibit 1, includes the valuations of physical property which were obtained in the field by two engineers from the Chicago office who worked under my direction. These men made notes as they went over the property, observed it, and we summarized these notes into the form contained in Exhibit 1. At the same time that the physical statistics were gathered, the field crew acquainted themselves with current prices, that is, prices of materials which were obtained or could be obtained locally in producing the property or reproducing it, and those prices were used to apply to the physical statistics to produce the complete valuation." (R. page 3)

The inventory was made as of December 1, 1933, and the valuations are based on prices current on that date. (R. page 2) Said valuation discloses a reproduction new cost of $167,412.00, and a reproduction cost new less depreciation of $150,621.00. The total with the additional items claimed by defendant follows:

		Dec. 1, 1933 Price Basis		
Classification	Cross Reference Page No.	Cost of Reproduction New	Condition %	Cost of Reproduction New, Less Depreciation
		$		$
Land	R-2	345.	100	345.
Transmission Lines	R-8	38,773.	96	37,415.
Distribution Systems	R-25	49,376.	95	46,729.
Building & Miscellaneous Structures	R-26	6,258.	90	5,611.
Plant Equipment	R-29	66,468.	85	56,425.
General Equipment	R-30	6,192.	66	4,096.
Total Base Figures Only	R-30	167,412.	90	150,621.
Items of Additional Cost, 20%		33,482.	90	30,124
Total Physical Property		200,894.	90	180,745.
Fair Allowance for Working Capital	R-31	4,000.	100	4,000.
Cost of Financing, 7%		15,422	90	13,906.
Fair Allowance for Going Value	R-31	32,000	100	32,000.
Total Physical Property and Business		252,316	91	230,651.

In Exhibit 3, page 13, an adjustment of the above figures to July 1, 1934, was made, showing total depreciable property of that date as $214,402.00 and a total claimed value as a rate base of $229,646.00. The 20% item "additional cost" is broken down as follows:

Legal organization and general expense---	3%
Engineering and supervision----------	7%
Contingents and omissions----------	4%
Interest during construction----------	5%
Taxes during construction----------	1%
Total	20%

H. B. Dwight, the Commission's engineer, in a written report (Ex. 7, page 5) finds a total reproduction new cost of $155,073.55, including "construction overheads," but excluding general overheads, working capital and going value. He finds a value of $59,175.00 for the distribution systems by using $75.00 per consuming meter as a factor of cost and multiplying by 789 meters in service; a value of $36,800.00 for the transmission line estimated at 46 miles, with a cost factor of $800.00 per mile; a value of plant equipment of $45,900 by using a cost factor of $90.00 per H. P. f.o.b. site with all additional equipment and erected, total H. P. 510.

J. C. Riley, engineer for the Town of Springfield, finds a total reproduction cost new of $137,345.87. He deducts a total of $29,686.29 for depreciation, allows $2,967.60 for working capital and $4,306.38 for going value, giving a rate base of $114,933.56. (Ex 6, page 1) In arriving at the value of plant equipment, Mr. Riley used the same method as Dwight, namely, $90.00 per H. P. He testified that his figures on depreciation and approximate age were based on personal knowledge and observation. His figures in all instances are lower than defendant's. However, the witness admitted that the defendant's valuations of its transmission lines were correct and that his Exhibit No. 5 was in error in this respect. This would add the sum of $3,992.46 to his reproduction cost figure.

The valuation figure of $90.00 per H. P. f.o.b. site, with all additional equipment and erected, used by both Dwight and Riley, was taken from an estimate of Fairbanks-Morse & Company of Denver (Exhibit 8). The record discloses that of the total of four engines of 510 H. P. listed under "Plant Equipment," all of them except one 100 H.P. 56.3 KVA were manu-

factured by Fairbanks, Morse & Company. The additional equipment was manufactured partly by Fairbanks Morse and partly by others, so the estimate of Fairbanks, Morse & Company is not, of course, conclusive, but certainly has some probative weight in arriving at the value of this plant. As an example of the wide divergence in the estimates of the engineers for defendant and complainant, we mention one item of "Plant Equipment," vis., 150- H. P. 75 KVA generating unit given a reproduction cost by defendant of $7,728.48, and a depreciated value of $4,637.00. The engineer for complainants gives this same item a reproduction cost of $4,500.00 and a depreciated value of $450.00.

After a careful consideration of the record with due regard to all material factors, we are of the opinion and so find that the reproduction new cost of the Baca County Division of defendant's property, exclusive of so-called "items of additional cost," is $153,018.00.

ITEMS OF ADDITIONAL COST

The record is silent as to actual expenditure by defendant of any specific amounts claimed as items of additional cost in the construction of its property, and while this fact does not of itself justify the elimination of such cost, yet a study of the growth of this particular system leads to the conclusion that many of these so-called "items of additional cost" were undoubtedly charged as an operating expense. We feel that the following items are reasonable allowances in view of all the facts and circumstances of the instant case:

Legal organization and general expense.....	1%
Contingencies and omissions.....	2%
Interest during construction.....	3%
Taxes during construction.....	1%
Total	7%

It will be noted that no allowance is made for "engineering and supervision" as in our opinion this item was amply taken care of in the appraisal figures of defendant's inventory.

DEPRECIATION

Defendant concedes an actual depreciation of $16,791.00, while complainants maintain the property has depreciated $29,686.29. Most of the

property is from five to seven years old, although the generating units in most cases have been in use longer than this. Defendant's testimony was to the effect that

> "These depreciation allowances or per cent conditions were obtained at the time the inventory was made by observation of the various items of physical property as they existed in service in the field. We have taken into account in this depreciation allowance the various items that go to make up depreciation, that is, life and age, physical wear and tear, obsolescence, supersession and inadequacy."

A due consideration of all the evidence leads us to the conclusion, and we so find, that the property as a whole is now in 89 per cent condition.

WORKING CAPITAL

In our opinion, the estimate of defendant for this item is reasonable and should be allowed in the amount of $4,000.00

COST OF FINANCING

Defendant claims an allowance of 7% for this item. Again, we have no testimony as to the expenditure of any definite sum for this purpose. In Los Angeles Gas and Electric Corporation v. Railroad Commission of Calif., 58 Fed. (2d) 256, P. U. R. 1932C 406, the Court states:

> "The large amounts claimed by the company for cost of financing, $5,921,470; promoters' remuneration, $2,500,000; cost of attaching business (going concern value) $9,228,667; added 'difficulty' costs, $580,195; we think were properly rejected as for their total amounts. The company's claim was that these sums should be added to the present investment cost of its property on the theory that in fixing fair value it was entitled to assume an original venture to be promoted and built up over a contemplated period of eight years, saying, in effect: 'If we were starting today to develop our business anew, without capital or customers, all of the amounts enumerated would probably be expended.' Basically, the object of an appraisement for rate-making purposes is to find the full value of the investment in the business. The investment is represented by the value of the property used and necessary in the business - not what it would cost to promote and establish a like business starting today."

