BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

THE CRYSTAL RIVER MARBLE COMPANY
Petitioner

Case #10 vs.

THE CRYSTAL RIVER & SAN JUAN RAILWAY COMPANY
Respondent

Submitted February 3rd, 1909, Decided February 15th, 1909

FINDINGS & ORDER OF THE COMMISSION .

This matter coming on for hearing this 3rd day of February, 1909, before the Commission, all members thereof being present, the petitioner being represented by B. C. Hilliard, Esq., its attorney, and the respondent being represented by E. C. Stimson, Esq., its attorney, the following proceedings were had:

Mr. Stimson, on behalf of the respondent, presented a plea to the juristiction of the Commission, claiming the Commission is without jurisdiction to determine the matters set up in the petition or to grant the prayer of relief asked for, on the ground that said respondent, The Crystal River & San Juan Railway Company, is a mountain railway, whose principal business is hauling mineral from, to-wit, Marble, and supplies to, to-wit, the mines and quarries of The Colorado-Yule Marble Company, which said railway owns and operates less than twenty miles of road .

It was decided by the Commission to permit the respective parties hereto to introduce their evidence as to the merits of the cause, and that the Commission would decide upon the question of jurisdiction after all the evidence was heard and before passing upon the merits of the case.

The Section of the Statute relied upon by the respondent in its plea to the jurisdiction of the Commission, in our present Act, reads as follows:

> Section 1: That the provisions of this act shall apply to common carriers and to any corporation or any person or persons engaged in the transportation of passengers or property, or the receiving, delivering, storing or handling of property shipped or carried from one point or place within this State to another point or place within this State; PROVIDED, HOWEVER, that this act shall not apply to Mountain railroads operating less than twenty miles of road, the principal traffic of which is the hauling of mineral from and supplies to mines. This act shall not apply to the ownership or operation of street railways conducted solely as common carriers in the transportation of passengers within the limits of cities and towns, nor to the ownership or operation of private railways not used in the business of any common carriers .

It appears from the evidence that the respondent, The Crystal River & San Juan Railway Company, owns and operates a railway between the towns of Redstone and Marble, Colorado, the total length of said road being not over twelve miles; that it carries the U.S.Mail and is a common carrier; that the town of Marble has a population of between seven and eight hundred; that The Colorado-Yule Marble Company and The Crystal River Marble Company ship their product over the respondent railway; that the petitioner, The Crystal River Marble Company, claims a discrimination against them by the respondent railway company in favour of The Colorado-Yule Marble Company in not permitting them, the petitioning company, the same privileges extended the Colorado-Yule Marble Company, in that the respondent refuses to allow the petitioner the same rights as to erecting derricks, platform, or

side track facilities, for the handling and loading of its marble as are accorded The Colorado-Yule Marble Company.

It also appears from the evidence that practically all of the outward going business of said respondent railway company is the carrying of marble, either dressed or undressed and that this was the principal traffic of said respondent company during the past year; that practically all of the in-bound freight is the carrying of supplies to these quarries, or to the mines and quarries in that region; that the chief business of said respondent company is to serve the development of the marble quarries and mines in said district; that practically all of the inhabitants of Marble are engaged in the business of working in the quarries; that there is no live stock shipped from this point, and that the chief business of the respondent company is the carrying supplies to and mineral from these quarries. These facts above stated, as to the chief business of said respondent, are not denied by petitioner.

F I N D I N G S .

The Commission, therefore, from the evidence adduced herein, finds that the respondent railway company owns and operates a railway, less than twenty (20) miles in length; that the same is a mountain railroad, and that the principal traffic of said respondent is the hauling of mineral from and supplies to the said quarries, and that the said quarries are mines within the contemplation of Section 1 of the present Act to Regulate Common Carriers in this State .

That the Plea to the Jurisdiction filed by the respondent, The Crystal River & San Juan Railway Company, is

sustained, and that this Commission is without jurisdiction to hear and determine the merits of this case.

O R D E R .

It is therefore ordered by the Commission that the petition herein be and the same is hereby dismissed.

Dated at Denver, this 15th day of February, 1909.

(Signed) Aaron P. Anderson

Daniel H. Staley

Worth L. Seely

Case #12

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

THE JENKINS- McKAY HARDWARE COMPANY
Petitioner

VS

THE COLORADO & SOUTHERN RAILWAY COMPANY
Respondent

Submitted February 15, 1909, Decided April 19, 1909 .

FINDINGS & ORDER OF THE COMMISSION .

PETITION.

The petitioners, The Jenkins-McKay Hardware Company, filed on January 25th, 1909, their petition with the Commission, wherein they stated: That on December 11th, 1908, the petitioners shipped from Denver to Central City one car of smithing coal, 40,000 pounds, for which the defendant, The Colorado & Southern Railway Company, charged them a rate of $3.20 per ton, the alleged distance being 38 miles, which said rate petitioners claim is discriminatory and unjust; they also allege that the said railway company had no published schedule of rates on said commodity prior to January 1st, 1909. They asked that they be refunded the difference between the rate charged and what would be a fair and just rate, and that the Commission establish a proper and equitable rate between the said points on said commodity.

After duly notifying the said Colotado & Southern Railway

Company the Commission fixed the 9th day of February as the date on which said defendant should answer, and they duly filed their answer on said date, stating that at the time of the movement of the said shipment the only rate they had applying on said commodity between the said points was 16 cents per 100 pounds; admitting that the said rate was unjust, and alleging that after the said shipment, to-wit, on January 1st, 1909, they published and filed a rate of $2.25 per ton on said commodity, and asked permission to pay to the petitioners the difference between the said rate of $2.25 per ton and the charge of $3.20

On March 1st, 1909, a hearing was had before the Commission, all of the members thereof being present:

HEARING.

There were present at said hearing Mr. John C. Jenkins, one of the petitioners, and Mr. James M. Seright, attorney for said petitioners.

Mr. E. E. Whitted, general counsel for The Colorado & Southern Railway Company, was also present.

The following facts were testified to by witnesses, after being duly sworn:

Mr. H. A. Johnson, testified that he was the general freight agent of the defendant railroad, and had been since 1899.

That their charge on coal from Louisville, Colorado, to Central City, by way of Denver, was $1.75 per ton, that they had to transfer the same at Denver for Central City, that the distance from Denver to Louisville points from where the said coal was shipped was as far as 24 miles, making a

distance of 62 miles through Denver to Central City.

That the rate on coal from Trinidad District to Central City through Denver is $3.20 per ton.

That in shipping from Trinidad and other points the defendant company charged the same rate on blacksmith coal as on other kinds of coal.

That the rate on blacksmith coal from Louisville District to Central City is $1.75 per ton, the same as from Denver to Central City, and was classed the same.

O R D E R.

Upon these facts the Commission finds that the rate so charged the petitioner of $3.20 is unjustly discriminatory and unduly preferential, and that a fair and just rate for said commodity between the said points should be no higher than $1.75 per ton, the same as charged for the said commodity from Louisville, Colorado, to Central City, Colorado. That the said respondent is ordered to charge no more than the said $1.75 rate in the future, and that on the said shipment complained of the defendant company refund to petitioner the said difference between $3.20 per ton and the said rate of $1.75 per ton.

This order shall take effect May 22d, 1909.

Dated at Denver, Colorado, April 19th, 1909 .

(Signed) Aaron P. Anderson
Daniel H. Staley
Worth L. Seely

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

J. C. BABCOCK
Petitioner

Case #14

vs

THE GLOBE EXPRESS COMPANY
Respondent

The said petitioner having filed complaint with this Commission on the 24th day of March, 1909, alleging excessive rate charged by the defendant, The Globe Express Company, on milk and cream from Greenland, Douglas County, to Manitou, El Paso County, State of Colorado,- he, the said petitioner, under date of April 5th, 1909, filed a written statement withdrawing the complaint and stating that the respondent, The Globe Express Company, had arranged for satisfactory rates on milk and therefore had satisfied the complaint.

WHEREFORE, it is ordered by the Commission, that this cause be and the same is hereby dismissed, the respondent having satisfied the complaint without formal hearing.

Dated at Denver, April 19th, 1909.

(Signed) Aaron P. Anderson
Daniel H. Staley
Worth L. Seely

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO .

CITIZENS OF SEVERANCE, COLORADO

CASE #9 vs

The Great Western Railway Company

This cause coming on for consideration this 3rd day of May, 1909, it appearing to the Commission that the answer filed herein by the said defendant, that it, The said Great Western Railway, has agreed to perform the several things as prayed for in the petition herein, and the Commission being further advised by the attorneys for said defendant Railway that the work has already been commenced; and it further appearing to the Commission by a written statement duly forwarded and filed herein, that it is agreeable to said petitioners that the petition be dismissed,

It is therefore ordered by the Commission that the aforesaid petition be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION :

(Signed) Aaron P. Anderson

Daniel H. Staley

Worth L. Seely

Dated at Denver
the 3rd day of May, A.D.1909 Commissioners

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO .

A. Z. SALOMON
Complainant

Case #13

vs

The Colorado & Southern Railway Company
a corporation,
Respondent .

Submutted May 3rd,1909 Decided May 3rd, 1909

The complainant on March 12th, 1909, filed his written complaint with the Commission, in which it is alleged that the respondent above named is a common carrier, engaged in the transportation of passengers and property between Greeley and Windsor, in the State of Colorado ; that on the 19th day of January, 1909, the complainant shipped on the respondent's railroad 20,115 pounds of alfalfa seed from Greeley, Colorado to Windsor, Colorado, a distance of twelve miles, for which the respondent charged the sum of $30.16, or 15 cents per cwt.; that the respondent's rate on the same commodity between Greeley and Denver, Colorado, is 20 cents per cwt., a distance of 99 miles; that the Union Pacific Railroad has in force a rate of 20 cents per cwt. on the same commodity from Denver to Greeley, a distance of fifty four miles; the complainant asked for a rate of 5 cents per cwt. between said points, and that he be paid by said respondent the difference between the rate charged and the rate of 5 cents per cwt. on said shipment.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO .

Z. J. FORT, an individual doing
business as
THE Z. J. FORT PRODUCE COMPANY,
Complainant

CASE #15

vs

THE UNION PACIFIC RAILROAD COMPANY
Defendant .

Submitted May 17, 1909, Decided May 17th, 1909 .

The complainant, on the 26th day of April, 1909, filed his written complaint, alleging that on the 26th day of January, 1909, the defendant, The Union Pacific Railroad Company, issued a rate of 3 cents per cwt. on manure, carload lots, Denver to Brighton, Colorado, minimum weight 60,000 pounds; that on March 5th, 1909, by Supplement 18 to I. C. C. No.2138, U.P.Tariff, a rate of 3 cents per cwt. on carload lots of manure Denver to Brighton, minimum weight 40,000 pounds, became effective; that between the dates of January 26th, 1909, and March 5th, 1909, the complainant shipped via the said Union Pacific Railroad from Denver to Brighton, at the rate of 3 cents per I00 pounds carload lots, minimum weight 60,000 pounds, a total of twelve (12) cars of manure, and paid said rate to said defendant; that in no instance was the complainant able to load said cars, or any of them, to the minimum weight of 60,000 pounds, but on the contrary all of said cars, with

the exception of three cars, were loaded in excess of 40,000 pounds but less than 60,000 pounds; that three of said cars contained the following net weights: 33,400 pounds, 37,800 pounds, and 35,600 pounds, being less than the minimum of 40,000 pounds; the said complainant further alleges that the rate of 3 cents per cwt., carload lots, minimum weight 60,000 pounds, from Denver to Brighton as aforesaid, is unjust, unreasonable and excessive, and prays that the defendant be required to answer the charges and that an order be made compelling the defendant to refund to him, the said complainant, as to all cars hereinbefore mentioned, except the three cars whose weights are specifically given, the difference between the actual net weight and the minimum of 60,000 pounds, at the rate of 3 cents per 100 pounds, and to refund to complainant as to said three cars the difference between the minimum weight of 40,000 pounds and the minimum of 60,000 pounds, at the rate of 3 cents per 100 Pounds.

That after due notice to defendant, and of service upon it of a copy of said complaint, the defendant, The Union Pacific Railroad Company, thereafter filed its answer, in which all the material allegations of the said complaint were admitted, save and except that the rate of 3 cents per 100 pounds is unjust, unreasonable and excessive .

THEREFORE, it is hereby ordered by the Commission on the pleadings herein, that the said defendant, The Union Pacific Railroad Company, charge the rate of 3 cents per 100 pounds on manure, carload lots, minimum weight 40,000 pounds, Denver to Brighton, and no more; that the defendant herein refund to said complainant as to all cars hereinbefore mentioned, except the three cars whose weights are respectively 33,400, 37,800 and 35,600 pounds, the difference between the

actual net weight of the cars shipped and the minimum weight of 60,000 pounds, at the rate of 3 cents per cwt., and also refund to said complainant as to the said three cars whose weights are specifically given above, the difference between the minimum weight of 40,000 pounds and the minimum weight of 60,000 pounds.

BY ORDER OF THE COMMISSION :

(Signed) Aaron P. Anderson
Daniel H. Staley
Worth L. Seely

Dated at Denver, Colorado, this
17th day of May, A.D.1909 .

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

JENKINS - McKAY HARDWARE COMPANY
Petitioner

CASE #12 vs

THE COLORADO & SOUTHERN RAILWAY COMPANY
Respondent

Submitted February 15,1909. Rehearing July 26, 1909

Decided September 20,1909.

FINDINGS & ORDER OF THE COMMISSION .

On May 19, 1909, the defendant, The Colorado & Southern Railway Company, filed a motion for a rehearing and re-opening of this cause and for leave to offer further evidence.

On July 6, 1909, the said motion was argued by Mr. E. E. Whitted, counsel for defendant, the petitioner being present by Mr. J. M. Seright, its attorney. Said motion was granted by the Commission, and the order of April 19, 1909, set aside, and both petitioner and defendant allowed to offer additional testimony, and the rehearing set for Monday, July 19th, 1909.

By agreement of the respective counsel, the rehearing was continued to Monday, July 26th, 1909, at IO o'clock A.M.

On motion of Mr. Seright, attorney for said petitioner, the petitioner was allowed to amend the original petition to show an award of damages, instead of charges.

One car of blacksmith coal, shipped from Redstone,

Colorado, December 11, 1908, weight 40,000 pounds, and on which said petitioner paid freight from Denver to Central City, Colo., is the shipment complained of as carrying a rate which, as alleged, is excessive, unjust and unreasonable.

The shipment, which moved subsequent to January 1, 1909, under the commodity rate on blacksmith coal of $2.25 per ton, C.L., Denver to Central City, and on which the defendant collected, through mistake, as admitted, the rate of $3.20 per ton, is also claimed to be excessive and unjust. Yet, this second shipment not being included in the complaint of the pleadings, this Commission is without jurisdiction to adjust same.

While the law requires carriers to establish, file and publish their rates, such publication is not conclusive of their reasonableness. It is also within the province of the Commission to award reparation for duly proven damages to parties injured by unreasonable and unjust charges, even though such charges be in accordance with published rates.

The complainant asks for lower rates from Denver to Central City, Colorado, and comparison is made with rates from coal-producing points, the particular points being:

FIRST: What is known as the "Northern Colorado Field", but for purposes under consideration designated as "Louisville" .

SECOND: Comparison is made with what is known as the "Trinidad District", which is distant from Denver about 200 miles and 240 miles from Central City.

Prior to January 1, 1909, the defendant had no rate on blacksmith coal other than "Class D" rate, which was $3.20 per ton, or 16 cents per 100 pounds, but on said date

a rate of $2.25 per ton, C.L., went into effect on blacksmith coal only - - the rate of $3.20 on all other coal remaining in effect.

Complainant contends that the rate exacted by defendant for the transportation of blacksmith coal from Denver to Central City is excessive and unjust, even as published effective January 1, 1909, and asked that said rate of $2.25 between said points be still further reduced.

The testimony of Mr. Johnson, general freight agent of the Colorado & Southern Railway, disclosed the fact that all coal moving between Denver and Central City took "Class D" rate, and was classed the same prior to January 1, 1909 .

In the former hearing it was claimed by counsel for defendant that the tariff rate published January 1, 1909, of $2.25 per ton, is not excessive, and that it cannot be compared with the $1.75 rate on lignite coal from Louisville, as blacksmith coal is a higher grade of coal and is shipped in limited quantities, whereas they haul trains of lignite coal daily, a cheaper grade of coal and carrying a cheaper rate.

While the Interstate Commerce Commission has held in several instances that the unreasonableness of a rate cannot be proven by simply comparing it with another rate, yet, under conditions and circumstances similar to those surrounding this case, the comparisons are worthy of consideration, when taken in connection with the other circumstances and conditions, as shown and brought out in the testimony.

This statement, it seems to us, is a little misleading when applied to the question at issue, and is susceptible of a broader construction when applied to the case before us,

because if, as counsel alleges, blacksmith coal is a higher grade of coal and cannot be compared with the $1.75 rate on lignite coal from Louisville, can it not, on the other hand, be compared with the rate on lignite and other soft coals, which are inferior in grade to blacksmith coal and sell for a less price, the tariff rate of which is $3.20 per ton, C.L., Denver to Central City, while the published rate on blacksmith coal since January 1, 1909, is $2.25 per ton, C.L., Denver to Central City ?

It is hard to justify so startling a disproportion between these two rates.

The tariff rate for coal per ton, C.L., from Louisville to Central City, as published, is $1.75, a distance of about 60 miles, and is equivalent to about 3 cents per ton per mile; and it was not shown by defendant that this is not a remunerative rate.

The rate from Denver to Central City on the same class of coal, a distance of about 40 miles, is $3.20 per ton, C.L., or 8 cents per ton per mile. If the rate from Louisville to Central City is remunerative, this certainly must be.

The rate from Denver to Central City on blacksmith coal, C.L., as published, effective January 1, 1909, is $2.25 per ton, or about 5-1/2 cents per mile per ton.

The rate from Trinidad District to Denver, a distance of from 200 to 222 miles, is $1.85 per ton, C.L., or about 1-1/7 cents per ton per mile.

From Trinidad to Central City , the distance being approximately 250 miles, the rate is $3.50 per ton, C.L., or 1-2/5 cents per ton per mile.

The testimony introduced at the re-hearing by defendant, showing cost of service from Golden to Central City, is not, in our opinion, sufficiently complete, and therefore of no considerable importance in aiding the Commission in arriving at its decision, inasmuch as it does not attempt to show the cost of service for the entire haul of 40 miles, but selects a portion of the line only where there is a grade of considerable proportion. The Commission recognizes the justice of taking into consideration the cost of service in adjusting rates, but in this instance the evidence does not give much light on the subject.

The evidence adduced at both hearings in this case before the Commission discloses the fact that the defendant is either hauling coal from the Louisville and Trinidad districts at a loss, or is collecting too high a rate on such commodity from Denver to Central City.

This Commission contends that it has been given jurisdistion by the act creating it to award as reparation the difference between a published rate and what is found to be a reasonable rate.

Therefore, based upon all the facts in the case, our conclusions are that the complainant is entitled to damages for the amount in excess of $2.00 per ton on the car of blacksmith coal which was shown to have been shipped December 11, 1908, and the Commission finds that the rate charged and collected by the defendant for the shipment in question was unjust and unreasonable, and that petitioner is entitled to $24.00 damages by way of reparation .

O R D E R .

IT IS THEREFORE ORDERED BY THE COMMISSION that the defendant, The Colorado & Southern Railway Company, pay

to the petitioner, within thirty (30) days from this date, the sum of twenty four ($24.00) dollars; and, further, that defendant maintain for a period of not less than two (2) years a rate not to exceed $1.75 per ton on all soft coals, C.L., and a rate not to exceed $2.00 per ton, C.L., on blacksmith coal, from Denver to Central City, Colorado.

This order shall go into effect and be and remain in force on and after the 21st day of October, A.D.1909 .

Dated at Denver, Colorado, this 20th day of September, A.D.1909 .

(Signed) Aaron P. Anderson
Daniel H. Staley
Worth L. Seely

After being served with copy of said complaint, the respondent, on, to-wit, the 2d day of April, 1909, filed its answer with the Commission, in which it admits that said rate of 15 cents per cwt. charged by them on said commodity between said points is excessive, and that the true distance between said points is 12.30 miles; that the rate of 15 cents was charged through error, and that the published tariff of said respondent, the Colorado & Southern Railway Company, carries a rate of 8 cents per cwt., minimum weight 30,000 pounds; that the total charge on said shipment should have been $24.00; that they are ready and willing to reimburse the complainant the amount of $6.16, which is the difference between the said rate of 15 cents per 100 pounds and the rate of 8 cents per 100 pounds.

Under date of April 3rd, 1909, the complainant, replying to respondent's answer, filed his written acceptance of the rate of 8 cents per cwt. on said commodity and of the refund of $6.16 as offered by respondent.

THEREFORE, upon the pleadings herein, it is hereby ordered by the Commission that the respondent, The Colorado & Southern Railway Company, charge a rate of 8 cents per 100 pounds on said commodity between the said points of Greeley and Windsor, Colorado, and that the minimum weight of such carload shipments be 30,000 pounds, and that it charge no higher rate thereon, and that the said respondent, The Colo. & Southern Railway Company, refund to the complainant herein the sum of $6.16.

BY ORDER OF THE COMMISSION

(Signed) Aaron P. Anderson

Daniel H. Staley

Worth L. Seely

Commissioners

Dated at Denver
the 3rd day of May, A.D. 1909 .

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

THE CITIZENS OF GENOA, COLORADO
Petitioners,

Case #17 vs

THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY CO.
Respondent.

Submitted September 20,1909, Decided September 20, 1909 .

On June 2, 1909, a petition was filed with the Commission, signed by a number of citizens of the town of Genoa, Colorado, asking that the defendant company be required to establish a day agent and a depot in said town, and also to establish a road crossing near said depot.

It was further stated in the petition that the town of Genoa, for the month of April, 1909, had furnished the said defendant with business to the amount of $1, 836.42; that they were without proper accommodations in the way of a depot, and that there was no agent at said depot during the day.

The defendant railway company was duly notified, a copy of the petition being served them, according to law, and on July 23, 1909, the said defendant filed its answer, in which it denied the power of the Commission to act in the matter, on account of alleged unconstitutionality of the law creating it, the State Railroad Commission of Colorado. It further alleged that the Commission is without jurisdiction to establish a railroad crossing in said town, and that the question

as to where a public highway shall be constructed across said railway is solely a matter to be decided by the County Commissioners of Lincoln County.

The said defendant, in its said answer, offered to make certain concessions, to-wit, that it would make such additions to its station facilities in said town of Genoa as may be necessary to meet the needs of the passenger and freight business done by and through said railway company at said point; that it would install at its station in said town a day agent, subject, however, to the right of the said defendant railway company to withdraw such agency at any time when, in the opinion of the defendant, the amount of business, both freight and passenger, transacted by the said railway company at Genoa was not sufficient to warrant the said defendant in undergoing the expense incurred by the maintenance of said agency.

A formal hearing of the matters at issue was held on Monday, September 20, at which were present Mr. Caldwell Martin, attorney for said defendant railway company, and Mr. A. T. Abbott, its superintendent for the Colorado division. There were present for the petitioners Mr.A. D. Daywitt, Mr. Jansen and Mr Hicks, and Mr. L. G. Johnson their attorney.

Prior to the hearing the town of Genoa was visited by Mr. Worth L. Seely, Secretary of the Commission, and at the hearing a great deal of information was elicited from witnesses who were present and testified. It appears that the town of Genoa has a population of approximately 150 people; that almost all lines of business are represented there, and that a large amount of both freight and passenger business is done by the said defendant at that point, in some months the amount aggregating $1,836.42, and averaging for the first

four months of the year $1,550.12 per month. That the country contiguous to the said town of Genoa contains a large population of farmers, reaching as far as ten miles from the said town in opposite directions, and that the said farmers during the present season have cultivated and raised large crops of wheat and other small grains, besides other produce and live stock, all of which is shipped over the defendant company's railroad from said town of Genoa; that the depot, at the time the petition was filed, consisted of a box car, partitioned so that part only was used for the accommodation of passengers, there being no freight depot; that the passengers taking trains at said station were compelled to get on the cars from the ground, there being no platform or other facilities.

That shippers, in loading cars for the defendant company, were compelled to go around a distant crossing from said depot to where freight cars were standing on a sidetrack, and in so doing they are put to considerable inconvenience in not having a crossing nearer the said depot; that, owing to the fact that there was no day agent at Genoa, shippers were frequently compelled to wait until evening, in order to receive their freight from the night agent.

Evidence adduced on the part of the defendant railway company showed that since the filing of the petition the said defendant has established a depot at said town, which consists of two box cars, one for the storing of freight, and the other partitioned for the accommodation of passengers, and that said defendant company has now in contemplation the construction of a platform sufficiently ample to accommodate passengers in boarding the trains; that the said defendant has at the present time a day agent at its depot in Genoa.

It further appeared from the evidence given by Mr. Abbott that the defendant railway company cannot establish the desired crossing without great inconvenience.

O R D E R .

Upon these facts it is ordered by the Commission that the defendant, The Chicago, Rock Island & Pacific Railway Company, install and maintain a day agent at their said station in the said town of Genoa, Colorado; that the said defendant do construct and maintain a road crossing, crossing defendant's tracks at a point where First Street in said town intersects the defendant's right of way; that the said defendant company do maintain a depot in said town, in the form of two box cars, as they have now established there, partitioned so as to give room for the accommodation of the patrons of the said railway company, both freight and passenger, the same to be well ventilated, heated and lighted for the comfort of the traveling public, and that the said defendant company do construct and maintain, between the said depot and the railroad tracks,a platform amply sufficient for the accommodation of the public in mounting and descending from the trains.

This order shall go into effect and be and remain in force on and after the 21st day of October, A.D.1909 .

Dated at Denver, Colorado, this 20 day of September, A.D.1909 .

(Signed) Aaron P. Anderson

Daniel H. Staley

Worth L. Seely.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

THE PIONEER PRESSED STONE COMPANY;
BY, E. H. MARSH, its President,
Petitioner

Case #16

vs

THE UNION PACIFIC RAILROAD COMPANY
Respondent

This cause having come on to be heard this 16th day of October, 1909, the same having been continued from September 20th, 1909, the petitioner herein not appearing, although duly notified of the setting of this cayse for hearing on this date at the hour of IO o'clock A.M., the said defendant being present by Mr. C. C. Dorsey, its attorney, and the Commission having waited until the hour of eleven o'clock for appearance of said petitioner,

It is hereby ordered by the Commission that this cause be and the same is hereby dismissed for lack of prosecution.

Dated at Denver, Colorado, this 18th day of October, A.D.1909.

(Signed) Aaron P. Anderson
Daniel H. Staley
Worth L. Seely.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

JOHN J. SERRY
Petitioner

CASE #18

vs

The Florence & Cripple Creek Railway Company
Defendant .

This cause coming on for consideration this 1st day of November, 1909, and it appearing to the Commission that a settlement has been reached between the parties hereto, and the Commission having received a written statement from the said petitioner informing them of a settlement and authorizing them to dismiss the petition herein,

It is hereby ordered by the Commission that the said petition be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION:

(Signed) Aaron P. Anderson

Daniel H. Staley

Worth L. Seely

Dated at Denver
this 1st day of November, A.D.1909

CASE #19

ERNEST WHILES, et al
Citizens of Firestone, Evanston & Frederick, Colorado,
Petitioners

vs

The Union Pacific Railroad Company
Respondent.

This cause came on for hearing on the 6th day of December, 1909, before the Commission.

Mr. William V. Hodges appearing for respondent Company.

Mr. H. M. Orahood for the Citizens of Firestone.

Mr. E. L. Williams for the Citizens of Frederick.

The action was brought by petitioners asking that a depot be located at some point in or near one of the petitioning towns.

They alleged in their petition that the present location of the depot at Dacona is over one mile south of where the petitioning towns are situated .

Many witnesses were sworn and testified before the Commission, each of the said towns offering witnesses to show the advantage to the railroad, as well as to the different towns, by locating the depot within their respective townsites .

The Commissioners, each of them, have made a personal inspection of the different towns and localities, as well as the railroad at these several points..

The defendant in this case for many years has operated a standard gauge road from Brighton (a station on its main line north from Denver) to the City of Boulder; this line being known as the Boulder Valley branch .

It appears from the evidence at the trial that sometime about the year 1905 Mr. Charles L. Baum made certain

arangements with the officials of the respondent company, whereby it was to build a spur track from St.Vrain, a point on the Boulder Valley branch, to his property (the Baum mine) a short distance from Dacona. This spur, as alleged, was completed about February 1906, Mr. Baum having aided the respondent company in securing the right of way, and also by giving the said company the land necessary for station and yard purposes at or near where the town of Dacona is now situated, the said land being given in consideration of respondent company building and maintaining a depot and station at the point now known as the Town of Dacona.

It also appears that when this spur track was surveyed and built to the Baum mine, the question of extending the Union Pacific Railroad to La Salle was not considered. Since that date, however, several mines have been opened up in that immediate vicinity; the towns of Frederick, Evanston and Firestone have been built, and the country settled by farmers within the vicinity and to the north of Dacona and adjacent to the petitioning towns.

The rapid development of this section of the country has led the respondent company to deem it advisable to build a line of railroad from Denver to La Salle by way of Dacona, Frederick, Evanston and Firestone .

There are two or three points which the Commission must determine in disposing of this case, namely:

1st: Is the service which the people of Frederick, Evanston and Firestone , and the country adjacent thereto, ~~receive~~ reasonable and adequate ?

2d: Can the defendant company erect a good and sufficient depot within the limits of any one of the aforesaid towns, and construct the necessary side-tracks at a reasonable cost, giving proper consideration to the interests of

all concerned and each locality desiring a depot ?

3rd: If so, which is the most desirable location, and should the order be made at the present time ?

We shall first consider the claims of Frederick, which town, from the evidence, is located between Dacona and Evanston, and about one mile north of the depot at Dacona, and is much larger than either of the other towns. Owing to the topography of the land adjacent to Frederick and through which the respondent's line runs, on which it would be necessary to build additional trackage in order to properly care for the business, to locate the depot there would work unnecessary hardship and expense to respondent, as the level of the grade is much higher than the town, and it would require extensive filling in to raise the switches and side-tracks up to the level of the main line, - all of which would have to be done to be consistent with good railroading.

The respondent company has a station and depot at Dacona, about one mile south of the town of Frederick, which was installed prior to the building of the other petitioning towns. The distance to said depot from said town is no greater than the distance from other towns to stations all over the country, and the fact that most of the mines have spur tracks where they load coal and also carlots of farm produce, tends to lessen any inconvenience in this particular.

Therefore, we do not consider the service which the community of Frederick is receiving at the present time as wholly unreasonable .

The Commission is also confronted with the fact that at the present time there is no track on the new grade north of Dacona, the road not being completed, and the Commission therefore hesitates to make any order requiring the railroad company to establish any station and depot at any point beyond where the new line is now completed .

It is the opinion of the Commission, however, that these towns and the country surrounding the several towns will rapidly develop with the building and completion of this new line of road, and when said line is completed, the community to the north of Dacona will be entitled to additional facilities.

The Commission therefore recommends that respondent at as early a date as possible locate and build a suitable depot and side-tracks at a point near the north line of Evanston, on the new line of road, as this will, we believe, better meet the demands and requirements of this rapidly growing section of our State.

THE STATE RAILROAD COMMISSION OF COLORADO:

(Signed) Aaron P. Anderson
President

Daniel H. Staley

Worth L. Seely,
Secretary.

Dated at Denver, Colorado,
Monday, January 3rd, A.D.1910

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO .

THE MOORE- JACKSON GRAIN COMPANY
Petitioner

CASE #20

vs

The COLORADO & SOUTHERN RAILWAY COMPANY
DEFENDANT

This cause coming on for consideration this 8th day of November, 1909, it appearing to the Commission that a settlement has been reached between the parties hereto, and the Commission having received a written statement from the said petitioner, by its attorneys, that the petition has been satisfied by the Colorado & Southern Railway Company, and authorizing a dismissal of the complaint,

It is hereby ordered by the Commission that the said cause be and the same is hereby dismissed .

BY ORDER OF THE COMMISSION :

(Signed) Aaron P. Anderson
Daniel H. Staley
Worth L. Seely

Dated at Denver
this 8th day of Nov.1909.

Commissioners

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO .

CASE #21

P. W. BREENE
Petitioner

vs

The COLORADO & SOUTHERN RAILWAY COMPANY .
Defendant

This cause coming on for hearing this 20th day of December, 1909, at the hour of IO o'clock A.M., according to previous assignment, the said defendant being present by Mr. A. S. Brooks, one of its attorneys, the said petitioner appearing not either in person or by attorney. Thereupon, on its own motion, the Commission continued the hearing for one hour and until 11 o'clock. Whereupon, the said petitioner, P. W. Breene, still failing to appear, on motion of Mr. Brooks, that the petition be dismissed for want of jurisdiction of the Commission to hear and determine the matters complained of,

It is ordered by the Commission that the said cause be and the same is hereby dismissed, for want of appearance by said petitioner.

BY ORDER OF THE COMMISSION :

(Signed) Aaron P. Anderson
Daniel H. Staley
Worth L. Seely
Commissioners

Dated at Denver, Colorado,
Monday, December 20th, A.D.1909

CASE #24

D. K. Sternberg, et al
Petitioners,

vs

The Denver & Interurban Railroad Company
Defendant.

Submitted February 7th, 1910, Decided March 1st, 1910

FINDINGS & ORDER OF THE COMMISSION.

On December 17th, 1909, petitioners herein filed their complaint, in which they alleged, among other things, that said petitioners now live and for a long time past have lived near the station of Allison, in Boulder County, State of Colorado, on the line of said defendant's railroad; thar petitioners, together with many other person, to-wit, about 125, have used said station of Allison at which to take the cars of said defendant company for the purpose of going to their different offices or places of business in the City of Boulder and the City of Denver, Colorado; that the defendant company is a common carrier transporting property and passengers by railroad between said cities of Denver and Boulder, in the State of Colorado, and that until recently the said defendant, The Denver & Inyerurban Railroad Company, maintained a station at Allison, which is situated three miles East from its Boulder terminus and about one mile West from its station at Culbertson. That within a month or six weeks just prior to the filing of said complaint, the defendant company discontinued the use of said Allison station, and refused and still refuses to stop its cars at said station for the accommodation of the petitioners and other patrons, to

the great inconvenience of the petitioners and other persons and residents of that locality; that petitioners, together with about one hundred (100) other patrons of said railroad, signed and forwarded a written petition to the officials of said Denver & Interurban Railroad Company that it stop its train at said Allison station as it heretofore had done, but it refused so to do.

The petitioners herein ask for an order from this Commission, commanding the defendant Company to stop its cars and trains at said Allison station .

On January 7th, 1910, the defendant company filed its answer to said petition, wherein it admitted it was a common carrier engaged in the transportation of passengers and property by electric railroad between the cities of Denver and Boulder, in the State of Colorado; it also admitted that until recently it had maintained a station on its line known as Allison, three (3) miles East from its Boulder terminus; but denied that said Allison station is one mile West from its station at Culbertson, and alleging that more people would be accommodated at Culbertson than at Allison .

A formal hearing of this case was had on February 7th, 1910, Mr. James H. Teller appearing as attorney for said petitioners, and Mr. R. H. Widdicombe for said defendant company.

Before the commencement of the hearing, Mr. Widdicombe made a verbal motion to dismiss, on the grounds that there is nothing in the Act authorizing the Commission to take jurisdiction and make any finding or order as to the establishment and maintenance of stations on roads carrying passengers only.

The Commission, after hearing the argument on this motion, ruled that it would proceed with the hearing and that it would take the motion under advisement, deciding the question of jurisdiction at the time it decided on the merits

of the case, and the defendant was given ten (10) days to file a brief and the petitioners five (5) days thereafter to file a reply brief on the question of jurisdiction .

JURISDICTION .

The Commission has heretofore held, and so holds now, that it has jurisdiction under the Act to regulate Common Carriers in this State, to hear and determine questions pertaining to increased facilities, road-bed, rolling stock, stations, depot yards, &c.,--the jurisdiction in this instance however being attacked on the ground that Section 28 of the Act, which confers this jurisdiction, pertains only to such roads as carry freight, and does not apply to roads doing a passenger traffic only.

To one casually reading said Section 28, this might appear to be the correct interpretation of the law, yet it is almost unthinkable that it was the intention of the legislature to clothe this Commission with authority over common carriers hauling and handling property only, and not over those hauling and transporting passengers, of which latter class the defendant claims to be, although, in its answer filed herein, it admits that it is "a common carrier engaged in the transportation of passengers and property by electric railroad, &c., &c. " Yet, at the hearing the defendant company, to sustain its motion to dismiss for want of jurisdiction, offers evidence to show that it does not carry property, but is engaged in a passenger service only,--and this without offering to amend its pleadings .

However, we shall discuss this case from the standpoint that, as defendant alleges, it carriers passengers only.

The title of the Act reads:

"An Act to regulate common carriers in this State, to create a State Railroad Commission, to prescribe and define its duties, to prevent unjust discrimination, to insure an adequate railway service, and to exercise a general supervision over the conduct and operation of common carriers . "

Section 1 provides that the "provisions of this Act shall

apply to common carriers and to any corporation or person or persons engaged in the transportation of passengers, &c.--"

Section 2 provides that "the term 'Railroad' as used in this Act shall include all switches, spurs, tracks and terminal facilities of every kind used or necessary in tye transportation of persons or property designated herein; and also all freight depots, yards and grounds used or necessary in the transportation of persons, &c. - - It shall be the duty of every common carrier, subject to the provisions of this Act, to provide and furnish such transportation upon reasonable request therefor . "

"Section 12: The Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this Act, &c. - - And the Commission is hereby authorized and required to execute and enforce the provisions of this Act . "

" Section 13: That any person, firm, corporation or association, or any mercantile or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this Act, or in contravention of any of the provisions thereof, may apply to said Commission by petition which shall briefly state the facts, &c. &c.-)- "

We are, therefore, constrained to believe that in enacting the statute before us the legislature meant to accomplish a rational purpose, and we are endeavoring to interpret that purpose and to effectuate the same, and where the uncertainties as to the meaning of a particular section exist, the whole Act in which it is found should be considered, all together .

The object to be accomplished, or the mischief to be remedied or guarded against, mey be considered in construing doubtful statutes .

Edwards v. D. & R. G. R.R.Co. 13 Colo. 59-62-63 .

At the time of the enactment of the present statute, there were few, if any, railroads within this State doing a strictly passenger service, and it is hard to believe that the legislature intended to exempt this class of roads from

the operation of the statute, as, in this instance the defendant, The Denver & Interurban Railroad, although it may not maintain freight depots and agents, yet it does not deny that it carries property when in the custody of its passengers

The Commission, therefore, decides that it has and does take jurisdiction of the case .

F I N D I N G S.

We shall now consider the merits of the case .

There were seven witnesses sworn and who testified for the petitioners, and three for the defendant .

Mr. D. K. Sternberg testified that he lived about one and one-half miles from Culbertson and about three quarters of a mile from Allison; that there are about 300 people living in the neighbourhood of Allison, and that the stations of Allison and Culbertson are about 20 rods less than a mile apart .

Mr. Israel Stultz testified that according to his count there are about 126 people who patronize the defendant's road who live nearer Allison than Culbertson, and that there were very few people living in the vicinity of Culbertson, while about fifty (5) people would have to go about three miles to get to Culbertson who live within one-half mile of Allison .

The testimony of other witnesses for petitioners was along the same line as that above quoted .

It was also adduced from the testimony that there were no buildings or depot at either Culbertson or Allison stations, a sign board only indicating the point where the cars would stop on flag to take on passengers, or to let them off, and that there were no physical reasons why cars could not stop as easily at Allison as at Culbertson .

Mr. Fisher, the General Passenger Agent of the defendant company, testified that it cost more money to stop the cars at Allison than the company was receiving for the service; that there were eight (8) trains daily each way over the defendant's railroad, and that he, Mr. Fisher, believed more people would be accommodated at Culbertson than at Allison, but that he had not personally investigated the matter .

Mr S. S. Morris, Division Superintendent of the said defendant, The Denver & Interurban Railroad Company, testified that the distance between Globeville and Boulder is twenty-nine and one-half (29-1/2) miles; that between said points there are thirty-five (35) stops or stations, including flag stations, and the average stop for each trip of a given train is about twenty (20), and that there were only four (4) regular or registered stops .

Mr. Morris also testified that no freight or express was billed out, that it was a passenger service only; he admitted, however, that passengers are allowed to carry parcels of property on the trains with them.

From all the evidence and testimony herein, the Commission is of the opinion that the defendant should stop at least certain of its cars or trains of cars at the station known as Allison, for the accommodation of the people and residents of that vicinity.

Accepting the evidence as an established fact that the defendant company does not receive at this particular station of Allison as much as it costs to stop its cars there, yet, in our opinion, this of itself is not sufficient to justify the defendant in discontinuing said station, as the profit or loss of the whole line, together with the accommodation of the traveling public, ought also be taken into conisderation. Some stations may pay many times as much as others, and it may be necessary to pperate parts of the road at less profit than others, in order to accommodate the public along

its entire line .

It is not the desire or the intention of this Commission to impose any unnecessary burden on the defendant company, but out of the eight trains running each way each day, it seems to us that it is not unreasonable that four (4) trains at least each way daily stop at the station hereinbefore referred to as Allison .

O R D E R .

It is therefore ordered by the Commission that The Denver & Interurban Railroad Company do stop its North bound trains Nos.305 - 309 - 321 and 325, as designated in its Time Table No.23, at Allison to let passengers off and when flagged or signalled to take on passengers .

And it is further ordered that South bound trains Nos.302 - 304 - 320 and 324, as designated in the same Time Table, do stop at Allison to let passengers off and when flagged or signalled to take on passengers .

And it is further ordered that should the time or the numbers of the above mentioned trains be changed by the issuance of any other Time Table, then and in that case the four (4) trains each way daily nearest corresponding to the time of the above mentioned trains, shall stop at the said station of Allison.

This order shall go into effect and be and remain in force on and after the Second day of April, 1910.

BY ORDER OF THE COMMISSION:

(Signed)AARON P. ANDERSON
President

WORTH L. SEELY
Secretary.

Dated at Denver, Colorado,
this 1st, day of March, A.D.1910 .

The Consumers' League of Colorado,
a corporation, Petitioner,

CASE #22

vs

The Colorado & Southern Railway Company,
a corporation, Defendant,

The Chicago, Burlington & Quincy Railroad Company,
Intervenor,

The Union Pacific Railroad Company,
Intervenor .

Submitted March 23,1910 Decided April 4, 1910

FINDINGS & ORDER OF THE COMMISSION .

On December 6, 1909, the petitioner herein filed its complaint, in which it alleged that petitioner is a corporation duly organized and existing under the laws of Colorado. That such corporation is formed for the purpose, among other things, of obtaining redress of wrongs to the consumers of Colorado, arising from unjust and unreasonable freight charges made by common carriers.

That said defendant, The Colorado & Southern Railway Company, is a common carrier engaged in the transportation of passengers and property, including coal for fuel, by railroad, between the town of Louisville, in the County of Boulder, State of Colorado, and the City of Denver, Colorado; that said Louisville is distant from Denver, about twenty miles .

That said defendant charges and collects upon all ship-

ments of coal in car loads from Louisville, destined to Denver, as follows:

On Lump Coal - -	80 cents per ton.
On Mine run coal - -	70 cents per ton
On slack coal - -	60 cents per ton.

That such charges are unjust, unreasonable and exorbitant, and in violation of the act to regulate common carriers.

Petitioner prays that said rates be reduced to the following prices :

Lump coal - -	50 cents per ton
Mine run coal - -	45 cents per ton
Slack coal - -	40 cents per ton.

On December 24, 1909, the defendant, The Colorado & Southern Railway Company, filed its answer herein, alleging that the complaint herein does not show (a) that complainant is a shipper over the railroad of defendant; or (b) that complainant has suffered or is suffering any injury or damage by reason of the maintenance of the rate complained of ; or (c) that the consumers of the State of Colorado have authorized or requested complainant to institute any proceeding in their behalf.

That this commission has no authority under or by virtue of the statutes of the State of Colorado, as set forth in Chapter 208 of the Laws of 1907, to fix a maximum rate, or any rate, to be charged by defendant for transportation over its road.

That the act of the legislature referred to in complainant's complaint is unconstitutional and void .

The defendant prays that the complaint be dismissed.

On their application the intervenors, The Chicago, Burlington & Quincy Railroad Company and The Union Pacific Railroad Company, were allowed to intervene herein. The Chicago, Bur-

lington & Quincy Railroad Company making the answer of The Colorado & Southern Railway Company its own; The Union Pacific Railroad Company filed a separate answer. Leave to intervene was granted February 27, 1910, and February 21, 1910, respectively. The answer of The Union Pacific Railroad Company being in all material matters the same as that of the Colorado & Southern Railway Company.

The hearing of the case was set for January 17, 1910, by the Commission, but on agreement of all attorneys the hearing was continued until March 7, 1910, on which date a formal hearing was commenced before the Commission, all the members being present, which said hearing was held from day to day, finally being concluded on March 23, 1910.

Mr. Albert L. Vogl, assisted by Mr. Robert Given, appeared as counsel for the petitioner.

Mr. E. E. Whitted, assisted by Mr. C.E.Spens, appeared as counsel for The Colorado & Southern Railway Company and The Chivago, Burlington & Quincy Railroad Company.

Messrs. Dorsey & Hodges appeared as counsel for The Union Pacific Railroad Company.

By agreement of all attorneys herein, together with the attorneys in Case No.23, it was agreed that the two cases, No.22 and No.23, would be heard together, and that the evidence adduced be considered by the Commission so far as it was applicable in each case, the cases being closely allied with each other and most of the evidence being applicable in both cases.

P A R T I E S .

In the answer of defendants the authority of petitioner to bring such an action as the present one was attacked on

the ground that it is not a party in interest; that the complaint in no way shows that it is injured by the rate sought to be reduced; or that it is either a shipper or consumer of coal; or that it has been authorized by any person, either shipper or consumer of coal, who has been injured by the present rates, to bring this action.

This Commission is aware of the provision of Section 3 of the Colorado Code of Civil Procedure which provides that "every action shall be prosecuted in the name of the real party in interest, etc.," At first blush this contention may seem to be well founded. However, the articles of incorporation, intorduced herein without objections, state the object of petitioner's association is for the purpose of gathering information upon the subjects of charges, rules and regulations relative to transportation by common carriers; of advancing the interests of the consumers of Colorado, obtaining redress for wrongs arising from unjust transportation charges, etc. " For instituting, prosecuting or defending, either in its own name, or in the name or behalf of any member or members of said Consumers' League, any action in any Court or before any Commission. "

One witness for petitioner testified that the bringing of this suit was authorized by the league; that the league had a membership composed of"ultimate consumers." Another witness testified that he is a consumer of coal from the Northern coal fields; that he was such consumer at the time of the bringing of this suit; that he is a member of the Consumers' League.

Another witness testified that he is a member and director of the Consumers' League; that he is a manufacturer and has been a consumer of coal from the Northern coal fields

since 1878; that he consumes annually about $2,500.00 worth of coal.

Section 13 of the Act by which this Commission was created and from which it receives its authority and powers, provides:

"That any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act, or in contravention of any of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts, " etc.

It seems from this section that it was the intention of the legislature creating this Commission that the right of action in matters brought before this Commission should not be limited to such strict interpretation as is placed on Section 3 of the Code of Civil Procedure. Why should it be ? If this were the case many meritorious acts might never be brought. It often happens that a business man hesitates to take any action which might result in injury to his business, yet, should the consumer suffer because a shipper or producer of coal would refuse to attack these rates ?

The operator adds to the cost of producing this coal the freight, and then his profits; the dealer adds to the cost of his coal the freight, and then his profit; the consumer must pay the cost of producing, the profit of the operator and the dealer, together with the freight. Why, then, should not the consumer be a party in interest . He, of all others, is the party who pays the freight. We are inclined to believe that the members of the legislature, in thus providing as it did in Section 13, had these things in mind, and that it was their intention that by the wording therein contained the consumer might have the right to bring an action of this nature :

Counsel for defendants seem to rely on Dallas Freight Bureau vs. The Missouri, Kansas & Texas Railway Company,

No.949 I.C.C., decided July 16, 1907; In this case, the Court, in dismissing the complaint, said :

"Traffic moves from interstate common points to destinations in the so-called common point territory of the State of Texas under a system of rates that obtain from no other point of the United States of equal extent. The common point area embraces substantially all of the cultivated, settled portion of Texas.

"Its greatest width by rail is about 460 miles. From its northern limits this territory extends over 500 miles to its extreme southern point. In general, all points in this vast territory take same class and commodity rate from any given point in the United States on or east of the Missouri or Mississippi rivers . "

The Commission then, after describing how this vast territory was given a blanket raye on account of the rivalry between all-rail and water-way companies, says: "It follows from such condition of affairs that any controversy before the Commission that draws in question the reasonableness of rates from an interstate point to a particular common point, and results in an order requiring a change of rates to that point, must have a far-reaching effect . "

Continuing, the Commission says: "The question then arises whether or not the testimony before us presents a sufficient basis for such action. No proof was offered of the right of the Dallas Freight Bureau to enter upon this contest on behalf of the municipality of Dallas. But that omission is perhaps not to be regarded as of serious importance . "

The Court then comments on the fact that not a single merchant, manufacturer or jobber of Dallas appeared to testify in the case. That no person directly interested in the rates complained of came forward to demonstrate to the Commission why they ought to be reduced. That the only witness in support of the issues made by the complainant was its secretary; that the evidence of the secretary was confined largely to a comparison of the rates attacked with other rates in other parts of the country.

The Court then says: " The case as presented rests upon such comparisons. We cannot regard a record so made up as

satisfactory. The complaint, therefore, will be dismissed, but without prejudice to any proceeding in the future involving these rates. "

We give so much of the reasoning of the Commission in that case to be able more intelligently to compare that case with the case at hand. In that case the record rested practically on the testimony of the secretary of the association. In the case before us there was the evidence of the general sales agent of the Northern Coal & Coke Company, which was very full, dealing with the present rates in question, and their effect upon producers, dealers and consumers .

The Commission in that case, as we understand it, did not dismiss that action because the Dallas Freight Bureau was not authorized to bring the case; it was because of a lack of evidence of witnesses to sustain the complaint .

In the present case there was the evidence of Mr. Kindel, a manufacturer, consuming as he testified about $2,500,00 worth of coal per year. There was also the testimony of different members of the Consumers' League that they were buyers and consumers of coal. We can readily see why the Commission, in the case referred to, did not feel inclined to make an order which might affect practically all of the territory within the boundary of the State of Texas on the evidence of the secretary of the plaintiff alone .

Section 13 of our Act provides who may bring an action ; then follows the time specified for answering, how the complaint may be satisfied, etc., etc., being practically a code procedure for this Commission in itself.

We are not aware of any case that has been dismissed by the Interstate Commerce Commission solely on the ground that

a body such as this plaintiff had no authority to bring an action of this nature.

In the Southwestern Kansas Farmers' and Business Men's League vs. The Atchison, Topeka & Santa Fe Ry.Co., No.IOII I. C. C., the complainant was a voluntary organization, composed of farmers and merchants along the Santa Fe Railway. In this case the court ordered a reduction of rates .

We believe it will be sufficient, in conclusion, to say that in Dallas Freight Bureau vs. Gulf, Colorado & Santa Fe Railway Company, wherein the plaintiff was the same as in Case No.949, which defendants are relying on, and which we have just discussed, the Commission granted the prayer for relief of plaintiff and reduced the rates on coal into Dallas.

The Commission is of the opinion that the plaintiff is a proper party and has a right to bring this action.

J U R I S D I C T I O N.

This Commission has heretofore held, and so holds now, that it has jurisdiction to hear and determine cases of the nature of the present one before the Commission. Before proceeding to take the testimony in this case Mr.Vogl, for petitioner, moved to strike all of section 5 of the answer of intervenors, for the reason that they are only before the Commission by its permission, and that by asking and obtaining authority to intervene, they have submitted to the jurisdiction of the Commission, and have precluded themselves from objecting to the same. It is the opinion of the Commission that defendant cannot make the law, under which this Commission is acting, constitutional by submitting to its jurisdiction. The Commission itself, if it thought that there was

any question as to the constitutionality of the law, would be glad to have the question raised in the higher courts.

The motion will be denied .

FINDINGS OF FACTS .

The rate complained of is the rate on coal from the Louisville or the Northern coal field district to Denver, a distance of from twenty to twenty five miles, according to the ppint from which the coal is shipped. The present rates for this haul are, on car loads: Lump coal 80 cents; mine run 70 cents, and slack 60 cents .

It appears from the evidence that about 800,000 tons produced annually in this Northern district are shipped directly to Denver; and it also appears that about 70 per cent of all the coal shipped into Denver comes from these Northern coal fields.

There is a blanket rate from all mines in this Northern district into Denver. This is explained that it is done for the reason that one mine will have no advantage in rates over others in the district. It also appears that in Boulder, Jefferson and Weld counties 1,834,344 tons of coal were produced in the year 19o9. All of this amount finds its way to the different markets over the lines of the defendant and the intervenors' roads. It also appears that during the last twenty years the production of coal from said counties has increased from 568,649 tons to the aforesaid amount. From the Canon City district into Denver the rate on coal has been reduced from $3.00 per ton (1899) to $1.60 per ton, the present rate on lump coal. From the Walsenburg district to Denver the

rate has been reduced from $3.00 to $1.60, the present rate on lump coal. It seems that the present rate of 80 cents on lump coal herein attacked has been in existence since 1889 .

Comparison was made between the present rate in question and the rates from Trinidad, Walsenburg, Canon City, Pikeview and to Greeley; also with rates on a haul of similar distances in other States, which is set out in the table below, marked Petitioner's Exhibit H; also with rates established by legislatures, Commissions and courts, set forth in a table below, the same being for 20 and 25 - mile hauls;

(C O P Y)
Petitioner's Exhibit D.
Case No.22.

Schedule of maximum rates of charge for coal in the following states, which are results of legislative enactments or of Railroad Commission orders :

	TWENTY-FIVE MILES		TWENTY MILES.	
	Other than slack:	Slack:	Other than slack:	Slack
North Carolina	$I.00	$I.00	.80	.80
Georgia	.58-1/2-65.	.58 - 65	.54-60	.54-60
x Arkansas	.65	.64	.65	:65
Minnesota	.54	.55	.52	.52
Kansas	.55	.54	.50	.50
Illinois	.54	.50	.50	.50
South Carolina	.50	.50	.43	.43
Missouri	.50	.57	.40	.40
Iowa	.46	.55	.42	.34
Texas	.55	.32	.55	.55
Texas lignite	.32	.38	.32	.32
xx North Dakota	.38	.30	.37	.37
Oklahoma	.35		.30	.35

[x] Commission rates were originally 50. Federal Court ordered raised to 65.

[xx] Sustained by North Dakota Supreme Court.

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of 80 cents on lump coal herein attacked has been in existence since 1889.

Comparison was made between the present rate in question and the rates from Trinidad, Walsenburg, Canon City, Pikeview and to Greeley; also with rates on a haul of similar distances in other states, which is set out in the table below, marked Petitioner's Exhibit H; also with rates established by legislatures, Commissions and courts, set forth in a table below, the same being for 20 and 25-mile hauls:

(Copy.)

PETITIONER'S EXHIBIT D.

Case No. 22.

Schedule of maximum rates of charge for coal in the following states, which are results of legislative enactments or of Railroad Commission orders:

	Twenty-five Miles.		Twenty Miles.	
	Other Than Slack.	Slack.	Other Than Slack.	Slack.
North Carolina....	$1.00	$1.00	$ .80	$ .80
Georgia	.58½-.65	.58½-.65	.54-.60	.54-.60
*Arkansas	.65	.65	.65	.65
Minnesota.....	.54	.54	.52	.52
Kansas	.55	.55	.50	.50
Illinois	.54	.54	.50	.50
South Carolina.....	.50	.50	.43	.43
Missouri	.50	.50	.40	.40
Iowa	.46	.37	.42	.34
Texas	.55	.55	.55	.55
Texas lignite.....	.32	.32	.32	.32
†North Dakota.....	.38	.38	.37	.37
Oklahoma	.35	.30	.30	.25

*Commission rates were originally 50. Federal court ordered raised to 65.

†Sustained by North Dakota Supreme Court.

(Copy.)

PETITIONER'S EXHIBIT H.

Case No. 22.

Comparison of lump coal rates from Canon City, Walsenburg and Trinidad districts to Denver, with maximum distance tariff rates issued under direction of legislatures and Commissions of other states for similar distance, short-line distances being used.

	Canon City. A., T. & S. F. 158 Miles.	Walsenburg. D. & R. G. and C. & S. 175 Miles.	Trinidad. D. & R. G. 210 Miles.	
Rates in effect	$1.60	$1.60	$1.85	
Maximum rates in other states:				
Texas	1.20	1.30	1.45	
Illinois	1.02	1.05	1.11	Class A Class B, 5% higher
South Carolina	1.08	1.15	1.26	
Minnesota	.98	1.05	1.19	
Oklahoma	1.20	1.30	1.45	
North Dakota	.80	.86	.97	
Iowa	.92	.965	1.06	Class A Class B, 15% higher
Georgia	1.36-1.44	1.54-1.62	1.795-1.89	
Missouri	1.30	1.35	1.50	
Kansas	1.35	1.40	1.60	
Nebraska	1.326	1.428	1.572	

PETITIONER'S EXHIBIT H.

Comparison of lump coal rates from Canon City, Walsenburg and Trinidad Districts to Denver, with maximum distance tates issued under direction of legislatures and Commissions of other states for similar distance, short line distances being used.

	Canon City AT&S.F. 158 M.	Walsenburg D&RG: C&S. 175 M.	Trinidad . D&RG.2IOM.
Rates in effect	$1.60	$1.60	$1.85
Maximum rates in other States:			
Texas	1.20	1.30	1.45
Illinois	1.02	1.05	1.LL A Class B 5% higher
South Carolina	1.08	1.15	1.26
Minnesota	.98	1.05	1.19
Okpahoma	1.20	1.30	1.45
North Dakota	.80	.86	.97
Iowa	.92	.965	I.06A Class B 15% higher
Georgia	1.36-1.44	1.54-1.62	1.795
Missouri	1.30	1.35	1.50
Kansas	1.35	1.40	1.60
Nebraska	1.326	1.428	1.572

The introduction of Exhibits showing rates outside of the State was objected to by defendants, on the ground that conditions under which the hauls were made are not shown.

The Commission admitted them at the time, with the statement that it would rule on their competency later, or before the decision by the Commission. In following the general rule that the reasonableness of a rate, or that it is discriminatory, cannot be proved by simply comparing it with another, these tables on rates outside of this State can be of little benefit to the Commission, except in the fact that the rates therein given are maximum rates, established by law in the different States. They are the highest that may be charged, and include rates on the most expensive roads in operation, requiring the largest capital, and doing from the

largest to the smallest amount of business.

The reason for the rule is that before an intelligent conclusion of the reasonableness of a rate, or whether or not it is discriminatory, can be arrived at, the conditions under which the haul is made must be known; capital stock, cost of maintenance, expenses of operation and amount of traffic must be shown, and be compared along with distances. As before stated, these are maximum rates that prevail on roads doing business under the most favourable circumstances and conditions. While these comparisons afford the Commission some information as to what would be a reasonable remuneration for similar hauls, there are other facts in this case which are more controlling to the minds of this Commission in deciding whether the present rate is unreasonable or discriminatory.

The rate from Walsenburg and from Canon City of $1.60 per tnn, a haul of from 175 and 158 miles, respectively, is less than one cent per ton per mile on the former, and about one cent on the latter. From Trinidad to Denver, a distance of 2I0 miles, the rate is less than one cent per ton per mile. From Louisville into Greeley, a distance of 67 miles, the rate is less than two cents per ton per mile. From Pikeview to Denver, a distance of 61 miles, the rate of 90 cents per ton is one and one-half cents per ton per mile. From Louisville, or the Northern District, an average of 25 miles, the rate of 80 cents per ton would be a little over three cents per ton per mile. This is the rate in question.

It will readily be seen that there is a great disproportion between the rate in question and any of the other above named rates .

The question then arises, Can this disproportion be justified by any reasonable explanation outside of an arbitrary fixing of rates? The cost of a haul should undoubtedly be

taken into consideration, but is there any extra expense per ton per mile? It is in evidence that the haul from Louisville to Denver is a practically level haul, and it is not shown that there are any other causes increasing the cost of the haul over the cost from other points within this State, as compared with this haul. In the haul from the Southern fields there is a grade of considerable proportion to the top of the Divide at Palmer Lake, being something like 2,000 feet of elevation over which the traffic must be hauled, and down again into the City of Denver.

The Colorado & Southern Railway Company being the only defendant herein whose line reaches the Northern coal fields, and at the same time with another branch reaching the Southern fields, is in a peculiar position of charging its patrons in the north for a practically level haul something more than three cents per ton per mile, and at the same time in the south is charging less than one cent per ton per mile.

It is contended by defendants that the burden of proof is on petitioners to show there is no greater cost of operation and no other reasons why the tariff in question should be higher than the other rates with which it is compared, following the rule of the burden of proof in civil cases.

In the opinion of the Commission, while it may be, as it is ably said in Dallas Freight Bureau vs. M.K. & T.Ry.Co., et al, I. C. C. 949, that "Ordinarily, complainants must either prove the issues that they raise by competent testimony, or make out a prima facia case sufficiently clear and strong as to require the Commission in the public interest to enter upon an investigation of its own to ascertain the merits of the complaint. " However, in this case, The Colorado & Southern Railway Company has different branches, one running into each district, the northern and the southern, and this question was

considered by the Interstate Commerce Commission in a case based on similar facts, as is shown here. The Commission therein says:

> "The question was considered by the Interstate Commerce Commission in connection with the rates for the carriage of shingles from Ft.Fairfield and Frederick, respectively, to Boston. The two places in question were situated on different branches of the same railroad. Mr. Commissioner Veazy said: 'A departure from equal mileage rates on different branches or divisions of a road is not conclusive that such rates are unlawful, but the burden is on the company making such departure to show its rates are reasonable when disputed.' - - "
> Beale & Wyman on R.R.Rate Regulations, sec.8, 47.

It was strongly contended by defendants that the burden of proof was on the petitioners; that they had not sufficiently offered proof of investments, expenses, and other matters, showing cost of service, to sufficiently enlighten the Commission as to what a fair comparison of the rates complained of with other rates.

These matters were particularly within the knowledge of the defendants, and if defendants believed that there was evidence that was essential to the correct determination and a clear understanding of the reasonableness of this rate, this information being readily accessible to them, they should have presented it.

Witnesses were intorduced to show that there was a charge of 25 cents per ton in the Denver yards on the haul from Louisville to Denver, and that this charge was absorbed by the road originating the traffic, necessarily reducing the profit per ton. The General Freight Agent of the Denver & Rio Grande Railroad testified that from 20 to 25 cents per ton was a very reasonable charge. One witness for petitioner testified that he had been in active management of the Denver & Rio Grande Railroad and of the Rio Grande Western from 1884 to 1901; that $2.00 per car would be a reasonable rate on a haul of the character in question; that he took into con-

sideration cost of investment, the character of the same, expense of operation, interest charge, wages, etc.

The general freight agent of the Chicago, Burlington & Quincy Railroad testified that after the switching charges were absorbed his road averaged only 64 cents per ton for this haul for the year 1908, and 56 cents for 1909 .

The freight traffic manager of the Union Pacific Railroad at Omaha testified that the rates for switching at the present time in Chicago were $2.00 per car, minimum charge.

The record in this case covers 177 pages of typewritten matter, about five days being consumed in taking the evidence. The Commission, realizing the importance of questions involved herein, has gone into this matter very fully, and, after due consideration, the Commission is of the opinion that the present rate of 8 0 cents per ton on lump coal from Louisville to Denver is too high.

In Northern Coal & Coke Co. vs. Colorado & Southern Railway Company, I.C.C.no.959, the rate between these same points was attacked, the Commission saying: The local rate of 80 cents per net ton on lignite coal from Louisville to Denver, as applied on through traffic to the Rock Island points referred to, is injust and unreasonable. "

Defendants admitted that the rate was too high and offered to publish a proportional rate of 50 cents per ton on through traffic. The Commission said that was still too high, and ordered the same reduced to 40 cents per ton for that portion of the haul, but left the same to be apportioned among the different roads as they deemed proper.

This Commission is of the opinion that 55 cents would be a reasonable and remunerative rate for said service in question.

Upon the foregoing findings of fact:

O R D E R .

It is ordered that the defendants and intervenors, The Colorado & Southern Railway Company, The Chicago, Burlington & Quincy Railroad Company and The Union Pacific Railroad Company, be and they are hereby severally notified to cease and desist on or before the 10th day of May, 1910, and during a period of two years thereafter, abstain from charging, demanding, collecting or receiving for the transportation of lump, mine run or slack coal from mines on defendant's and intervenors' lines, in and around Louisville, Lafayette, Marshall, Erie, and the Dacono,Frederick district, in the counties of Boulder and Weld, and in what is known as the Northern Colorado Coal Fields to Denver, in the State of Colorado, their present rates of 80 cents per ton on lump coal, carload, and of 70 cents per ton on mine run, carload, and 60 cents per ton on slack, carload; and to publish and charge on or before the 10th day of May, 1910, and during a period of at least two years thereafter, collect and receive from said mines to Denver, a rate not exceeding 55 cents per ton, carload, and on mine run coal a rate not exceeding 50 cents per ton, carload, and on slack coal a rate not exceeding 45 cents per ton, carload, and said defendants are hereby authorized to make said rates effective upon three days' notice to the public and to the Commission.

BY ORDER OF THE COMMISSION:

(signed) Aaron P. Anderson
Daniel H. Staley
Worth L. Seely
Commissioners .

Dated at Denver, Colorado,
this 4th day of April, 1910.

CASE #23

THE CONSUMERS' LEAGUE OF COLORADO,
a corporation, Petitioner,

vs

The Colorado & Southern Railway Company,

The Denver & Rio Grande Railroad Company, and

The Atchison, Topeka & Sante Fe Railway Company,
Defendants .

Submitted March 23, 1910 Decided April 4, 1910 .

FINDINGS & ORDER OF THE COMMISSION.

On December 6, 1909, the petitioner filed its petition herein, in which it alleges that petitioner is a corporation, etc.,; that the several defendants are engaged in the transportation of freight wholly by railroad within the State of Colorado; that said defendants charge and collect on a shipment of coal from Loyisville, Colorado, to Littleton, Colorado, as follows: On lump coal, $I.80 per ton; on mine run $I.70 per ton, and on slack $I.60 per ton. That said rates charged and collected are unjust, unreasonable and exorbitant; that the following rates would be reasonable and just: Lump coal 70 cents per ton; mine run coal 65 cents per ton, ans slack coal 60 cents per ton. That an order be entered by the Commission fixing just and reasonable rates as maximum rates to be collected .

On December 24, 1909, and December 27, 1909, the defendants, respectively, filed their answers; the Denver & Rio Grande Railroad Company alleging that the State Railroad Com-

mission of Colorado has no authority in law to require defendant to answer or to comply with any order herein, or otherwise; that the act under which the Commission is acting is unconstitutional. It admits that it is a common carrier; alleges that it charges for the transportation of coal in carload lots $I.00 per ton Denver to Littleton, whether originating in Louisville, or elsewhere; denies that the rate so charged is either unjust, unreasonable or exorbitant; denies the right of petitioner to complain in the manner set forth in said petition, or otherwise; denies that said petitioner has legal capacity to file said petition, and asks that the complaint be dismissed.

The separate answers of The Colorado & Southern Railway Company and The Atchison, Topeka & Santa Fe Railway Company allege that petitioners are not proper parties and have no authority to bring this action, and in all other matters the said answers are practically the same as that of The Denver & Rio Grande Railroad Company.

The hearing was had in this case March 7, 19IO. Mr. Albert L. Vogl and Mr. Robert Given appeared for petitioner; Mr. E. E. Whitted for The Colorado & Southern Railway Company; Mr. E. N. Clark for The Denver & Rio Grande Railroad Company, Mr. G. A. H. Fraser for The Atchison, Topeka & Santa Fe Railway Company.

By agreement of counsel this case was heard with Case No.22.

PARTIES.

The question raised by the answer of defendants herein as to the right of petitioner to bring this action has been fully discussed and disposed of by the Commission in Case #22.

JURISDICTION.

This Commission holds now, as it has heretofore held, that it has jurisdiction to hear and determine cases of the nature of the present one before the Commission.

FINDINGS OF FACT .

We shall now consider the merits of this case. The rate complained of is the rate on coal from Louisville or the Northern Colorado coal fields to Denver, a distance of something over twenty miles. The present rate attacked the rate of 80 cents from Louisville to Denver and then $I.00 from Denver to Littleton. The same witnesses appeared in this case as in Case No.22, the two cases being tried together. The Commission in Case No.22 has already made an order reducing the rate between the Northern coal district and Denver from 80 cents to 55 cents on lump coal, and from 70 cents to 50 cents on mine run coal, and from 60 cents to 45 cents on slack coal.

It is therefore unnecessary for the Commission to discuss the rate on that portion of the haul.

We shall now consider what would be a reasonable rate between Denver and Littleton. Comparison of this rate with the rates from Trinidad, Walsenburg and Canon City districts into Denver, also from Pikeview into Denver, and from Denver to Greeley, were made, with results as seen in decision in Case No.22. It, therefore, will appear that from those hauls the rates in no instances exceeded 2 cents per ton per mile. In the present rate under consideration of $I.00 for a haul between Denver and Littleton, a distance of ten miles, the charge would be IO cents per ton per mile. This disproportion of rates must readily be seen.

Let us see from the evidence whether there can be any justification in this great disproportion.

In the haul between the Louisville district and Littleton the Colo. & Southern Railway is the only direct line connecting these points. The C. B. & Q. R.R. and the Union Pacific run from the Northern fields to Denver, but do not run south of Denver. The D. & R. G. R:R. and the Santa Fe run from Little ton to Denver, but do not run north of Denver to the Northern district. Except in the instance of the C. & S. Ry., then the haul must necessarily be a two-line haul, necessitating two crews, besides a switching crew, to operate between said Northern fields and Littleton. It is reasonable that the rate should be such as to be remunerative to the most expensive haul between these points.

In the testimony of the general freight agemt of the D. & R. G. R.R., in answer to attorney for said defendant line, he gave his views of what the necessary labor and expense attacjed to the haul between Denver and Littleton would be. He said " There is absolutely no foundation for the statement that there is an agreement between the lines running north and south of Denver in regard to existing rates. " That he was familiar with and participated in making the rates for the D. & R. G. R.R. That he was entirely familiar with the operation of the roads between the Northern District and Denver, as well as between Denver and Littleton. "There is the empty car movement from Denver to the mines north, which would make a detention of 24 hours; the following day is consumed for loading, the third day hauling into the City; at least one half day consumed in getting the D. & R.G. transfer from the line bringing the car into Denver. The car would be in our yards over night, and get out of Denver on one of the local trains early the following morning, and taken thence to Littleton, and there set on the side track. Then the engine to loose the car for consignee to unload.

The consignee generally takes all the time per mutted under our service rules to unload, which is 48 hours, beginning with 7 o'clock the morning following its being set out on the side track. Then there would in all probability be an empty movement on the return of the car to Denver; the engine would have to go back to the side track out there, take the empty car and proceed with it to our yards. - - That car would be gone all of a week before it was returned. - - - Then the per diem on foreign cars. The line bringing the car in would set it on our transfer, and it would be then be taken by the switch engine and put into the regular Southern trains; - - there would be no further service than the switching of it in our Denver yards. - - That the switching charge of 20 to 25 cents per ton is a reasonable charge. - - That the operating department tells me that the switching charge does not pay the cost of the service. " That instead of maintaining expensive terminals, they would rather pay other roads having switching terminals the present switching charges. "The haul from the Northern field to Littleton is really a two-line haul, always involving a switching service and transfer from one line to another . "

The evidence of other witnesses for defendants was along the same line.

A witness for petitioner, whose experience, as stated, in the management of railroads was from 1884 to 1901, stated that he thought that the switching charge in the Denver yards now existing were very high. He said: "That a 6 cents per ton would be a reasonable switching charge", and that he thought 40 cents per ton from Denver to Littleton would be a reasonable rate .

In petitioner's Exhibit "C", given below, switching

charges, as established in the different States, on a 30-ton car, the charges would run from 5 to 15 cents per ton, with the exception of one State, South Carolina, the charge there being a little over 3 cents; these on distances ranging from one to five miles. The average would be about 10 cents per ton. It is but reasonable to assume, considering the wide divergence of opinions of witnesses on each side, that as to these switching charges the witnesses have selected instances most favourable to themselves. It seems quite clear, though, that the haul requires siwtching twice, besides the movement of empty cars into Denver if the empty haul is required .

PETITIONER'S EXHIBIT C.

State.	Distance.	Charges for Switching.
Georgia	3	$2.00
Illinois	3	2.50
Illinois	5	3.00
Chicago	5	4.00
South Carolina	Any	1.00
Iowa	...	No
North Dakota	Any	2.50
Minnesota	Any	No
Missouri	Commission has no power to fix switching rates.	
Kansas	Rates in Kansas district tariff do not include switching.	
Texas	Any, on competitive business.	No
Texas	1 and less on competitive business	1.50
Texas	2 and more than 1 on competitive business	2.00
Texas	Over 2 on competitive business	2.50
Oklahoma	...	No

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Iowa	...	No
North Dakota	Any	2.50
Minnesota	Any	No
Missouri	Commission has no power to fix switching rates.	
Kansas	Rates in Kansas district tariff do not include switching.	
Texas	Any, on competitive business.	No
Texas	1 and less on competitive business	1.50
Texas	2 and more than 1 on competitive business	2.00
Texas	Over 2 on competitive business	2.50
Oklahoma	...	No

This Commission can but admire the frankness with which the general freight agent and the traffic manager of the D. & R.G. R.R. treated the question of the charge from Denver to Littleton in their testimony. They said : " We feel that this rate is a fair one, and we are compelled to maintain that rate, because we feel it our duty to protect mines located along out road. All roads do the same, and, as our road does not run into the Northern fields, and all our mines are situated in another direction, we feel that the property along our line should be protected, and that the coal produced in these Southern fields should find a market, and it is a fair presumption that the D. & R. G. should extend its protection as far as possible; and we feel that any action on our part to break down the present rates would be unfair to ourselves and the properties located in Trinidad, Canon City and Colorado Springs districts. " - - "As our general freight agent testified, from time to time the rates from the Southern fields have been reduced to enable the people of this city to obtain coal, which they claimed was necessary in the pursuit of their various manufacturing business. If there is any further disturbance of rates it will go disastrously with the D. & R. G., as well as with the people casting their fortunes with us. That any further reduction of the existing rates would have the effect of disorganizing coal rates all over the State . "

They also said: " If any change is made between Denver and Littleton, it will practically put the Southern fileds out of business. If the Northern fields have as good success in selling coal in Littleton as they have in Denver, it will soon freeze out the Southern fields. The Littleton trade does not amount to much , but we believe what there is

of it belongs to our road. I can see no objection in making this statement . "

We believe these to be remarkably frank statements, and we believe that, from a business stand-point, as far as the railroad and coal operators are concerned, the logic is good. We are fully aware of the honest purpose of the heads of departments of railroads to maintain and build up their own business by building up the business of the producers along their line, and at the same time producing a dividend for stockholders in the roads by which they are employed . There is no rate attacked in this case except the rate from Louisville to Littleton, yet those men tell us that any further adjustment of these rates will not only affect the rate in question, but all the Southern rates on coal, practically putting the Southern fields out of business so far as their sales in Denver and some distance south are concerned .