Upon appeal to the United States Supreme Court in said case, 289 U. S. 287, 77 L. Ed. 1180, P. U. R. 1933C 244, Mr. Chief Justice Hughes, in commenting upon the above finding of the lower court, stated:

> "Coming to the cost of reproduction we agree with the court below that the items included in the company's estimate for cost of financing * * * and promoters' remuneration * * * were too conjectural to be allowed."

Quoting Wabash Valley Electric Co. v. Young, 287 U. S. 488, 500, P.U.R. 1933A, 433; 53 Sup. Ct. 234. To the same general effect, see Ill. Commerce Commission v. Public Service Co. of No. Illinois, 4 P.U.R. (N.S.) 1, 24, and Dayton Power and Light Co. v. Public Utilities Commission of Ohio, 292 U. S. 290, 3 P.U.R. (N.S.) 279, and 54 S. Ct. 647, 279, 293.

In view of the above authorities, we have determined to disallow any amount for this item.

GOING VALUE

Again we have an element of value which "upon proof of its existence" may have a place in the base upon which rates are to be computed. Los Angeles Case, supra. In the Dayton Power and Light Company Case, supra, the Supreme Court upheld the decision of the Public Utilities Commission of Ohio in denying any separate allowance for "going value" upon the theory that any such value was sufficiently reflected in the cost of developing "new business" and in the appraisal of the physical assets as a part of an assembled whole. To the same general effect, see the Ill. Commerce Commission Case, supra, 42. A careful consideration of the record in the instant case leads us to the opinion, and we so find, that five per cent of the fair value of defendant's property would be a reasonable allowance for going value.

We have determined, and so find, after due consideration of all material factors, that a fair and reasonable rate base in the instant case is the cost of reproduction new less depreciation, plus working capital and going value, as shown by the following table:

Classification	Cost of Reproduction New	Condition Per Cent	Cost of Reproduction new less Depreciation
Land	$ 345.00	100%	$ 345.00
Transmission Lines	38,773.00	96%	37,415.00
Distribution System	45,275.00	92%	41,653.00
Buildings & Miscellaneous Structures	5,750.00	90%	5,175.00
Plant Equipment	56,875.00	83%	47,206.00
General Equipment	6,000.00	66%	3,960.00
Total Base Figures	153,018.00	89%	135,754.00
Items of additional cost, 7%	10,711.00	89%	9,533.00
Total	163,729.00	89%	145,287.00
Allowance for working Capital	4,000.00	100%	4,000.00
Allowance for going value	7,264.00	100%	7,264.00
Total Physical Property and Rate Base	174,993.00	89.5% (weighted average)	156,551.00

OPERATING REVENUES AND EXPENSES

Defendant's estimate of operating revenue for the twelve months ending July 31, 1935, including the sum of $852.00 as "increased business" amounts to $39,928.65. The annual revenue for the twelve months ending July 31, 1934, was $37,076.65. (Ex. 3, page 1) Included in this total is the sum of $1,107.49 for current sold to the ice department during said period, amounting to 71,897 kilowatt hours and based on a price of approximately 1.43 cents per KWH. Defendant claims this is the approximate cost of said current. It would appear that a higher rate than this is justified. A utility may not furnish the products of one of its operations to another operation at a discriminating rate.

> "Discrimination in water rates exists when the water company charges a school district $3.00 per thousand gallons, while it charges itself only $1.50 per thousand gallons for water used in its mining department." Tintic School District v. Mammoth Mining Co., P.U.R. 1923C 802.

No comparable rate appears in the tariff of defendant. However, defendant has a pumping rate to the City, under contract, under which the charge is 5 cents for the first 300 KWH, 4 cents for the next 1700, 3½ cents for the next 3,000, and 3 cents for all over 5,000.

In our opinion, this same rate is a reasonable and non-discriminatory charge that should be made for energy for the ice department. Based on the annual consumption to July 31, 1934, this would increase defendant's estimate of revenue $1,012.72. Operating expenses before depreciation for the year ending July 31, 1934, are $26,487.99, and estimated for the year ending July 31, 1935, at $29,295.18. In this latter item is included $2,753.60 paid by defendant to the William A. Baehr Organization for services by the latter organization.

In justification of this charge, defendant's witness testified that the same covers the expense of engineering services, valuations, rate services, accounting services, financial advice and general management. Without discussing these services in detail, it would appear to the Commission that any charge in excess of $200.00 per month for said services is unfair to the consumers and patrons of defendant in Baca County. We would, therefore, deduct the sum of $353.60 from the operating expenses of defendant.

> "Payments by operating utilities ~~and~~ to corporate affiliates for managerial or other services are justified only (1) where the services rendered are necessary to the successful operation of the utility, and (2) when the fees charged are no greater than the cost of such services if provided by an independent agency or performed by the utility's own personnel." St. Joseph v. St. Joseph Water Co., Case No. 6851, August 25, 1933, 4 P.U.R. (N.S.) 541.

Under the heading "Deferred Preliminary Engineering Expense," we find an item of $1,268.61 included in defendant's estimated operating expense. It appears from the record that this item of expense was incurred in the year 1931 when it was contemplated that the Springfield and Kansas properties might be tied together and served from a single station. The total of this charge was $3,987.20, although no direct testimony is given as to the items making up this amount. We do not feel that this item is sufficiently justified by the record. The same, therefore, will be eliminated from operating expense. The sum of $110.52, which is the amount defendant estimates as 3% Federal tax upon its increased service charge (if same were granted) will also be deducted. This leaves a total estimated operating revenue for the period ending July 31, 1935, of

$39,260.02, and a total operating expense before depreciation of $27,562.45, which would give a net before depreciation of $11,697.57, from which should be deducted, as a fair allowance for annual depreciation charge, three per cent of the depreciable property, or $4,911.87, leaving a balance of $6785.70 net available for return, or 4.3+ per cent on the estimated rate base of $156,551.00. This cannot be said to be an unreasonable or excessive return, and we are, therefore, of the opinion, and so find, that the instant case No. 1183 should be dismissed.