We believe that this body is more or less administrative, and that we have a right, in making a decision, to take into consideration the natural consequences of out acts; yet there are bounds or limitations beyond which this Commission cannot go.

We are constrained to believe that, by comparison of the $I.00 rate from Denver to Littleton with other rates in evidence herein, that this rate is too high, and is discriminatory, even after making allowance for switching two times, the extra cost of handling traffic of this nature, including costly terminals, extra crews, and all other elements that have been shown to enter into and increase the expense of a haul of this nature. How far a Commission can go in the

way of artificially equalizing commercial advantages between localities of unequal natural advantages is well considered in Beale & Wyman on Rate Regulations, Section 843. It is therein said: " It has sometimes been urged that a carrier should so arrange its rates as to bring about some degree of commercial results, either by euqalizing commercial advantages between localities or otherwise affecting natural conditions. But this theory is dangerous. The carrier's rates may seldom be regulated with this end in view. As was said in Brewer vs. Central of Georgia Railway: Shall the government undertake the impossible, but injurious, task of making the commercial advantages of one place equal those of another? It might just as well undertake to equalize the intellectual powers of the people. "

" There should be no attempt to deprive a community of its natural advantages or those legitimate rewards that flow from large investments, business industries and competing systems of transportation to facilitate and increase commerce"

This view has constantly been held and enforced by the Interstate Commerce Commission, as well as by the Courts.

" It is not the duty of carriers, nor is it proper, that they undertake, by the adjustment of rates, to impair or neutralize the natural commercial advantages resulting from location or other favourable conditions of one territory in order to put another territory on an equal footing with it in a common market . "

We are impelled to the belief that the present rate from Denver to Littleton is unreasonable and discriminatory. We reach this conclusion after due consideration of all the elements in this case, and it is our duty to so declare. We believe, though, that the rate of 40 cents per ton, as testified to by witnesses for petitioner as being a fair rate,

is not enough. This haul, in our opinion, requires an unusual amount of expense for a haul of this distance. We believe that there is nearly as much expense attached to this haul, though it is only IO miles, as is attached to the haul from Louisville to Denver, a distance of 20 miles. After a train is made up it requires but little more expense to haul it 20 miles than IO. We believe, also, that there should be some allowance made for switching and terminal expenses, and that a rate of 50 cents would be a fair rate to the shipper and a remunerative rate to the carrier .

UPON THE FOREGOING FINDINGS OF FACT:

IT IS ORDERED that the defendants, The Colorado and Southern Railway Company, The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company be and they severally are notified and required to cease and desist, on or before the IOth day of May, 19IO, and during a period of at least two years thereafter, abstain from charging demanding, collecting or receiving for the transportation of coal from the City of Denver, Colorado, to the City of Littleton, Colo., their present rate of $I.00 per ton; that they publish and charge, on or before the IOth day of May, 19IO, and during a period of two years thereafter at least, collect and receive for the transportation of lump coal Denver to Littleton, in the State aforesaid, a rate not exceeding 50 ¢ per ton; on mine run not exceeding 45 ¢ per ton, and on slack not exceeding 40 ¢ per ton, C.L.; that said defendants are hereby authorized to make said rates effective upon 3 days notice to the public and to the Commission.

BY ORDER OF THE COMMISSION:

AARON P. ANDERSON
WORTH L. SEELY
DANIEL H. STALEY
Commissioners/

Dated at Denver, Colo.
4th day of April, 19IO.

BEFORE THE

COLORADO STATE RAILROAD COMMISSION .

THE COLORADO COAL TRAFFIC ASSOCIATION

CASE No.25

vs

THE COLORADO & SOUTHERN RAILWAY COMPANY,
THE DENVER & RIO GRANDE RAILROAD COMPANY, and
THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY.

On reading and filing the motion of said petitioner, THE COLORADO COAL TRAFFIC ASSOCIATION, for an order of dismissal herein,

IT IS ORDERED by the Commission that the above entitled cause be and it is hereby dismissed, without prejudice to the right of said petitioner to bring any future action before this Commission.

BY ORDER OF THE COMMISSION :

(Signed) Aaron P. Anderson

Daniel H. Staley

Worth L. Seely
Commissioners .

Dated at Denver, Colo.
this 2d, day of May A.D.19IO

BEFORE THE
STATE RAILROAD COMMISSION OF COLORADO.

JOHN J. SERRY
Petitioner

CASE #26

vs

The Atchison, Topeka & Santa Fe Railway Company
Defendant.

This cause coming on for consideration this day, and it appearing to the Commission that a settlement has been reached between the parties hereto, and the Commission having received a written statement from the said petitioner informing it of a settlement and authorizing it to dismiss the petition herein,

It is hereby ordered by the Commission that the said petition be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION:

(Signed) Aaron P. Anderson

Daniel H. Staley

Worth L. Seely

Commissioners.

Dated at Denver,
this 20th day of June, 1910.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

CASE NO. 28

GEORGE J. KINDEL, Plaintiff, -VS- ADAMS EXPRESS COMPANY, AMERICAN EXPRESS COMPANY, UNITED STATES EXPRESS COMPANY, WELLS FARGO & COMPANY, and THE GLOBE EXPRESS COMPANY, Defendants.	ALLEGED VIOLATION OF UNITED STATES POSTAL LAW.

SUBMITTED AUGUST 7, 1911. DECIDED AUGUST 8, 1911.

FINDINGS AND ORDER OF THE COMMISSION

This matter coming on for hearing this 7th day of August, 1911, before the Commission, all members thereof being present, the plaintiff being represented by George J. Kindel in person, and the defendants, the Adams Express Company, the American Express Company, the United States Express Company and the Wells Fargo & Company being represented by Gerald Hughes, Clayton C. Dorsey and E. I. Thayer, and the defendant, The Globe Express Company, being represented by E. N. Clarke and J. G. McMurray.

The complaint states among other things that the defendant companies are engaged daily in an unlawful

business and are so engaged in violation of the laws of the State of Colorado and the authority of said State in the conduct of their business, particularly in this: that they are daily engaged in the carriage for hire of packets weighing four pounds and less, also single books, also newspapers, weekly magazines and other periodical publications entered with the post office department of the United States as mail matter of the second class; that such carriage is over post routes established by law, and from cities, towns and places to other cities, town and places between which the mail is regularly carried, and in particular between points and places within the State of Colorado; that is, between Denver and Trinidad, Greeley, Grand Junction and divers other places within the State; that such carriage is made at stated periods and by regular trips; that such packets so carried as aforesaid do not relate to the merchandise under the control of said carriage; that such packets and matter as aforesaid so carried are not in their form or nature liable to destroy, deface or otherwise damage the contents of the mail bag or harm the person of any one engaged in the postal service, and particularly of such carriage of packets as aforesaid made on the 5th day of June, 1911 and divers other dates, and particularly between the points and places aforesaid, and that between said places the mail is regularly carried; that said defendants have on file with the Colorado Railroad Commission their rates, rules and tariffs containing and providing for unlawful and illegal rates and charges.

The defendants herein deny that they are engaged at all in an unlawful business; deny that they are engaged in violation of the laws of the State of Colorado; ad-

mit that they have on file with the State Railroad Commission their rates, rules and tariffs as required by the laws of the State; deny that said rates, rules and tariffs on file contain or provide for unlawful or illegal rates or charges for the transportation of packets of four pounds weight or under; deny that the carriage by them of packets, newspapers, weekly magazines and other periodical publications and single books is an unlawful carriage; deny that their rates applicable thereto are unlawful; deny that Congress of the United States in the exercise of its constitutional power committed the carriage of packets of the matter set forth exclusively to the mails of the country and made it unlawful for any express to carry same; deny that such carriage by them is contrary to the authority of the State of Colorado. Defendants allege that they are engaged in the business of transporting property by express to and from and between points in the State of Colorado and other States of the United States and foreign countries; allege by the constitution of the United States the sole and exclusive power to establish post routes and post offices and to regulate the conduct thereof is given to the Congress of the United States, and that no State or Governmental authority thereof has any jurisdiction to pass upon the question as to whether these defendants are violating the postal laws of the United States; deny the authority of this Commission to make any lawful order herein and ask that the complaint herein be dismissed.

Defendants filed herein a formal motion to dismiss.

In the case of Nathan B. Williams v. Wells Fargo & Company, decided March 8, 1910 by the Interstate Commerce Commission, in which the questions involved are

practically identical with the questions involved herein. The Commission speaking through Commissioner Prouty, Says:

> "The Commission has no authority to establish in the first instance, the rates of the defendant. The act to regulate commerce requires these rates to be filed with the Commission, and authority is given to it to investigate upon complaint the rates so filed, and to prescribe other rates in substitution for the future, provided those established are found to be in violation of the act. The defendant does not in handling these small packets or in filing its tariffs applicable thereto, transgress any provision of the act which we administer. If we were satisfied that such action upon the part of the defendant was in violation of the federal statutes, we could not, for that reason, order it to cease and desist from such practice; nor could we require it to withdraw its tariffs.
>
> Since we can grant no relief in this proceeding, it is not necessary nor appropriate to inquire whether Congress possesses the constitutional authority to create in the Government a monopoly of transporting packets and books as claimed by the complaint; nor whether, if the constitutional power exists, it has ever been exercised.
>
> The complaint will be dismissed; but a copy of the record will be transmitted to the Attorney-General of the United States for his information."

In this same case on being taken to the United States Circuit Court, reported in 177 Federal, the Court therein says:

> "While Congress has full and constitutional power to reserve to the postal department a monopoly of the business of receiving, transmitting and delivering mail, and in the exercise of such right they enact such rules, regulations and laws as will effectively preserve its monopoly, and prescribe fines, penalties and forfeitures and punishment therefor; yet this monopoly is intended to extend only to letters, packets of letters, and the like mailable matter; and Congress has never attempted to extend its monopoly to the transportation of merchandise in parcels weighing less than four pounds, nor to prohibit private express companies making regular trips over established post routes from engaging in the business of carrying such parcels for hire.

The word 'Packet' as used in Revised Statutes, Sec. 3982, prohibiting the establishment of any private express for the conveyance of letters or packets over post routes, is limited to its original meaning, throughout the postal laws to cover only a written communication of four or more sheets, which by Act of 1827, Sec. 5, Chap. 61, 238 was required to pay quadruple postage, and does not include a 'packet of merchandise' not exceeding four pounds sent by mail."

FINDINGS OF THE COMMISSION

It is the opinion of this Commission that if the acts complained of in the complaint were in violation of the United States postal laws that this Commission is without power to make a legal order in this case.

The section of the United States statutes under which this action is brought provides a penalty for the carriage of matters prohibited therein. If we were of the opinion that the defendants herein were carrying matters prohibited by the United States postal laws, yet we are without authority to enforce the penalty provided therein.

We are of the opinion that the acts complained of in the complaint, if true, are not in violation of any law of the State of Colorado which this Commission is called upon to administer.

ORDER OF THE COMMISSION

For the reasons herein set forth it is the order of this Commission that the petition of the plaintiff herein be, and the same is hereby dismissed.

BY ORDER OF THE COMMISSION,

AARON P. ANDERSON

DANIEL H. STALEY

SHERIDAN S. KENDALL
Commissioners.

Dated at Denver, Colorado this 8th day of August, 1911.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO

CASE NO. 29

THE BRECKENRIDGE CHAMBER OF COMMERCE, Petitioner,

-VS-

THE COLORADO & SOUTHERN RAILWAY COMPANY, Defendant.

INADEQUATE FACILITIES

Submitted November 16, 1911 Decided November 29, 1911.

FINDINGS AND ORDER OF THE COMMISSION

On August 7, 1911 petitioner herein filed its complaint in which it alleged among other things, that petitioner is a corporation organized and existing under and by virtue of the laws of the State of Colorado, and is engaged in the business of promoting the commercial, social and moral welfare of the citizens of Breckenridge and of Summit County, Colorado, and that its principal place of business is Breckenridge, Colorado.

SECOND: That defendant is a common carrier engaged in the transportation of passengers and property by railroad between Denver, Colorado and Leadville, Colorado, and is subject to the Act to Regulate Common Carriers.

THIRD: That during the winter of 1910 and 1911

the defendant arbitrarily and without just cause therefor closed and wholly ceased, refused and declined to operate or to carry freight or passengers over that portion of the said railroad from and between Como and Breckenridge in the State of Colorado, and petitioner is informed and believes and therefore alleges the fact to be, that the said defendant is about to, and soon will, unless prevented therefrom by an order from this Honorable Commission, so close and cease to operate the said portion of its said railroad from Como to Breckenridge aforesaid, and for and during the winter of 1911--1912, and probably for all time to come; which will result in great damage to Breckenridge and Summit County and to all the citizens thereof. That defendant refuses and declines to transfer or receive for transportation freight over its said line from Denver or any intermediate point to Breckenridge or any point on its said line beyond Breckenridge, and between there and Leadville, but that freight from Breckenridge to Denver or from Denver to Breckenridge or any point on the west side of Boreas Pass, is billed and shipped by said defendant over another and different line of railroad and a much greater distance than the line of defendant, to wit: more than 200 miles, resulting in great injury to residents and citizens not only of Breckenridge, but of Summit County. That defendant has failed and refused and still so fails and refuses to provide or maintain adequate or convenient passenger service over or along its said line of railroad; that from Grant to Como the only service is a combination freight and passenger service; that defendant refuses to provide passenger service on the Sabbath Day; that defendant

refuses to place cars for loading or to receive freight at any place along its line between Como and Breckenridge for shipment at all, thus preventing the operation of mines and mills along said road. Petitioner asks that defendant be ordered to continuously transport and receive for transportation freight as well as passengers from Denver and all intermediate points to any and all other points along this line; to provide continuous exclusive and more convenient passenger service from Denver to Leadville and for Sunday passenger service and for other relief as may seem just.

Defendant by way of answer alleges:

That the Commission has no jurisdiction of the matters complained of in the complaint. For further answer defendant says,

FIRST: It denies that plaintiff is a corporation.

SECOND: It admits it is a common carrier and operates its railroad for passenger purposes from Denver by the way of Breckenridge into Leadville, Colorado, but denies it is engaged in the transportation of property between Denver and Leadville.

THIRD: It denies the closing of the road between Como and Breckenridge, but admits it was compelled to close the same for a short time during the winter months of account of snow.

FOURTH: It admits it has refused and declined to transport or receive for transportation freight over its line from Denver through Como to Breckenridge and to points beyond there. It admits that freight from points between Breckenridge and Leadville including Breckenridge when con-

signed to Denver, or from Denver to Breckenridge, or any point west of Breckenridge to Denver, is billed over its line of railroad through Colorado Springs and Leadville to Breckenridge and to points between Leadville and Breckenridge. It denies that shipments in this manner cause any delay or damage. It admits it refuses to receive for transportation over its line from Denver through Como to Breckenridge freight consigned to Breckenridge or points west of there originating between Denver and Breckenridge, and alleges that such traffic is inconsequential. It denies inadequate passenger service. It admits the refusing to place cars for loading or reception of freight at points between Como and Breckenridge, alleging there is no traffic to be transported.

Further answering the complaint herein the defendant says: their line of railroad is built through what is known as Platte Canon, through narrow and rocky mountain gorges, to Webster, thence over Kenosha Hill to Como, thence over Boreas Pass of the main range to Breckenridge, and again over the range to Leadville, which country from Platte Canon to Leadville is wholly mountainous except a few miles in South Park which is sparsely settled, without any town of any considerable size till Breckenridge is reached. From Como to Leadville the grade is very heavy, reaching a four per cent grade each way, and rising 11400 feet to the top of the Pass. In the winter said line from Como to Leadville is subject to heavy and continuous snow storms, necessitating heavy expense in the operation of the same and that said line between Como and Leadville in the past has cost the Company more to operate it than the revenues

received therefrom; that the present year said line between Como and Leadville shows a deficit of nearly eighty thousand dollars and is a very heavy and continued and wasteful charge on the rest of defendant's line of road. That the railroad tax in Summit County amounts to $25,000.00 annually; that defendant has endeavored to have its taxes reduced, but has met with refusal; that there is no prospect of improvement in the business of said line and that there are less inhabitants along the line now than ten years ago. It therefore prays that the complaint be dismissed.

The hearing of the case was commenced October 5, 1911 at Breckenridge, Colorado where the Commission sat for the taking of the testimony of the petitioner's witnesses. The Commission then adjourned until November 14, 1911 to sit at Denver, where the witnesses for the defendant were examined, the hearing being concluded November 16th, 1911. All of the members of the Commission were present.

Mr. Barney L. Whatley appeared as counsel for petitioners. Mr. E. E. Whitted appeared as counsel for defendants.

JURISDICTION

The Commission has heretofore held that it has jurisdiction to hear and determine cases of the nature of the present one before the Commission, and it so holds now.

FINDINGS OF FACT

It appears from the evidence that the South Park branch of defendant's railway extends from Denver

through Como and Breckenridge to Leadville, a distance of 151.18 miles. That there is also a branch of this line from Como to Alma, a distance of 31.69 miles. That said South Park line is a narrow guage road; that the distance from Denver to Como is 88.22 miles; from Como to Breckenridge the distance is 21 miles, and extends over Boreas Pass which is 11,400 feet high; from Breckenridge to Leadville the line extends over Climax Pass which is 11,292 feet high, and the distance is 41.22 miles.

It also appears that each day excepting Sunday a passenger train is operated from Denver to Grant, a distance of 66 miles, and at Grant the passenger coaches are attached to the rear of the freight train and are hauled in this manner to Como, a distance of 22 miles; from Como to Leadville through Breckenridge a regular passenger train is operated. From Leadville back to Denver the passengers are carried in the same manner.

It also appears that a daily, except Sunday, freight train is operated from Denver to Alma by the way of Como, and from Alma to Denver, a freight train is also operated by the way of Como. That from Leadville to Breckenridge a freight train is run daily, excepting Sunday, returning to Leadville each day; that from Como to Breckenridge, a distance of 21 miles, no freight train is operated either way and no freight is received or discharged at any station between these points; that it is the probable intention of the Company to take off the passenger train from Como through Breckenridge into Leadville. It also appears that no freight is received at Denver or any intermediate points for any points west of Como, and that no freight is

received at Leadville or any intermediate points for points east of Breckenridge.

It seems, therefore, that by failing to operate trains between Breckenridge and Como, a distance of 21 miles, it is therefore impossible for a shipper to ship his freight over the South Park line either from Denver to Leadville, or from Leadville to Denver. It also seems that to avoid operating a freight train for the distance of 21 miles between the stations at Como and Breckenridge, that all freight received by defendant at Denver, destined to Breckenridge or Leadville, or intermiedate points, is turned over to the Midland and by that road carried to Leadville, and if the same is destined to Breckenridge, must be transferred to defendant's narrow gauge line and carried to Breckenridge, a distance of 41.22 miles from Leadville; or is turned over to the Rio Grande and by them carried to Leadville where it must be transferred again if destined to Breckenridge. The reason given by defendant for carrying their freight a distance of 317 miles around by way of Pueblo, or by the way of Colorado Springs, and paying the other roads for their share of the haul, instead of shipping from Denver to Como, then through Breckenridge to Leadville direct, only a distance of 151.18 miles, is the great expense of hauling the same over their own line over Boreas Pass from Como to Breckenridge, a distance of 21 miles.

A great deal of evidence was introduced tending to show that the South Park branch was losing money by the operation of the same, but the figures and tables introduced by defendant had to do with that part of the line from Como to Breckenridge and to Leadville. There was a

statement made by one of the witnesses that the whole South Park line was losing money. At the same time the Auditor, Mr. Bradbury, stated that outside of the line from Como to Leadville, the road was a paying proposition, the profits in the summer months compensating for any loss in the winter months. However, the facts are undisputed, while there is at present a passenger service from Denver to Leadville over Boreas Pass, there is no freight service that way; that the freight service from Como to Breckenridge is entirely discontinued, and the testimony of one of the general officers was to the effect that it was the intention of the Company to abandon the passenger service over Boreas Pass also.

The relief asked for in the petition is for increased facilities, passenger and freight, claiming the present facilities inadequate; that they have no freight service at all between Como and Breckenridge. The petitioner introduced some witnesses whose testimony tended to show, and in the minds of the Commission did show, that great inconvenience and loss existed to the citizens of the town of Breckenridge and Summit County on account of the kind of service provided by defendant.

There are some very serious questions which must first be determined by the Commission in determining the case before us.

First, can a railroad whose charter provides that they are to "Maintain, operate, extend and complete the railroads and telegraph lines" as is provided in defendant's charter, abandon a part of a contiguous line without forfeiting its charter.

Second, if it cannot, what would constitute a reasonable service if it is shown that that particular part of a line is unprofitable although the whole system is pay-

ing a dividend?

The question whether or not a railroad company may abandon its line and forfeit its charter at will, is not necessary to be decided by us. It seems though, they may do so unless it has received state aide, or there is a provision in the charter prohibiting such abandonment. However, the question which enters into this case is: can a railroad abandon a part, a connecting link, in a main line of its road and not provide adequate service, and if it does, does it not forfeit its charter? It seems in the present case that the main line of the South Park division according to the charter begins at Denver and ends at Leadville; that that part between Como and Breckenridge where defendant has entirely ceased operating freight trains is on the main line as described in the charter, from Como to Breckenridge. By ceasing to operate freight trains over this connecting link the effect of course, is to prevent any through freight moving from Denver to Leadville or from Leadville to Denver over the defendant's line.

The defendant urges that it is offering as a compensation to the patrons of their road a through route around by way of Colorado Springs or Pueblo, but is this an adequate compensation? It was testified to by the witnesses that when this line was operated as a through route from Denver to Leadville, that a merchant could order his merchandise in the evening in Denver and receive the same the next morning in Breckenridge or Leadville by freight. Now all perishable merchandise must be sent by express if it goes over defendant's line, and if sent by freight it takes from three to six days to go around by way

of Pueblo or Colorado Springs, and may thus be destroyed.

In the case of The Albany & Vermont Railroad Company, 24 N. Y. Court of Appeals, page 267, Wright Judge in a case somewhat similar to this, says:

> "A Company endowed with a franchise or privilege to maintain a railroad on a fixed route and between places named in its charter, cannot exercise the franchise or privilege by the operation of a road upon another route and between other places. The franchise can only be legally exercised by the corporation operating its entire road.
>
> There is no privilege granted or right obtained to operate a part thereof, and if it should undertake to do so, it is exercising a franchise or privilege without legal sanction."

The court goes on further to say that by abandonment of a part of a line specified in the charter, it forfeits its charter. We believe this is good law.

Should a railroad company which receives a charter from a state which provides that they must operate their road be allowed to cease the operation of a link in the middle of the road and thereby defeat the purposes for which the road was chartered, without forfeiting its franchise. It was the evident intention in granting this charter, that a shipper would have the opportunity to make a shipment from Denver over the entire line into Breckenridge or Leadville direct.

The next question arises what is a reasonable service to be required of defendant under the conditions as shown by the evidence in this case? Defendant claims they are operating at a loss and have introduced figures and tables tending to show this. The figures have to do only with that part of the South Park line, however, from Como to Leadville, and does not include the whole lines of the Colorado & Southern Railroad, nor the entire line of the

South Park division, although one witness testified that the South Park division was losing money.

The petitioner has not attempted to disprove this condition of loss, while it did not concede such loss. While it may be that this line is operated at a loss it is hard to understand how defendant can ship its freight destined from Denver to Breckenridge via Pueblo, which is 317 miles, and pay the Denver & Rio Grande Railroad to haul it into Leadville and then transfer it to their own line, a narrow gauge, and then haul it 41.22 miles back into Breckenridge; how it can do this and meet this expense at a profit or at a less expense than it can haul it over its own line over Boreas Pass, even if it had to double up on its engines and maintain extraordinary heavy expense in keeping open the Pass.

In Atlantic Coast Line vs. N. C. Corporation Commission vol. 206, U. S. Report, it is said:

> "It is insisted that although the case be not controlled by the doctrine of Smyth vs. Ames, nevertheless, the arbitrary and unreasonable character of the order results from the fact that to execute it would require the operation of a train at a loss, even if the result of the loss so occasioned would not have the effect of reducing the aggregate net earnings below a reasonable profit."

To this the court replies:

> "The mere incurring of a loss from the performance of such a duty does not in and of itself necessarily give rise to the conclusion of unreasonableness. Of course the fact that the furnishing of the necessary facilities ordered may occasion an incidental pecuniary loss is an important criteria to be taken into view in determining the reasonableness of the order, but it is not the only one, as the duty to furnish necessary facilities is coterminous with the powers of the corporation, the obligation to discharge that duty must be considered in connection with the nature and productiveness of the <u>corporate business as a whole</u>, the character of the service required and the public need for its performance."

It is not shown, nor is it contended by the defendant that the proper or reasonable operation of this road would in itself reduce the net earnings of the whole system below a profit.

In Missouri Pacific Railway Company, plaintiff in error, vs. State of Kansas ex rel, Carr W. Taylor, 216 U. S. Supreme Court, 262. The Court says:

> "The duty of a railway company under its charter to furnish passenger service is not completely discharged by running a mixed train, so an order of the Kansas Railroad Commission compelling passenger train service at a pecuniary loss is not so arbitrary and unreasonable as to take property without due process of law."

The case cited by defendant, State ex rel, Northern Pacific Railway Company vs. Railroad Commission of Washington, seems to be relied on by them as a reason why any order made by this Commission on the defendant to increase its facilities would be unreasonable and would be held so by the courts. The facts in this case are as follows:

The Railroad Commission ordered relator to operate a mixed train daily, except Sunday, between two stations on a branch line about 14 miles apart. Relator now runs one mixed train each way twice a week, but for four previous months maintained a daily train service during which time the passenger traffic produced an income of nine cents a mile per day in one direction and eleven cents in the other direction, and the income from its passenger traffic by running trains daily would be no greater. The operation cost of a train is not less than thirty cents a mile, not including maintenance expense, and the two trains a week now operated are sufficient to take care of the freight

traffic, and the receipts from both freight and passenger traffic as is now operated are less than the expenses.

In this case the court held that this order was unreasonable. We think there is quite a difference between this case just cited and the case before us. In that case the branch was only 14 miles lomg--it was a branch line. In the present case the line which the defendant has ceased freight operation on, is a connecting link--it is a contiguous part in the middle of the main line, in the case just referred to there were already two trains a week run by the Company which the evidence showed were run at a loss. In the case before us there are now no freight facilities at all, with the probability that defendant will discontinue all passenger facilities. There must be a distinction between a case where there are some facilities which the court regarded as adequate, and the present case, where it is admitted, at least as far as freight is concerned, that there is none at all.

The Commission is of the opinion that the facilities now furnished by the defendant are inadequate. It is not its desire, nor will the Commission order in the present case any increase in facilities which would unduly burden the defendant. However, the Commission feels that the defendant should continue the operation of its freight service in a manner that a shipper may bill a shipment from Denver over the South Park line through to Leadville, and that a shipper in Leadville may make a through shipment over defendant's line into Denver.

ORDER

IT IS ORDERED, that the defendant, the Colorado & Southern Railway Company, be, and they are hereby notified and directed to, on or before the first day of January, 1912, and during a period of two years thereafter, maintain, operate and conduct a through freight service from Denver to Leadville by the way of Como and Breckenridge, at least three days each week, and from Leadville to Denver by the way of Como and Breckenridge at least three days each week. That they publish on or before the first day of January, 1912 freight tariffs from Denver to Leadville and intermeidate points and from Leadville to Denver and intermediate points, and receive and transport shipments to and from all stations between Denver and Leadville.

IT IS FURTHER ORDERED that defendant, the Colorado & Southern Railway Company, do operate and maintain a through and exclusive passenger train service daily, excepting Sunday, from Denver to Leadville by the way of Como and Breckenridge, and a through and exclusive passenger train service daily, excepting Sunday, from Leadville to Denver by the way of Breckenridge and Como.

Effective January first, 1912
and for two years thereafter.

BY ORDER OF THE COMMISSION,

(Signed)

AARON P. ANDERSON
DANIEL H. STALEY
SHERIDAN S. KENDALL

Dated at Denver, Colorado,
November 29, 1911.

BEFORE THE
STATE RAILROAD COMMISSION OF COLORADO

CASE NO. 30

THE BIG FIVE TUNNEL, ORE REDUCTION & TRANSPORTATION COMPANY, Petitioner,	)	
-VS-	)	INADEQUATE FACILITIES
THE DENVER, BOULDER & WESTERN RAILROAD COMPANY, Defendant.	)	

Submitted December 18, 1911. Decided December 19, 1911.

FINDINGS AND ORDER OF THE COMMISSION

On September 19, 1911 petitioner herein filed its complaint in which it is alleged among other things,

FIRST: That petitioner is a corporation organized and existing under and by virtue of the laws of Colorado, and is engaged in mining at Frances and Ward, Boulder County, Colorado; that respondent, the Denver, Boulder & Western Railroad Company is a corporation duly created for the purpose of owning and maintaining a railroad from Boulder to Sunset in Boulder County, Colorado, and thence to the town of Ward in said County and State, and other branch lines; that petitioner has constructed a switch 3500 feet in length connecting its mine operations and milling plant with said railroad; that since the incorporation of defendant, said defendant has so far failed to keep said railroad in practical operation at all times and has failed to operate

said road with any degree of regularity between the stations of Boulder and Frances and Ward for passengers and freight purposes, in that no regular passenger or freight trains have been run by said defendants; that great expense and damage has resulted to petitioner on account of the failure of said defendant Company to run regular trains between said points.

SECOND: Petitioner asks that action may be taken toward annulling the franchise of said defendant.

THIRD: That petitioner may have such relief as may seem right and proper.

The defendant by way of answer admits the incorporation of petitioner as well as defendant, and denies each and every other allegation in said petition contained. It asks that the petition be dismissed.

The hearing was had in the Commissioners' room at Denver, Colorado. Commissioners Anderson and Kendall sitting. Mr. George Redd appeared as counsel for petitioner. Mr. J. M. Cates appeared as counsel for defendant.

FINDINGS OF FACTS

It appears from the evidence that defendant's line of railroad extends from Boulder to Sunset, and at Sunset one branch runs to Ward and Frances, and the other branch to Eldora, all being in Boulder County; that the total mileage of the road is 46.7 miles; that from Boulder to Eldora daily trains are run, but from Sunset to Ward and Frances, a distance of 13.40 miles, daily trains are run in the summer months, but during the winter months on account of a lack of business only a mixed train is run once a week.

It also appears that from Sunset to Frances and Ward

that part of the line particularly complained of, is built through a rough and mountainous country with very deep cuts and is very difficult to operate on account of snow slides and the constant filling of the very deep cuts with snow.

It also appears that the towns of Frances and Ward, including intermediate stations between Sunset and Frances, have only a population of approximately 200 people who are dependent on this particular line; that practically the only industry is mining, and that petitioner in 16 months only shipped 25 cars of ore from Frances and Ward, and received 44 cars of coal in one year.

Petitioner stated that his Company shipped about as much ore as all of the other mines in this locality; that if a daily train was run the increase in the business of the road would be only about 25%.

Mr. Lee, a witness for petitioner, testified that weekly service in his opinion was sufficient if it could be depended on. Petitioner's Ex-Superintendent testified that weekly trains would be sufficient except a daily train would keep the road open better in the winter.

It seems from the evidence that a weekly train is operated to Frances and Ward regularly, leaving Boulder on Wednesdays of each week, excepting such times that it was impossible on account of weather conditions, and at such times trains are run up as near Ward as is possible; that on some days when it has been impossible to run trains on Wednesdays that trains have been run on other days of that week, and that in excessively bad weather they have in some instances been unable to run any trains at all.

It conclusively appears to the Commission that defendant's business as to the whole road operated by them is and has been a losing proposition, and this fact was admitted by petitioner's attorney. It seems that last year only 1½% interest was paid on the defendant's outstanding bonds and no interest was paid on the stock of the concern; that the expense of operating one train is $30.00, and to operate a daily train would cost many times more than the amount earned.

Under all of the circumstances it seems to the Commission that a weekly train is all that could be expected from respondents between Sunset and Ward, as the whole income of defendant, after paying running expenses is not enough to pay a reasonable return for the money invested. We think this is all the service which they can be compelled to perform under existing law.

ORDER

It is hereby Ordered that petitioner's complaint be dismissed.

BY ORDER OF THE COMMISSION,

AARON P. ANDERSON,
SHERIDAN S. KENDALL.
Commissioners.

Dated at Denver, Colorado,
December 19, 1911.

BEFORE THE
STATE RAILROAD COMMISSION OF COLORADO

CASE NO. 31.

JOHN J. SERRY,
Petitioner,

-VS-

THE DENVER & RIO GRANDE RAILROAD COMPANY,
Defendant.

Alleged overcharge on shipments of mine props and car door boards from Sargeant, Shirley, Salida, Marshall Pass and Mears Junction to Canon City, Colorado.

Submitted December 19, 1911. Decided December 19, 1911

O R D E R

This case coming on for hearing before the Commission on defendant's motion to dismiss, and it appearing to the Commission that the complaint herein may involve the question of the fixing of rates, and the petition being insufficient and indefinite so as to fail to constitute a cause of action, it is hereby

ORDERED by the Commission that the complaint herein be dismissed without prejudice to the petitioner to file a new complaint herein.

BY ORDER OF THE COMMISSION,

AARON P. ANDERSON
SHERIDAN S. KENDALL.
Commissioners.

Dated at Denver, Colorado,
December 19, 1911.

STATE RAILROAD COMMISSION
OF COLORADO

CASE NO. 31 Filed DEC 19 1911

JOHN J. SERRY,
Petitioner,
-VS-
THE DENVER & RIO GRANDE RAILROAD COMPANY,
Defendant.

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ORDERED by the Commission that the complaint herein be dismissed without prejudice to the petitioner to file a new complaint herein.

BY ORDER OF THE COMMISSION,

Aaron P Anderson

Sheridan S Kendall

Commissioners.

Dated at Denver, Colorado
December 19, 1911.

CASE NO. 30

STATE RAILROAD COMMISSION
Filed DEC 19 1911
OF COLORADO

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO

THE BIG FIVE TUNNEL, ORE REDUCTION & TRANSPORTATION COMPANY,
Petitioner,

-VS-

THE DENVER, BOULDER & WESTERN RAILROAD COMPANY,
Defendant.

INADEQUATE FACILITIES

Submitted December 18, 1911. Decided December 19, 1911.

FINDINGS AND ORDER OF THE COMMISSION

On September 19, 1911 petitioner herein filed its complaint in which it is alleged among other things,

FIRST: That petitioner is a corporation organized and existing under and by virtue of the laws of Colorado, and is engaged in mining at Frances and Ward, Boulder County, Colorado; that respondent, the Denver, Boulder & Western Railroad Company is a corporation duly created for the purpose of owning and maintaining a railroad from Boulder to Sunset in Boulder County, Colorado, and thence to the town of Ward in said County and State, and other

branch lines; that petitioner has constructed a switch 3500 feet in length connecting its mine operations and milling plant with said railroad; that since the incorporation of defendant, said defendant has so far failed to keep said railroad in practical operation at all times and has failed to operate said road with any degree of regularity between the stations of Boulder and Frances and Ward for passenger and freight purposes, in that no regular passenger or freight trains have been run by said defendants; that great expense and damage has resulted to petitioner on account of the failure of said defendant Company to run regular trains between said points.

SECOND: Petitioner asks that action may be taken toward annulling the franchise of said defendant.

THIRD: That petitioner may have such relief as may seem right and proper.

The defendant by way of answer admits the incorporation of petitioner as well as defendant, and denies each and every other allegation in said petition contained. It asks that the petition be dismissed.

The hearing was had in the Commissioners' room at Denver, Colorado. Commissioners Anderson and Kendall sitting. Mr. George Redd appeared as counsel for petitioner. Mr. J. M. Cates appeared as counsel for defendant.

FINDINGS OF FACTS

It appears from the evidence that defendant's line of railroad extends from Boulder to Sunset, and at Sunset one branch runs to Ward and Frances, and the other branch to Eldora, all being in Boulder County; that the total mileage of the road is 46.7 miles; that from Boulder to Eldora daily trains are run, but from Sunset

to Ward and Frances, a distance of 13.40 miles, daily trains are run in the summer months, but during the winter months on account of a lack of business only a mixed train is run once a week.

It also appears that from Sunset to Frances and Ward that part of the line particularly complained of, is built through a rough mountainous country with very deep cuts and is very difficult to operate on account of snow slides and the constant filling of the very deep cuts with snow.

It also appears that the towns of Frances and Ward, including intermediate stations between Sunset and Frances, have only a population of approximately 300 people who are dependent on this particular line; that practically the only industry is mining, and that petitioner in 16 months only shipped 25 cars of ore from Frances and Ward, and received 44 cars of coal in one year.

Petitioner stated that his Company shipped about as much ore as all of the other mines in this locality; that if a daily train was run the increase in the business of the road would be only about 25%.

Mr. Lee, a witness for petitioner, testified that weekly service in his opinion was sufficient if it could be depended on. Petitioner's Ex-Superintendent testified that weekly trains would be sufficient except a daily train would keep the road open better in the winter.