INVESTIGATION AND SUSPENSION DOCKET NO. 202

We feel that it is unnecessary to discuss in detail the evidence relative to the value, operating income and expense in connection with the petition of Highland Utilities to increase its rates by the addition of the service charges heretofore mentioned. Much of what has been said in Case 1183 relative to revenue and expense would apply to both the Eads and Mesa Verde Divisions. No detailed inventory and appraisal of these properties has been made, but a so-called "short cut" method of ascertaining values has been developed.

At Eads, $172.00 per H. P. and $75.00 per meter are the factors used for the valuation of plant and distribution system respectively. Plant equipment is "estimated." Seven per cent is included for cost of financing, $8,000.00 for "going value," and $3,000.00 for "working capital." In the breakdown of operating revenue figures, we find that current is sold by the Highland Utilities to the Water Department (also owned by defendant) at Eads at the estimated switchboard cost. It is further disclosed that operating expenses include the sum of $2,754.41 paid to the William A. Baehr Organization, Inc., for services. After allowing 4% for annual depreciation, Highland Utilities' estimate as disclosed by Exhibit 9, page 1, shows a net available for return of $1,813.30 in the red, and a total value of property and business of $81,097.00, assuming a 90 per cent condition. The engineer for the Town of Eads, by using $120.00 per H. P. and $60.00 per meter as a factor of cost for the plant and distribution system

respectively, giving the property an 85% condition, arrives at a rate base of $50,914.00, and after making certain additions to operating revenue by increasing the rate to the water department and deducting certain items of expense in connection with the charges paid the Baehr organization and the superintendent at Springfield and allowing 3% for annual depreciation, finds a net return of $3,285.60 or 6.45% upon the estimated rate base.

MESA VERDE DIVISION

In arriving at its valuation for the Mesa Verde Division, Highland Utilities uses a cost factor of $1,750.00 per mile for its county transmission line to Mancos, $900.00 per mile for 27.6 miles of its lines between Mancos, Dolores, and Cortez, and $700.00 per mile for 2.4 miles of such lines. It estimates the value of its substations and general equipment and values its distribution system upon a cost factor of $85.00 per meter, which gives a total reproduction cost new of its physical property of $108,890.00. It estimates this property to be in 90 per cent condition, allows 7 per cent for cost of financing, $5500.00 for working capital, and $25,000.00 for "going value," giving a total value of property and business of $136,291.00. After allowing four per cent for annual depreciation Highland Utilities' estimate as disclosed by Exhibit No. 11, page 1, shows a net available for return of $5,642.00.

In its operating expense account, we find that in the year 1934, it paid William A. Baehr Organization for service charge $2,755.58. The Company operates no generating equipment within its Mesa Verde Division, but purchases its power from the Western Colorado Power Company.

The Commission is unable from the record to fix or determine a rate base or find a fair value of the Highland Utilities property in either the Eads or Mesa Verde Divisions. In considering the question of whether the Company is entitled to an increase of its rates, several factors must be considered. The application for such increase was based upon the following allegations:

"The Company finds this action necessary due to general decrease in already inadequate revenues, and due to increased expenses beyond its control, such as increased Federal taxes and increased expenses following compliance with the N. R. A. Code."

Any increased expenses due to the N. R. A. Code would appear to be removed from consideration as the Company withdrew from the Code January 1, 1934.

We have held in Re Home Gas and Electric Company, Case 1074, 5 P.U.R. 107 (New Series 1934), that a utility is entitled to include the Federal 3 per cent tax as an operating expense, provided it is not earning a reasonable return without the inclusion of said tax.

At the reopened hearing that was held, the exhibits disclosed that Highland Utilities' gross income did materially increase in the year 1934 over the year 1933. Evidence was also introduced showing various comparisons between the rates charged by the Highland Utilities Company and other utilities operating in Colorado. Outside of Pagosa Springs, we find that the lowest cost for 30 KWH consumption per month in towns of from 500 to 1000 population ranges from $2.25 per month to $4.50 per month. The towns of Cortez, Mancos, and Dolores all pay the latter figure, while the charge for said service at Eads is $4.30. (See Exhibit 15) Some comparisons were made in rates charged in territory that was stated to be comparable to that territory served by Highland Utilities, and in every instance the rates for 30 KWH per month were lower. Springfield pays a charge of $4.50 for 30 KWH per month, and we find that this is only exceeded by one other town of comparable size in the State, although Crested Butte pays the same charge. The lowest charge (outside of the municipally owned plants) for a town of comparable size with Springfield in Colorado pays a rate of $1.80 for 30 KWH per month.

A number of witnesses testified that in their opinion any increase in the present rates would mean a diminution of the gross revenues received by Highland Utilities. All of the territory in question has suffered severely from drought and general economic conditions. We appreciate that a comparison of rates is not at all conclusive as to the reasonable value of same unless all elements are taken into consideration, but such comparisons at least afford a factor in arriving at the reasonable cost of service.

The question of "reasonable value of service" is rather an illusive one and very difficult of exact determination in any specific case. However,

the Commission feels that upon the record made in the instant cases, it is rather apparent that the rates of the Highland Utilities Company are upon so high a basis that the question of diminishing returns may become an important factor if further increases in rates are deemed advisable in order to secure what the utility may consider a reasonable return. Certainly the average trend of rates in recent years has been downward, and very few utilities have attempted to increase their rates during the period of economic depression through which the country has been passing.

> "In fixing public service rates, value of service to consumer, ability of consumer to pay, and prevailing economic conditions are to be considered in connection with all other facts and circumstances bearing upon the question of what is reasonable and sufficient compensation." State ex rel. Puget Sound Power and Light Co., et al. v. Department of Public Works of Washington, et al., Sup. Ct. of Washington, Pac. Rep. of Jan. 18, 1935, page 351.

> "The reasonableness of rates applies to both utility and consumer; the former is entitled to a fair return on the value of its property, and the latter is entitled to demand that the charge for utility service does not exceed the reasonable value of such service. If established rates represent the maximum value of a utility's service to the consumer, they cannot be said to be confiscatory as to the utility, whatever may be the result upon the latter's return." Gilbert E. Gay et al. v. Damariscotta-Newcastle Water Company, Maine Supreme Court, 162 Atl. 264; P.U.R. 1932E 300, 302.

> "While the interests of the owners of the property are to be considered, they are not entitled to a greater return than it can normally earn under proper management. In other words, as between the two parties, the public or the consumer has the right to receive the service at its fair value or for what it is worth. The customer has the right to demand that no more shall be exacted from him for such service than the reasonable value of the service, and should not be subjected to the payment of unreasonable rates simply that stockholders may earn dividends. If such a corporation cannot maintain and operate its plant so as to pay satisfactory dividends on all of its outstanding stock, this is a failure which the Constitution does not require to be remedied by imposing unjust burdens upon the public." Pond on Public Utilities, Third Edition, 571, Section 550.