It seems from the evidence that a weekly train is operated to Frances and Ward regularly, leaving Boulder on Wednesdays of each week, excepting such times that it was impossible on account of weather conditions, and at such times trains are run up as near Ward as is possible; that on some days when it haa been impossible to run trains on Wednesdays that trains have been run on other days of that week, and that in excessively bad weather they have in some instances been unable to run any trains at all.

It conclusively appears to the Commission that defendant's business as to the whole road operated by them is and has been a losing proposition, and this fact was admitted by petitioner's attorney. It seems that last year only 1½% interest was paid on the defendant's outstanding bonds and no interest was paid on the stock of the concern; that the expense of operating one train is $30.00, and to operate a daily train would cost many times more than the amount earned.

Under all of the circumstances it seems to the Commission that a weekly train is all that could be expected from respondents between Sunset and Ward, as the whole income of defendant, after paying running expenses is not enough to pay a reasonable return for the money invested. We think this is all the service which they can be compelled to perform under existing law.

ORDER

It is hereby Ordered that petitioner's complaint be dismissed.

BY ORDER OF THE COMMISSION,

Aaron P Anderson

Sheridan S Kendall

Commissioners.

Dated at Denver, Colorado,
December 19, 1911.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

CASE No. 33.

D. E. and J. R. HUMMEL, doing
business under the firm name
of D. E. HUMMEL & SON,
Petitioners,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY, and THE MISSOURI PACIFIC RAILWAY COMPANY,
Defendants.

ALLEGED OVERCHARGE ON SHIPMENT OF COAL.

This cause coming on for hearing before the Commission on the motion of the petitioners herein to dismiss for the reason that the said defendant, the Colorado & Southern Railway Company, has paid the amount demanded in the complaint herein;

IT IS HEREBY ORDERED, by the Commission, That the said complaint be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION,

AARON P. ANDERSON,
D. H. STALEY,
SHERIDAN S. KENDALL,

Commissioners,

Decided March 20, 1912.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

CASE No. 35.

THE DENVER METAL COMPANY, By Ben Grimes,

Petitioner,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY and THE UNION PACIFIC RAILROAD COMPANY,

Defendants.

D I S C R I M I N A T I O N.

This cause coming on for hearing this day before the Commission on motion of the petitioner, the Denver Metal Company, by Ben Grimes, to dismiss;

IT IS HEREBY ORDERED, by the Commission, That the petition herein be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION,

AARON P. ANDERSON,
D. H. STALEY,
SHERIDAN S. KENDALL,

Commissioners.

Decided March 20, 1912.

AARON P. ANDERSON
DANIEL H. STALEY } COMMISSIONERS
SHERIDAN S. KENDALL

STATE RAILROAD COMMISSION OF COLORADO

CAPITOL BUILDING
DENVER

AARON P. ANDERSON
PRESIDENT

DANIEL H. STALEY
SECRETARY

JOHN W. FLINTHAM
ASST. SECRETARY

FILE NO._____

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

CASE NO. 35.

THE DENVER METAL COMPANY, by Ben Grimes,
Petitioner,
vs.
THE COLORADO & SOUTHERN RAILWAY COMPANY and THE UNION PACIFIC RAILROAD COMPANY,
Defendants.

D I S C R I M I N A T I O N.

This cause coming on for hearing this day before the Commission on the motion of the petitioner, the Denver Metal Company, by Ben Grimes, to dismiss;

IT IS HEREBY ORDERED, by the Commission, That the petition herein be, and the same is, hereby dismissed.

BY ORDER OF THE COMMISSION:

A P Anderson

D. H. Staley

S. S. Kendall

Commissioners

Decided May 20, 1912.

AARON P. ANDERSON
DANIEL H. STALEY } COMMISSIONERS
SHERIDAN S. KENDALL

STATE RAILROAD COMMISSION OF COLORADO

AARON P. ANDERSON
PRESIDENT

CAPITOL BUILDING
DENVER

DANIEL H. STALEY
SECRETARY

JOHN W. FLINTHAM
ASST. SECRETARY

FILE NO._____

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

CASE NO. 32.

T. O. THOMPSON, et al.,
Petitioners,

vs.

THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,
Defendant.

I N A D E Q U A T E F A C I L I T I E S.

This cause coming on for hearing before the Commission this twenty-first day of March, 1912, on the motion of petitioners herein to dismiss for the reason that defendants herein have satisfied the complaint;

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

BY ORDER OF THE COMMISSION:

A P Anderson

D. H. Staley

S S Kendall
Commissioners

Submitted March 21, 1912.

Decided March 22, 1912.

CASE NO. 37.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO

THE DENVER FREIGHT AUDIT BUREAU, Complainant.	)	
-VS-	)	ERROR IN CLASSIFICATION.
THE DENVER & RIO GRANDE RAILROAD COMPANY, Defendant.	)	

--ooOoo--

Submitted and Decided July 1, 1912.

FINDINGS AND ORDER OF THE COMMISSION.

The complaint filed herein alleges among other things "that during the month of April, 1909, defendant moved one semi-portable upright boiler with engines and iron hoisting drum attached" from Colorado Springs, Colorado, to Denver, Colorado, shipped by Whitney Steen Company, consigned to Smith & McCullen.

That a first class rate of Forty Three Cents (43¢) per cwt., was charged therefor.

That this classification was wrong and that same should have been classified as second class according to Item 7, Page 91, and Item 14, Page 93, of Western Classification No. 45.

Complainant asks for refund of $5.25 together with interest.

The defendant by way of answer alleges among other things: They admit they transported the articles alleged to have been transported by the defendant, according to the allegations in complainant's complaint.

That the charges collected were as on first class matter which was the proper charge.

They deny that the proper rate to charge was a second class rate.

Also deny said Whitney Steen Company were overcharged or are entitled to any refund.

The real contention herein of complainant seems to be that the articles in question should have been classified under Item 7, Page 91, as second class which said item reads as follows: "Semi-Portable (upright boilers with engines attached) small breakable parts removed and boxed."

The contention of defendant is that the same should have been and was classified as first class under Item 13, Page 93, of said Western Classification No. 45 which reads as follows: "Hoisting drums and engines combined (steam or electrical) boxed or crated or with light and easily breakable and detachable parts removed and boxed or protected by crating."

Two witnesses for the defense testified that they had seen the engine and hoisting drum in question, which was transported by defendant and that the drum and hoist were really attached to the engine.

This was not really denied by the complainants.

The real difference in said Item 7 and Item 13 of said Western Classification is that Item 13 prescribed "Hoisting drums and engines combined" while Item 7 does not mention hoisting drums.

We observe that in complainant's complaint, paragraph 3, complainant described the article transported as a "Boiler with engines and iron hoisting drum attached" almost the wording used in Item 13 providing for a first class rate.

It is the opinion of the Commission that the shipment in question was properly classified and that a first class rate was a proper charge and that complainant's complaint should be dismissed.

O R D E R

It is therefore Ordered by the Commission that complainant's complaint be and the same is hereby dismissed.

Aaron P Anderson

Sheridan S. Kendall

Daniel Hogan

Commissioners

Dated at Denver, Colorado,
July 1, 1912.

Original

BEFORE THE

STATE RAILROAD COMMISSION

OF COLORADO.

****

CASE NO.36.

THE WESTERN MORGAN COUNTY COMMERCIAL ASSOCIATION, by A. K. Dickson, President, et al,
Petitioner,

-VS-

THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,
Defendant.

INADEQUATE FACILITIES.

****

Submitted, June 22, 1912. Decided, October 14, 1912.

FINDINGS AND ORDER OF THE

COMMISSION.

On May 13, 1912, petitioner filed their complaint herein, in which it is alleged, among other things, that defendant is a common carrier engaged in the transportation of passengers and property, by railroad, between Denver and Wiggins, and all points east of Wiggins in the State of Colorado, and as a common carrier, is subject to the Act to regulate common carriers. That passenger trains all stop at Wiggins at such a time as is a detriment to the town and community as follows:

East bound train No.304 stops at 4:38 in the morning, and east bound train No.302 at 9:29 in the evening. Parties coming to Wiggins must come at these late hours; therefore, parties will not come unless on special business, thereby keeping out persons coming for the purpose of looking at locations to settle in this part of the country.

That west bound train No.301 stops at 6:26 in the morning, and west bound train No.303 stops at 8:03 in the afternoon; that these are the only trains stopping from the east, and

persons coming to Wiggins from the east must change at Fort Morgan, and then take these trains to Wiggins, thus causing a delay in their trip.

Plaintiff asks that train No.10 from the west, which arrives at Wiggins at 11:03 in the morning, and train No.13 from the east, which arrives at 3:30 in the afternoon, be ordered to make permanent stops at Wiggins. They allege that the freight and passenger receipts are from one thousand to two thousand dollars per month; they allege that the ticket sales will thereby be increased at least 40%.

Defendant, by way of answer, alleges:

That the Railroad Commission has no jurisdiction over the matter complained of in the complaint.

Second: They deny the allegations in said complaint, but admit they are a common carrier.

Third: They deny that the passenger trains stop at Wiggins at such a time as to be detrimental to the necessities of said town or community.

Fourth: They deny each and every other allegation in said petition.

For a third, defense defendant says that its train service between Denver and Wiggins, and between eastern points and Wiggins, is adequate to take care of the business at Wiggins; that trains Nos.301 and 303 in connection with trains Nos. 1 and 3, furnish ample service to the said town of Wiggins, for all parties coming from east of Wiggins, and that trains Nos.302 and 304 furnish ample service for all parties traveling from Denver easterly to Wiggins, or points east thereof; that there is no necessity for stopping other trains; that the present train service is adequate to take care of all the necessities of the town of Wiggins, and the community surrounding said town; that there is no necessity for stopping the through trains of said defendant

which carry mail and express.

Defendant begs leave to refer to the tariffs on file with this Commission, and its printed and published time cards, for the purpose of showing the train service at Wiggins from both east and west; defendant asks that the complaint herein, be dismissed.

FINDINGS OF FACT.

It appears from the evidence that the town of Wiggins is a small station on the Chicago, Burlington & Quincy Railroad Company's line, about 63.30 miles east of Denver, and about 14.72 miles west of Fort Morgan; that there are about 150 to 200 people living in said town. It also appears that the following trains of defendant company now stop at the town of Wiggins:

Going west, trains No.301, which arrives at 6:26 in the morning, and No.303, which arrives at 8:03 in the afternoon.

Going east, trains No.302, which arrives at 9:29 P. M., and train No.304, which arrives at 4:38 in the morning, and train No. 14, which stops to discharge passengers from Denver, or to pick up passengers for Fort Morgan and east. It seems that this train has been ordered to stop at Wiggins by defendant company since this case was filed. In addition to these trains, defendant company has offered to stop train No.13 at Wiggins, which is an interstate, through, mail and express train, for the purpose of discharging all passengers originating at all points east of McCook, Nebraska.

The evidence in this case was completed on June 17, 1912, and plaintiff and defendant were given further time of 5 days in which to file briefs with the Commission. Subsequent to the taking of the evidence herein, the Commission was notified by the attorney for plaintiff to dismiss the case for the reason that the plaintiff had come to an agreement and understanding with the defendant company. Later the Commission was notified by one of the parties complaining, not to dismiss the case for

the reason that they had not quite come to an understanding.

Since the final hearing in this case, defendant has ordered train No.14, from the west, to stop at Wiggins, and has made publication to that effect in their time table, said train stopping to discharge all passengers from the west, and to take on any passengers ~~from~~ for the east.

This Commission will not order a defendant to stop a through, interstate, mail, express and passenger train at a way station, unless it is clearly shown by the evidence that it is necessary in order that the said station may receive adequate passenger service. In the present case, it appears to the Commission that for the size of the town of Wiggins, and the amount of business done, they have fairly good service. Indeed, much better service than most towns of that size in the State of Colorado.

However, in view of the offer of defendant herein, to stop train No.13 to discharge passengers from the east, and in view of the fact that defendant has already ordered train No.14 to stop at Wiggins, it is hereby Ordered by the Commission, that in addition to the trains already serving the town of Wiggins at the commencement of this action, the defendant, The Chicago, Burlington & Quincy Railroad Company be, and they are hereby ordered, to stop train No.14 from the west, for the purpose of discharging passengers, and to take on any passengers going east; that they are also hereby ordered to stop train No.13 from the east, to discharge any passengers desiring to stop at Wiggins, originating at any point east of McCook.

This order shall take effect and be in force on and after, November 15, 1913, and shall continue in force from said date, for the period of two (2) years thereafter, unless modified or set aside by this Commission.

BY ORDER OF THE COMMISSION,

Aaron P. Anderson
Daniel A. Hughes
S. S. Kendall
Commissioners.

Dated at Denver, Colorado, Oct., 14, 1913.

BEFORE THE STATE

RAILROAD COMMISSION OF

COLORADO.

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CASE NO.43

C. W. DURBIN, representing
E. W. EDDY, of West Cliffe, Colorado,
Plaintiff,

-VS-

THE DENVER & RIO GRANDE RAILROAD CO.,
Defendant.

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Submitted, November 15th, 1912. Decided, November 15th, 1912.

ALLEGED UNREASONABLE RATES AND DEMANDING REPARATION

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FINDINGS AND ORDER OF

THE COMMISSION.

On October 9th, 1912, complainant filed his complaint herein, and alleged:--

First: Complainant is located at West Cliffe, Colorado, and is engaged in the general merchandise business.

Second: That defendant is a common carrier engaged in the transportation of passengers and property, by railroad, between points in the State of Colorado, and is subject to the provisions of the Act to regulate common carriers.

Third: Complainant, in the course of his business, receives carload shipments of cement and plaster from Portland and Concrete, Colorado, over the line of the defendant; that for such shipments complainant is compelled to pay rate of 17 cents per hundred pounds; that the rate of 17 cents per hundred pounds from Portland and Concrete to West Cliffe, Colorado, is unjust and unreasonable; that a just and reasonable rate would

be 12 cents per hundred pounds; that plaintiff made shipments of the aggregate weight of 190,480 pounds; that for the transportation of the aforesaid shipments, complainant was compelled to pay the unreasonable rate of 17 cents per hundred pounds, aggregating the amount of $323.92; that said rate of 17 cents per hundred pounds was, and is still, unjust and unreasonable, and unjustly discriminating and unduly preferential and prejudicial and in violation of the Act to regulate common carriers.

Plaintiff asks that defendant be ordered to cease and desist from the aforesaid violation of the law to the full extent thereof; that defendant be ordered to establish a rate of 12 cents per hundred pounds; to pay the complainant, by way of reparation, the amount of $95.25 and interest.

The defendant, by way of answer to plaintiff's complaint, admits the allegations contained in the first paragraph herein; admits that it is a common carrier and as such, is subject to the Act to regulate common carriers to such extent as common carriers are generally subject; admits the allegations set forth in the third paragraph of said complaint with reference to the receipt, by the complainant, of carload shipments of cement and plaster, from Portland and Concrete, Colorado, and also with reference to the rate exacted by defendant, and paid by the complainant on such shipments. Denies that said rate is either unjust or unreasonable; denies that 12 cents per hundred pounds would be either a just or reasonable rate. Defendant denies that the rate exacted for the transportation of the commodity referred to in said complaint was in any manner or to any extent in violation of the Act referred to in said complaint.

Defendant asks that plaintiff's complaint, herein, be dismissed.

The hearing in this case was set for November 15th, 1912, at the office of the Commission in Denver. On this date, the case was called for hearing, all the members of the Commission being present. Mr. C. W. Durbin appeared as counsel for the plaintiff, and Mr. E. N. Clark appeared as counsel for the defendant company. When the case was called for hearing on the date set as stated above, Mr. E. N. Clark, on the part of the defendant railroad company, and Mr. C. W. Durbin, as attorney for the plaintiff agreed, in the presence of the Commission, as follows:--

That the Commission might enter an order herein, reducing the said 17 cent rate to 15 cents per hundred pounds, and that the Commission might enter an order against the defendant company for reparation to the extent of 2 cents per hundred pounds on the shipments complained of in the complaint herein, said total shipments amounting in the aggregate, to 190,480 pounds. This agreement was made as a compromise, and in lieu of the taking of testimony to establish whether or not the said rate was unjust, unreasonable, preferential or prejudicial, and whether plaintiff was entitled to reparation. Therefore, in view of the facts herein stated, and in view of the understanding and agreement entered into herein, by the respective parties thereto, the following order is entered.

ORDER.

It is Ordered that the defendant, The Denver & Rio Grande Railroad Company be, and they are hereby notified, to cease and desist on or before the 16th day of December, 1912, and during a period of two (2) years thereafter, from charging, demanding, collecting or receiving for the transportation of cement and plaster from Portland and Concrete, Colorado, to West Cliffe, Colorado, their present rate of 17 cents per hundred

pounds, and to publish and charge, on or before the 16th day of December, 1912, and during a period of at least two (2) years thereafter, to collect and receive, for the transportation of said cement and plaster from Portland and Concrete, Colorado, to West Cliffe, Colorado, a rate not exceeding 15 cents per hundred pounds, carloads, and said defendant is hereby permitted to make said rate effective after three (3) days notice to the public and to the Commission.

Also, the defendant, The Denver & Rio Grande Railroad Company, is hereby ordered to, on or before, the 16th day of December, 1912, pay to the said plaintiff, E. W. Eddy, by way of damages or reparation, the amount of 2 cents per hundred pounds, on the aggregate amount of 190,480 pounds, being the aggregate amount of the shipments shipped by plaintiff, being the amount of $38.10, together with six percent (6%) interest per Annum thereon.

BY ORDER OF THE COMMISSION.

Aaron P Anderson
Sheridan S. Kendall
Daniel H. Staley

Dated at Denver, Colorado,
November 15, 1912.

Commissioners.

BEFORE THE

STATE RAILROAD COMMISSION
OF

COLORADO.

THE YAMPA VALLEY COAL COMPANY,
Complainant.

-vs-

THE DENVER, NORTHWESTERN AND PACIFIC RAILWAY COMPANY, AND D. C. DODGE AND S. M. PERRY, RECEIVERS THEREOF,
Defendants.

Case 45

ORDER OF DISMISSAL.

On this seventeenth day of February, 1913, on reading and filing the motion of C. W. Durbin, Attorney for Complainant, to dismiss the complaint herein:

It is hereby ORDERED that the above entitled cause be, and the same is, hereby dismissed without prejudice.

Aaron P. Anderson

S. S. Kendall

Daniel H. Stuart

COMMISSIONERS.

Original

CASE NO. 34.

B E F O R E

THE STATE RAILROAD COMMISSION OF COLORADO.

STATE RAILROAD COMMISSION
Filed MAR 20 1913
OF COLORADO

OMAR E. GARWOOD, et al., ... Petitioners,

--v.--

THE COLORADO & SOUTHERN RAILWAY COMPANY, a corporation, THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, a corporation, and UNION PACIFIC RAILROAD COMPANY, a corporation, ... Defendants.

Submitted December 21st, 1912. Decided March 20th, 1913.

STATEMENT OF CASE.

On February 23rd, 1912, the petitioner herein filed his complaint with the Commission, in which it is alleged, among other matters, that petitioner is a resident of the City and County of Denver, and is a purchaser and consumer of coal from the Northern coal fields. That this proceeding is brought by the petitioner on his own behalf and on behalf of all other coal consumers who may hereafter become parties to this proceeding.

That the defendants, The Colorado & Southern Railway Company, The Chicago, Burlington & Quincy Railroad Company, and Union Pacific Railroad Company, are common carriers, and are engaged in

the transportation of coal from the Northern coal fields, in Boulder and Weld Counties, Colorado, to Denver; and that Louisville is the center of the said Northern coal fields, and that said Town of Louisville is distant from Denver about twenty miles.

That said defendants charge and collect upon all shipments of coal, car loads, from said Northern coal fields destined to Denver, the following prices, to-wit:

On Lump coal,	80 ¢ per ton;
On Mine Run coal,	70 ¢ " " and
on Slack coal,	60 ¢ " "

That said charges are unjust, unreasonable and exorbitant, and in violation of the Act to Regulate Common Carriers.

Petitioner prays that said rates be reduced by the Commission to the following prices:

Lump coal,	50¢ per ton;
Mine Run coal,	45¢ " "
Slack coal,	40¢ " "

That heretofore, in what is known as The Consumers' League case, the Commission entered an order on the same rates in question herein, and in said order said rates were reduced from 80¢, 70¢ and 60¢ per ton to 55¢, 50¢ and 45¢, respectively.

The defendants each filed their separate answers, in which, among other things, they admit that they are common carriers of freight. They deny that the said rates charged by them are excessive, unreasonable or exorbitant; but admit that they are charging said rates.

They allege that the complainant herein does not show that petitioner is a shipper of coal over defendants' lines of road, or is suffering from any injury at the hands of the defendants.

They deny generally each and every other allegation in said complaint.

This cause was first set for hearing May 6th, 1912, but was, by request of all parties concerned herein, continued until May 22nd, 1912. On May 22nd, 1912, on the application of petitioner herein, the setting was vacated and the cause was retired from the docket, with the permission to have the same redocketed and reset on petitioner's application. On August 6th, 1912, on the application of petitioner herein, the cause was redocketed and reset for hearing, when the taking of testimony was commenced, and was continued thereafter from time to time, at the request of all parties, the final argument herein being had on December 21st, 1912.

Omar E. Garwood, assisted by Albert L. Vogl, appeared as counsel for petitioner.

E. E. Whitted appeared as counsel for The Colorado & Southern Railway Company and The Chicago, Burlington & Quincy Railroad Company.

C. C. Dorsey and E. I. Thayer appeared as counsel for Union Pacific Railroad Company.

FINDINGS OF FACT.

On April 4th, 1910, in what was known as The Consumers' League Case, involving the same defendants, the same haul and the same rates as are involved herein, this Commission entered an order reducing the said rates then maintained by said defendants from

80¢ on Lump coal,

70¢ on Mine Run coal, and

60¢ on Slack coal, car loads, to

55¢ on Lump coal,

50¢ on Mine Run coal, and

45¢ on Slack coal, car loads.

The present law provides that the life of an order is limited to two years, and the present proceeding was brought to renew the said order entered April 4th, 1910. The Commission (while it will take cognizance of its former order and the evidence introduced therein), desired at the commencement of the present action to give the defendants full opportunity to offer the fullest possible evidence in the cause; and ample time and opportunity was afforded for the same, with the result that much new and additional evidence was introduced that was not introduced in the former cause. In fact, the taking of the evidence in the present cause consumed many days, and after being extended, consists of about seven hundred pages of type-written matter.

While the Commission has, undoubtedly, the right to go so far outside of the record in the present case as to consider the evidence introduced in the former case tried before us, known as The Consumers' League Case, No. 22, and decided by the Commission, it has had no need to do so, as it is able to decide the present case on what it considers sufficient evidence introduced in the present case, and on which it bases this order.

The three defendants operate three different lines of railroad between what is termed the Northern coal fields, located in Weld and Boulder Counties, in the State of Colorado, and

Denver, the distance from Denver being as follows:

Via Colorado & Southern,	21.6 miles
Via Union Pacific,	26.8 "
Via Chicago, Burlington & Quincy,	24.2 "

being an average distance of 24.2 miles in length.

The rate is a blanket rate and is the same on each defendant's road.

The average annual tonnage of coal shipped to Denver, according to defendants' testimony, for the years 1909, 1910 and 1911, is as follows:

The Colorado & Southern,	360,801 tons
Union Pacific,	187,258 "
The Chicago, Burlington & Quincy,	135,305 "

or a total average tonnage for the three lines for one year, of 683,364 tons.

Witnesses for defendants testified that 43 per cent of this coal moved under the 80¢-per-ton rate, 18 per cent under the 70¢-per-ton rate, and 39 per cent under the 60¢-per-ton rate, making an average of 70.3¢ per ton, which produced a total average annual revenue for all lines of $480,384.20.

Witnesses for defendants also testified that they absorbed a switching charge of 20¢ per ton in the Denver terminals, and that the absorption of switching cost the Union Pacific an average of 14.3¢ per ton, the Colorado & Southern 6.9¢ per ton, and the Chicago, Burlington & Quincy 14.1¢ per ton, or an average of 11.8¢ per ton on all classes of coal.

Col. Dodge, a witness for plaintiff, of many years experience in the operation of railroads, testified that from $3.00

to $5.00 per car, running from 30 to 50 tons each, would be a reasonable switching charge, varying according to the number of times it was switched.

This would produce about 10c per ton for switching. Averaged on the basis of 20¢ according to defendants' witnesses, the average as testified to by defendants, would be 11.8¢ per ton for all classes of coal. If averaged on the basis of 10¢, according to witness Dodge's testimony, the average for all classes of coal would be something like 6¢ per ton.

One of the main witnesses for defendants was Mr. Bradbury, auditor of one of defendants' roads. According to Mr. Bradbury's testimony, a reasonable charge would be $2.94 per car, and at 32 tons per car, a reasonable charge would be 9.2¢ per ton for cost of switching.

About nine witnesses were sworn and testified on behalf of petitioner, and more than this number testified for defendants, and from their testimony the Commission finds that the present rates in force at the present time are 80¢, 70¢ and 60¢ on Lump, Mine Run and Slack coals, respectively, from the Northern fields into Denver, an average distance of 24.2 miles. That these rates have been in force for about eighteen years. That the haul is practically a level or prairie haul, with a few fairly heavy grades. That the rate from the Routt County coal fields to Denver is $1.60 a ton on Lump coal, and the distance is 195 miles. That the grade for about 27 miles, over Corona Pass, is about 4 per cent. That the distance from the Trinidad District to Denver is about 210 miles, and the rate is $1.85 per ton on Lump coal, and the same must be hauled over the Palmer

Lake Divide with a fairly heavy grade. From the Walsenburg District to Denver the distance is 175 miles, and the rate on Lump coal is $1.60 per ton.

The rate per ton per mile is, therefore, very disproportionate by comparison of the rates between the Northern and Southern fields in "rates per ton per mile", and in the case of one defendant, both fields are reached by different branches of its line.

What, if any, good reason has this defendant advanced for the great disproportion in these rates?

The Commission has taken into consideration the fact that the defendant roads reaching the Northern fields vary in length, some having a longer haul than others, and for that reason the expense of the haul from the Northern fields varies to some extent between the different defendants, though all defendants have a blanket rate.

The Commission proposes to consider this matter in a manner that will allow ample earnings to the longest or least favored road entering the Northern fields.

Defendants' witnesses testified that the average price per ton from these Northern points on all classes of coal, after considering the amounts hauled of each kind, is 70.3¢. The rate per ton per mile is nearly 3¢, as against less than 1¢ per ton per mile from the Trinidad, Routt and Walsenburg Districts.

Witnesses for defendants testified that there was a greater expense to the defendants in the haul from the Northern than from the Southern fields, in that a large percentage of the Northern coal had to be switched to, and remain on, storage tracks, free

of charge, for the purpose of allowing shippers a sort of warehouse storage, as it were, until finally disposed of by them.

We doubt if this can properly be considered as an item that should be added to the line haul expense. Under the ruling of the I. C. C., in opinion 2129, involving rates on hay from the Northwest to Chicago, and involving a similar contention, the Commission therein says: "Terminal expenses incident to delay in releasing equipment cannot properly be charged against each shipment, and should not, therefore, be included in the line rate."

If such a storage advantage is given to individual shippers, the cost should not be added to the line haul to the disadvantage of other shippers.

It is contended that the car detention on the Northern haul is about the same as on the Southern haul, while the distance is an average of 24.2 miles as compared with 210 miles from the Southern.

Witnesses for the defendants were very extravagant, in the opinion of the Commission, in their statements as to the number of days a car would be detained in making one trip from Denver to the Northern fields and return. It was claimed by one witness that the average detention of one car was 14 days, and this testimony ranged from 11.65 days on the Chicago, Burlington & Quincy to 20 days on the line of the Union Pacific, and this for a haul of only 24.2 miles.

To the minds of the Commission, this is out of all reason and conscience. It seems to be the practice of hauling to the mines a number of cars and switching them on the track above the

tipples to be dropped down by gravity as they are used for loading. The diligent should not be made to pay for the faults of the negligent, and while it may be that our present demurrage laws are inefficient, yet it seems that a large part of this detention is caused by the poor management or lax methods of the common carriers.

For the average distance of 24.2 miles, it seems that 9 days would be ample time for the car detention. Shippers should be made to understand that cars should be loaded on reaching the mine before other deliveries will be made.

It seems to the Commission that the doctrine laid down In re Rates on Hay from the Northwest to Chicago, Opinion 2129, decided January 13th, 1913, should obtain in this case,--that unreasonable terminal expense incident to delay in releasing equipment should not be included in the line haul.

Another item of extra expense claimed by defendants is the item of interest on terminal values. If we concede,as claimed by one of the defendants, that the value of the real estate of terminals, less that part which they have leased, is $5,580,851.00,

and the value of the trackage is 1,747.761.00

the total would be $7,328,612.00.

Besides the part which they say they have leased and are receiving revenue on, At 6 per cent interest for one year,

the interest would be $439,716.72

Taking from this 146,330.27

which defendants' witnesses testified that they received from switching, the balance or interest item would then be $293,386.45.

The car movement into the Denver yards from the evidence of defendants' witnesses, was 226,816 cars. Multiplying this by 32, the average number of tons in a car, as testified to by them, and then dividing $293,386.45 by this result, would give us the cost per ton for terminal interest, which would be 4¢per ton.

In this computation we have allowed for the terminal values, including the leased part of the terminal, $8,522,668.

Another item advanced by defendants as increasing the cost of the haul from the Northern fields is service of a switching train crew at the mines.

The testimony shows the reasonable value of the train crews service would be $21.23 per day, and working 350 days, the cost would be $7,420.50; dividing this by 377,960, the number of tons of coal, the item for switching charges would be 1.9¢ per ton for services at the mine.

Another item of expense contended for by defendants attending the haul from the Northern coal fields is the item of car detention. While we believe that nine days are unnecessary by proper management for the use of a car in the service, yet allowing the said nine days on account of our poor demurrage laws, on the valuation of $800 per car, at 6 per cent per annum, the interest thereon would be $1.17 for nine days, and hauling 32 tons per car, the item of car detention would be 3.5¢ per ton.

The items then contended for by defendants as constituting an extra expense attending the haul from the Northern fields are an extra of, 1st, terminal switching; 2nd, interest on terminals; 3rd, switching service at the mines; 4th, car detention.

Let us see what these extra expenses contended for by the defendants would amount to. It is the opinion of the Commission and the Commission finds, that the following is an ample and remunerative return for the following services and items as shown by the evidence:

Terminal switching,	11.8¢
Interest on terminal investments	4¢
Services at the mines by the train men	1.9¢
Car detention	3.5¢

Then the above items contended for by defendants as constituting an extra expense of the Northern haul over the haul from the Southern and Routt County fields, together, amounts to 21.2¢ per ton.

In the Consumers' League Case, the Commission ordered a reduction to 55, 50 and 45 cents, respectively, on Lump, Mine Run and Slack coal, making an average of 50¢ per ton for all classes.

If the above items, amounting in all to 21.2¢, are deducted from the 50¢, the average rate, there will still remain 28.8¢ per ton for the Northern Haul, after all the above items of expense are taken care of, 2¢ more than 1¢ per ton per mile for the longest haul of any defendants.

While the above items are claimed to be more expensive in the Northern haul, it is not contended that the Southern and Routt County hauls have not the same items of expense, but in a limited degree.

Then, for the Southern haul, the carriers receive less than 1¢ per ton per mile, and have these items to take care of,

while for the Northern haul the above items are all cared for and the carriers still have a margin of 2¢ per ton to spare to take care of any other items of expense overlooked, if the rates ordered in the Consumers' League case were to obtain.

In the case of the Northern Coal & Coke Company vs. The Colorado & Southern Railway Company, 16 I. C. C., Page 373, the Interstate Commerce Commission, in discussing the same rate, says: "In the opinion of the Commission the local rate of 80¢ per ton on Lignite coal from Louisville to Denver as applied on through traffic to Chicago, Rock Island & Pacific points, as referred to, is unjust and unreasonable. The charge covers a haul of twenty miles as part of a through haul of several hundred miles on coal of an inferior grade. Defendant admits that the same is too high and expresses the willingness to re-publish a proportional rate of 50¢ net ton for that part of the haul from Louisville to Denver to apply on through traffic to Rock Island points.

We think even this rate would be unreasonable for that service, and that joint rates should be established by defendants to apply on through traffic from Louisville to the various points reached by the line of the Chicago, Rock Island & Pacific in Kansas, Nebraska, Missouri, Iowa and Oklahoma, which shall in no case exceed the rate in effect via C., R. I. & P. from Denver and Roswell by more than 40¢ per net ton. The through rate may be so apportioned between the Colorado & Southern and the Rock Island Companies on any basis of division which those carriers may deem proper."

While the above case was decided on an interstate haul,

it is plain to the minds of the Commission that the Interstate Commerce Commission regarded the rate of 80¢, even as applied to a local haul, as unreasonably high, and while they may not have, and probably would not have reduced the same to 40¢ on a local haul, yet we feel that they would not have fixed a rate therefor above the rate as fixed in the Consumers' League case.

The Commission is of the opinion that 55, 50 and 45¢ per ton on Lump, Mine Run and Slack coal, respectively, is a reasonable and remunerative rate on the haul in question, and the Commission finds that the said rates of 80¢, 70¢ and 60¢ per ton on the said haul in question, on Lump, Mine Run and Slack coal, respectively, are unjust, unreasonable, exorbitant and discriminatory upon the foregoing findings of fact.

O R D E R .

It is hereby ordered that the defendants, The Colorado & Southern Railway Company, The Chicago, Burlington & Quincy Railroad Company and Union Pacific Railroad Company, be and they are hereby severally notified to cease and desist, on or before the 24th day of April, 1913, and during a period of two years thereafter abstain from demanding, charging, collecting or receiving for the transportation of Lump, Mine Run and Slack coal from mines on defendants' lines, in and around Louisville, Lafayette, Marshall, Erie and the Dacona, Frederick District, in the counties of Boulder and Weld, and in what is known as the Northern Colorado coal fields to Denver in the State of Colorado, the present rates of 80¢ per ton on Lump, car loads, and 70¢ per ton on Mine Run, car loads, and 60¢ per ton on Slack, car loads, and to publish and charge, on or before the 24th day of April,

1913, and during a period of two years thereafter, collect and receive for the transportation of Lump coal from said mines to Denver, a rate not exceeding 55¢ per ton carload, and on Mine Run coal a rate not exceeding 50¢ per ton carloads, and on Slack coal a rate not exceeding 45¢ per ton carload, and said defendants are hereby authorized to make said rates effective upon three days' notice to the public and to the Commission.

By order of the Commission:

Aaron P. Anderson

Daniel A. Hallaley

COMMISSIONERS.

Dated this 20th day of March, 1913, at Denver, Colorado.

--o--

CASE NO. 39.

JOHN J. SERRY, Complainant,

-vs-

THE DENVER & RIO GRANDE RAILROAD COMPANY, Defendant.

Submitted November 26th, 1912. Decided April 12, 1913.

STATEMENT OF CASE.

On August 6th, 1912, complainant filed his complaint herein, in which, among other things, it is alleged:-

That complainant, John J. Serry, is a shipper of articles hereinenumerated, and is a builder and his place of business is located at Canon City,Colorado.

That the defendant is a common carrier engaged in the transportation of passengers and property by railroad between the points hereinafter set forth in the State of Colorado, and is subject to the act to regulate common carriers.

That shipments were made as hereinafter mentioned, to-wit:

The complaint then sets forth two hundred and fifty different shipments of timber and lumber, involving rates thereon, between the following points; Howard to Canon City, Parkdale to Canon City, Parkdale to Chandler, Cotopaxi to Canon City, Cotopaxi to Victor, Cotopaxi to Florence, Cotopaxi to Pueblo, Cotopaxi to Chandler, Buckston to Canon City, Riverside to Canon City, Superior to Canon City, Salida to Canon City, Shirley to Canon City, Marshall Pass to Canon City, Otto Switch to Canon City, Charcoal Switch to Canon City and Kalsite to Canon City, involving in all,seventeen different rates on the line of the Denver & Rio Grande Railroad in Colorado, and ranging from a distance of 10 miles from Parkdale to Canon City, to a distance of 150 miles from Sapinero to Canon City. In this 150 miles are included about 98 miles of narrow guage road.

Complainant sets forth in his complaint what the rates now in force are, and also, in each instance, what, in his opinion, the rates

are which should have been charged.

That all freight rates were paid by complainant, and that the difference between the rates stated by him to be reasonable and the amount actually charged be refunded to him.

Complainant asks for $2056.22 reparation.

In its answer defendant admits that complainant is a shipper of articles as alleged in the complaint.

Denies that all shipments were ever made as alleged in the complaint.

Admits that complainant paid most of the rates and charges as shown in the complaint, but denies receipt of all such rates and charges, and denies that any reparation is due the complainant.

The answer alleges that the Commission has no authority to order reparation on any shipment antedating February 15th, 1911, the date when the law under which the Commission is acting became effective.

Alleges that complainant does not charge any violation of the act to regulate common carriers.

Alleges that the rates and charges referred to in the complaint were made and put into effect after a conference with the petitioner herein, and in an endeavor to make effective such rates and charges as would enable complainant to move his traffic from all points furnishing such traffic in competition with complainant, and that such rates are in truth and in fact low rates and charges for the services rendered.

That with this end in view defendant adopted and made effective the following rates on car doors, lumber, mine props, mine ties and mine timbers.

The answer then proceeds to set forth the table of rates which were made effective by defendant as stated in the answer.

The said two hundred and fifty shipments were made, according to the complaint, between July 17th, 1906 and January 15th, 1912, covering a period of nearly six years.

Defendant asks that the complaint herein be dismissed.

FINDINGS OF FACT.

There seems to be several questions which must be first determined by the Commission in order to determine the issues in this case.