Some of the evidence would indicate that the town of Springfield is perhaps being burdened by the service rendered in that division to the towns of Walsh, Vilas, Pritchett and Two Buttes, but the evidence in this connection is not clear enough for the Commission to make any definite finding in regard thereto. We have no doubt that if a complete inventory and valuation were made of the Mesa Verde Division, in view of the in-

creased revenue disclosed by the record that is being received in that territory, that the utility is, or shortly will be earning a fair return upon its investment in that division. We further believe that the Springfield division is or shortly will be in the same position. In the Eads Division, we believe it is apparent that the revenues are not sufficient to make a fair return to the utility.

After a careful consideration of all the record, the Commission is of the opinion, and so finds, that the proposed rate schedules of the Highland Utilities Company providing for said extra service charges, are not justified so far as the Springfield and Mesa Verde divisions are concerned.

We further find that said extra service charges have been justified so far as the Eads division is concerned.

O R D E R

IT IS THEREFORE ORDERED, That Case No. 1183 be, and the same is hereby, dismissed.

IT IS FURTHER ORDERED, That in I. & S. Docket No. 202, the proposed service charges are not justified and that said schedules, insofar as they affect the Springfield and Mesa Verde divisions, be, and they are hereby suspended, but without prejudice.

IT IS FURTHER ORDERED, That the proposed service charges insofar as the same affect the Eads division, have been justified and Highland Utilities Company will be permitted to make the same effective August 1, 1935.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 23d day of July, 1935.

(Decision No. 6572)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF FRANK ATWOOD AND L. M. ATWOOD, DOING BUSINESS AS ATWOOD BROTHERS, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE TRUCK SERVICE BETWEEN FORT MORGAN AND SURROUNDING TERRITORY WITHIN A RADIUS OF THIRTY MILES AND ALL POINTS IN THE STATE OF COLORADO, IN IRREGULAR SERVICE.	)	APPLICATION NO. 2370

July 23, 1935.

Appearances: Marion F. Jones, Esq., Longmont, Colorado, for applicant;
J. F. Rowan, Denver, Colorado, for Northeastern Motor Freight and Motor Truck Common Carriers Association;
Samuel Chutkow, Esq., Denver, Colorado, for E. F. Anderson, protestant;
G. C. Twombly, Esq., Fort Morgan, Colorado, for Chicago, Burlington & Quincy Railroad Company.

S T A T E M E N T

By the Commission:

This is an application by Frank Atwood and L. M. Atwood of Fort Morgan, Colorado, co-partners, doing business as Atwood Brothers, for a certificate of public convenience and necessity to transport on call and demand, by motor vehicle, livestock, farm produce, farm machinery, farm supplies and furniture to and from various points in Morgan County with occasional shipments of farm products to Sterling, Colorado; to transport by motor vehicle livestock from points in Morgan County to the markets in Denver and in emergency cases to transport farm machinery, irrigation and highway supplies from Denver and other points in the State to points in Morgan County.

The testimony shows that there is a public convenience and necessity for the transportation service for which authority is hereby sought. The Atwoods are experienced men in the trucking business and at this time have two trucks and equipment valued at approximately $3,000. They say they are in a position to acquire further equipment as the business may require.

Mr. Twombly, on behalf of the Chicago, Burlington & Quincy

Railroad, interposed an objection to the effect that not all parties who should have notice were notified of this hearing. However, Mr. Twombly did not represent any of those parties to whom he referred and his objection should be overruled.

The applicants agreed that in the transportation of all freight, except household goods and livestock, between points served by scheduled carriers a rate would be charged which would be at least 20 per cent in excess of the scheduled carriers' rates. The applicants also agreed as to furniture hauling to keep on file a tariff containing rates not lower than those already on file with the Commission of the Colorado Transfer & Warehousemen's Association, and also agreed 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 require the motor vehicle operation of the applicants, Frank Atwood and L. M. Atwood, for the transportation of furniture, livestock, farm products, farm machinery and supplies, from and to and to and from all points in Morgan County, and occasional hauls of farm products to Sterling, Colorado.

The Commission also finds that the public convenience and necessity require the proposed motor vehicle operation of the applicants for the transportation of livestock from Morgan County to the Denver markets, and emergency hauls only of farm machinery, irrigation and highway supplies from Denver and other points to Morgan County.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the motor vehicle operation of the applicants, Frank Atwood and L. M. Atwood, co-partners, doing business as Atwood Brothers, for the transportation of furniture, livestock, farm products, farm machinery and supplies from and to and to and from all points within Morgan County, and an occasional haul of farm products to Sterling, Colorado, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor,

subject to the conditions hereinafter set forth in paragraphs (a) and (b).

IT IS FURTHER ORDERED, That the public convenience and necessity require the motor vehicle system of the applicants for the/transportation of livestock from points in Morgan county to the markets in Denver and in emergencies only for the transportation of farm machinery, irrigation and highway supplies from Denver and other points in the State to points in Morgan County, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor, subject to the following conditions:

(a) For the transportation of all commodities, including machinery, irrigation and highway supplies, other than household goods and livestock between points served by scheduled carriers, the applicants shall charge rates which in all cases shall be at least 20 per cent in excess of those charged by the scheduled carriers.

(b) Applicants shall not operate on schedule or engage in the transportation of freight generally between points served by scheduled carriers.

IT IS FURTHER ORDERED, That the applicants shall file and keep on file with this Commission tariffs of rates for the transportation of furniture and household goods which shall not be less than those carried 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 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

Edward E. Wheeler
W. A. Danks
Malcolm Erickson
Commissioners.

Dated at Denver, Colorado,
this 23rd day of July, 1935.

(Decision No. 6573)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF T. H. TAYLOR FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF ORE BETWEEN DENVER AND MINING DISTRICTS ADJACENT TO IDAHO SPRINGS AND BETWEEN THESE DISTRICTS AND COLORADO SPRINGS, AND ALSO LEADVILLE, VIA U. S. 40, U. S. 85 and COLO. 91 and LOVELAND PASS.

APPLICATION NO. 2407-PP

July 23, 1935.

Appearances: Mr. T. H. Taylor, Box 131, Idaho Springs, Colorado, pro se;
Mr. A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company;
Mr. J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
Marion F. Jones, Esq., Longmont, Colorado, for Colorado Trucking Ass'n.