First: Are the present rates complained of by plaintiff, and charged by the defendant, reasonable; or is the Commission justified in ordering a reduction of the same under the evidence introduced herein?

Second: If the Commission does not feel justified in reducing the said rates, is the Commission justified in ordering reparation in favor of plaintiff for the difference between the rates now in force and the rates charged by defendant previous to the installation of the rates now in force?

Third: When a rate is voluntarily reduced by a common carrier how far should it be subjected to reparation of the difference from the rates installed and the rates formerly charged, and on what evidence or basis should the Commission act in ordering such reparation?

It appears that the complainant attacks the reasonableness of the freight rates between seventeen different points in the State of Colorado, and on defendants lines of railroad in this action.

It also appears that the complainant is asking reparation on about two hundred and fifty shipments, and that complainant asks $2056.22 reparation.

It also appears that said shipments moved on dates reaching as far back as July 17th, 1906, and between that date and January 15th, 1912, covering a period of nearly six years.

It also appears that in November, 1910, after a conference with plaintiff, defendant voluntarily filed and put into effect tariffs materially reducing the rate then in effect, and that a majority of the shipments complained of moved prior to that date.

In each case where reparation is sought and rates are attacked on which reparation is asked, the main feature of the case should be proof sufficient to establish the unreasonablenass of the rates attacked, but in the present case nearly all of the evidence introduced was intro-

duced for the purpose of establishing that the shipments were made, and the amounts which were charged for the same, the reparation question being made the main feature.

Practically the only evidence introduced that tended to show the unreasonableness of the rates attacked from the seventeen different points, was the testimony of the plaintiff himself. In fact, the plaintiff himself was the only witness on the part of plaintiff except where witness Mr. Fred Wild, a witness for the defense, was intorduced to prove that certain shipments were made

The testimony of the plaintiff went only into the comparison of the rates attacked with other rates as compared with distances, and a statement that the majority of the shipments made by himself were made on a down hill haul.

We cannot regard this record as satisfactory, nor can we consider that it constitutes sufficient evidence on which this Commission could base an order reducing the present rates in question.

Before the Commission should make an order reducing rates in existence at the time, it should have before it sufficient evidence to enable it to determine whether the rates in question are discriminatory or unreasonable. Some evidence should have been introduced by plaintiff showing the conditions under which the different hauls were made.

The Commission should know something of the cost of operation of the carrier, the cost of maintenance, grades, etc. It should also know something of the capitalization, the amount of traffic, the amount of earnings, or other items that would throw light on the cost of the haul.

It is a general rule that the unreasonableness of a rate cannot be proved by simply comparing it with another. At least enough evidence should be introduced to justify the Commission in entering upon a research of its own. But to attack in one action seventeen different rates and expect an order from the Commission reducing the same on the record of this case as made up, which practically rests on a simple comparison of the rates and distances, at the same time expecting a refund to the extent prayed for in the action, is to the minds of the Commission, out of all reason.

Such an order could not be made on this record as the record is not only incomplete, but is entirely insufficient.

It seems that instead of devoting his testimony to the question of the unreasonableness of the rates complained of (which, in the minds of the Commission, must always be the first issue established and must be decided before reparation can be ordered) the plaintiff devoted practically all of his attention to the proof that the shipments were made. In the opinion of the Commission plaintiff fell short of establishing conclusively that all of the shipments complained of were actually made.

For instance, out of the two hundred and fifty shipments, only twenty-five receipted freight bills were produced. The balance of the shipments were attempted to be proven by practically oral evidence.

We give a sample of the evidence introduced to prove most of the shipments. On Pages 21, 22, and 23 of the transcript of the evidence, the following appears:

WITNESS JOHN J. SERRY on the stand.

BY MR. COCHRAN:

Q. In your own language, begin and make a concise statement in regard to these shipments. A. Beginning at line 10, paragraph 3---

A. There is an entry in an original diary, made at the date of the loading.

Q. Was this entry made at the time in your diary? A. Yes, sir.

Q. Have you the original entry? A. That is the original entry I made of loading a car at Parkdale; I was shipping to Canon City at the time.

Q. What did you ship on that day? A. Lumber.

Q. What were you charged for it? A. Lumber, seven cents a hundred pounds.

Q. And what did you pay for the lumber on that car? A. Twenty-one dollars.

Q. What do you claim would be a reasonable rate? A. Three cents a hundred.

Q. That being the case, what would you be entitled to as a rebate?

A. Four cents a hundred.

Counsel for complainant offers in evidence entry made on the date of the shipment of the car in his diary of that date.

MR. STALEY: What is the original entry on that?

A. The original entry was "Load car Parkdale". The other writing, in ink, I put to help us out here; the circle was put on afterwards, too.

MR. CLARK: That is the only memoranda you made on there at the time? A. Yes, sir.

MR. CLARK: I object because it does not refer to any car, number, or ownership of car, nor weight, nor anything else to identify the lumber which you say that memorandum indicates was shipped on that date.

A. I was shipping to Canon City. The only memorandum made was there on that slip.

Objected to as serving no purpose, and utterly incompetent, irrelevant and immaterial. It does not in any manner whatever connect with entry No. 10 in the bill of particulars under this complaint.

MR. ANDERSON: I think the Commission gets your position, Mr. Clark, but we think we will let him go through with these different entries, and rule on them at the final finding.

PAGES 26 and 27.

Q. I hand you plaintiff's Exhibit E-5, and ask you if that is the original entry made at the time you loaded this car? A. Yes.

Counsel for complainant offers Exhibit E-5 in evidence.

Same objection.

Q. Do you know, of your own knowledge, what was in this shipment?

A. Yes, sir; lumber.

Q. How many pounds of lumber? A. Thirty thousand.

Q. What rate was charged on this? A. Ten cents a hundred.

Q. How much freight did you pay on that? A. Thirty dollars.

Q. What do you claim would be a reasonable rate? A. Four cents.

Q. And what would you be entitled to as a refund? A. Eighteen dollars.

Q. Was this shipped over the D. & R. G. Railway? A. Yes, sir.

Counsel for defendant asks where the book is, from which these

entries were taken. Petitioner answers that it is at home.

Counsel for defendant then insists that the book is the proper exhibit, and not these little slips.

MR. ANDERSON: When were these little slips torn out of that book? A. (By witness) Three or four days ago. I numbered them to bring here.

Q. Was anything else in this little book pertaining to the matter [redacted] before the Commission except the slips you have introduced? A. No, sir, that was all pertaining to it.

Q. These entries were made in this little book at the times you have stated? A. Yes, sir.

Q. Not since you went home? A. No, sir.

MR. ANDERSON: By all the rules, you cannot introduce a page from a book; you must introduce the book.

Q. Didn't I tell you to bring the book? A. You told me to bring anything I had that I thought was an entry.

MR. ANDERSON: The Commission will consider all these things before it makes an order. You are not precluded from introducing the book, if you have it."

While the Commission does not rule that receipted freight bills must be introduced to prove shipments, it appears to the Commission that in asking for reparation to the amount asked herein, that plaintiff has fallen short of that evidence which should be required to establish his claim. Secondary evidence may be allowed where primary evidence has been lost or destroyed, but in this case plaintiff asks reparation on two hundred and fifty shipments, and has only recepited freight bills for twenty-five shipments. It is quite necessary that the receipted freight bills should be produced by the party claiming reparation, if possible. Otherwise, it would be difficult for the Commission to know who had paid the freight, as the freight may be paid by one person or another according to the circumstances as to how the shipment was made.

If the Commission had had sufficient evidence on which to base

an order reducing the present rates of defendant, and it had been proven that shipments had been made, it does not follow that in the present case the Commission would have ordered reparation on all of these shipments made during the preceding six years. The fact that the Commission would reduce a rate today on account of its being unreasonable does not relieve the plaintiff from proving the unreasonableness of the rate in the years preceding the reduction. A rate may be unreasonable today and still have been reasonable prior thereto.

In the case of the National Wool Growers' Association, vs Oregon Short Line Railroad Company, et al, Opinion No. 2127, ICC, decided January 7th, 1913, the Commission says:

"The statute provides that no order for reparation shall be made by the Commission unless claim is filed with it within two years from the time the cause of action accrues, and it seems to be assumed in many quarters that whenever the Commission holds a given rate to be unreasonable it will, as a matter of course, award reparation upon the basis of the rate found to be reasonable as to all payments within the two-year limitation. This is by no means so, since it does not of necessity follow that because a rate is found unreasonable upon a given date it has been unreasonable during the two years preceding, and reparation can only be granted where it is found that the charge was unreasonable when paid.

There is no exact standard by which the reasonableness of a rate can be measured. While there are many facts capable of precise determination which bear upon that question, the final answer is a matter of judgment. The traffic official who establishes the rate exercises his judgment in the first instance, and the Commission when it revises that rate substitutes its judgment for that of the traffic official. With varying conditions the reasonableness of a rate itself may vary, so that the rate which is reasonable today may be unreasonable tomorrow.

Consider the rates involved in this proceeding, namely, those on wool from far-western points of production to eastern destinations. These rates were established many years ago. When established, all the incidents of transportation in that country were different from what they are now. The railroads themselves were much less substantial. Traffic was nothing like as dense. In the period elapsing between the establishment of these rates by the carriers and the decision of this case by the Commission almost every condition which bears upon the reasonableness of a transportation charge by rail had undergone a transformation. It may well be that the rates were entirely reasonable when established, although unreasonable when the opinion of the Commission was promulgated.

Assuming this to be so, when did these rates cease to be reasonable and become unreasonable? Manifestly, this point of time is not susceptible of exact determination, but is, again, a question of judgment.

It appeared from the evidence produced upon the investigation that formerly the state of the sheep industry was such that the old rates could be paid with ease, whereas that industry, owing to its less prosperous condition, now finds these rates a serious burden; that is the traffic could formerly bear a higher rate than at present.

In every case like this the Commission must fix the point of time at which the rate becomes unreasonable, must determine when shippers were entitled, and when carriers ought to have established the rate found reasonable. Manifestly each case must depend upon its own facts, and the complainant must assume the burden of showing that the rates paid have been unreasonable. In the present instance, upon a consideration of the whole situation, we are not satisfied that the complainant has shown that the rates as stated in the tariffs of the carriers were unreasonable up to the date of our decision."

There is another phase of this case on which plaintiff claims to be entitled to a reparation. Our law of 1910 provides:-

"Sec. 3. All charges made for any service rendered or to be rendered in the transportation of passengers or property, as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service, or any part thereof, is prohibited and declared to be unlawful."

The evidence and pleadings in this case show that in the month of November, 1910, about four years after part of these shipments were made, defendant voluntarily reduced its rates from many different points where the rates are complained of herein, said reductions varying from one to four cents per hundred pounds, and it seems to be the position of plaintiff that the action of voluntarily reducing said rates by defendant, is in itself an admission that the rates theretofore in effect were unreasonable. This is erroneous. As quoted above, the simple action of ordering a reduction by the Commission carries no presumption that the rates prior were unreasonable. This reasoning is more palpably just when applied to a voluntary reduction by the common carrier.

The law provides that all rates must be just and reasonable, and it is the evident intention of the statute to enforce and encourage the reduction in freight rates. If every voluntary reduction on the part of a carrier carried with it the burden of a refund for six years prior thereto, this would be penalizing the carriers for reducing their own rates. A rate may be decreased today and yet a former rate may have been reasonable when it was originally initiated.

We are of the opinion that in the case of a voluntary reduction by the carrier, the same as when a reduction is ordered by the Commission, that the question as to whether a rate was unreasonable at any time previous to the reduction is a question of proof and the burden is on the plaintiff to prove the same.

In the present case, in the opinion of the Commission, the plain-

tiff herein has not only failed to prove that the rates in force at the present time are unreasonable, but he has also failed to prove, and in fact, failed to introduce any evidence that the rates in force at any time previous to the initiation of the present rates were unreasonable.

For the reasons stated above, this case is hereby dismissed; but without prejudice to the plaintiff to bring any further action on any rates herein alleged to be unreasonable.

By order of the Commission:

J P Anderson

Dan T Stacey

I S Kendall

Commissioners.

Dated this 12th day of April, 1913, at Denver, Colorado.

Original

BEFORE THE STATE RAILROAD COMMISSION OF COLORADO,

Case No. 34.

STATE RAILROAD COMMISSION
Filed APR 23 1913
OF COLORADO

OMAR E. GARWOOD, et al.,

Petitioners,

-vs-

THE COLORADO & SOUTHERN RAILWAY COMPANY, a corporation, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, a corporation, and UNION PACIFIC RAILROAD COMPANY, a corporation,

Defendants.

ORDER

DENYING PETITION.

And now on this day, after hearing arguments of defendants, and after due consideration of the motion for a rehearing filed herein on the 19th day of April 1913.

It is hereby ordered that the said motion for a rehearing herein be, and the same is hereby denied, and the said motion is hereby dismissed.

Dated this 23rd day of April, 1913.

A P Anderson

D. F. Stacey

COMMISSIONERS.

Original

BEFORE THE

STATE RAILROAD COMMISSION

OF COLORADO.

STATE RAILROAD COMMISSION

Filed APR 28 1913

OF COLORADO

Case No. 42.

C. W. DURBIN, Rrpresenting A. I. LINDSEY of Aguilar, Colorado,

Petitioner,

-vs-

THE COLORADO AND SOUTHERN RAILWAY COMPANY,

Defendant.

Submitted February 4th, 1913. Decided April 28th, 1913.

Alleged unreasonable rate on a shipment of lumber from Denver, Colorado, to Aguilar, Colorado. Reparation sought in the sum of $16.50 with interest.

STATEMENT OF CASE.

On October 5th, 1912, petitioner filed his complaint herein, and alleged:

First: That petitioner is engaged in the wholesale and retail lumber business at Aguilar, Colorado.

Second: That the defendant is a common carrier engaged in the transportation of passengers and property between points in the State of Colorado, and as such, is subject to the provisions of the Act to Regulate Common Carriers.

Third: That defendant has since August 30th, 1909 carried a commodity rate on lumber from Aguilar to Denver of 12½ cents, per one hundred pounds, that no commodity rate on lumber from Denver to Aguilar has been established and for this reason the Class D rate of 18 cents per one hundred pounds, is used.

That said class rate on shipments of lumber from Denver to Aguilar is unjust and unreasonable.

That a just and reasonable rate would be 12½ cents per one hundred pounds.

Fourth: That on or about August 12, 1910 the petitioner received at Aguilar a carload of lumber shipped over the line of defendant on which he was compelled to pay a rate of 18 cents per hundred pounds on a minimum weight of 30,000 pounds, aggregating the sum of $54.00, that a reasonable charge for said service would have been 12½ cents per hundred pounds, aggregating an amount of $37.50, and asks reparation of the difference amounting to $16.50, and asks for an order to compel the defendant to cease and desist from further violation of law and to make reparation to the petitioner as prayed for in the petition.

Defendant by way of answer alleged:

First: Admits the allegations contained in paragraphs 1 and 2 of petitioners complaint.

Second: Admits the rate on lumber from Aguilar to Denver is 12½ cents per hundred pounds and that said rate was in effect when the shipment in question was made.

Third: Denies each and every other allegation contained in said complaint and asks to have the same dismissed.

FINDINGS AND ORDER.

The petitioner submits two principal reasons to sustain his contention that the rate assessed on the shipment in question by the defendant is unreasonable.

First: That the class rate from Denver to Aguilar should not exceed the commodity rate in effect from Aguilar to Denver on the same commodity.

Second: By making a comparison of rates on lumber from eight different points on another line of railroad.

It appears from the evidence that Aguilar is a producing point for lumber and lumber products: The record shows that from August 1, 1910 to September 30, 1912 there was shipped 92 cars of lumber and 95 cars of ties and mine timbers from the station of Aguilar and during the same period the shipment in question was the only shipment of lumber

made from Denver to Aguilar; this would indicate that there is a steady movement of lumber moving out of Aguilar and the particular shipment in question was a mere incident.

It appears that the policy of the defendant has been to establish commodity rates on traffic at producing points for the purpose of allowing shippers the widest scope of territory in which to ship their products; Denver is not a producing point for lumber and therefore no necessity for establishing commodity rates on this product because, as shown by the record, there has not been any demand or occasion for such rates.

If we are correct in this conclusion, then there is only one way for the defendant to reduce the rate on lumber from Denver to Aguilar, that is to reduce the class rate. We consider that it would be unfair to the defendant to compel them to reduce all of their class rates simply to provide a lower rate for lumber in carload lots when, as the record shows, only one shipment was made in two years.

The comparative rates quoted by the petitioner to show the unreasonableness of the rate in question, are in the opinion of the Commission, valueless to sustain the contention of the petitioner, for the reason they are all producing points for lumber and might well be compared with the rates from Aguilar to Denver rather than from Denver to Aguilar.

A mere comparison of rates is not sufficient to show the unreasonableness of a rate; In the opinion of the Commission the petitioner has failed to sustain his contention and the complaint is therefore dismissed.

By order of the Commission:

A P Anderson

J. H. Stalley

S. S. Kendall

COMMISSIONERS.

Dated this 28th day of April, 1913, at Denver, Colorado.

BEFORE THE

STATE RAILROAD COMMISSION

OF COLORADO.

Case No. 44.

C. W. DURBIN, Representing A. I. LINDSEY of Aguilar, Colorado,

Petitioner,

-vs-

THE COLORADO AND SOUTHERN RAILWAY COMPANY,

Defendant.

Submitted February 4th, 1913. Decided April 28th, 1913.

Alleged overcharge on LCL shipment of cast-iron pipe from Pueblo, Colorado, to Aguilar, Colorado.

STATEMENT OF CASE.

On November 15th, 1912, petitioner herein filed complaint and alleges:-

First: That petitioner is located at Aguilar, Colorado, and is engaged in the general mercantile business.

Second: That defendant is engaged in the transportation of passengers and property between Pueblo, Colorado, and Aguilar, Colorado, and is subject to the Act to Regulate Common Carriers.

Third: That defendant, since February 2, 1907, has provided in its tariffs, a commodity rate of 12 cents per hundred pounds on cast-iron pipe from Pueblo to Aguilar, Colorado.

That since February 27, 1911 they provide the same commodity rateon wrought-iron pipe from and to the same points.

That under Western Classification, wrought-iron pipe LCL is rated 4th class and the 4th class rate from Pueblo to Aguilar is 30 cents per hundred pounds.

That in maintaining a rate of 12 cents per hundred pounds on

cast-iron pipe from Pueblo to Aguilar at the same time charging 30 cents per hundred pounds on wrought-iron pipe between the same points; defendant was in violation of the Act to Regulate Common Carriers.

Fourth: That on or about May 12th, 1910 the petitioner received at Aguilar, over the line of the defendant, from Pueblo, a shipment of wrought-iron pipe, weighing 2130 pounds, on which he was compelled to pay the unjust and unreasonable charge of 30 cents per hundred pounds.

That at the time this shipment was made, there was in effect over the defendant line, a rate of 12 cents on cast-iron pipe between the same points.

That the rate charged on the aforesaid shipment was unjust and unreasonable and asks for an order to compel the defendant to cease and desist from the aforesaid violation of the law, and make reparation to the petitioner for the difference between 30 cents per hundred pounds, as charged on said shipment and 12 cents per hundred pounds which would be a fair rate to assess.

Defendant, by way of answer, alleges:-

Admits the allegations contained in paragraphs 1 and 2 of Petitioners complaint.

Admits that tariffs referred to in paragraph 3 of petitioners complaint were issued by defendant.

Admits that the rate on cast-iron pipe from Pueblo to Aguilar was 12 cents per hundred pounds.

Admits that under defendants tariffs 1-H and 1-I the rate on cast-iron and wrought-iron pipe from Pueblo to Aguilar was 12 cents per hundred pounds as alleged in paragraph 3.

Admits that under Western Classification wrought-iron pipe LCL is rated as fourth class, and that the fourth class rate from Pueblo to Aguilar is 30 cents per hundred pounds.

Denies that in charging 12 cents per hundred pounds LCL on cast-iron pipe from Pueblo to Aguilar and at the same time charging 30 cents per hundred pounds on wrought-iron pipe, LCL, between the same points, was in violation of the Act to Regulate Common Carriers, and avers that the rate fixed by said classification and tariff for

for the transportation of wrought-iron pipe from Pueblo to Aguilar was just and reasonable.

Denies each and every other allegation of complaint and asks to have the same dismissed.

FINDINGS OF FACT.

It appears from the evidence that the defendant has carried a commodity rate on cast-iron pipe, of 12 cents per hundred pounds, from Pueblo to points south, including Aguilar, since December 7th, 1900 and on February 27th, 1911 wrought-iron pipe was included at the same rate as cast-iron pipe, and since which time the rate on wrought-iron and cast-iron pipe between these points has been and is 12 cents per hundred pounds.

The evidence further shows that, prior to and since the time this shipment was made the Denver & Rio Grande and Atchison, Topeka and Santa Fe railroads, both being competitors of the defendant company in Southern Colorado, placed wrought-iron pipe in the same class with cast-iron pipe and applied the same rate to both.

The testimony of the witness for the defendant indicated that the rate from the Missouri River is the controlling factor in making rates in Colorado; the evidence shows that prior to December 10th, 1901 the Trans Missouri Tariffs made a distinction between cast and wrought iron pipe, but on that date, tariffs were published, effective since that time which made no distinction between the two kinds of pipe, classifying them together and moving them under the same rate.

It appears that there is little difference in the value of the two kinds of pipe, both can be shipped in the same car at the same time; the danger of damage to the wrought-iron pipe being very slight, while the cast-iron pipe, being more fragile, is more liable to damage.

It is not only plain from the above and foregoing, but it is also plain on its face that it is entirely unreasonable to make a charge of two and onehalf times more for hauling wrought pipe than is charged

on cast pipe, between the same points. In the opinion of the Commission the same charge should apply to both, as is now provided by the tariffs of the defendant carrier.

While the petitioner claims reparation on 2130 pounds, the expense bill filed with the Commission shows the weight of the shipment to have been 1780 pounds on which a rate of 30 cents per hundred pounds was collected by the defendant, the weight as shown by the expense bill is the one the Commission will consider.

ORDER.

The defendant, The Colorado and Southern Railway Company is hereby ordered to, on or before the 28th day of May, 1913, pay to said petitioner, A. I. Lindsey, by way of damages or reparation, the amount of 18 cents per hundred pounds, on the amount of 1780 pounds, being the weight of the shipment made by petitioner, amounting to $3.20 together with a reasonable rate of interest thereon, not less than 6% per annum.

By order of the Commission:

A P Anderson

D. D. Stanley

S. S. Kendall

Commissioners.

Dated this 28th day of April, 1913, at Denver, Colorado.

CASE NO. 49.

O. CLINTON WILSON,

Petitioner,

-vs-

The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, Chicago, Burlington & Quincy Railroad Company, Chicago Rock Island & Pacific Railroad Company, Colorado Eastern Railroad Company, Colorado Midland Railway Company, Colorado Springs & Cripple Creek District Railway Company, Colorado & Southeastern Railroad Company, Colorado & Wyoming Railway Company, Crystal River Railroad Company, Crystal River & San Juan Railway Company, Denver, Boulder & Western Railroad Company, Denver, Northwestern & Pacific Railway Company, Florence & Cripple Creek Railroad Company, The Denver & Rio Grande Railroad Company, Great Western Railway Company, Midland Terminal Railroad Company, Missouri Pacific Railway Company, Rio Grande Southern Railway Company, Rio Grande Junction Railway Company, Silverton Northern Railroad Company, Union Pacific Railroad Company, Uintah Railway Company, Denver & Inter-Mountain Railroad Company, Denver & Interurban Railroad Company, Grand Junction & Grand River Valley Railway Company, The Trinidad Electric Transmission Railway & Gas Company,

Defendants.

Petition for the reduction of passenger fares in the State of Colorado.

Submitted May 6th, 1913. Decided May 6th, 1913.

FINDINGS AND ORDER OF THE COMMISSION.

STATEMENT OF CASE.

In this action O. Clinton Wilson, plaintiff herein, asks for the reduction of all passenger rates on all of the lines and branches of all of the defendants joined herein to the sum of not to exceed two cents per mile on all prairie lines which do not traverse mountainous country and not to exceed three cents per mile on mountain lines which do traverse in mountain country.

In his complaint plaintiff alleges that defendants are common carriers of passengers for hire and are all corporations who are engaged in operating lines of railway for the service of the traveling pub-

lic within the State of Colorado.

That prior to the first day of January 1913, it was the regular practice of the defendants to issue large quantities of free transportation by which large numbers of individuals were carried over the lines of defendant companies as free passengers.

That on or about the first day of January 1913 defendants abolished said practice of issuing free transportation and thereby the revenue of defendants for passenger traffic was greatly increased and that no change has been made in the rates charged the traveling public.

At the time of filing this petition defendants are charging rates for passenger service which are excessive, exorbitant and unreasonable. Said rates range from three cents per mile upward.

Plaintiff prays that each and all of defendants, including all of the common carriers within the State, be required to publish passenger rates not exceeding the sum of two cents per mile on all prairie lines and not exceeding three cents per mile on lines which traverse mountainous country.

These are the only material allegations in plaintiff's complaint.

The defendants herein by way of answer filed their separate demurrers including a motion to dismiss in which they allege that the complaint does not state fact sufficient to constitute a cause for action.

That the complaint is not so specific and certain as to enable the defendants to answer or make proper preparation for the introduction of evidence.

That the complaint does not state which, if any, of the rates of defendants are unreasonable and does not charge defendants with any violation of law.

Alleges that the Commission has no power to fix maximum rates.

That the Commission has no power to fix by one order a general maximum rate from all points on all roads within the State of Colorado.

That said Commission has no power to fix a general maximum rate or rates upon the roads of all companies within the State of Colorado in one general proceeding or by one general order.

There are other general allegations as to the unconstitutionality

of the Act in attempting to confer upon the Commission power to regulate rates within the State of Colorado.

FINDINGS OF FACT.

This cause came on for hearing on the demurrers and motion to dismiss filed by the twenty-seven different defendants herein, and the Commission having heard the arguments of counsel herein for plaintiff and defendants, and now being fully advised, it is the opinion of the Commission that the complaint filed herein is insufficient and too general in its nature in that it includes all of the passenger rates on all branches of all of the different roads within the State of Colorado without specifying any particular rates which are deemed to be unreasonable.

The roads within the State of Colorado include many different systems, ranging from many hundreds of miles on some systems to as low as ten or fifteen miles on other systems. These roads traverse prairie as well as mountain regions, some of them reaching an altitude of 12,000 feet. Some of the systems include broad guage as well as narrow guage road. Some have a very heavy travel and others very light travel. Some run many passenger trains each way each day and others only one or two passenger trains each way each week.

Section 15 of the Colorado Act to regulate common carriers, under which this Commission must act, reads as follows:-

> "That the Commission is authorized and empowered and it shall be its duty whenever after full hearing upon complaint made as provided herein, or upon complaint of any common carrier, shipper, consignee, or applicant for cars, it shall be of opinion that any of the rates or charges complained and demanded, charged or collected by any common carrier or common carriers subject to the provisions of this Act, for the transportation of property or passengers as defined by this Act, or that any regulation or practice whatsoever of such common carrier or common carriers affecting such rates or charges are unjust or unreasonable or are unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, to determine and prescribe in what respect such rates, charges, regulations or practices are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, and to make an order that the common carrier shall cease and desist from such violations and shall not thereafter publish, demand, or collect such rate or charge for such transportation or seek to enforce the regulation or practice, so determined to be unjust.

It does not appear to have been the intention of the legislature to allow an omnibus action against all of the common carriers in the State of Colorado attacking all of the passenger rates in the State in one action. In fact, it is hard to conceive how the Commission could hear a case of this nature and use that discrimination and care which is necessary before a rate should be reduced.

In the case of Siler vs. Louisville & Nashville Railroad Company, 213 United States, Page 175, which involved a similar case where the Railroad Commission of Kentucky attempted to fix rates on all of the roads within the State and which Commission was acting under a statute similar to our Colorado statute, the court says:-

> "The proper establishment of reasonable rates upon all commodities carried by railroads, and relating to each and all of them within the State depends upon so many facts which may be very different in regard to each road, that it is plain the work ought not to be attempted without a profound and painstaking investigation, which could not be intelligently or with discrimination accomplished by wholesale. It may be matter of surprise to find such power granted to any commission, although it would seem that it has in some cases been attempted. In any event, the jurisdiction of the commission to establish all rates at one time and in regard to all commodities on all railroads in the State, on a general and comprehensive complaint to the commission that all rates are too high, or upon like information of the commission itself, must be conferred in plain language. The commission, as an extraordinary tribunal of the State, must have the power herein exercised conferred by a statute in language free from doubt. The power is not to be taken by implication; it must be given by language which admits of no other reasonable construction.
>
> The whole section, it seems to us, proceeds upon the assumption that complaint shall be made of some particular rate or rates being charged, or, if without formal complaint, the commission receives information or has reason to believe that such rate or rates are being charged, then the investigation is to go on in relation to those particular rates. We cannot for one moment believe that under such language as is contained in the section the commission is clothed with jurisdiction, either upon complaint or upon its own information, to enter upon a general investigation of every rate upon every class of commodities carried by all the roads of the State from or to all points therein, and make a general tariff of rates throughout the State, such as has been made in this case.
>
> The so-called complaints in this case, above mentioned, are, as we construe the statute, entirely too general to raise any objection to a specific rate. If complaint were necessary to enable the commission to make rates, the allegations in the complaint of Guenther were mere sweeping generalities, and were in no sense whatever a fair or honest compliance with the statute. The commission itself, in order to act, must have had some information or had some reasons to believe that certain rates were extortionate, and it could not, under this statute, enter upon a general attack upon all the rates of all the companies throughout the State and make an order such as this in question. Such action is, in our

judgment, founded upon a total misconstruction of the statute and an assumption on the part of the commission of a right and power to do that which the statute itself gives it no authority whatever to do.

We do not say that under this statute, as we construe it, there must be a separate proceeding or complaint for each separate rate. A complaint, or a proceeding on information by the commission itself, in regard to any road, may include more than the rate on one commodity or more than one rate, but there must be some specific complaint or information in regard to each rate to be investigated, and there can be, under this statute, no such wholesale complaint, which by its looseness and its generalities can be made applicable to every rate in operation on a road, or upon several or all of the railroads of the State. If the legislature intended to give such an universal and all prevailing power it is not too much to say that the language used in giving should be so plain as not to permit of doubt as to the legislative intent."

We think that this line of reasoning is good and we adopt the opinion as above quoted as far as is applicable in this case.

Plaintiff attacks all of the passenger rates on all of the roads within the State in such a general manner and with such general allegations that it would be almost impossible for the defendants to properly conduct their defense and it would be almost impossible for the Commission, with such a general complaint, to give such care and consideration as would enable it to arrive at a proper conclusion as to what would be the proper passenger rates that it could order herein.

It is contended by attorney for plaintiff that plaintiff should be allowed to amend the complaint herein. In the opinion of the Commission, the complaint is so general, indefinite and inexplicit and indulges in such generalities that, for the best interest of the plaintiff and the public, a new complaint should be filed herein. It is doubtful if this complaint is susceptible of amendment without stating an entirely new case.

For the reasons stated above the complaint in this action is hereby dismissed.

However, the complaint is dismissed without prejudice to plaintiff or any other party or parties, to bring any action for the reduction of passenger fares within the State of Colorado in conformity with the opinion herein expressed.

BY ORDER OF THE COMMISSION:

Aaron P Anderson

S. S. Kendall

COMMISSIONERS.

Mr. Staley dissenting:

I concur in the opinion of the majority of this Commission that the complaint in this case is insufficient and too general and indefinite to warrant this Commission setting the matter down for the taking of testimony in support of the allegations of the complaint. In fact, the complainant himself, through his attorney, admitted that the complaint was defective and requested leave to amend the same.

I do not concur in the decision of the Commission that the complaint should be dismissed, but am of the opinion that the complainant should have been given time to make whatever amendments to his complaint he might desire. This is the procedure ordinarily adopted in courts of law when the demurrer to a complaint is sustained on the ground of insufficiency of the complaint, and I am of the opinion that this Commission should be as liberal in its rules of proceedings as our ordinary courts of law.

Daniel H. Staley

COMMISSIONER.

ORIGINAL

BEFORE THE
STATE RAILROAD COMMISSION
OF
COLORADO.

CASE NO. 50

STATE RAILROAD COMMISSION.
FILED
May 28, 1913.
OF COLORADO.

J. M. Olguin,)

Complainant,)

vs) ORDER.

The Denver and Rio Grande)
Railroad Company,)

Defendant.)

Now on this 28th day of May, A. D. 1913, it appearing to the Commission that the complaint in the above entitled cause has been satisfied, and that the complainant therein has been granted the demands by him heretofore made in his complaint filed herein,

IT IS HEREBY ORDERED that the above entitled cause be, and the same is hereby, dismissed.

THE STATE RAILROAD COMMISSION OF COLORADO

A. P. Anderson

S. S. Kendall

Commissioners.

(STATE RAILROAD COMMISSION OF COLORADO. SEAL.)

CASE NO. 41

BEFORE

THE STATE RAILROAD COMMISSION

OF COLORADO.

The City of Glenwood Springs, Plaintiff, vs. The Colorado Midland Railway Company, and The Denver & Rio Grande Railroad Company, Defendants.	ORDER OF DISMISSAL.

Now on this 31st day of May, 1913, the matter of the jurisdiction of this Commission as to the adjustment of freight rates of the Colorado Midland Railway Company, one of the defendants herein, having been submitted to Judge Lewis of The United States District Court for his opinion as to the authority of this Commission to adjust said rates of the said defendant company, said defendant company being in the hands of a receiver of said United States District Court, and the said United States District Court, by Judge Lewis, having ruled informally that, inasmuch as the railway in question was in charge of a receiver appointed by his court, that any application for the reduction of rates would have to be made to his court; and this Commission having been advised by the Attorney General of the State of Colorado--he having presented the said matter to the said United States District Court--of the ruling of the said United States District Court, and it appearing to the Commission that no adjustment of rates involved in this action can be had without having jurisdiction over the rates of the said Colorado Midland Railway Company, and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED BY THE COMMISSION that the above case be, and the same is hereby, dismissed.

THE STATE RAILROAD COMMISSION OF COLORADO

BY A. P. Anderson,

(SEAL)

S. S. Kendall.

Commissioners.

BEFORE THE STATE RAILROAD COMMISSION
OF COLORADO.

CASE NO. 38.

A. H. ROOT,

Complainant,

-vs-

THE MISSOURI PACIFIC RAILWAY COMPANY,

Defendant.

Submitted November 18, 1912. Decided June 3, 1913.

ORDER OF THE COMMISSION.

And now on this day, the Commission having heard the evidence on the part of the plaintiff, as well as on the part of the defendant, and the Commission having heretofore at the time of the taking of testimony suspended action in the above entitled case on the assurance by defendant that it would satisfy the complainant as to all matters set forth in the complaint herein.

And the Commission on this date being satisfied that the defendant has done and performed all of the things demanded by the plaintiff in the complaint herein.

It is hereby ordered that the complaint be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION.

Aaron P Anderson

Samuel H. Hughes

S. S. Kendall

COMMISSIONERS.

Dated this 3rd day of June, 1913, at Denver, Colorado.

BEFORE THE STATE RAILROAD COMMISSION
OF COLORADO.

CASE NO. 47.

Elbert County Chamber of Commerce,

Complainant,

-vs-

Colorado and Southern Railway Company,

Defendant.

Dismissed June 9th, 1913.

ORDER OF THE COMMISSION.

This cause coming on for hearing this day and the complainant having heretofore, to-wit on the 11th day of March, 1913, completed the taking of testimony on its part, and the defendant herein having, after the completion of the taking of said testimony, offered to comply with the main demands in complainant's complaint, and it appearing to the Commission that the defendant herein has satisfied the demands in complainant's complaint , and that it is now conducting its trains in a satisfactory manner to complainant, and the complainant and defendant herein having joined in a stipulation that the above and foregoing case shall be dismissed by the Commission:

It is hereby ordered that this case be and the same is hereby, dismissed.

BY ORDER OF THE COMMISSION.

Aaron P Anderson

D. F. Haley

S. S. Kendall

COMMISSIONERS.

Dated this 9th day of June, 1913, at Denver, Colorado.

Original

BEFORE THE STATE RAILROAD COMMISSION
OF COLORADO.

STATE RAILROAD COMMISSION
Filed JUN 12 1913
OF COLORADO

CASE NO. 40.

Harry C. McKibbin, et al, Residents of the Town of Laura, Logan County, Colorado,

Petitioners,

-vs-

The Chicago, Burlington and Quincy Railroad Company,

Defendant.

Submitted March 4th, 1913. Decided June 12th, 1913.

FINDINGS AND ORDER OF THE COMMISSION

STATEMENT OF CASE.

On September 12th, 1912, Petitioner herein filed complaint and alleged:

That petitioner makes complaint on his own motion and on behalf of other residents of the Town of Laura and of Logan County, Colorado.

That petitioner is a resident of the said Town of Laura.

That the defendant above named is a common carrier engaged in the transportation of passengers and property between points in Colorado and operates a line of railroad through the Town of Laura, and as such is subject to the Act to Regulate Common Carriers.

That the Town of Laura is located in Logan County, has a post-office and is the center of a community of about two hundred farmers and business men.

That the defendant has not established a station or side track at the said Town of Laura and by reason of this fact it is necessary to transport passengers and freight a distance of three and one half miles to the nearest station and side track.

That large sums have been paid by petitioners to said defendant

for service, "both passenger and freight",and by reason of inadequate facilities, petitioners have suffered great expense and inconvenience.

That petitioners have heretofore requested the defendant to place a side track at the Town of Laura and make the same a flag stop for the convenience of passengers.

That the petitioners have agreed to do all of the work, free of charge, which may be necessary to install said track, and,

Prays for an order to compel the defendant to install and maintain a side track at said Town of Laura and make the same a flag stop for passenger trains.

To this complaint the defendant filed a demurrer which was overruled by the Commission; thereupon the defendant filed answer and alleged:

Admits the defendant is a common carrier and as such is subject to the Act to Regulate Common Carriers.

Admits that the Town of Laura is located in Logan County, Colorado, and is on the line of the defendant, but denies that the said Town of Laura is the center of a community of about two hundred farmers and business men.

Admits that defendant has not established a station or side track at Laura and that their trains do not stop at said place.

Denies that there is a large amount of freight shipped in and out by petitioners or that there is any frequency of passengers in and out of said community and denies that petitioners have paid large sums to the defendant for freight and passenger service or that petitioners are suffering any great expense or inconvenience on account of lack of facilities at said Town of Laura.

Admits that defendant has been requested to install a side track at Laura and make the same a flag stop for passengers.

Denies each and every other allegation and avers that it would be unreasonable to order the defendant to comply with petitioners request, and asks to have the complaint dismissed.

FINDINGS OF FACT.

It appears that the so-called Town of Laura is located in Logan County, Colorado, on the Denver, Billings line of the Chicago, Burlington and Quincy Railroad, about 150 miles northeast of Denver, and 27½ miles north of Sterling, the county seat of Logan County; the distance from Laura to Peetz, the first station to the south of Laura, being 2.86 miles and the distance from Laura to Lorenzo, Nebraska, the first station to the north, being 3.78 miles.

The defendant maintains ample side track facilities at both of these stations, there are no other facilities at Lorenzo, while at Peetz an agent is maintained to handle the railroad, express and telegraph business, there is also a water tank and stock loading facilities at this station.

The country surrounding the towns of Peetz, Laura and Lorenzo, is what is generally known as dry farming territory, the principal crops raised are wheat and oats.

Most all of the settlers have located there subsequent to four years ago, most of whom are proving up on homesteads.

The record shows that there are about eighteen families living on the first six sections west of the Town of Laura and thirteen families living on the first six sections east of Laura, most of these inhabitants live a distance of three miles or more from the Town of Laura; out of this 7680 acres there is probably not to exceed 2000 acres in cultivation.

It appears also that there is in fact only one family living at Laura, who conducts the postoffice and only store there, also that there are not to exceed five families within a radius of one and one half miles from the Town of Laura.

The complaint filed with the Commission was accompanied by a petition signed by two hundred and nineteen persons who declared that the installation of a side track was necessary for their convenience and necessity. However, the record shows, which is also borne out by a personal examination made by the Commission, that while a few of the

petitioners would be benefitted by installing this side track at Laura, it would be a matter of small importance to many of them because of their close proximity to either Peetz or Lorenzo, in fact quite a number of the petitioners reside as far away as Sidney, Nebraska.

It appears that one of the principal reasons for petitioning for this side track is that most of the farmers are under the impression that they are being taken advantage of by the grain buyers at Peetz and feel that if this side track was installed it would make more competition and consequently a greater return to them for their grain. The testimony shows that when the buyers at Peetz are paying 61 cents per bushel for wheat the buyers at Sidney are paying 67 cents. On account of this differential the farmers haul their grain to Sidney, a distance of 16 or 18 miles, thereby making, as the testimony shows, seven or eight dollars per day.

This differential in the price of grain at these two points no doubt exists, but we doubt that it is caused by unfair methods practiced by the buyers at Peetz, neither do we believe that a side track at Laura would remedy the situation. The Commission is of the opinion that the difference in the price of wheat at Peetz, Lorenzo and Sidney is occasioned principally, if not entirely, by the difference in freight rates from these points to the Missouri River.

Supplement No. 20 to C. B. & Q. Tariff G. F. O. 5400 A, shows the following rates on wheat:

Peetz to Missouri River points ----------24¢ per cwt.
Lorenzo" " " " ----------19.55¢ per cwt.
Sidney " " " " ----------18.7¢ per cwt.

It will be observed from these rates that it costs 5.3 cents per cwt. more to ship from Peetz than from Sidney, and 4.5 cents per cwt. more from Peetz than from Lorenzo. The difference in these rates is occasioned by the fact that Sidney and Lorenzo are both Nebraska points and the haul from these points to the Missouri River is entirely in the State of Nebraska and the rates are made to harmonize with the distance rates established by that state, while the rates from Peetz to the same points are interstate and not subject to state regulation. Thus, it is apparent that if Laura were made a shipping point, practically the

same rates would apply from there as now apply from Peetz and, in this respect at least, would be of no benefit to shippers from that place and they would no doubt find it profitable to haul their grain to Sidney as they are now doing.

As shown by the above mentioned rates it is apparent that the defendant is discriminating against the shippers at Peetz and while, as stated before, this is an interstate matter and not subject to the control of this Commission, we have, however, called the attention of the defendant to this apparent discrimination, with the result that they have agreed to reduce the rate on wheat from Peetz to Missouri River points from 24 cents to 21 cents per cwt., being a reduction of 3 cents per cwt. thereby making the rate from Peetz harmonize with the rates from the stations in Nebraska.

A perusal of the defendant's time tables shows that the average distance between stations on this branch of their line between Sterling, Colorado, and Alliance, Nebraska, is 6.55 miles which is approximately the distance between Peetz and Lorenzo.

While it is apparent to the Commission that the installation of a side track at Laura would be a convenience to a small number of farmers, it is equally apparent that the present existing facilities of the defendant at Peetz and Lorenzo are adequate for the present needs of the territory and are in fact as conveniently located in respect to the location of the population as a new siding would be at Laura.

For the above and foregoing reasons the prayer of the petitioners is denied and the complaint is dismissed.

BY ORDER OF THE COMMISSION.

Aaron P Anderson

Daniel A Staley

S. A Kendall

COMMISSIONERS.

Dated this 12th day of June, 1913, at Denver, Colorado.

Original

BEFORE THE STATE RAILROAD COMMISSION
OF COLORADO.

CASE NO. 51:

R. M. Haynie,

Plaintiff,

-vs-

The Denver & Rio Grande Railroad Company,

Defendant.

STATE RAILROAD COMMISSION
Filed JUL 21 1913
OF COLORADO

ORDER OF DISMISSAL.

And now on this day the State Railroad Commission of Colorado upon the motion of C. W. Durbin, special representative for R. M. Haynie, plaintiff herein, to dismiss the above entitled action without prejudice, and on reading and filing said motion:

It is hereby ordered that the said above entitled case be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION:

A P Anderson

J. N. Stacey

S. S. Kendall

COMMISSIONERS.

Dated this 21st day of July, 1913, at Denver, Colorado.

BEFORE THE STATE RAILROAD COMMISSION
OF COLORADO.

Original

CASE NO. 52:

THE CITY OF CANON CITY
IN THE COUNTY OF FREMONT
AND STATE OF COLORADO,

Petitioner, and
Complainant,

-vs-

FLORENCE & CRIPPLE CREEK
RAILROAD COMPANY, and
CANON CITY AND CRIPPLE CREEK
RAILROAD COMPANY,

Defendants.

STATE RAILROAD COMMISSION
Filed JUL 22 1913
OF COLORADO

ORDER

OVER-RULING DEMURRER
AND SUSTAINING MOTION
TO STRIKE.

And now on this day this matter coming on for hearing before the State Railroad Commission of Colorado on the separate demurrer of the Canon City and Cripple Creek Railroad Company to the complaint or petition heretofore filed herein, as well as on the motion of the petitioner and complainant to strike from the files of this cause the separate motion of the Florence & Cripple Creek Railroad Company that the petition herein be dismissed.

And the petitioner herein being present by its attorney, Augustus Pease, and the defendants herein, the Florence & Cripple Creek Railroad Company and the Canon City and Cripple Creek Railroad Company, being present by their attorneys, Lee Champion and Ralph Hartzell, and the same having been set down for hearing and coming on regularly for hearing this day, and after hearing arguments of counsel for plaintiff and defendants herein on the petition of plaintiff to strike from the files the separate motion of the Florence & Cripple Creek Railroad Company, as well as on the separate demurrer of the Canon City and Cripple Creek Railroad Company to the petition filed herein.

After due consideration it is hereby ordered that the said demurrer to the complaint herein be and the same is hereby over-ruled; and the motion of the petitioner herein to strike from the files of

this cause the separate motion of the Florence & Cripple Creek Railroad Company to dismiss the petition herein be and the same is hereby sustained and the said separate motion is hereby stricken from the files.

It is further ordered that the defendants herein, the Florence & Cripple Creek Railroad Company, and the Canon City and Cripple Creek Railroad Company, file their answers to the complaint herein within the period of twenty (20) days from this date.

BY ORDER OF THE COMMISSION:

Aaron P Anderson

D. F. Stacey

S. S. Kendall,

COMMISSIONERS.

Dated this 22nd day of July, 1913, at Denver, Colorado.

BEFORE THE STATE RAILROAD COMMISSION
OF COLORADO.

CASE NO. 54.

H. B. Doll, Oscar Le Neve Foster and A. K. Vickery, co-partners doing business under the firm name of Vickery, Foster and Doll, Complainants, -vs- The Denver and Rio Grande Railroad Company and the Colorado and Southern Railway Company, Defendants.	ORDER OF DISMISSAL.

And now on this day after reading and filing the motion of complainants herein to dismiss the complaint heretofore filed in this action, for the reasons as therein stated, that the above entitled cause has been settled between the parties thereto by satisfaction by defendants of the demands of the complainants herein:

It is hereby ordered that the above entitled cause be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION:

A. P. Anderson

J. H. Stanley

S. S. Kendall

Commissioners.

Dated this 22nd day of July, 1913, at Denver, Colorado.

BEFORE THE STATE RAILROAD COMMISSION
OF COLORADO.

CASE NO. 55.

T. J. Work & Sons,

Complainants,

-vs-

Chicago, Burlington & Quincy Railroad Company,

Defendant.

ORDER

OF DISMISSAL.

And now on this day on the reading and filing the motion of plaintiff herein to dismiss the above entitled action:

It is hereby Ordered that upon the said motion the said case be and the same is hereby dismissed.

BY ORDER OF THE COMMISSION:

James D. Anderson

James D. Starr

S. S. Kendall

COMMISSIONERS.

Dated this 4th day of August, 1913, at Denver, Colorado.

CASE NO. 56.

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

THE POUDRE VALLEY PRESSED BRICK COMPANY, a corporation, Complainant, -vs- THE COLORADO & SOUTHERN RAILWAY COMPANY, Defendant.	O R D E R OF DISMISSAL.

ORDER OF DISMISSAL.

And now on this day on reading and filing the stipulation filed herein, signed by attorneys for complainant and defendant herein, for a dismissal in the above entitled cause, and after due consideration of same, the said complaint in the above entitled action is hereby dismissed without prejudice to complainant herein.

BY ORDER OF THE COMMISSION.

A. P. Anderson,

D. H. Staley,

(SEAL)

S. S. Kendall.
Commissioners.

Dated this 14th day of November, 1913, at Denver, Colorado.

ORIGINAL

BEFORE THE

STATE RAILROAD COMMISSION

OF COLORADO.

CASE NO. 58.

THE BRECKENRIDGE CHAMBER OF COMMERCE,
Petitioner,

-vs-

THE COLORADO AND SOUTHERN RAILWAY COMPANY,
Defendant.

Submitted December 30th, 1913. Decided February 3rd, 1914.

FINDINGS AND ORDER OF THE COMMISSION.

On September 2nd, 1913, petitioner herein filed its complaint in which it is alleged among other things, that petitioner is a corporation organized and existing under and by virtue of the laws of the State of Colorado, and is engaged in the business of promoting the commercial, social and moral welfare of the citizens of Breckenridge and of Summit County, Colorado, and that its principal place of business is Breckenridge, Colorado.

Second: That defendant is a common carrier engaged in carrying passengers and property by rail between the City of Denver, Colorado, and the City of Leadville, Colorado, over a narrow gauge line of railroad which passes through the Town of Breckenridge and County of Summit, Colorado, and is subject to the Act to Regulate Common Carriers.

Third: It further alleges that after the 10th day of November 1910, the defendant arbitrarily closed and declined to operate that portion of said railroad extending from Como to the Town of Breckenridge, and refused to carry freight or passengers over said

line of railroad.

Fourth: That on the 7th day of August 1911 your petitioner filed a complaint before this Commission setting forth the facts above stated.

That thereafter towit: on the 29th day of November A. D. 1911, and after a full and complete hearing, an order was made and entered by this Commission requiring the defendant herein to operate said line of railroad extending from Denver, Colorado, to Leadville, Colorado, which order was duly served upon the defendant herein.

Fifth: That defendant declined and refused to obey said order, and that the petitioner joined with this Commission in a petition to the Honorable District Court of the Fifth Judicial District of the State of Colorado for a writ to compel the defendant to comply with said order, and that thereafter said writ was granted by said court and was, subsequently, upheld by the Supreme Court of the State of Colorado.

Sixth: That thereafter towit: on the first day of January 1913, defendant commenced to operate its said line of railroad and then, and thereafter, and until the present time pretended to comply with the said order of this Commission.

Seventh: That the operation of said line of railroad as a whole from Denver, Colorado, to Leadville, Colorado, through the Town of Breckenridge is necessary to the commercial and social intercourse of the people residing along the line of said railroad.

Eighth: That the defendant herein declines and refuses to operate a passenger train on Sundays and that said failure and refusal on its part subjects your petitioner and all citizens residing along the said line of railroad from Denver, Colorado, to Leadville, Colorado, to great inconveniences in their social and commercial intercourse, and that said refusal to operate said Sunday passenger train is arbitrary, unlawful, unjust and in violation of the Act to Regulate Common Carriers.

Ninth: That the said order as heretofore made by this Commission will expire on the first day of January 1914, and petitioner is

informed and believes, and therefore alleges the fact to be, that on or about the said date, the defendant herein will again wholly decline and refuse to operate its said line of railroad.

Petitioner prays that defendant be required to answer this petition, and that the Commission make due and diligent inquiry into the matters and things herein set forth, and that an order be entered by the Commission requiring the defendant to operate a daily passenger train from Denver, Colorado, to Leadville, Colorado, including Sundays, and for such other and further additional relief as to the Commission may seem meet and proper.

By way of answer to said petition the defendant herein alleges:

First: As to allegations in paragraph one of said petition, it has not and cannot obtain sufficient knowledge or information upon which to base a belief.

Second: It admits the allegations of paragraph two of said petition.

Third: It denies each and every allegation in paragraph three of said petition.

Fourth: It admits the allegations of paragraph four of said petition.

Fifth: It admits that it declined to obey the order made by this Commission and that a suit was brought in the District Court and that the District Court made an order directing the defendant to comply with the order of the Commission, and that the Supreme Court of Colorado affirmed the said order of the said District Court.

Sixth: Admits that about the first day of January 1913 it commenced the operation of its line between Como and Breckenridge, Colorado, in conformity with said order and that until the present time it has complied with said order of the Commission.

Seventh: Defendant denies each and every allegation in paragraph seven of said petition.

Eighth: Defendant admits that it has declined and refused to

operate a passenger train on Sundays between Denver, Colorado, and Leadville, Colorado.

It alleges that the said order of the Commission and of the Courts did not require it to do so, and denies that such train is necessary to the convenience of the traveling public between Denver and Leadville, Colorado.

Ninth: Defendant denies paragraph nine of said petition, wherein it is alleged that defendant intends to decline and refuse to operate its said line of railroad after the expiration of the said order of this Commission.

The taking of testimony in this case was finished on the 25th day of November 1913, at Denver, Colorado.

The final arguments herein were had and the case was submitted to the Commission on the 26th day of November 1913.

In the taking of the testimony in the within case, it was stipulated and agreed by the attorneys for both petitioner and defendant herein, that the testimony taken before the District Court of the Fifth Judicial District of the State of Colorado, at the time the former hearing of Case No. 29 was had, wherein this Commission made its former order for the operation of the within named railroad, should be taken by the Commission and considered by it as a part of the testimony to be considered by the Commission in the present case, No. 58; which said testimony was duly filed with this Commission as a part of the record in this case.

Mr. Barney L. Whatley appeared as counsel for petitioner, and Mr. E. E. Whitted appeared as counsel for defendant.

FINDINGS OF FACT.

Some new and additional evidence was introduced in the present case tending to show to the minds of the Commission the actual necessity for the continued operation of the present line of railroad.

The testimony as taken before the said District Court of the Fifth Judicial District contained to a great extent the same testimony as taken before this Commission in the original hearing for the operation of this railroad.

From all the testimony submitted herein for the consideration of the Commission in the present case, it appears, that the operation of the line of the defendant railroad company extending from Denver, Colorado, to Leadville, Colorado, should be continued.

SUNDAY PASSENGER TRAINS.

There is another question, however, to be considered by the Commission at this time which was considered by the Commission in the former hearing, but which, after consideration at that time, was not deemed by the Commission of sufficient importance to necessitate an order thereon at that time.

This question is the matter of a Sunday Passenger Train.

At the time the former order for the operation of this railroad was made and entered by this Commission, there was no conclusive evidence before it which led the Commission to believe that there was sufficient business upon this line of railroad at that time to produce to the defendant company any considerable net revenue in the operation of said line of railroad, if, indeed, any at all; but the Commission deemed that under the evidence as therein adduced and the facts therein established and the law of the State applicable thereto, that it was the duty of the defendant at that time to resume operation of said line of railroad in such a manner as to satisfy the real necessities of the shippers and communities along said line of railroad.

In making its order at that time, the Commission was careful not to extend its order to the operation of said railroad beyond the real necessities as the Commission saw them. For that reason, the Commission ordered a daily passenger train service each way each day, excepting Sundays, and a through freight service from Denver, Colorado, to Leadville, Colorado, at least three days each week.

From the present testimony before the Commission, the Commission is constrained to believe that under present conditions it would not be warranted in increasing the service required of this company beyond that which was required in the former order of this Commission.

Petitioner has urged the necessity of Sunday trains on account of mail service, hospital service, and other service, which seemed to it to necessitate the operation of a Sunday train.

The number of passengers carried on this particular line of railroad between Denver and Leadville seems to be deplorably small. In the evidence taken before the Commission by witnesses introduced in the present hearing, it developed that from all points East of Como into Breckenridge there was about four passengers per day, considering two hundred and thirty operating days and leaving out Sundays.

From Breckenridge to Dickey the average was less than one tenth of one passenger per day. In the whole two hundred and thirty days there were sixteen passengers.

From Breckenridge to Dillon the average was one passenger per day.

From Breckenridge to Frisco the average was one-third of a passenger per day.

Between Breckenridge and Como there was an average of one passenger in five days, or forty-nine passengers in nine months.

Between Breckenridge and Robinson the average was three passengers per day.

Between Breckenridge and Leadville the average was three passengers per day.

From points between Denver and Como as far as Dillon the average was one and one-half passengers per day.

From Dillon to Leadville the average was one passenger per day.

From Leadville into Breckenridge the average would be less than

five passengers, or about four and one-half per day.

It seems that the average daily number of passengers from Denver to Leadville was about one per day, and from Leadville to points East of Como to Denver the average was less than one passenger per day.

The Commission is of the opinion that under the present state of facts, it would not be justified in increasing the service as required of the defendant in our former order.

ORDER.

It is ordered by the Commission that the defendant, the Colorado and Southern Railway Company, be, and they are hereby notified and directed to, on or before the 6th day of March, 1914, and during a period of two years thereafter, maintain, operate and conduct a through freight service from Denver to Leadville by the way of Como and Breckenridge, at least three days each week, and from Leadville to Denver by the way of Como and Breckenridge at least three days each week. That they publish on or before the 6th day of March, 1914, freight tariffs from Denver to Leadville and intermediate points and from Leadville to Denver and intermediate points, in so far as they have no such tariffs now on file, and that they receive and transport shipments to and from all stations between Denver and Leadville.

It is further ordered that defendant, the Colorado and Southern Railway Company, do operate and maintain a through and exclusive passenger train service daily, excepting Sundays, from Denver to Leadville by the way of Como and Breckenridge, and a through and exclusive passenger train service daily, excepting Sundays, from Leadville to Denver by the way of Breckenridge and Como.

Effective March 6th, 1914, and for two years thereafter.

BY ORDER OF THE COMMISSION,

A P Anderson

S S Kendall

Geo I. Bradley

COMMISSIONERS.

Dated at Denver, Colorado, February 3rd, 1914.

ORIGINAL

BEFORE THE

STATE RAILROAD COMMISSION OF

COLORADO.

CASE NO. 62.

CHARLES L. SAUER,
Petitioner,

-vs-

The Colorado & Southern Railway Company,
a corporation,

Defendant.

UNREASONABLE PASSENGER FARES.

Submitted January 26th, 1914. Decided February 9th, 1914.

PLEADINGS.

On January 7th, 1914, plaintiff filed his complaint herein, in which it is alleged among other things:

That plaintiff is engaged in the lumber business in Idaho Springs, Colorado.

That the Colorado and Southern Railway Company operates a railroad between Denver, Colorado, and Idaho Springs, Colorado.

That the Colorado and Southern Railway Company advanced the price on twenty-five ride family commutation tickets on July 1st, 1913, from twenty-three dollars to twenty-eight dollars and fifty cents.

That the commutation fare before July 1st, 1913, was already excessive.

That the advance made July 1st, 1913, was unjust and unreasonable, and that the rate is nearly three cents per mile and is excessive.

Petitioner prays that the defendant may be required to answer the charges herein and that the defendant be compelled to refund excess charges.

There are other allegations as to excessive freight rates, but

at the time of the hearing it was agreed by petitioner with the defendant that no freight rates should be considered, but that the hearing should be confined to the reasonableness of the rate on twenty-five ride family commutation tickets exclusively.

The question was raised before the taking of testimony in this case as to whether or not the hearing should be had on the question of commutation fares only, and it was agreed that only commutation fares should be considered.

By way of answer defendant alleges:

Defendant admits the operation of the said railroad between said points.

Defendant admits that it advanced the charges on its twenty-five ride family commutation tickets on July 1st, 1913 from twenty-three dollars to twenty-eight dollars and fifty cents.

It denies that such charge is excessive and denies that such advance is unjust or unreasonable. It denies that it ought to issue individual commutation tickets good for ninety days; it says that it issues such tickets for thirty days and that the rules and restrictions under which they are issued and the charges therefor are just and reasonable.

It denies each and every other allegation in said petition set forth.

Mr. John T. Bottom appeared as attorney for plaintiff herein.

Mr. E. E. Whitted and Mr. T. M. Stuart appeared as attorneys for defendant.

FINDINGS OF FACT.

It seems that in the present case the reasonableness of the regular one way passenger fare is not attacked, and it seems to be admitted that the rate on twenty-five ride family commutation tickets, which is the issue herein, is less per mile than the regular one way passenger fare.

The only evidence introduced by plaintiff was the introduction of petitioner's Exhibit A, which is the local tariff on commutation

ticket fares between stations on the Colorado and Southern Railway and its tariff C. R. C. No. P-365, effective July 1st, 1913.

After the introduction of this Exhibit A, the defendant moved the Commission that the action be dismissed on the ground that the action was brought on the question of the reasonableness of the fares attacked and that no evidence was introduced by the plaintiff sufficient to prove that the rates attacked were too high. That no evidence was introduced by plaintiff tending to show the conditions under which this haul was made or the conditions under which any other haul was made with which this rate is compared. That the plaintiff should show cost of maintenance, cost of operation and such other evidence as is usually required of a plaintiff in order to prove that a rate is excessive. That commutation tickets are issued at the option and in the discretion of the carrier and that said tickets are beyond the jurisdiction of this Commission.

That the only charge against said defendant is that the rate is unjust and unreasonable; there is not involved any question of unjust discrimination or undue preference.

The Commission reserved its ruling on this motion until the final determination by them of the main issues in this case.

At the beginning of the hearing defendant also moved the dismissal of the action on the ground that the complaint was indefinite and in sufficient and did not state any cause for action against defendant.

This motion was over ruled.

There appears to be but one question presented to the Commission in this case and that is: Is the increase in the twenty-five ride family commutation ticket between Denver, Colorado, and Idaho Springs, Colorado, from twenty-three dollars to twenty-eight dollars and fifty cents made by the tariff of July 1st, 1913 unreasonable, or is it discriminatory as to persons or localities?

The motion to dismiss the action was denied by

the Commission for the reason that it is always the policy of the Commission to allow any reasonable amendment to any pleadings at any time before the final hearing is finished.

The presentation of this case by plaintiff was remarkable from the fact that only one matter of evidence was introduced, that being Exhibit A, which was defendant's commutation fare tariff.

It seems that theplaintiff did not directly charge any discrimination, but simply alleged the unreasonableness of the rate, which was a commutation fare and was less per mile than the regular one way fare.

No effort was made to show to the Commission the conditions under which this haul was made as compared with the conditions under which other hauls were made for the purpose of comparison.

It is a well established rule and has been decided many times by this Commission that a simple comparison of rates without showing the similarity of the haul or the innumerable features or conditions upon which the different rates are based is not sufficient within itself to justify the reduction thereof, or to establish the unreasonableness of the rate therein attacked. Crutchfield, vs. Railroad Company, 14th I. C. C. 558.

Plaintiff neither attacks the one way regular fare nor other commutation fares, but simply asks for the reduction of the twenty-five ride family commutation tickets.

Then has the plaintiff made out such a case as would justify the Commission in reducing the fares on the twenty-five ride family commutation tickets in question?

It appears that the tariff of July 1st, 1913 as to the twenty-five ride family commutation tickets was intended to adjust the rates according to the distance and the character of the mountain haul, and that beginning at Denver, the fare to Arvada on a prairie haul is two and four-tenths cents per mile.

From Denver to Golden, where the road enters the canon, the

fare is two and six-tenths cents per mile.

Denver to Forks Creek, further up the canon, the fare is two and nine-tenths cents per mile, and from Denver to Central City, which is in the mountains, the end of a branch of this line, the fare is three and five-tenths cents per mile.

From Denver to Dumont, Lawson, Idaho Springs and Georgetown, respectively, the fare is three cents per mile.

There seems to be no question as to undue discrimination as to persons or places as far as this particular line is concerned.

It does not appear that by the putting into effect of the tariff of July 1st, 1913, the earnings to the said defendant company as a whole on this line would be increased.

It is the opinion of the Commission for the reasons above stated that the plaintiff has wholly failed to establish such a case as would justify the Commission in reducing the commutation fares in question.

It is therefore ordered by the Commission that this case be, and the same is hereby dismissed.

BY ORDER OF THE COMMISSION,

Aaron P. Anderson

S. S. Kendall

Geo T. Bradley

Commissioners.

Dated at Denver, Colorado, February 9th, 1914.

Original

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

CASE NO. 52.

THE CITY OF CANON CITY, IN THE COUNTY OF FREMONT AND STATE OF COLORADO,

Petitioner and Complainant,

-vs-

THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY, and THE CANON CITY & CRIPPLE CREEK RAILROAD COMPANY,

Defendants.

INADEQUATE FACILITIES.

Submitted March 14th, 1914. Decided April 4th, 1914.

STATEMENT OF CASE.

On April 24th, 1913, the petitioner filed its petition herein in which, among other things, it is alleged:

The petitioner, the City of Canon City, is a municipal corporation, is a city of the second class, organized and existing under the laws of the State of Colorado.

That defendants are common carriers, who, until ceasing to so do, as hereinafter stated, were engaged in the transportation of passengers and property by railroad between the City of Canon City and the City of Cripple Creek, and are subject to the Act to Regulate Common Carriers.

The Florence & Cripple Creek Railroad Company owns said railroad from and including the City of Cripple Creek to a certain station called Ora Junta on the line of said railroad and from Ora Junta to

and including the said City of Canon City, the said railroad is owned by the said The Canon City & Cripple Creek Railroad Company, but that said railroad owned by said The Canon City & Cripple Creek Railroad Company is leased by said The Florence & Cripple Creek Railroad Company, and said The Florence & Cripple Creek Railroad Company operates, when said road is operated, and controls the entire railroad running from Canon City to Cripple Creek, and said ownership and leasing operation and control by said The Florence & Cripple Creek Railroad Company and by said The Canon City & Cripple Creek Railroad Company has continuously so existed for many years last past and during all the times of the acts in this petition complained of and to and including the present time.

Said leasing of said railroad owned by The Canon City & Cripple Creek Railroad Company to said The Florence & Cripple Creek Railroad Company was done so that The Florence & Cripple Creek Railroad Company should have entire control of the entire railroad from and including Canon City to and including the City of Cripple Creek, and for many years last past including on or about the twentieth day of July, 1912, said The Florence & Cripple Creek Railroad Company did so engage in the carriage and shipment of passengers and property by means of said railroad and did so operate, control and manage said entire railroad to, from and including the City of Canon City to, from and including the said City of Cripple Creek.

That on or about the 20th day of July, 1912, said The Florence & Cripple Creek Railroad Company ceased to operate said railroad to, from and including said City of Canon City, to, from and including said City of Cripple Creek, and the said part of said railroad owned by said The Canon City & Cripple Creek Railroad Company ceased to be operated under said lease by said The Florence & Cripple Creek Railroad Company, or operated at all by said The Florence & Cripple Creek Railroad Company, or said The Canon City & Cripple Creek Railroad Company, at all; and ever since the said two railroad companies, and without just cause therefor, have closed and wholly ceased, refused and de-

clined to operate said railroad, or to carry freight or passengers over said railroad by lease or otherwise, and have wholly failed, refused and declined to operate the respective parts of said railroad owned by them.

Said railroad between the City of Canon City and the City of Cripple Creek is the only railroad directly connecting said cities and intermediate points along said railroad, and the closing of said railroad and refusal to carry passengers and property has resulted, and will continue to result, in great inconvenience and financial loss to those who wish to ship property over said railroad; and has resulted, and will continue to result, in great inconvenience and financial loss to those who wish to go as passengers between said cities and said intermediate points, and will result in great loss and inconvenience to the citizens of said cities, and the serious detriment and injury to said cities of Cripple Creek and Canon City, and intermediate points.

Plaintiff prays that defendants' be required to answer the charges herein, and after due hearing and investigation that an order may be made commanding the defendants to cease and desist from said violation of the Act to Regulate Common Carriers, and for such other and further orders as the Commission may deem necessary in the premises, and in particular the said The Florence & Cripple Creek Railroad Company be ordered to reopen and operate said railroad to, from and including said City of Canon City, to, from and including said City of Cripple Creek, and that said The Florence & Cripple Creek Railroad Company be ordered to continuously transport and receive for transportation property, as well as passengers, between said cities and all intermediate points along said entire railroad, and to provide a continuous, exclusive and convenient passenger service between said cities and said intermediate points.

And should it appear that The Florence & Cripple Creek Railroad Company no longer controls by lease or otherwise that part of said railroad from Ora Junta to and including the City of Canon City, then the said The Florence & Cripple Creek Railroad Company be ordered to

operate said railroad owned by it, and that said The Canon City & Cripple Creek Railroad Company be ordered to operate said railroad owned by it in such manner that freight and passengers may be conveniently transported over said railroad from and between the said cities and between all points intermediate thereon.

On June 2nd, 1913 the defendant The Florence & Cripple Creek Railroad Company filed a separate motion to dismiss this cause, and on the same date a demurrer to the complaint herein was filed by the defendant The Canon City & Cripple Creek Railroad Company.

On June 14th, 1913 the petitioner herein filed with the Commission its motion to strike from the files the said motion of the defendant, The Florence & Cripple Creek Railroad Company, to dismiss the action.

On the same date a stipulation between the plaintiff and defendants herein was filed that the separate demurrer and separate motion to strike be heard at one and the same time.

On the twenty-second day of July, 1913, said demurrer of defendant The Canon City & Cripple Creek Railroad Company was overruled by the Commission and the motion of petitioner to strike from the files the separate motion of the defendant The Florence & Cripple Creek Railroad Company was sustained.

The defendants were each ordered to answer the petition herein within twenty (20) days.

On August 11th, 1913, the defendant The Florence & Cripple Creek Railroad Company filed its separate answer in which, among other things, it alleged:

It admits that the petitioner and this defendant are corporations.

That this defendant is a common carrier owning the said line of railroad alleged in plaintiff's complaint, and is the lessee in possession of the said line of railroad running from Canon City to Ora Junta described in plaintiff's complaint, and the said railroad is the property of The Canon City & Cripple Creek Railroad Company.

It denies each and every other allegation in said petition contained.

It alleges that since the twenty-first day of July, 1912 it has been unavoidably prevented from operating said line of railroad between Cripple Creek and Ora Junta by casualty of such a nature that defendant by the exercise of due diligence could not avoid.

That an order as asked for by petitioner would involve the reconstruction of about ten (10) miles of the main line of its railroad.

It alleges that the Commission is without jurisdiction to order this defendant to so reconstruct its main line.

It alleges that in so far as the statutes of Colorado attempt to confer power upon this Commission to make such order, the said statutes are unconstitutional and void and they violate the provisions of Section 1 of the 14th Amendment to the Constitution of the United States; and also violate Section 4 of Article 4 of the Constitution of the United States.

That the Commission is without authority to grant the prayer of said petitioner against this defendant for the reason that the operation of said main line of railroad for many years past has been conducted at a loss, and that the traffic for said line of railroad is insufficient in amount to pay the expenses of operation of the said main line of railroad.

That the petition does not state facts sufficient to constitute a cause of action against the defendant.

On August 11th, 1913 the defendant, The Canon City & Cripple Creek Railroad Company also filed its separate answer in which, among other things, it is alleged:

It admits the incorporation of the petitioner as in said petition set forth.

It alleges defendant is a corporation existing under the laws of the State of Colorado.

It denies each other averment in said petition contained, ex-

cept as herein admitted.

For further answer it avers that at all of the times mentioned herein it was and is the owner of the said line of railroad extending from Canon City to the station of Ora Junta, where the said line connects with the main line of The Florence & Cripple Creek Railroad, one of the defendants herein.

That during all the times mentioned in the petition herein the said railroad has been and is now leased by this defendant to The Florence & Cripple Creek Railroad Company, which lease is now a valid and subsisting obligation on the part of this defendant.

That it has never operated and does not now operate said railroad or any trains thereon.

That it has never owned any line of railroad between any other points than the said City of Canon City and Ora Junta.

That the defendant is not a common carrier subject to the Act to Regulate Common Carriers.

That said petition fails to state facts sufficient to constitute a valid complaint against the defendant.

That the statutes of Colorado do not authorize this Commission to grant the prayer of said petitioner against the defendant.

That the said statutes are unconstitutional and void in that they violate Section 1 of the 14th Amendment to the Constitution of the United States; also Section 4 of Article 4 of the Constitution of the United States; also Section 10 of Article 1 of the Constitution of the United States.

On motion of petitioner the case was set for hearing October 20th, 1913, on which date the testimony on the part of petitioner was taken at Canon City.

Messrs. Augustus Pease, Arthur H. McLain and F. J. Hangs, appeared as attorneys for complainant.

Messrs. Schuyler & Schuyler, Ralph Hartzell, Lee Champion and R. S. Ellison, appeared as attorneys for defendants.

After the plaintiff had closed its case in chief a motion by

defendants to dismiss the case for lack of evidence was over-ruled and exceptions were noted.

On stipulation of plaintiff and defendants the date for the taking of testimony on the part of defendants was fixed for January 26th, 1914, at the office of the Commission, Capitol Building, Denver.

In the meantime the Commission made a personal inspection of the line in question.

On January 23rd, 1914, before commencing the taking of testimony on the part of defendants, the defendant The Florence & Cripple Creek Railroad Company offered for filing an amended answer to the petition in which, among other things, it is alleged:

Defendant re-affirms and relies upon the matters of defense set forth in its answer heretofore filed.

That the following matters and things have occurred since the commencement of this proceeding and since the said answer of this defendant was filed herein and could not have been set forth in said answer.

That on the first day of December, A. D. 1913, this defendant, pursuant to law, amended its certificate of incorporation and thereby changed its southern terminus from the City of Florence in the State of Colorado, to a point in the County of Fremont and State of Colorado now known as the station of Wilbur.

That defendant is now a common carrier owning a line of railroad extending from the City of Cripple Creek in the County of Teller, State of Colorado, to a station on this line as now constructed known as Wilbur in the County of Fremont and State of Colorado.

That defendant does not own a railroad extending from the City of Cripple Creek to Ora Junta; and the defendant does not own a line of railroad connecting with any line of railroad running from the City of Canon City, petitioner herein, to said place called Ora Junta.

That the averments now contained in paragraph 2 in the answer heretofore filed herein shall be amended so as to conform to the averments hereinabove contained.

That on January 23rd, 1914 the defendant The Canon City & Cripple Creek Railroad Company offered for filing its amended answer in which, among other things, it is alleged:

That except as changed herein defendant re-affirms and relies upon each, every and all of the matters of defense contained in its answer heretofore filed.

Here the defendant sets out the fact of the attempted amendment to the charter of The Florence & Cripple Creek Railroad Company and recites that it no longer connects with the line of said defendant.

At the hearing before the Commission on January 26th, 1914 the amended answers of the defendants were allowed to be filed.

The plaintiff then moved to strike the amended answers from the files.

The defendants also moved to dismiss the cause, basing their motion on the amended answers.

Each of these motions were denied at that time for the purpose of allowing the case to proceed, the Commission reserving its right to make a final ruling on the said motions at the time of the final decision in this case.

OPINION AND FINDINGS OF FACT.

From the evidence and pleadings herein the following main questions are presented in this case.

First: Is there such an injury to the plaintiff and the public contiguous to the lines of defendant railroads, from their refusal to operate their respective lines of railroad, taking into consideration the earnings and expenses together with the actual and necessary expenses to defendant The Florence & Cripple Creek Railroad Company in repairing the damage done by the partial destruction of that railroad July 21st, 1912, that this Commission would be justified in ordering

the reopening of this railroad?