S T A T E M E N T

By the Commission:

As limited at the hearing, applicant herein seeks a Class A permit to operate as a private carrier by motor vehicle for hire for the transportation of ore from the mining properties of the Lombard Mining Company and the Red Elephant Mining Company, situate approximately six miles and five miles respectively from Idaho Springs, Colorado, to Idaho Springs, Colorado, with the right to occasionally haul a load of high grade ore from said mines to Denver, Colorado Springs or Leadville.

The evidence disclosed that applicant has a 1935 Chevrolet one and a half ton truck, which he recently purchased for $1150, there being an outstanding mortgage to secure payment of approximately $700; that he has been engaged in hauling ore for about two months, the operation being reported under private permit belonging to Wayne Beach; that his operation, if limited to ore hauling, will not impair the efficient public service of any authorized motor vehicle common carrier.

Protestants stated that they had no objection to the issuance of permit if limited to ore hauling.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that applicant should be granted a permit to operate as a private carrier by motor vehicle for the transportation of ore only.

O R D E R

IT IS THEREFORE ORDERED, That applicant T. H. Taylor should be, and he hereby is granted a Class A private permit to transport ore from the mining properties of the Lombard Mining Company and the Red Elephant Mining Company, situate approximately six miles and five miles respectively from Idaho Springs, Colorado, to Idaho Springs, Colorado, with the right to occasionally haul a load of high grade ore from said mines to Denver, Colorado Springs or Leadville, said permit to issue if and when, but not before he has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right to operate under this permit shall be dependent upon applicant's compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. Mueller

H. C. Dawkes

Milan Vivian

Commissioners.

Dated at Denver, Colorado,
this 23rd day of July, 1935.

(Decision No. 6574)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF COLMAN FREIGHT SERVICE, ROBERT COLMAN, OWNER, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR FREIGHT LINE BETWEEN DENVER AND GRAND JUNCTION AND INTERMEDIATE POINTS.

APPLICATION NO. 2159

July 25, 1935.

S T A T E M E N T

By the Commission:

On November 27, 1934, the Commission entered its order denying applicant's petition for a certificate of public convenience and necessity to operate a motor freight line between Denver and Grand Junction and intermediate points. Thereafter, on January 24, 1935, applicant filed a petition for rehearing, which has never been passed upon by the Commission.

The principal protestant against the granting of the certificate to applicant was The Denver and Rio Grande Western Railroad Company. The Commission is now in receipt of a letter from said Company requesting leave to withdraw from the files the motion heretofore filed by it against the petition of applicant for a rehearing, and stating, inter alia, that "The Denver and Rio Grande Western Railroad Company has no objection to the granting of said petition for rehearing".

After a careful consideration of the record, and in view of the position taken by The Denver and Rio Grande Western Railroad Company in the instant matter, the Commission deems it advisable to grant applicant's petition for rehearing.

O R D E R

IT IS THEREFORE ORDERED, That the petition of applicant for a rehearing in the instant application be, and the same is hereby, granted.

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

hereby, set down for rehearing in the Hearing Room of the Commission, Denver, Colorado, on the 8th day of August, 1935, at 10:00 o'clock A. M.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Edward V. Carlson

W. C. Banks

Warren Grimes

Commissioners.

Dated at Denver, Colorado,
this 25th day of July, 1935.

(Decision No. 6576)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF THE APPLICATION OF A. E. GOSNELL FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE BUS LINE FOR THE HANDLING OF PASSENGERS AND LIGHT EXPRESS BETWEEN GRAND JUNCTION, COLORADO, AND DENVER, COLORADO, AND FOR AN INTERSTATE PERMIT TO OPERATE THE SAME BETWEEN GRAND JUNCTION, COLORADO, AND DENVER, COLORADO.

APPLICATION NO. 2394.

July 23, 1935.

Appearances: T. A. White, Esq., Denver, Colorado, for the Rio Grande Motor Way, and for the Denver and Rio Grande Western Railroad Company.
J. Q. Dier, Esq., Denver, Colorado, for the Denver, Colorado Springs Pueblo Motor Way, Inc., and for the Colorado and Southern Railway Company.
B. C. Jensen, Esq., Salt Lake City, Utah, for A. E. Gosnell, the Applicant, and Inland Pacific Stages.
Mr. J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.
Mr. E. A. Bloomquist, Pueblo, Colorado, for the Colorado State Legislative Board for the Brotherhood of Firemen and Engine Men.
Mr. John M. O'Connell, Salida, Colorado, for the City of Salida.
Troy E. Wade, Esq., Cripple Creek, Colorado, for the Midland Terminal Railway, and the Cripple Creek, Colorado Springs Stage Company.
Mr. J. D. Blount, Canon City, Colorado, for the Southwestern Transportation Company.
Mr. S. A. Hammond, Red Cliffe, Colorado, for the Battle Mountain Transportation Company.
Mr. W. G. Lyons, Pueblo, Colorado, for the Pueblo Chamber of Commerce.
Mr. U. S. Read, 230 W. 5th, Salida, Colorado, for the U. S. Read Truck Lines.

S T A T E M E N T

By the Commission:

This is an application made by A. E. Gosnell for a certificate of public convenience and necessity to operate an automobile bus line for

the handling of passengers and light express between Grand Junction, Colorado, and Denver, Colorado in intrastate commerce, and for an interstate permit to operate the said line between Grand Junction, Colorado, and Denver, Colorado in interstate commerce in connection with his interstate Permit No. 716. The matter was heard at Pueblo, Colorado on June 6, 1935.

Since the hearing, to-wit, on June 11, 1935, applicant filed with this Commission his request in writing to dismiss the above entitled proceeding.

After a careful consideration of the record and evidence and said request, the Commission is of the opinion and finds that said application should be dismissed.

O R D E R

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 23d day of July, 1935.

(Decision No. 6578)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
MELVIN PRICE FOR A PERMIT TO OPERATE)
AS A CLASS "A" PRIVATE CARRIER BY) APPLICATION NO. 2374-PP
MOTOR VEHICLE FOR THE TRANSPORTATION)
OF MILK OVER A ROUTE SOUTH OF)
ALAMOSA, COLORADO.)

July 25, 1935.

Appearances: Mr. Melvin Price, La Jara, Colorado, pro se;
Mr. A. J. Fregeau, Denver, Colorado, for Pueblo-San Luis Valley Transportation Company.

S T A T E M E N T

By the Commission:

Applicant seeks a Class A private permit authorizing the transportation of milk over a route, starting at his home 7½ miles northwest of La Jara, Colorado, as described in detail on Exhibit No. 1 introduced in evidence at the hearing, also for the right to transport potatoes and sugar beets from territory within the confines of said route to the nearest shipping point.

As so limited, all objection to the granting of said permit was withdrawn.

The financial standing and reliability of applicant was established to the satisfaction of the Commission. It does not appear that his proposed operation would in any way interfere with the operations of any common carrier now serving said territory.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the application should be granted.

O R D E R

IT IS THEREFORE ORDERED, That applicant, Melvin Price, be, and he is hereby, granted a permit to operate as a Class A private carrier for the transportation of milk over a route starting at his home 7½ miles northwest of La Jara, Colorado, as described in detail on Exhibit No. 1 introduced in evidence at the hearing, also the right to transport potatoes and sugar beets

from the territory within the confines of said route, to the nearest shipping points, said permit to issue if and when, but not before applicant has filed a list of his customers and the required insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 25th day of July, 1935.

(Decision No. 6579)

149

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF RIO GRANDE MOTOR WAY, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE TRANSPORTATION OF FREIGHT BY MOTOR VEHICLE BETWEEN DURANGO, COLORADO, AND SILVERTON, COLORADO, AND INTERMEDIATE POINTS, TO MAKE SAID ROUTE A PART OF ITS SYSTEM AND TO ESTABLISH THROUGH RATES AND SERVICE.

APPLICATION NO. 2346

July 25, 1935.

Appearances: T. A. White, Esq., Denver, Colorado, for applicant and The Denver and Rio Grande Western Railroad Company.

S T A T E M E N T

By the Commission:

Applicant seeks authority to establish a motor vehicle operation for the transportation of freight between Durango and Silverton, Colorado, and intermediate points.

The evidence disclosed that applicant is now authorized to transport freight between Grand Junction and Silverton and intermediate points, via Montrose and Ouray, and in the instant application it seeks to extend this service from Silverton to Durango for the purpose of maintaining through rates and transportation service between Grand Junction and Durango, as well as all intermediate points.

Applicant is a subsidiary of The Denver and Rio Grande Western Railroad Company which said company owns eighty per cent of its capital stock. A statement was made by the attorney for applicant that the officials of the Denver and Rio Grande Western Railroad had no intention of attempting to abandon or curtail any railroad service provided the certificate sought in the instant application is granted. Tri-weekly service is now being maintained by said Denver and Rio Grande Western Railroad Company between Silverton and Durango.

Applicant is now operating a combination bus service between Grand Junction and Durango, via Ouray and Silverton, and the evidence disclosed

that considerable need exists for the proposed motor truck service so far as the shippers in the districts involved are concerned.

The financial standing and reliability of applicant were established to the satisfaction of the Commission.

The only protest against the granting of the certificate sought was contained in a letter addressed to the Commission and signed by the general chairmen ofthe Brotherhood of Locomotive Engineers, Order of Railroad Conductors, Brotherhood of Locomotive Firemen and Engineers and Brotherhood of Railroad Trainmen. Said brotherhoods object generally to the granting of any certificates to either bus or truck lines paralleling the narrow gauge lines of the Denver and Rio Grande Western Railroad Company.

We have carefully considered the grounds of said protest, but believe that under the law and decisions heretofore rendered, the Commission would not be justified in refusing certificates upon the facts raised by said protest.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the petition of applicant should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operation of applicant for the transportation of freight between Durango and Silverton, Colorado, and intermediate points, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

IT IS FURTHER ORDERED, That 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 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

Edward V. Wheeler

W. L. Daniels

Marion Erickson

Commissioners.

Dated at Denver, Colorado,
this 25th day of July, 1935.

(Decision No. 6580)

149

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF RIO GRANDE MOTOR WAY, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE TRANSPORTATION OF FREIGHT BY MOTOR VEHICLE BETWEEN DEL NORTE, COLORADO, AND CREEDE, COLORADO, AND INTERMEDIATE POINTS OVER STATE HIGHWAY NO. 149.	)	APPLICATION NO. 2345

July 25, 1935.

Appearances: T. A. White, Esq., Denver, Colorado, attorney for applicant.

S T A T E M E N T

By the Commission:

Applicant seeks authority to operate a motor vehicle system for the transportation of freight between Del Norte and Creede, Colorado, and intermediate points.

The evidence disclosed that applicant now operates a combination bus service for the transportation of passengers, baggage, mail and package freight between Alamosa and Creede, Colorado, and between Alamosa and Salida, via Hooper and Moffat. It is also authorized to operate a freight line between Alamosa and Monte Vista and between Monte Vista and Del Norte. In its present operation between Del Norte and Alamosa, applicant uses a 12-passenger bus. The Denver and Rio Grande Western Railroad Company operates a railroad freight service from Alamosa into Creede once every two weeks, said movement being largely for the transportation of carload freight. Rio Grande Transport Company operates a daily except Sunday pick-up and delivery service between Denver and Creede and intermediate points, via Pueblo, Walsenburg and Alamosa, and applicant has been handling the transportation of said freight from Alamosa to Creede, making store-door delivery to consignees at Creede and intermediate points.

It was further disclosed that said freight service has been

steadily increasing and that in order to properly meet the needs of the public, a truck line for the transportation of freight, in addition to the combination bus now being operated, is needed. All of said services operated by the applicant, the Denver and Rio Grande Western Railroad Company and Rio Grande Transport Company are to be coordinated in order to render the best possible service.

The financial standing and reliability of applicant were established to the satisfaction of the Commission.

After a careful consideration of the record, the Commission is of the opinion, and so finds, that the petition of applicant should be granted.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operation of applicant, Rio Grande Motor Way, Inc., for the transportation of freight between Del Norte and Creede, Colorado, and intermediate points, via State Highway No. 149, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 25th day of July, 1935.

(Decision No. 6581)

a-452

a-452

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF)
W. J. WATERMAN FOR AUTHORITY TO)
TRANSFER TO C. O. WATERMAN PRIVATE)
PERMIT NO. A-452, AUTHORIZING THE) APPLICATION NO. 2416-PP-A
TRANSPORTATION OF FREIGHT FROM GRAND)
JUNCTION TO RICO, COLORADO.)

July 25, 1935

S T A T E M E N T

By the Commission:

Authority is sought by W. J. Waterman to transfer to C. O. Waterman private permit No. A-452, heretofore issued to said transferor.

The matter was regularly set for hearing on Tuesday, July 16, 1935, at 2 o'clock in the hearing room in Denver. Neither of the interested parties appeared.

After a careful consideration of the record herein, and in view of the distance from Denver to place of residence of the interested parties, no one appearing in opposition thereto, the Commission is of the opinion and so finds that authority should be granted to make the transfer, provided that all obligations and indebtedness of transferor which may have accrued on account of said operation shall be paid by him or assumed by transferee.