This necessarily comprehends the question as to the right of a railroad company to abandon and cease to operate a contiguous part of the original main line of its road, and at the same time retain its original franchise and to operate that part not abandoned.

Second: Does Section 12, Chapter 197 of the General Laws of 1877 confer authority on the defendant The Florence & Cripple Creek Railroad Company to so amend its charter as to change the southern terminus of its road from Florence, Colorado, to Wilbur, Colorado, when so doing necessarily involves the abandonment of that part of its main line from Florence, Colorado, to the station of Wilbur, in the State of Colorado?

And, incidentally, if the said statute does permit such abandonment, is defendant too late in amending its charter when the same is attempted after this Commission has assumed jurisdiction of the case and the petitioner has finished presenting its case in chief?

The following contentions seem to be established by the evidence introduced herein:

That great damage and injury to the City of Canon City and many business interests, as well as to a large proportion of the inhabitants of Canon City and along defendants lines of railroad has resulted from the failure of defendants to operate the roads in question.

That the defendant The Florence & Cripple Creek Railroad Company owns the line of railroad extending from Cripple Creek, Colorado, to Florence, Colorado, a distance of 40.2 miles.

That the defendant The Canon City & Cripple Creek Railroad Comapny owns the line of railroad extending from Canon City, Colorado, to Ora Junta, Colorado, a point on the main line of The Florence & Cripple Creek Railroad, a distance of 7.3 miles.

That the two defendants are separate corporations, but the ~~original~~ stockholders and bondholders in each concern are identical.

That the defendant The Canon City & Cripple Creek Railroad

Company has leased its line to the defendant The Florence & Cripple Creek Railroad Company.

That the Golden Circle Railroad Company owns a line of railroad connecting with The Florence & Cripple Creek Railroad at Victor, Colorado, and extending to Vista Grande.

That the said Golden Circle Railroad is operated as part of the narrow gauge division of The Florence & Cripple Creek Railroad.

That on or about November 11th, 1911 the Colorado Springs & Cripple Creek District Railway Company, a company owning a line of railroad extending from Colorado Springs, Colorado, to Cripple Creek, Colorado, entered into a written contract with the defendant The Florence & Cripple Creek Railroad Company whereby defendant leased from this company its said line, a broad gauge road, and has continued to operate the same by said lease since said date and is now so operating the same as a part of The Florence & Cripple Creek Railroad Company's system.

That on July 21st, 1912 a large part of the main line of The Florence & Cripple Creek Railroad extending from mile post 9 to mile post 13, including a part of the roadbed and including a number of bridges, was washed out by flood waters.

The estimated cost of repairing this part of the road varied materially; witnesses for the plaintiff contending that the same could be repaired for approximately sixty-eight thousand ($68,000) dollars, while the witnesses for the defendants contended that to repair the damage done would cost in the neighborhood of one hundred and ten thousand ($110,000) dollars.

It was admitted that this discrepancy in the cost of repairing was occasioned to a great extent from the fact that the defendants' estimate included a great deal of cement retaining wall, while the plaintiff's estimate was based on heavy rip rapping.

The record also discloses the fact that in 1896 The Florence & Cripple Creek Railroad Company experienced a similar flood in the same district, which required an expenditure of $198,000.00 to re-

construct and re-lay that portion of the line from three-quarters of a mile above mile post 12 to mile post 18, which portion of the line was not disturbed by the latter washout, and $50,000.00 was spent to repair that portion of the line between mile post 9 and mile post 12, which is the portion of the line washed out in 1912. Mr. R. D. Stewart, a witness for the defendants, who was Chief Engineer for The Florence & Cripple Creek Railroad Company in 1896, when the former flood occurred, testified that the $50,000.00 spent to repair the line between mile post 9 and mile post 12 was intended for temporary service only, thinking it would last long enough so that the railroad could earn enough to fix it properly and permanently. This, however, was never done, notwithstanding the fact that three years later in 1900 the company declared a dividend of twenty-five (25%) per cent, which amounts to $250,000.00.

That since the said washout July 21st, 1912, the defendants have failed to operate their respective lines of railroad into Canon City and The Florence & Cripple Creek Railroad Company has attempted by the amendment of its charter to abandon that portion of its line from Wilbur to Florence.

The first examination made by the defendant The Florence & Cripple Creek Railroad Company to determine the amount of damage occasioned by this flood was made by its chief engineer in February, 1913, or seven months after the flood occurred.

That all traffic destined to Cripple Creek from Canon City is compelled to be sent by way of Pueblo and Colorado Springs and thence from Colorado Springs over the Colorado Springs & Cripple Creek District line of railroad, which is leased by defendant.

A great deal of evidence was introduced tending to show that the defendant The Florence & Cripple Creek Railroad Company would lose money by the operation of its road, but it was not attempted by defendant The Florence & Cripple Creek Railroad Company to show that the entire road as now operated, including its leased lines, was losing money. The evidence in this case in fact shows the contrary to

exist.

The profit and loss account of The Florence & Cripple Creek Railroad Company as a whole, for the years ending June 30th, 1912, and June 30th, 1913, show the following results:

PROFIT AND LOSS ACCOUNT.

1912

Balance	June 30, 1911,		$591,994.00
Net corporate income, cr. to P. & L.			143,309.16
Additions for year			26,596.35
Deductions for year		$ 11,244.00	
12½% dividend declared		122,500.00	
Bal. cr. to surplus		628,155.51	
		$ 761,899.51	$761,899.51

PROFIT AND LOSS ACCOUNT.

1913

Balance	June 30, 1912		$628,155.51
Net corporate income cr. to P. & L.			183,563.37
Miscel. credits			308.54
16-7/10% dividend declared		$167,000.00	
Loss on retired road & equipment		665.00	
Bal. cr. to surplus		644,362.42	
		$812,027.42	$812,027.42

1900	25 %	dividend	amounting	to	$250,000.00
1901	6 %	"	"	"	60,000.00
1902	2 %	"	"	"	20,000.00
1903	1 %	"	"	"	10,000.00
1904	none				
1905	"				
1906	13½ %	"	"	"	135,000.00
1907	5½ %	"	"	"	55,000.00
1908	2½%	"	"	"	25,000.00
1909	3 %	"	"	"	30,000.00
1910	none				
1911	5 %	"	"	"	50,000.00
1912	12½ %	"	"	"	122,500.00
1913	16-7/10%	"	"	"	167,000.00
Total	92.45%				$924,500.00

From the above and foregoing it appears that they have paid during the last fourteen years dividends amounting to 92.45% of their capital stock, as well as accumulating a surplus fund amounting to

64.43% of their capital stock, a total earning on the capital stock of 156.88%.

The defendant contends that this money is earned principally by the operation of its leased lines; however, it is evident to the minds of the Commission that there must be some good reason for these leased lines entering into a lease which is so very favorable to the defendant The Florence & Cripple Creek Railroad Company, if these earnings shown are derived wholly from these leased lines.

It does not appear that the northern portion of The Florence & Cripple Creek Railroad Company's narrow gauge division is unprofitable. It can hardly be expected that the abandoned part of the line should bear the whole burden. There is no attempt made to abandon the whole line, although defendant says it is unprofitable.

The plaintiff introduced many witnesses to show that a great deal of freight originating at Canon City could not be transported owing to the abandonment of the line.

That many passengers from Canon City destined to Cripple Creek went by way of automobile rather than to travel the distance around by Pueblo and Colorado Springs at an increased expense of $3.35.

That if the line was opened large quantities of fruit, hay and coal would be shipped from Canon City into the Cripple Creek district and that Canon City is now deprived of this market.

The evidence of plaintiff also shows that The Florence & Cripple Creek Railroad Company in the year 1905 entered into a combination with the Colorado Springs & Cripple Creek District and Midland Terminal Railroad Companies, representing all the railroads running into the Cripple Creek district, whereby it was agreed that all of the roads would be operated under one general management and that all the revenues and all the expenses of the three roads would be added together each month without regard to which road produced the revenue or expense, and that the proceeds would be divided between the different roads.

On November 1st, 1911 this agreement was in some details chang-

ed, but the said railroads are at the present time combined as to operation and management.

This evidence is not disputed by defendants.

By this agreement it can readily be seen that there is little inducement for the defendant The Florence & Cripple Creek Railroad Company proper to enter into any active competition with the Colorado Springs & Cripple Creek District Railway or the Midland Terminal Railroad for the purpose of increasing the earnings of the narrow gauge division.

It must, therefore, be apparent that the attempt by the defendants to show what the real earnings of the narrow gauge division would be if operated in competition with the other railroads entering the district must necessarily, to say the least, be very inaccurate.

We are compelled to find, therefore, that the evidence of the defendants fails to show that The Florence & Cripple Creek Railroad Company proper, if operated in competition with the other lines as an independent company could not make a net earning.

In the case of Albany & Vermont Railroad Company, 24th N. Y. Court of Appeals, Page 267, the court says:

> "A company endowed with a franchise or privilege to maintain a railroad on a fixed route and between places named in its charter, cannot exercise the franchise or privilege by the operation of a road upon another route and between other places. The franchise can only be legally exercised by the corporation operating its entire road.
>
> There is no privilege granted or right obtained to operate a part thereof, and if it should undertake to do so, it is exercising a franchise or privielge without legal sanction."

The court goes on further to say that by abandonment of a part of a line specified in the charter, it forfeits its charter.

In Colorado & Southern Railway Company, vs. State Railroad Commission of Colorado and The Breckenridge Chamber of Commerce, 54th Colorado Supreme Court, Page 64, which was a Colorado case appealed from this Commission, in which the company attempted to justify the

abandonment of a part of its line and still retain its charter and continue to operate the balance of the line, the court says:

> "It must be remembered that railways are corporations organized for public purpose, have been granted valuable franchises and privileges, and that primarily they owe duties to the public of a higher nature even than that of earning large dividends for their shareholders.
>
> The franchises which plaintiff in error obtained by incorporating under the laws of this state were not granted for its profit alone or that of its stockholders, but in a large measure for the benefit of the public, and while it is a private corporation, the public is interested in the business in which it is engaged in the capacity of a common carrier. In this capacity it is a public servant and amenable as such."

The court goes on further in the same case to say:

> "By section 5 as above noted, a railroad company is inhibited from subjecting any locality to any undue or unreasonable disadvantage. By section 12 authority is conferred upon the Commission to execute and enforce its provisions. If the company, by operating its passenger trains, or refusing to operate them, over a portion of its road, brings about a result which the law inhibits, then it is not only violating the law, but imposing upon a community a disadvantage which the act intended to prevent. The fact that passengers from Breckenridge to Denver must travel to Leadville, and thence to Denver, over the Denver & Rio Grande via Pueblo, or over the Colorado Midland via Colorado Springs, and, in returning, travel the same circuitous route--a distance in the one case of 317 miles, and in the other of 253 miles, when the distance over the direct line of the South Park is but 110 miles--and that, by traveling over these routes to and from Denver, they must pay additional passenger fares, and suffer loss of time much in excess of that required when the line between Como and Breckenridge was operated; or that persons at Breckenridge, desiring to reach Como by rail, would have to travel to Denver over one or the other of the lines indicated, and then from Denver to Como--a distance, in all, of several hundred miles--in order to reach a point but twenty-one miles distant, manifestly subjects Breckenridge to an unreasonable disadvantage, which is the direct result of the Railway Company abandoning that portion of its road between Como and Breckenridge. With the act expressly inhibiting a railroad company from subjecting a locality to an undue disadvantage, and with express authority conferred upon the Commission to enforce the provisions of the act, we think it has power to direct the Railroad Company to operate a passenger train over its line to Denver, so that the disadvantage imposed upon the inhabitants of Breckenridge by the Railroad Company abandoning its line between that point and Como will be removed; provided, of course, the company cannot justify its action in abandoning that portion of its road."

The conditions as existing in the present case are very similar in the main points to those which existed in the case just cited. In that case the defendant sought to justify the abandonment of a part of

its line on the ground that Breckenridge had ample service by shipping from Breckenridge around by Leadville, Pueblo and Colorado Springs in order to reach Denver, a distance of 317 miles, when the distance direct over defendants line was only 110 miles.

It is the opinion of the Commission that the plaintiff has established the fact by the evidence introduced herein that great loss, damage and inconvenience has resulted from the defendants ceasing to operate their respective lines of railroad, and,

That defendants have failed to show to this Commission any good and sufficient justification for their so ceasing to operate and abandoning their respective lines of railroad.

CHARTER AMENDMENT.

The Commission having determined that the defendants have not shown any sufficient justification for ceasing to operate their said railroads, the question next to be determined is, whether or not by the attempted amendment of its charter, as herein shown, the defendant The Florence & Cripple Creek Railroad Company can escape its duty to operate its road.

The statute relied upon by the defendant reads as follows:

> "It shall be competent for any railroad or telegraph company, or corporation, upon a vote in person or by proxy of two-thirds in value, of its stockholders, at any meeting thereof, to alter and amend its articles of association, so as to change its termini, or so as to extend the length of the line thereof from either of its termini to such further and other point as they may determine, or for the purpose of constructing branches from its main line, and upon such vote the said company may make articles amendatory of their original articles for the purpose of extending or changing the line of its road, or for constructing branches from its main line as aforesaid; and whenever any such company or corporation shall, by a vote of two-thirds in value of its stockholders, so determine to amend or alter their articles of association, and shall certify to such amendments or alterations, made as aforesaid, under the corporate seal of such company or corporation, attested by its president and secretary, and shall file such certificate in the office of the secretary of state, and also in the office of the recorder of deeds in the county wherein the principal business of such company may be carried on; such amendment, amendments, or alterations shall have the same force and effect as though said amendment or alteration had been included in and made a part of and embraced in its original articles of association."

Under this provision in the statutes, which has been on our statute books since 1877, the defendant The Florence & Cripple Creek Railroad Company has attempted to amend its charter in the manner heretofore stated by changing its southern terminus to Wilbur, a small station on its main line between the City of Victor and the station of Ora Junta, and moved the Commission to dismiss this action on the ground that after said amendment it has no connection with the Canon City & Cripple Creek Railroad Company at Ora Junta, and has no line of railroad extending through the canon south of Wilbur which was damaged by the flood.

In this manner it apparently seeks to avoid any liability it may have heretofore had to rebuild and operate its line.

It is claimed by defendant The Florence & Cripple Creek Railroad Company that from the peculiar wording of this statute they are thereby so permitted to change their southern terminus that they may abandon that part of their line between Florence and Wilbur, a part of their main line some 24.12 miles in length.

The particular wording relied upon is as follows:

> "Alter and amend its articles of association so as to change its termini or so as to extend the length of the line thereof from either of its termini to such further and other point as they may determine, etc."

It is contended by defendant that, "as this section was in force at the time of the incorporation of its railroad and has been in force ever since, it is by law a part of the charter granted by the state to defendant, and the charter being viewed in the light of a contract, this statute becomes a part of the contract, a part of the powers of the company and may not, either by the state or its officers, be taken away without violating the State Constitution. That the authority is absolute and unrestricted and cannot be changed by the Commission or the courts."

It may readily be granted that if the interpretation placed upon this statute by the defendant is a correct one, and if the said amendment came in time, this Commission is without authority to grant

the relief sought by the plaintiff. But is the defendants interpretation correct?

Defendant has submitted a forty-eight page brief to sustain its contention. The case principally relied upon is, Railway, vs. Railway Company, 41st Fed. 293.

We have read this case carefully and the language therein is quite clear as to the point that the intention of the statute was to allow changes in the termini of a carrier after it had built its road and established its termini, either by extension or re-location.

The court says:

> "It must be conceded that there is nothing on the face of the statute in question to indicate that such right of amendment shall be limited, as contended by the defendant, to change its termini or so as to extend the length of the line thereof from either of its termini to such further and other point as they may determine, would imply that the termini had been established and the line of the road located. There is no limit on the face of the statute itself as to the time when this change may be made, but it may be done at any meeting of 2/3 in value of its stockholders. Certainly if it had been within the mind of the framer of the law to put such a limitation upon its operation, some apt expression indicative thereof would have been employed."

Other cases cited by defendant are:

Railway Company, vs. Railway Company, 95th S. W. 1019.

Railroad Company, vs. Railroad Company, 32nd Ind. 464.

State, vs. Railroad Company, 53rd Kans. 377.

Hewitt, vs. Railway Company, 35th Minn. 226.

It is a significant fact that in all the cases read by us that all have to do with the change of termini by extension of the line, or by re-location, and we have not been able to find a case where the terminus was changed by sanction of law where the change involved the location of the terminus at some point in the middle of a main line, or which carried with it the shortening of the line by the abandonment of a part of the same.

The wording of this statute of 1877 is peculiar to say the least. In no other state in the Union do we find a statute the same as ours. At common law when a carrier once established its termini it could not thereafter change the same.

Until 1877 in the State of Colorado there was no way a common carrier could change its termini by extension, re-location, or otherwise, and it seems that the statute of 1877 was the first statute which permitted any change whatever. Such a statute at that time was very essential to the progress and growth of the state; without it no railroad could extend or increase the length of its road, which would naturally have the deterrent effect of preventing the growth and upbuilding of the state. All the necessities and reasons for the enactment of this statute are very ably set forth by Judge Phillips in the case of, Railway, vs. Railway Company, 41st, Fed. (Supra), but in this case also the Colorado & Eastern was seeking a change of its termini by extension and not by abandonment.

Judge Phillips, in the above case, discusses the question of a change of the terminus by extension of a line, and nowhere indicates that by changing a terminus a carrier may be permitted to abandon a part of a line without surrendering its charter as a whole, and we do not believe this was the intention of the legislature in enacting this statute. To so hold would be to change the whole fabric upon which our railroad laws are founded. If a railroad company could change its termini under this statute as was attempted to be done by defendant herein, it is hard to contemplate the tremendous consequences to the business interests of the state which might occur. Even the very life and growth of the state might be placed in the hands of a few designing and avaricious men. By controlling the transportation companies of the state and, operating through holding companies, one railroad might buy up and control other roads entering a certain field and by changing their termini, in the manner herein suggested, abandon such parts of the competing and connecting lines as to give them control of all traffic, and, by abandonment, destroy thousands of dollars in industries located along abandoned lines; thereby throttling competition and the very life and growth of the state itself. This would have an exact contrary effect to the effect intended by the legislature in enacting the statute in question.

It would allow the abandonment of branch lines during times of

business depression, when the system as a whole might be paying a dividend, and which branch lines might afterward become profitable when normal conditions would be established.

In the words, "so as to change its termini, or so as to extend the length of the line thereof", when read in connection with what the legislature says may be accomplished after a two-thirds vote very materially discloses the legislative intent. What may be accomplished reads as follows; "upon such vote said company may make articles amendatory of their original articles (for what purpose) for the purpose of extending or changing the line of its road, or for constructing branches from its main line as aforesaid". This last clause describes for what purpose the termini may be changed, and nowhere is there authority to change the termini by shortening and abandoning. In the clause, "so as to change its termini or so as to extend the length of the line thereof", it is contended by defendant that the word "or" is disjunctive and that the carrier may do either, "change its termini or extend the length of the line thereof." A better construction would be that the word "or" is construed to mean "and", and this would explain how the termini could be changed and would be in accord with the latter clause, "for the purpose of extending or changing the line of its road". In our opinion the whole context of this section when carefully considered shows that it was the legislative intention that this part of the section should read, "to alter and amend its articles of association so as to change its termini (substituting <u>and</u> for <u>or</u>) and so as to extend the length of the line thereof", and read in connection with the latter clause, would mean, "change the termini for the purpose of extending or changing the line of its road," and not by abandoning a part thereof.

It is our opinion that this statute cannot be construed in the manner contended for by the defendant, and that nothing in the statute of 1877, or any other law of this state, permits a railroad company to so amend its charter as to allow it, by changing its termini, to abandon any part of the main line.

Plaintiff offered evidence which seems to be conclusive of the fact that The Canon City & Cripple Creek Railroad Company received and accepted from the citizens of Canon City and Fremont County approximately thirty thousand ($30,000) dollars as a donation in acquiring the right of way for the building of said railroad. This, plaintiff contends, should be taken into consideration by us in considering the ordering of the operation of the defendants road. While we feel that this should create a moral obligation on the part of defendant to resume its operation, we do not consider it a matter which should be taken into consideration by us, and have not so considered it in our findings herein.

The motion of the plaintiff to strike from the files of this cause the amended answer of the defendant The Florence & Cripple Creek Railroad Company is granted, and the motion of the defendant The Florence & Cripple Creek Railroad Company to dismiss this cause, based on its amended answer, is denied.

The motion of defendants made at the end of the hearing to dismiss this cause is also denied and exceptions are hereby allowed to all adverse rulings on all motions of plaintiff and defendants.

This cause has consumed a great deal of time and many days of hard work in the preparation and presentation of the same and we have given it our best efforts in an endeavor to get at the right of the matter.

We feel it not amiss at this time to say that we are grateful to the attorneys for both plaintiff and defendants for the careful and painstaking manner in which they have prepared and presented their several contentions herein.

We feel that under the evidence herein, and the law of this state, it is our duty to order the reopening and operation of the defendants lines of railroad for traffic, and that while they enjoy their charter rights it is their duty to render a reasonable service to the public. This they are not doing in refusing to operate their lines.

ORDER.

IT IS ORDERED, That the defendant The Canon City & Cripple Creek Railroad Company be, and it is hereby notified and directed to, on or before the sixth day of July, 1914, and during a period of two years thereafter, maintain, operate and conduct, either by its own operation or through a lessee, or otherwise, a through combination freight and passenger train service from Canon City, Colorado, to Ora Junta, Colorado, at least once each day each week, except Sunday, and from Ora Junta to Canon City at least once each day each week, except Sunday.

And that it publish on or before the sixth day of July, 1914, its freight and passenger tariffs.

It is also ORDERED that said defendant fix its time schedule so as to connect with the train of The Florence & Cripple Creek Railroad at Ora Junta, and that they receive and transport shipments to and from all stations between Canon City, Colorado, and Ora Junta, Colorado.

IT IS ORDERED, Further, That the defendant The Florence & Cripple Creek Railroad Company be, and it is hereby notified and directed to, on or before the sixth day of July, 1914, repair its line of railroad in such manner as will place it in a safe operating condition, and during a period of two years thereafter maintain, operate and conduct a through combination freight and passenger train service from Ora Junta, Colorado, to Cripple Creek, Colorado, at least once each day each week, except Sunday, and from Cripple Creek to Ora Junta at least once each day each week, except Sunday.

And that it publish on or before the sixth day of July, 1914, its freight and passenger tariffs, and that they receive and transport shipments to and from all stations between Ora Junta and Cripple Creek.

It is further ORDERED, That said defendant fix its time schedules so as to connect with the train of The Canon City & Cripple Creek Railroad at Ora Junta.

And should defendant The Florence & Cripple Creek Railroad Company operate its trains by lease over the line of The Canon City & Cripple Creek Railroad, then it shall publish through freight and passenger schedules from Canon City, Colorado, to Cripple Creek, Colorado.

Effective the sixth day of July, 1914,
and for two years thereafter.

BY ORDER OF THE COMMISSION.

Aaron P. Anderson

Sheridan S. Kendall

Geo T. Bradley

COMMISSIONERS.

Dated at Denver, Colorado, this fourth day of April, 1914.

ORIGINAL

BEFORE THE
STATE RAILROAD COMMISSION
OF COLORADO.

STATE RAILROAD COMMISSION
FILED
April 15, 1914.
OF COLORADO.

CASE NO. 60

H. L. Ford,
Petitioner,

vs.

Chicago, Burlington & Quincy Railroad Company,
Defendant.

ORDER.

Now on this 15th day of April, A. D. 1914, it appearing to the Commission that the complaint, heretofore filed herein on the 14th day of October, A. D. 1913, has been fully satisfied, and that the relief, matters and things asked for in the said complaint have been done and performed by the defendant herein,

IT IS, THEREFORE, ORDERED that the above entitled cause be, and the same is hereby, dismissed.

THE STATE RAILROAD COMMISSION OF COLORADO

A P Anderson
S S Kendall
Geo I. Bradley

COMMISSIONERS.

(STATE RAILROAD COMMISSION OF COLORADO. SEAL.)

BEFORE THE

STATE RAILROAD COMMISSION

OF COLORADO.

CASE NO. 64.

L. A. Ewing and R. M. Davis,
Petitioners,

-vs-

The Denver, Boulder & Western Railroad Company,
Defendant.

O R D E R.

INADEQUATE FACILITIES.

Submitted April 20th, 1914. Decided April 30th, 1914.

STATEMENT OF CASE.

On March 13th, 1914, the petitioners filed their petition herein, in which, among other things, it is alleged:

That petitioners are lessees and are now operating the White Raven group of mines under lease and contract to purchase said group of mines, and have been such since the 14th day of February, A. D. 1913, the said group of mines being located at Puzzler, Boulder County, Colorado, five-eighths of a mile from Puzzler Station, on the line of The Denver, Boulder & Western Railroad Company between Boulder and Ward, Colorado, in said Boulder County.

That the defendant above named is a common carrier engaged in the transportation of passengers and property by railroad between Boulder and Ward, in Boulder County, State of Colorado, and as a common carrier is subject to the act regulating common carriers.

That the defendant has failed, since the 30th day of November, A. D. 1913, to transport to Boulder a certain carload of ore loaded

by petitioners and standing on the sidetrack of defendant at Puzzler Station.

That the defendant has failed to furnish them empty cars for the purpose of loading ore at Puzzler Station.

That since on, to-wit, the 20th day of November, 1913, and during the period that defendant has failed to operate its said railroad from Sunset Station to Puzzler Station, said defendant has operated its line of road from Boulder to said Sunset Station, and from Sunset Station to Eldora, on other and different branch line of its said line, and has thereby discriminated against petitioners.

That for about eight years it has been the practice of defendant to discontinue service on the Ward branch of its line, which is beyond Puzzler Station, for long periods of time during the winter months.

That the transportation of ore from said White Raven group of mines over said railroad line is the best method of transporting said ore to market.

Petitioners pray that defendant my be required to answer the said charges, and that an order be made commanding the defendant to cease and desist from said violation of the act to regulate common carriers, and for such further order as the Commission may deem reasonable; and that an order be issued requiring said defendant to operate said railroad with reasonable service throughout the entire year.

On April 2nd, 1914, the defendant filed its answer thereto, in which, among other things, it is alleged:

It admits that since November 30th, 1913, it has been unable to operate its line of railroad from Ward, Colorado, to Sunset, Colorado, on account of snow blockades which have existed from time to time, and still exist. That it has put forth every effort to clear the snow from its line of road, but on account of high winds, and continued snowfall, it has been unable by any exertion to open said line; that this is the only reason why said line has not been oper-

ated.

Defendant admits that it has been able to operate its line from Boulder to Eldora for portions of the time, but denies that in doing so it has had any intention of discriminating against petitioners, or any of the parties on its line between Sunset and Ward.

Defendant alleges that wherever it has abandoned its service during the winter time, it has been due either to its inability to keep its line open on account of snows and other weather conditions, or due to the fact that there was no business on said line to be carried.

Answering the complaint of petitioners generally, this defendant says that from December 1st to December 5th, 1913, there was a great and unprecedented snow storm prevailing in the mountains along its line from Sunset to Ward; that there was a fall of more than seven feet of snow along said line at that time and during the winter a fall of more than eleven feet; that on or about December 9th, the line of defendant between Boulder and Eldora was opened and also the line from Sunset to Ward, on or about December 13th; that daily service was resumed by defendant on its line from Sunset to Eldora and maintained from December 9th to December 31st; at which time winds of such velocity prevailed that the tracks were blockaded with drifted snow from a point nine miles west of Boulder to Eldora and Ward; that defendant's train was stalled in the drifted snow during said period at a point about fifteen miles west of Boulder and the winds were of such a character as to prevent the men from working, so that said train was not released until about January 1st, 1914, on which date it required the entire force of the defendant two days to remove the train back to Sunset; that on January 2nd, 1914, two miles of slides from three to fifteen feet deep were removed from the tracks of defendant between mile posts 9 and 13 and the train of December 31st, 1913, brought into Boulder; that high winds continued daily throughout the entire month of January, preventing men from working on the drifts a great portion of the time,

causing an intermittent service over the line from Sunset to Eldora; that the tracks of defendant were completely buried with hard, drifted snow from one to twenty feet in depth for a distance from one to 500 feet; early in January, 1914, the line of defendant was cleared from Glacier Lake to Eldora, twenty-three miles west of Boulder, but an effort to clear the line beyond that point resulted in breaking defendant's snow plow, causing a large expenditure for labor without attaining any results, the snow being too deep and the drifts too hard to remove with any facilities possessed by the defendant; that on or about January 15th, the defendant secured a rotary/snow plow from The Colorado & Southern Railway Company and thereby cleared its line between Glacier Lake and Eldora, and at this time it attempted to use said plow in clearing its line from Sunset to Ward, but on account of the conditions on the line between said points and the depth of the cuts and the drifted condition of the snow on the tracks, it was unable to operate said snowplow for the purpose of clearing such line; that during the latter part of January, 1914, high winds prevailed in the mountains, filling up all of the cuts on the Ward line with hard snow and ice; that during the early part of February, an additional snowfall of fourteen inches occurred, accompanied by high winds, again filling up all of the cuts; that wind continued almost daily during the first half of February, making it impossible to work in opening up any blockaded portion of defendant's line; that the same condition continued during the first week in March, when the snow was again drifted to a depth of eight feet in the cuts, making it difficult, if not impossible, to do anything at said time.

It further alleges that the entire earnings of defendant's line of railroad are not sufficient to pay defendant's operating expenses; that said earnings during the seven months ending January 31st, 1914, were $9,141.36 less than actual expenses during the same period and that said earnings during the fiscal year ending June 30th, 1913, were $6,000.44 less than actual operating expenses

during said year; that the entire line of defendant is being operated at a loss and was so operated during the past two years.

Defendant asks that the petition herein be dismissed.

Appearances: Henry O. Andrew, Boulder, Colorado, attorney for petitioners.

Theodore M. Stuart, Denver, Colorado, attorney for the defendant.

OPINION

and

FINDINGS OF FACT.

It appears from the evidence submitted herein that defendant owns a line of narrow gauge railroad extending from Boulder, Colorado, to Sunset, Colorado, a distance of 13.3 miles; that from Sunset there are two branches extending westwardly, one to Eldora, a distance of 20.1 miles from Sunset; the other to Ward, a distance of 12.8 miles from Sunset. That the entire railroad extends westwardly from Boulder through deep canons, and with heavy grades to the junction at Sunset, from whence the different branches continue westwardly up steep mountain grades, reaching an altitude of 9,450 feet at Ward, and 8,730 feet at Eldora.

That the said railroad is essentially a mountain railroad, traversing high altitudes where heavy snows fall during a great part of the year and where a great deal of care and expense is required in the operation of said lines.

That petitioners own and operate a mine at Puzzler, a station on said line of railroad a distance of 8.6 miles from Sunset.

Defendant does not deny its duty to operate its line of railroad between Boulder and Ward, but pleads its inability to do so on account of weather conditions.

It further appears from the evidence, and is uncontradicted

by petitioners herein, that the whole line of said railroad is operated at a loss, not including interest on bonded indebtedness and taxes.

That said railroad has been in bankruptcy two times.

That it has been the practice in the summer time to operate a daily train between Boulder, and Eldora and Ward, but that in the winter time, only a weekly train has been operated to Ward.

That about September 8th of last year the daily service was discontinued to Ward, and a weekly schedule was filed.

It appears that there is no intention on the part of defendant to abandon any part of its line.

It also appears that the total actual loss in operating expenses alone, and not including taxes and interest, for the fiscal year ending June 30th, 1913, was $6,000.44.

That the total loss in operating expenses for the seven months since June 30th, 1913, was $9,141.36.

It does not appear that there has been any extravagance in the management or operation of defendant company's line of railroad; it appearing that only $10,000.00 was expended for office expenses per year, including the salaries of officers, office supplies, legal expenses, rent, stationery, and printing.

It also appears from the evidence (Page 147, transcript of evidence) that the company has been losing money for sixteen years; that it has never made any money for the stockholders; that in five years the company has only paid 4½% on its income mortgage bond, or nine-tenths of 1%; that the bonded indebtedness calls for 5% interest.

It also appears from the testimony of Mr. Hayes, President of the Denver, Boulder & Western Railroad Company, that between December 1st and December 5th, 1913, the average snowfall in the mountains along the line of defendant's railroad was seven feet.

Page 138, transcript of evidence:

Mr. Hayes: "December 1st to 5th, the average snowfall in the

mountains along the line of the railroad was 7 feet. That blockaded all lines. The Eldora line was cleared December 9th; the Sunset-Ward line December 13th. Daily service resumed and maintained upon the Eldora line December 9th to 31st, when wind of such great velocity prevailed that the tracks were blockaded with drifts and snow from mile post 9, west of Boulder, to both Eldora and Ward. The train of the 31st was stalled in the snow fifteen miles west of Boulder on the Eldora line; the wind was so great the men could not work in it. That train could not be released until January 1st, on which day it required our entire force all day to move the train two miles back to Sunset. January 2nd, two miles of slides, from 3 to 15 feet deep were removed from the track between mile post 9 and 13, and the train of December 31st was brought back to Boulder. High winds continued almost daily throughout the entire month of January, preventing the men from working on the drifts the greater portion of the time, thus causing intermittent service to Eldora and no service to Puzzler or Ward. Tracks were again buried with snow drifts from 1 to 20 feet in depth for a distance of 100 to over 500 feet in length early in January, at which time the line was cleared to Glacier Lake, mile post 23 from Boulder, on the Eldora line. We endeavored to clear the line from Glacier Lake to Eldora, but the snow was so hard we could make no impression upon it with our motive power and snow plow. Drifts were too deep and too hard to remove. At that time, and before that, we negotiated with the Colorado & Southern Railway Company for the rental of their rotary snow plow, which was in use on the South Park division of that company's line. It was released and brought to us at Boulder from Leadville and delivered to us January 15th. With three engines and the rotary snow plow, in thirty hours time we succeeded in clearing a line between Hill station and Eldora, approximately 10 miles."

It is contended by petitioners that it is immaterial what the expenses or losses of defendant railroad are, or whether or not defendant is operating at a profit;

We cannot agree with petitioners in this matter on this point.

In the case of the Breckenridge Chamber of Commerce, vs. The Colorado & Southern Railway Company, heretofore decided by this Commission, and in which it was disputed whether or not the defendant was earning any net profit, the Commission ordered the operation of the road. However, all testimony showed that the branch ordered to be operated was only a part of the whole system, which system was paying regular and reasonable dividends on its stock.

It is contended by petitioners that in law the defendant is required to operate regardless of the question of loss. The Railroad Commission law of Colorado provides that all orders of the Commission must be reasonable, and in ordering the operation of the defendant company's line, the question of loss on the part of the entire system should certainly be considered in regarding the question as to what would be a sufficient service to be ordered, after considering said loss.

It is the opinion of the Commission that while the defendant should be required to operate its road, that no unreasonable service should be required.

The defendant company while retaining its charter should render such service as is within its reasonable power to perform.

We are of the opinion, however, that the present weekly service is sufficient in the winter time from Sunset, Colorado, to Ward, Colorado. That defendant should use due diligence and all reasonable effort within its financial means, and all reasonable power at its command to maintain said weekly train in and out of Ward.

ORDER.

IT IS ORDERED, that the defendant, The Denver, Boulder and

Western Railroad Company be, and it is hereby notified and directed to, on or before the 2nd day of June, 1914, and during a period of two years thereafter, maintain and operate at least one combination passenger and freight train each week from Boulder, to Ward.

BY ORDER OF THE COMMISSION.

Aaron P Anderson

S. S. Kendall

Geo I. Bradley

Commissioners.

Dated at Denver, Colorado, this 30th day of April, 1914.

Original

BEFORE THE

STATE RAILROAD COMMISSION

OF COLORADO.

CASE NO. 53.

THE COMMERCIAL CLUB OF GREELEY, a corporation, Complainant, -vs- THE COLORADO AND SOUTHERN RAILWAY COMPANY, and UNION PACIFIC RAILROAD COMPANY, Defendants.	O R D E R

ACTION FOR REDUCTION IN FREIGHT RATES.

Submitted April 14th, 1914. Decided May 9th, 1914.

STATEMENT OF CASE.

In this case the complainant, among other things, alleges:-

The plaintiff is a corporation with its principal place of business in Greeley, Colorado; organized for the purpose of protecting and furthering the commercial interests of Greeley and community.

That defendants are common carriers engaged in the transportation of coal from the Northern coal fields to Greeley, in the State of Colorado.

That the Northern coal fields are situated in Boulder and Weld Counties.

That the average distance by the Colorado and Southern route is seventy-five (75) miles; by the Union Pacific route, thirty-three (33) miles.

That defendants charge for transporting coal between said points, $1.10 per ton for lump, 70 cents per ton for mine run, and

62½ cents per ton for slack.

That said rates are unjust, unreasonable, and excessive, and are in violation of the Act to Regulate Common Carriers; and they deprive Greeley of the commercial advantages of its close proximity to said coal fields.

Plaintiff prays that defendants be ordered to cease and desist from said violation of the Act to Regulate Common Carriers, and that reasonable rates be established by the Commission, and for other relief.

The defendants in their answers, among other things, allege:-

They admit that they are common carriers, and that they transport coal between the aforesaid points.

They admit that the Northern coal fields are situated in Boulder and Weld Counties.

Deny the average distance is thirty-three (33) miles by the Union Pacific route and seventy-five (75) by the Colorado and Southern route.

They admit their charges to be $1.10, 70 cents and 62½ cents per ton, respectively, as aforesaid.

Deny that said charges are unjust, unreasonable, or excessive, or in violation of the Act to Regulate Common Carriers.