O R D E R

IT IS THEREFORE ORDERED, That authority be, and the same hereby is granted to W. J. Waterman to transfer to C. O. Waterman Private Permit No. A-452, heretofore issued to him, provided that all unsatisfied obligations, if any, including road tax incurred by transferor in his operations under said permit shall be paid by him, or in the event that they are not paid by him, that transferee shall assume and agree to pay the same.

IT IS FURTHER ORDERED, That the authority herein granted shall not become effective until transferee shall have on file with the Commission a list of his customers and the necessary insurance, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation, which now or hereafter may be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it hereby is made a part of the permit herein authorized to be transferred.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners.

Dated at Denver, Colorado,
this 25th day of July, 1935.

(Decision No. 6582)

a-1021

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF A. M. UNRUH FOR A PERMIT TO OPERATE AS A CLASS "A" PRIVATE CARRIER BY MOTOR VEHICLE FOR THE TRANSPORTATION OF COAL FROM NORTHERN FIELD TO GREELEY, COLORADO, OVER MOST DIRECT ROUTE.	APPLICATION NO. 2408-PP

July 25, 1955

Appearances: A. M. Unruh, Greeley, Colorado, Pro Se.
J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.
Mr. L. P. Davis, Denver, Colorado, for the Consolidated Fast Freight.
Mr. A. J. Fregeau, Denver, Colorado, for the Weicker Transportation Company.

S T A T E M E N T

By the Commission:

Applicant herein seeks a Class A permit to operate as a private carrier by motor vehicle for hire for the transportation of coal only from the northern Colorado coal fields over the most direct route to Greeley, Colorado.

The evidence disclosed that applicant is the owner of a 1934 Chevrolet truck of the net value of $550; that he has a commercial permit; that the principal customer for whom he hauls is State College of Education at Greeley; that the coal fields are located west of Fort Lupton, Colorado; that he will travel over various county roads from the coal fields to U. S. Highway 85 at Fort Lupton, and from there over U. S. Highway 85 to Greeley.

Inasmuch as the evidence disclosed that as limited above the operation would not impair the efficient public service of any authorized motor vehicle common carrier, protestants withdrew their objections to issuance of permit.

After a careful consideration of the record the Commission is of the opinion and so finds, that applicant's request for a permit should be granted.

O R D E R

IT IS THEREFORE ORDERED, That applicant A. M. Unruh should be and he hereby is granted a Class A private permit to operate as a private carrier by motor vehicle for hire for the transportation of coal only from the northern Colorado coal fields west of Fort Lupton, Colorado, over various county highways from said mines to Fort Lupton and U. S. Highway No. 85, Fort Lupton to Greeley, Colorado, said permit to issue if and when, but not before applicant has filed a list of his customers and the necessary insurance with the Commission, and has secured identification cards.

IT IS FURTHER ORDERED, That the right of applicant to operate under this order shall be dependent upon his compliance at all times with all the laws, rules and regulations pertaining to his operation which may now or hereafter be in effect.

IT IS FURTHER ORDERED, That this order shall be, and it is hereby, made a part of the permit herein authorized to be issued.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 25th day of July, 1935.

(Decision No. 6583)

157

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF L. E. WALKER FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE TRUCK SERVICE BETWEEN AN AREA OF THIRTY MILES SURROUNDING WALSH, COLORADO, AND OTHER POINTS IN THE STATE IN IRREGULAR SERVICE.

APPLICATION NO. 2444

July 26, 1935.

Appearances; Marion F. Jones, Esq., Longmont, Colorado, for applicant;
J. F. Rowan, Denver, Colorado, for Motor Truck Common Carriers Ass'n;
A. J. Fregeau, Denver, Colorado, for Weicker Transportation Company.

S T A T E M E N T

By the Commission:

Applicant seeks a certificate of public convenience and necessity authorizing the transportation of freight in an irregular service from point to point within an area of thirty miles of Walsh, Colorado, and from said area to and from other points in the State of Colorado.

Walsh is a town of approximately 600 population located in Baca county sixty miles southeast of Lamar. Applicant formerly operated under a Class B permit, which expired May 1, 1935. He has continued to operate since the expiration of said B permit, but agrees to report all such freight and pay the tonnage tax upon the same. When he found that his Class B private permit would not be renewed without a hearing, he filed the instant application. His business consists largely of the transportation of stock feeds, livestock, farm products and cement.

Applicant stipulated at the hearing that he would not seek authority to transport any freight out of Springfield, Colorado, to any other point in the State of Colorado except within the 30-mile radius of Walsh, Colorado, or from any other point in the State of Colorado, excepting the

above area, to Springfield.

It appeared from the evidence that a need exists in the territory sought to be served by applicant for the service he proposes to render, and it was further stipulated by all the parties to the record that no objection would be made to the granting of the authority sought, provided applicant would conform to the filed tariff rates of the Colorado Transfer and Warehousemen's Association so far as the movement of furniture was concerned, and would also charge a twenty per cent differential above the rates of any common carrier when transporting freight between points served singly or in combination by scheduled common carriers.

After a 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 applicant as so limited.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operation of the applicant for the transportation of general freight from point to point within an area of thirty miles of Walsh, Colorado, and from points within said area to and from other points in the State of Colorado in irregular service, 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 household goods, applicant shall charge the tariffs on file with the Commission by the Colorado Transfer and Warehousemen's Association.

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

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

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

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

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

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Commissioners

Dated at Denver, Colorado,
this 26th day of July, 1935.

(Decision No. 6584)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
* * *

IN THE MATTER OF THE APPLICATION OF JAKE SACKOWITZ AND JOHN GERMAINE FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR TRUCK SERVICE WITHIN THE LIMITS OF THE STATE OF COLORADO.

AMENDED APPLICATION NO. 2350.

July 26, 1935.

Appearances: Colin A. Smith, Esq., Denver, Colorado, for the applicants.
Marion F. Jones, Esq., Longmont, Colorado, for Jim's Truck Line, appears for the purpose of participation only, but not in protest.
Mr. J. F. Rowan, Denver, Colorado, for the Motor Truck Common Carriers Association.
Mr. A. J. Fregeau, Denver, Colorado, for the Weicker Transportation Company.
Mr. V. G. Garnett, Denver, Colorado, for the Colorado Rapid Transit Company.
Mr. J. Q. Dier, Denver, Colorado, for the Colorado & Southern Railway Company.
T. A. White, Esq., Denver, Colorado, for The Denver and Rio Grande Western Railroad Company.
D. Edgar Wilson, Esq., Denver, Colorado, for The Chicago, Rock Island and Pacific Railway Company (Frank O. Lowden, James E. Gorman, Joseph B. Fleming, Trustees).
J. H. Shepherd, Esq. (Smith, Brock, Akolt & Campbell) Denver, Colorado, for the Denver & Salt Lake Railroad, and Petersen Truck Line.

S T A T E M E N T

By the Commission:

On April 27, 1935, Jake Sackowitz and John Germaine, of Denver, Colorado, filed Application No. 2350 for a certificate of public convenience and necessity authorizing them to engage in the business of transporting contractors equipment and all heavy types and makes of machinery within the State of Colorado.

Numerous objections and protests were filed against the granting of this application, not only by truck common carriers, but by railroads as well. The case was set down for hearing on June 12, 1935, and later continued to July 22, 1935.

The evidence offered at the hearing disclosed that the applicants own equipment and have been operating in connection with other permit holders, and that they operate as co-partners doing business under the firm name and style of the G & S HeavycHauling Company, with an office at 140 South Elati Street, Denver, Colorado, and that John Germaine and Jake Sackowitz are the sole members of said co-partnership; that these applicants propose to operate as carriers of heavy machinery, road and building materials, supplies and equipment, oil well and mining equipment and supplies, and all other types and kinds of heavy machinery, equipment and supplies, to and from all points within the State of Colorado; and that this operation will be upon call and demand without any regular schedule, and over no fixed routes and between no fixed points. The evidence also disclosed that some road contractors have had trouble finding anyone equipped to move steam shovels and other heavy road machinery on short notice, and the evidence tended to show that while some of the large truck common carriers at Denver did have equipment suitable for the hauling of heavy material and machinery, a portion of it was antiquated or was equipped with solid tires with no springs, and therefore did not move with the desired speed. Two Colorado road contractors testified that in their opinion, after many years' experience, there was not adequate equipment in Colorado to take care of the heavy hauling, especially at times when a number of road contractors were required to move from one location to another at or about the same time, and that their experience was that the present companies in this field required advance notice of the operation, for the reason that their primary business was general freight hauling, and the movement of heavy machinery and material was only incidental to their principal business. At least two highway contractors testified that on account of their inability to engage suitable equipment to move their camps and equipment, they had provided themselves with low bed trailers and trucks, in order to be able to move their own shovels, tractors, and heavy material. One contractor testified that he had engaged the services of Mr. Germaine and knew that his equipment was up to date and the

kind desired to take care of heavy hauling, and that unless he was able to obtain the services of a firm with such equipment as and when needed, he proposed to purchase his own moving equipment, however at a great expense. The evidence showed that there were at present some sixty-seven road contractors in the State of Colorado, and that most of them had equipment such as steam shovels, tractors, etc., weighing all the way from twenty to fifty tons, and at times required the services of a carrier equipped to handle this heavy material, and that many of them had experienced trouble in locating a carrier ready to accept their offer on short notice. Some evidence indicated that Denver firms had undertaken the movement of heavy machinery and material during the late flood, and through some unknown cause did not provide trucks capable of handling the haul, and in one instance Mr. Germaine was employed to finish the haul. However, he admitted that this same common carrier did possess trucks and equipment capable of completing the haul, but evidently this equipment was used elsewhere at that time. There was evidence introduced that tended to show that there was not adequate equipment in the hands of the present carriers holding themselves out as being ready to accept this kind of service, especially when an emergency arose, such as the late floods in Colorado.

The evidence further indicated that in all probability a very large and comprehensive road building program would start in the State of Colorado very shortly, and that this would mean the moving of equipment for many highway contractors, and that volume of future Colorado road building, as well as the oil drilling activities, would render the present carriers engaged in this class of service unable to handle the situation with promptness.

The evidence showed that the applicants had been hauling heavy lumber, cement, and machinery under a permit held by another, but when stopped by the Commission had engaged the services of the Weicker Transfer & Storage Company to complete the job they were then handling.

Applicants propose to employ in their operation two large trucks

and trailers, of special construction and character for this service which represents an investment of $12,000.00, and agree to place additional equipment in service as and when the public convenience and necessity may require the same. The applicants are financially able and ready to furnish this additional equipment.

Under the record the Commission is confronted with a close question in the instant case as to whether or not the public convenience and necessity requires the proposed operation of applicants. It is quite clear that in all probability sufficient equipment and service is now authorized to handle this class of business under all ordinary demands of the shipping public. However, we are also impressed with the fact that the type of service proposed by applicants is somewhat in the nature of a "specialized" service, and that occasion may arise when extra equipment and service may be needed to properly take care of the needs of the public. It is true that considerable equipment of authorized operators will in all probability remain idle during portions of each year, but we feel that the needs of the public at all times should be amply taken care of even though such condition may exist.

After a careful consideration of the evidence, the Commission is of the opinion and finds that the public convenience and necessity requires additional service as a motor vehicle common carrier, limited to the transportation of heavy machinery, road and building materials, supplies and equipment, oil well and mining equipment and supplies, and other types and kinds of heavy machinery, equipment and supplies, such service as the applicants propose to furnish, and the Commission believes that such a service held in readiness at all times to proceed to any part of the State of Colorado, in the hands of operators who make a specialty of this character of haul to the exclusion of all other freight hauls, is not only desirable, but is needed now, and will be more in demand in the very near future, and that a certificate of public convenience and necessity limited to this character of service should be granted to the applicants herein.

O R D E R

IT IS THEREFORE ORDERED, That the public convenience and necessity require the proposed motor vehicle operations of the applicants Jake Sackowitz and John Germaine for the transportation only of heavy machinery, road and building materials, supplies and equipment, oil well and mining equipment and supplies, and other types and kinds of heavy machinery, equipment and supplies, to and from all points within the State of Colorado, to be conducted upon call and demand, without schedule, and over no fixed routes, and this order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor, subject to the following conditions:

(a) For the transportation of commodities between points served singly or in combination by scheduled carriers the applicant shall charge rates which shall be as much as twenty- percent higher in all cases than those charged by 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 an agent employed in any other town or city than Denver for the purpose of developing business.

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

IT IS FURTHER ORDERED, That the applicants shall file tariffs of rates and rules and regulations as required by the rules and regulations of this Commission governing such service, within a period not exceeding twenty days from the date hereof.

IT IS FURTHER ORDERED, That this order is made subject to compliance by the applicants with the rules and regulations now in force or

hereafter to be 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 26th day of July, 1935.