Deny that either Greeley, or any of its citizens, are deprived of any commercial advantages.

Appearances: Messrs. Carle Whitehead, Albert L. Vogl and William R. Kelley, attorneys for complainant, The Commercial Club of Greeley; Mr. E. E. Whitted, attorney for defendant, The Colorado and Southern Railway Company, and Messrs. C. C. Dorsey, E. I. Thayer and J. Q. Dier, attorneys for defendant, Union Pacific Railroad Company.

OPINION AND FINDINGS OF FACT.

The evidence herein establishes the following facts:-

That the average distance from what is known as the Northern

coal fields in Boulder and Weld Counties, to Greeley, by the Colorado and Southern route is 77.44 miles.

That the average distance between said points by the Union Pacific route is 40.2 miles.

That the present rates are blanketed, the same rate being charged to all stations on the Colorado and Southern line between Marion and Greeley, and to all stations on the Union Pacific line between Fort Lupton, Kersey and Warren.

That the present rates per ton are:- Lump, $1.10, Mine Run, 70 cents, and Slack, 62½ cents.

That during the year 1913 the Union Pacific Railroad Company shipped from the Northern fields into Greeley 1,675 tons of lump coal.

That during said year the Colorado and Southern Railway Company shipped from said fields into Greeley 17,532 tons of lump coal, and that, therefore, over 90% of the lump coal shipped into Greeley was carried over the Colorado and Southern Railway Company's line, the average distance of 77.44 miles.

That the reason for the Colorado and Southern Railway Company hauling such a large proportion of the lump coal is that more mines are located on that line and coal produced by those mines is of a better grade and finds a readier market.

That the present rate on lump coal from Trinidad to Greeley, a distance of 302 miles, is $2.50 per ton, or 8.3 mills per ton per mile.

That the present rate on lump coal from Trinidad to Denver, a distance of 203 miles, is $1.85 per ton, or 9.1 mills per ton per mile.

That the present rate on lump coal from Walsenburg to Greeley, a distance of 270 miles, is $2.25 per ton, or 8.3 mills per ton per mile.

That the present rate on lump coal from the Northern fields to Greeley by the Colorado and Southern route, an average distance

of 77.44 miles, is $1.10 per ton, or 14.2 mills per ton per mile.

That over 90% of the lump coal is shipped by the Colorado and Southern Railway Company into Greeley, and that less than 10% of said lump coal goes by way of the Union Pacific Railroad Company's line.

That very little switching is absorbed by either defendant on the lump coal shipped into Greeley, the Colorado and Southern Railway Company paying the Union Pacific Railroad Company for the use of its terminals in Greeley by allowing the Union Pacific the use of the Colorado and Southern terminals in Boulder.

That the average rate per ton per mile for the years 1911, 1912, and 1913 in mills per ton per mile on all kinds of freight, both interstate and intrastate, on the Colorado and Southern Railway was 9.09; and for the same years on all kinds of freight, interstate and intrastate, the Union Pacific Railroad Company received 9.77 mills per ton per mile.

In Case No. 34, heretofore decided by this Commission, in which the same railroad companies were defendants, for a haul of 24.2 miles the Commission held that 12 mills per ton per mile would be reasonable.

While the average distance of the haul involved in said case was only 24.2 miles, the distance of the haul on the line of the company hauling 90% of the lump coal involved in the present action is 77.44 miles.

The Commission recognizes the fact that rates cannot always be figured solely on the mill per ton per mile basis. Generally speaking, as the length of the haul decreases, the mill per ton per mile increases, on account of taking into consideration terminal and other incidental expenses, which are applicable in both instances.

After careful consideration of this case, and after finding the facts stated above, the Commission is of the opinion that the present rate charged for hauling lump coal from the Northern fields

into Greeley is unreasonable and discriminatory.

That the present rates on mine run and slack are neither unreasonable nor discriminatory.

No reason appears in the evidence as to the disproportion between lump, mine run, and slack rates.

The Commission is, therefore, inclined to the view that the rates on mine run and slack must have been caused by some competitive conditions, and they do not appear to the Commission to be any too high.

However, after considering the fact of the length of the haul of each defendant line, together with the fact that over 90% of all the lump coal goes by way of the Colorado and Southern Railway, which is the longer haul of the two defendant lines, and being of the opinion that the longer haul should not be depressed with having to transport coal on a basis commensurate with a forty mile haul, when in fact, as aforesaid, they are actually hauling over 90% of the lump coal;

We believe that a rate of 90 cents per ton on lump coal would be sufficiently remunerative. This would produce 11 mills per ton per mile, which would include all switching charges and other terminal charges.

ORDER.

It is hereby ordered that the defendants, The Colorado and Southern Railway Company, and Union Pacific Railroad Company, be and they are hereby severally notified to cease and desist, on or before the 10th day of June, 1914, and during a period of two years thereafter abstain from demanding, charging, collecting, or receiving for the transportation of lump coal from the mines on defendants' lines of railroad in the Counties of Boulder and Weld, and in what is known as the Northern Colorado coal fields, to Greeley, in the State of

Colorado, the present rate of $1.10 per ton on lump coal, carloads, and to publish and charge on or before the 10th day of June, 1914, and during a period of two years thereafter collect and receive, for the transportation of lump coal from said mines to Greeley, Colorado, a rate not exceeding 90 cents per ton, carloads, and said defendants are hereby authorized to make said order effective upon three days' notice to the public and to the Commission.

BY ORDER OF THE COMMISSION:

Aaron P Anderson

Sheridan S Kendall

Geo T. Bradley

Commissioners.

Dated this 9th day of May, 1914, at Denver, Colorado.

ORIGINAL

Filed
MAY 31 1914
The State Railroad
Commission of Colorado.

BEFORE

THE STATE RAILROAD COMMISSION

OF COLORADO.

The City of Glenwood Springs, Plaintiff, vs. The Colorado Midland Railway Company, and The Denver & Rio Grande Railroad Company, Defendants.	Case No 41 ORDER OF DISMISSAL.

Now on this 31st day of May, 1913, the matter of the jurisdiction of this Commission as to the adjustment of freight rates of the Colorado Midland Railway Company, one of the defendants herein, having been submitted to Judge Lewis of The United States District Court for his opinion as to the authority of this Commission to adjust said rates of the said defendant company, said defendant company being in the hands of a receiver of said United States District Court, and the said United States District Court, by Judge Lewis, having ruled informally that, inasmuch as the railway in question was in charge of a receiver appointed by his court, that any application for the reduction of rates would have to be made to his court; and this Commission having been advised by the Attorney General of the State of Colorado--he having presented the said matter to the said United States District Court--of the ruling of the said United States District Court, and it appearing to the Commission that no adjustment of rates involved in this action can be had without having jurisdiction over the rates of the said

Colorado Midland Railway Company, and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED BY THE COMMISSION that the above case be, and the same is hereby, dismissed.

THE STATE RAILROAD COMMISSION OF COLORADO

{Seal}

BY A P Anderson

S S Kendall

COMMISSIONERS.

BEFORE THE

STATE RAILROAD COMMISSION OF

COLORADO.

CASE NO. 67.

STATE RAILROAD COMMISSION
FILED
JUN 22 1914
OF COLORADO

STATE OF COLORADO,)
) ss.
City and County of Denver,)

In the matter of E. H. Haynes,

Plaintiff,

-vs-

The Chicago, Rock Island & Pacific Railway Company,

Defendant.

O R D E R.

This cause coming on for consideration by the Commission this 22nd day of June, 1914, and the Commission, having read and filed the stipulation entered into by Plaintiff, E. H. Haynes, and the citizens of Vona, Colorado, together with the defendant, by P. B. Godsman, its Attorney, and J. A. McDougal, its Superintendent, whereby the said respective parties have agreed that the defendant will stop at the station of Vona its train No. 39 and its train No. 6 on flag signal, and that the said defendant will build a two-pen stockyards, with water facilities, and the plaintiff has agreed in consideration thereof that the said above entitled cause shall be dismissed, and has asked for the dismissal of said cause:-

It is hereby ORDERED by the Commission that the above entitled action be, and the same is, hereby dismissed.

BY ORDER OF THE COMMISSION:

A P Anderson

S S Kendall

Geo T. Bradley

Commissioners.

Dated at Denver, Colorado, June 22nd, 1914.

Original

BEFORE THE

STATE RAILROAD COMMISSION OF COLORADO.

CASE NO. 66.

STATE RAILROAD COMMISSION
FILED
JUN 27 1914
OF COLORADO

HARRY CROFT, ET AL, REPRESENTING THE GRANGE AND MILK PRODUCERS OF CHERRY CREEK VALLEY,

Complainants,

-vs-

ADAMS EXPRESS COMPANY,

Defendant.

O R D E R.

Alleged unreasonable express rate on milk from Melvin, Colorado, to Denver, Colorado.

Submitted June 3rd, 1914. Decided June 27th, 1914.

STATEMENT OF CASE.

The complainant filed his complaint herein and alleged:

That complainants are dairymen in the Cherry Creek Valley.

That the defendant above named is a common carrier engaged in the transportaion of milk and other property by railroad between Parker and Denver, in the State of Colorado, and as such common carrier is subject to the Act to Regulate Common Carriers.

That the defendant charges an unreasonable express rate on milk from Parker to Denver, being in excess of 4 cents for a ten gallon can more than other express companies charge for the same distance.

Complainant prays for an order that defendant cease and desist from said violation of the Act to Regulate Common Carriers, and for such other and further order as the Commission may deem necessary in the premises.

Complainant also asks for one thousand ($1000.00) dollars reparation for overcharges.

By way of answer, defendant alleges:

Admits the allegations in paragraphs one and two of the complaint.

Denies it charges , or has charged, unreasonable express rates on milk between Parker, Colorado, and Denver, Colorado.

"Denies that the rate charged by it is in excess of 4 cents for a ten gallon can more than other express companies charge for the same distance as a general thing."

Defendant states that there may be, by reason of special circumstances and conditions, exceptional cases between certain points in the State of Colorado where other express companies charge less for the transportation of ten gallon cans of milk for the same distance than defendant charges from Parker to Denver.

"That in no instance, however, does it charge any less for the same distance than it charges from Parker to Denver."

Defendant denies that it has violated in any way the Act to Regulate Common Carriers in the State of Colorado.

Denies that it has overcharged complainant in any sum whatever, and denies that complainant should be awarded the sum of one thousand ($1000.00) dollars, or any other sum whatever on account of alleged overcharges.

Appearances: Harry Croft, the Complainant, appearing per se. E. I. Thayer, Denver, Colorado, Attorney for Defendant.

FINDINGS OF FACT.

Since the filing of the above complaint, the defendant, Adams Express Company, together with all other express companies operating in the State of Colorado, has filed with this Commission its schedule of rates, which is commonly known as the Beatrice Scale of Rates. This scale of rates was authorized by the Interstate Commerce Commission, in what is known as the Fairmont Creamery Case.

These rates are uniform. Beginning with the distance of 25 miles the rate is 20 cents for a ten gallon can of milk or cream, and for each multiple of 5 miles thereover an additional one cent is charged on each ten gallon can.

On an eight gallon can for the distance of 25 miles, the rate is 18 cents, with an additional one cent for each 5 miles thereover.

On a five gallon can the rate is 14 cents for 25 miles, with an additional one cent for each 5 miles thereover.

These rates pertain up to the distance of 50 miles. From 50 miles to 100 miles one cent is added for each additional 10 miles on each can.

From the evidence submitted in this case it appears that heretofore there has been great discrepancies between different companies for the same distances on a ten gallon can of milk or cream.

In the present rate as filed with this Commission, known as the Beatrice Rate, (which has been filed by all of the express companies operating within the State of Colorado) these discrepancies have been eliminated, in that, each five, eight, or ten gallon can of milk or cream is charged according to the distance hauled. In order to have uniformity in these tariffs according to distances some of the express companies operating within this state have been compelled to sacrifice a great deal from their tariffs heretofore in existence, the reductions in some cases being as high as 30, and even 40%; in other cases there has been an increase. There are instances in evidence in this case where the charge for a ten gallon can for a distance from 40 to 50 miles has been only about one-half that which has been charged for the same cans for the same distances on other roads, but there are only a few instances where these extremely low express rates on milk and cream have obtained, being confined practically to two express companies. On nearly all other express company's lines the rate has heretofore been not less than 19 cents per ten gallon can for the distance of 25 miles.

For the sake of uniformity in all express rates on milk and

cream within the State of Colorado the Commission is inclined at this time to give a thorough trial to these new and uniform rates as filed with the Commission. In a few instances the rates may be increased, but, generally speaking, there is a readjustment all over the State of Colorado by the adoption of this Beatrice Scale with an eye single to uniformity in the rate per ten gallon can per mile on milk and cream. There is, however, a peculiar condition existing in this state which we think calls for an adjustment, or change, in the Beatrice Scale filed with the Commission. It was shown in the evidence submitted before the Commission in the within case that there are stations from which milk is shipped into the City of Denver which are not further distant than fifteen miles.

The scale in this Beatrice rate is not less than 20 cents on milk and cream for a distance not over 25 miles. The shortest distance on which a rate is based therein, therefore, being 25 miles.

It was testified to by witnesses in the within case that a man with a team hauling a load of milk or cream of 24 cans, weighing 2400 pounds, could make $4.40 per day from the station of Melvin into the City of Denver.

It is the opinion of the Commission that there should be a rate fixed for a less distance than 25 miles to meet the local conditions within the State of Colorado.

Complainant in the complaint herein asked for reparation, but the Commission has heretofore held, along with the Interstate Commerce Commission, that the fact that a rate is unreasonable today is no evidence that the same rate was unreasonable heretofore. Conditions are continually changing and the main effort of the Commission at the present time is to adjust these express rates in such manner that they may be equitable and reasonable for all.

ORDER.

It is hereby ORDERED by the Commission that the defendant, the Adams Express Company be, and it is hereby ordered to cease and desist

on or before the 30th day of July, 1914, from charging and collecting its present rates on milk and cream for a distance of 15 miles, and to publish, charge, and collect, on or before the 30th day of July, 1914, for a distance of 15 miles, the following rates: On a five (5) gallon can, 14 cents; on an eight (8) gallon can, 16 cents, and on a ten (10) gallon can, 17 cents. The above rates may be established on one days' notice.

BY ORDER OF THE COMMISSION:

A P Anderson

S. S. Kendall

Geo. I. Bradley

Commissioners.

EFFECTIVE FOR TWO (2) YEARS.

BEFORE THE STATE RAILROAD COMMISSION
OF COLORADO.

CASE NO. 52.

STATE RAILROAD COMMISSION
FILED
JUL 6 1914
OF COLORADO

THE CITY OF CANON CITY,

Petitioner and Complainant,

-vs-

THE FLORENCE AND CRIPPLE CREEK RAILROAD COMPANY and THE CANON CITY AND CRIPPLE CREEK RAILROAD COMPANY,

Defendants.

O R D E R.

And now on this date the City of Florence in the County of Fremont, State of Colorado, having filed with this Commission a petition to intervene in the above entitled cause, it asking the Commission for an order to open that portion of the Florence and Cripple Creek Railroad Company's line between Florence and Ora Junta.

And the defendants The Florence and Cripple Creek Railroad Company and The Canon City and Cripple Creek Railroad Company having filed with this Commission a petition to dismiss the above entitled action against the said defendants on account of new evidence and matters and things having arisen since the filing of the order to operate herein.

And the plaintiff and defendants also having filed with this Commission their joint written stipulation asking for a change of the effective date of said order from July 6th, 1914, to September 6th, 1914.

Pursuant to the foregoing, and upon the aforesaid stipulation whereby the defendants herein ask the Commission to grant the City of Florence permission to intervene:-

It is hereby ORDERED by the Commission that the City of Florence be, and it is hereby, granted leave to intervene in the above

entitled action.

And that the defendants herein shall plead to the petition filed by the said City of Florence not later than July 31st, 1914.

Also that petitioner in said cause, the City of Canon City, shall plead not later than July 31st, 1914, to the respective petitions of the defendants to set aside the order made by the Commission on April 4th, 1914.

It is further ORDERED that the effective date of the said order directed against the defendants herein to open their respective lines of railroad be continued from the 6th day of July, 1914, to the 6th day of September, 1914.

That the said order be and remain in effect in all other particulars, the same as though the said effective date therein had not been changed, and that the said defendants do and perform all of the matters and things therein directed on or before the said 6th day of September, 1914.

BY ORDER OF THE COMMISSION.

A B Anderson

S S Kendall

Geo I. Bradley

Commissioners.

Dated at Denver, Colorado, this 6th day of July, 1914.

BEFORE THE

STATE RAILROAD COMMISSION OF

COLORADO.

CASE NO. 68

STATE RAILROAD COMMISSION
FILED
AUG 5 1914
OF COLORADO

STATE OF COLORADO,)
) ss
City and County of Denver)

In the matter of The Colorado Springs Light, Heat and Power Co. a corporation, Complainant.

Vs.

The Chicago Rock Island & Pacific Railway Company, a corporation, Defendant

ORDER

And now on this day the Commission having received notice from the Plaintiff that the Defendant has agreed to restore to Plaintiff the rate asked for by the Plaintiff herein and also to grant to Plaintiff reparation of the difference in the original rate of twenty five cents,(25¢) per ton and the forty cents,(40¢) per ton exacted, and it appearing that the complaint herein is thereby satisfied and the Plaintiff herein having filed its written petition to dismiss the complaint herein:-

It is Ordered that the above entitled action be, and the same is, hereby dismissed.

BY ORDER OF THE COMMISSION:

A P Anderson

S S Kendall

Geo T. Bradley

Commissioners

BEFORE THE

STATE RAILROAD COMMISSION OF

COLORADO

CASE NO. 73

STATE RAILROAD COMMISSION
FILED
AUG 6 1914
OF COLORADO

STATE OF COLORADO,)
) ss
City & County of Denver)

In the matter of the Consumers League of Colorado a corporation Complainant.)
Vs.) ORDER
The Colorado & Southern Railway Co. et al Defendants)

And now on this day on the hearing and consideration of the motion of Defendants The Denver & Intermountain Railroad Company to dismiss the complaint herein against them.

It is hereby ORDERED that the said motion is hereby denied and the said Defendant is given ten,(10) days to answer the complaint herein.

BY ORDER OF THE COMMISSION:

A P Anderson

S I Kendall

Geo I. Bradley

Commissioners

BEFORE THE

STATE RAILROAD COMMISSION OF

COLORADO.

CASE NO. 57

STATE RAILROAD COMMISSION
FILED
AUG 7 1914
OF COLORADO

Duncan Matheson
Plaintiff

Vs.

The Chicago Rock Island and Pacific Railway Company, the Denver & Rio Grande Railroad Company and the Colorado and Southern Railway Company.
Defendants.

ORDER OF DISMISSAL

This cause was set for trial August 7, 1914 and on said date the Plaintiff not appearing and having filed with the Commission a petition asking for the dismissal of said cause:

It is ORDERED, That the above entitled cause be, and it is hereby, dismissed.

BY ORDER OF THE COMMISSION:

A. P. Anderson

S. S. Kendall

Geo. T. Bradley

Commissioners.

CASE NO. 68.

BEFORE THE

STATE RAILROAD COMMISSION OF

COLORADO.

STATE OF COLORADO,)
) ss
City and County of Denver)

In the matter of The Colorado Springs Light, Heat and Power Co. a corporation,
Complainant.
vs.
The Chicago Rock Island & Pacific Railway Company, a corporation,
Defendant.

ORDER

And now on this day the Commission having received notice from the Plaintiff that the Defendant has agreed to restore to Plaintiff the rate asked for by the Plaintiff herein and also to grant to Plaintiff reparation of the difference in the original rate of twenty-five cents, (25¢) per ton and the forty cents, (40¢) per ton exacted, and it appearing that the complaint herein is thereby satisfied and the Plaintiff herein having filed its written petition to dismiss the complaint herein:-

It is Ordered that the above entitled action be, and the same is, hereby dismissed.

BY ORDER OF THE COMMISSION:

A. P. Anderson,

(SEAL)

S. S. Kendall,

Geo. T. Bradley.
Commissioners.

BEFORE THE

PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

State Railroad Commission
Cases Nos 73 and 74

Public Utilities Commission
Case No 6.

THE CONSUMERS LEAGUE OF COLORADO,
A Corporation,

Complainant,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, UNION PACIFIC RAILROAD COMPANY, THE DENVER & SALT LAKE RAILROAD COMPANY, THE DENVER & RIO GRANDE RAILROAD COMPANY, THE DENVER & INTERMOUNTAIN RAILROAD COMPANY,

Defendants.

---

and

THE CONSUMERS LEAGUE OF COLORADO,
A Corporation,

Complainant,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, and UNION PACIFIC RAILROAD COMPANY,

Defendants.

THE PUBLIC UTILITIES COMMISSION
FILED
SEP 1 1914
OF THE STATE OF COLORADO

ORDER CONSOLIDATING CASES FOR TRIAL PURPOSE

And now on this 1st day of September, A. D. 1914, it being agreed by the attorneys for both complainant and defendants in each of the above entitled actions, together with the consent of the Commission, that the above entitled causes be consolidated and tried together as one case,

IT IS, THEREFORE, ORDERED BY THE COMMISSION that said above entitled causes be, and the same are, hereby consolidated for said purposes.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

A P Anderson

S. S. Kendall

Geo T. Bradley

COMMISSIONERS.

Dated at Denver, Colorado,
September 1st, 1914.

ORIGINAL

BEFORE

THE PUBLIC UTILITIES COMMISSION

OF THE

STATE OF COLORADO.

State Railroad Commission Case No 72. ---oOo--- Public Utilities Commission Case No 1.

J. C. BABCOCK,
Petitioner,

vs.

THE GLOBE EXPRESS COMPANY,
Defendant.

O R D E R.

ALLEGED UNREASONABLE EXPRESS RATES ON MILK AND CREAM FROM GREENLAND, COLORADO, TO MANITOU, COLORADO.

Submitted August 14th, 1914. Decided September 12th, 1914.

STATEMENT OF CASE.

On July 3rd, 1914, the above named complainant filed a petition before The State Railroad Commission of Colorado and, among other things, alleged:

1. That the petitioner is a resident of Douglas County, Colorado, and is engaged in the dairy business at Greenland, in said County.

2. That the defendant, above named, The Globe Express Company, is a common carrier, engaged in the transportation of express packages between various points in the State of Colorado, particularly between the stations of Greenland in Douglas County and the station at Manitou in El Paso County, Colorado, and, as such common carrier, is subject to the Act to Regulate

Common Carriers.

3. That on or about the 3rd day of July, 1914, the said Globe Express Company changed the tariff rates on milk and cream from Greenland to Manitou.

4. That, during the period of a great many years, the express rates between Greenland and Manitou on milk and cream have been levied, assessed, and charged by the hundred-weight, and that the last rate in effect, prior to July 3rd, was 18 cents per hundred-weight.

5. That the new proposed rate is known as a can rate, and the said rate is fixed for a five gallon can at 15 cents, an eight gallon can at 20 cents, and a ten gallon at 22 cents per can, and that no other rate is provided for any other sized can.

6. That complainant is engaged in supplying customers in Manitou with cream and milk in various sized cans, and the minimum charge for hauling the same is on a five gallon can whether containers will hold that amount or not.

7. That such rates are unjust and unfair in that no rate is established for a one, two, three or four gallon can.

8. That the only proper way of making charges for express service on milk and cream is by the hundred-weight.

9. That the act of said defendant in so fixing and adjusting rates is prejudicial and disadvantageous to the complainant in the conduct of his business; and prays for an order to compel said defendant to cease and desist from said violation of the Act to Regulate Common Carriers, and for such other and further order as the Commission may deem necessary in the premises.

By way of answer, the defendant admits allegations one to five inclusive, and denies allegations six to nine inclusive; and by way of further answer alleges:

That the tariffs of July 3rd, 1914, are identical with the rates prescribed by The Interstate Commerce Commission and put into effect by all Express Companies east of Colorado common points. That nowhere in the United States have the Express Companies adopted and put into effect rates on milk and cream in receptacles of other or different capacities than shown by the defendant's tariffs effective July 3rd, 1914. That the defendant has in effect pound rates on milk and cream, which are available to petitioner and that all shipments made under second class or pound rates include delivery at the terminal. That it would be unreasonable and unjust to require defendant to adopt rates not in conformity with the general plan adopted by The Interstate Commerce Commission and to prescribe rates for receptacles for shipments involving other than those now prescribed by its published tariffs. That it would impose upon the defendant unreasonable burdens and hardships and prays to have the complaint dismissed.

FINDINGS OF FACT.

This action was commenced on July 3rd, 1914, under the Railroad Commission Act of 1910. The Public Utilities Act became effective on August 12th, 1914. Section 66 B of said Act reads, in part, as follows:

> "Any investigation, hearing or examination, undertaken, commenced, instituted or prosecuted by The Railroad Commission prior to the taking effect of this Act may be conducted and continued to a final determination in the same manner and

with the same effect as if it had been undertaken, commenced, instituted or prosecuted in accordance with the provisions of this Act."

The taking of testimony in this case and final action thereon, therefore, occurred under The Public Utilities Act.

The petitioner in this case conducts a dairy business at or near Greenland, Colorado. His business consists principally in supplying the hotels and restaurants at Colorado Springs and Manitou with milk and cream, shipments being made in cans varying in size from one quart to ten gallons. The distance from Greenland to Colorado Springs and Manitou is 28 and 33 miles respectively. It appears that the volume of business is very small at the beginning of the season and increases with the season until something over one hundred gallons is shipped each day. It appears that for sometime prior to July 3rd, 1914, the express charges for hauling milk and cream from Greenland to Manitou was 18 cents per hundred pounds, with a minimum charge of 35 cents on each shipment,-under which arrangement the petitioner could ship ten one (1) gallon cans at the same cost as one ten (10) gallon can.

It appears that the defendant published tariffs effective July 3rd, 1914, which provided for the assessment of express charges on milk and cream on the can basis instead of the pound basis, which had formerly been used, making the following charges between Greenland, Colorado Springs, and Manitou:

To Colorado Springs on Milk and Cream		
	5 gallon can	15 cents
	8 gallon can	19 cents
	10 gallon can	21 cents
To Manitou	5 gallon can	15 cents
	8 gallon can	20 cents
	10 gallon can	22 cents.

These rates did not include delivery at destination.

It appears that in addition to the specified rates as shown above, there is also the second class rate of 45 cents per hundred pounds available to the shipper, which charge includes a delivery by the carrier at destination.

It appears that the petitioner has heretofore availed himself of the specified rate, heretofore mentioned, which necessitated him employing a man at destination to deliver the shipments at a cost to petitioner of ten cents per hundred pounds. The petitioner himself makes no complaint relative to the can rates as they now exist, on the contrary he admits they are reasonable. His complaint is to abolish the can rate and restore the pound rates as formerly used.

On April 11th, 1914, there was filed with the State Railroad Commission a complaint signed by Harry Croft, et al., representing the Cream and Milk Producers of Cherry Creek Valley, and known as Case No 66. At the hearing of that case it developed that many discriminations existed in the milk and cream rates of the Express Companies doing business in this state. Some of the rates were so low that it was apparent on their face that they were not remunerative, and many others were so high as to be discriminatory and prohibitive. Many localities could not ship at all and meet competetive conditions. While the case in question was only directed against one company, the Commission realized that the entire situation would have to be remedied and called a conference with all of the Express Officials for this purpose, with the result that the officials of the various Express Companies adopted what is known as the Beatrice Scale of Rates. By the adoption of this scale the discriminations have been eliminated. While there were a few increases, there were a great many decreases in the rates, in many instances as high as thirty and even forty percent, and all shippers have been placed on an exact equality.

This so called Beatrice Scale, which is now in effect, is one which was adopted by The Interstate Commerce Commission and reported in 15 I.C.C. 109. This scale isnow used in seventeen different states and seems to be giving entire satisfaction wherever it is used. This scale provides for a minimum haul of twenty-five miles. This Commission modified the scale to the extent of making the minimum haul fifteen miles and a corresponding reduction in the rate. This was done to take care of the short haul business. The only sized receptacles recognized in this scale are five, eight, and ten gallon cans. It provides also that empty cans must be returned free.

The petitioner admits that the present rates on milk and cream in five, eight and ten gallon cans are reasonable. It also appears from the record as well as being admitted by the petitioner that he is the only dairyman in the state who is conducting a business in a similar manner, that is, shipping in small quantities direct to the consumer. There is no doubt that the petitioner will be compelled, under the new rates, to pay more for the transportation of milk and cream in small cans than formerly, although the bulk of his business will not be affected at all.

The Commission feel that uniformity in rates is essential to the welfare and prosperity of those engaged in a similar business and, as stated in the findings of the Commission in case 66, we are inclined at this time to give a thorough trial to these new and uniform rates, as filed with the Commission. An exception made in one case would only invite an exception in another, and the whole fabric of uniformity be destroyed.

FOR THE ABOVE AND FOREGOING REASONS the prayer of the petitioner is denied, and the complaint dismissed.

BY ORDER OF THE COMMISSION:

A P Anderson
S S Kendall
Geo T. Bradley
Commissioners.

Dated at Denver, Colorado, this 12 day of September, 1914.

Original

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

In the Matter of An Investigation and Hearing, on motion of the Commission, of the rules and practices of charging excess passenger fares and the subject of refunding the same on the part of the following common carriers:

Case No 3

THE PUBLIC UTILITIES COMMISSION
FILED
OCT 7 1914
OF THE STATE OF COLORADO

The Argentine & Grays Peak Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Beaver, Penrose & Northern Railway Company,
The Book Cliff Railroad Company,
The Canon City & Cripple Creek Railroad Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company,
The Colorado & Southern Railway Company,
The Colorado & Southeastern Railroad Company,
The Colorado & Wyoming Railway Company,
The Colorado Eastern Railroad Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
George W. Vallery, Receiver,
The Colorado, Wyoming & Eastern Railway Company,
The Cripple Creek Central Railway Company,
The Crystal River Railroad Company,
The Crystal River & San Juan Railroad Company,
The Denver & Crown Hill Railroad Company,
The Denver & Intermountain Railroad Company,
The Denver & Interurban Railroad Company,
The Denver & Northwestern Railway Company,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Denver & South Platte Railway Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
The Continental Trust Company & Marshall B Smith, Receivers,
The Florence & Cripple Creek Railroad Company,
Georgetown & Grays Peak Railway Company,
The Argentine & Grays Peak Railway Company, Lessee,
The Golden Circle Railroad Company,
The Grand Junction & Grand River Valley Railway Company,
The Great Western Railway Company,
The Greeley Terminal Railway Company,
The Manitou & Pikes Peak Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company,
The Northwestern Terminal Railway Company,
The Pueblo Union Depot & Railroad Company,
The Rio Grande & Southwestern Railroad Company,

The Rio Grande Junction Railway Company,
The Rio Grande Southern Railroad Company,
The San Luis Central Railroad Company,
The San Luis Southern Railway Company,
The Silverton Railway Company,
The Silverton, Gladstone & Northerly Railroad Company,
Silverton Northern Railroad Company, Lessee
The Silverton Northern Railroad Company,
The Trinidad Electric Transmission Railway & Gas Company,
The Uintah Railway Company,
The Union Depot & Railway Company,
Union Pacific Railroad Company.

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation of the rules and practice of charging excess passenger fares and the subject of refunding the same on the part of the above named common carriers between all points on the lines of the aforesaid common carriers within the State of Colorado; and that the said common carriers, and each of them, be and they are hereby ordered to appear at the office of this Commission in the Capitol Building, in the City and County of Denver, Colorado, on the 26th day of October, A. D. 1914, at the hour of ten o'clock a. m., before the Commissioners en banc, to show cause why this Commission should not establish proper rules and practices in regard to the charging of excess fares for the carrying of passengers, including the subject of the propreity of refunding said excess fares, if the Commission should deem such an order expedient, between all points on all lines of said common carriers within the State of Colorado.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is hereby, directed to serve upon each of the above named common carriers a certified copy of this order accompanied by a notice, directing said companies or common

carriers to appear before this Commission, at the time and place above specified, in order to show cause why this Commission should not, by an order entered herein, establish uniform rules and practices, concerning the subject of the charging and refunding of excess passenger fares, to be followed by all of the aofresaid common carriers, for the transportation by all of said common carriers of passengers between all points within the State of Colorado, should there appear good reason and necessity for making such an order in the premises.

Dated at Denver, Colorado, this 7th day of October, 1914.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A B Anderson
S. A. Kendrick
Geo T. Bradley
Commissioners.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

State Railroad Commission
Case No 75

Public Utilities Commission
Case No 2.

The Centennial School Supply Company, a Corporation,

Complainant,

vs.

The Colorado & Southern Railway Company,

Defendant.

O R D E R.

Submitted September 23rd, 1914. Decided October 13th, 1914.

Alleged Erroneous Application of Classification on two cars of School Desks.

On July 31st, 1914, the above named complainant filed a petition before The State Railroad Commission of Colorado and, among other things, alleged:

1. That the complainant is a corporation, duly organized and existing, under and by virtue of the laws of the State of Colorado.

2. That the defendant is a common carrier engaged in the transportation of property between Denver, Colorado, and La Porte, Colorado, and, as such common carrier, is subject to the provisions of Chapter 57, Session Laws of Colorado for 1910.

3. That, in the course of complainant's business, it caused two shipments to be transported by defendant, said shipments being described as follows:

a. C & S Freight Bill No 2091, November 13, 1913, from La Porte, Colorado, to Denver, Colorado, in C & S Car No 5357. Way Bill No 121 of November 7, 1913;

b. 13500 pounds school desks, Prepay Way Bill No 2387, Prepay Freight Bill No 2376, September 17, 1913, from Denver, Colorado, to La Porte, Colorado, in C & S Car No 1264.

That defendant demanded, charged and collected from complainant, as transportation charges upon the first of said shipments, the sum of thirty-six($36.00) dollars, being at the rate of 15 cents per hundred pounds on 24,000 pounds; and on the second of said shipments the sum of thirty-three and 75/100 ($33.75) dollars, being at the rate of 25 cents per hundred pounds, actual weight.

4. That Item No 13, Page 138, of Western Classification No 52, provides as follows:

> "13. FURNITURE AND FURNITURE FRAMES, INCLUDING PIANO BENCHES, BUT EXCLUSIVE OF BANK, STORE, SALOON OR OFFICE FURNITURE, in packages or loose, straight or mixed C. L., min wt. 12,000 lbs., subject to RULE 6-B---------3"

That the third class rate from Denver to La Porte is 20 cents per hundred pounds. And alleges that the correct charges, upon the shipments described, should be $24 and

$27 respectively, and alleges that the defendant has collected on these shipments $18.75 in excess of the legal rate.

5. Alleges that the rates and charges collected, as aforesaid, insofar as the same are in excess of the third class rates upon the basis of twelve thousand pounds minimum, are unjust, unreasonable, excessive, and subject the complainant to undue and unreasonable prejudice and disadvantage, contrary to the provisions of Chapter 5, Session Laws of 1910.

6. That, by reason of the matters hereinabove alleged, the complainant has been damaged in the sum of eighteen and 75/100 ($18.75) dollars; and prays that defendant may be required to promptly answer the charges herein, and, after due hearing and investigation, an order be entered requiring defendant to cease from the aforesaid violation of the laws of the State of Colorado, and that defendant be required to pay to complainant the sum of eighteen and 75/100 ($18.75) dollars, with interest thereon at the rate of eight per cent. per annum; and for such other and further orders as the Commission may deem proper.

The defendant, by way of answer, neither affirms nor denies the allegations set forth in paragraph 1 of the petition.

Admits that it is a common carrier, as alleged in paragraph 2 of said complaint.

Admits that it transported the shipments described in paragraph 3 of said complaint, and that it collected the charges on said shipments.

Answering paragraph 4 of said complaint, the defendant denies that Item No 13, Page 138, of Western Classification No 52 is the proper Item to be applied on the shipments in question. Admits that the third class rate from Denver to La Porte, Colorado, is 20 cents per hundred. Denies that the correct charges on the shipments referred to in paragraph 3 should have been $24 and $27 respectively. Denies that the defendant has collected from the complainant $18.75, or any other sum, in excess of the legal rate applicable to said shipments. Alleges that the proper classification on the shipments in question is contained in Item No 22, on Page 138, of Western Classification No 52, which classification was in force at the time said shipments were transported.

Item No 22 of said classification reads as follows:

"SCHOOL DESKS OR SEATS, PUPILS',
IRON OR STEEL AND WOOD COMBINED:
S.U., in boxes or crates, LCL..... 1
Seats and tops folded, in boxes,
crates or wrapped, L.C.L..... 2
K.D., or taken apart, in boxes,
bundles or crates, L.C.L--..... 2
In packages named, straight or
mixed C.L, min wt 24,000
lbs., subject to Rule 6-B.....4."

That the second, third and fourth class rates, in force between Denver and La Porte, and La Porte and Denver, at the time the shipments in question were transported, are as follows:

Second Class Rate	25 cents per hundred,
Third Class Rate	20 cents per hundred,
Fourth Class Rate	15 cents per hundred.

Denies that the rates and charges collected from the complainant, insofar as the same are in excess of the third class rate upon the basis of twelve thousand pounds

minimum weight, are unjust, unreasonable, excessive, and subject the complainant to undue and unreasonable prejudice and disadvantage.

Denies that, by reason of the matters and things set forth in said complaint, the complainant has been damaged in the sum of eighteen and 75/100 ($18.75) dollars, or in any other amount; and prays that the complaint may be dismissed.

STATEMENT OF CASE.

It appears that the complainant made a shipment of school desks from Denver to La Porte on September 17th, 1913, the shipment being billed merely as "School Desks" without any other notation,-the actual weight of which was 13,500 pounds, on which the second class rate of 25 cents per hundred pounds was assessed. The complainant and defendant, however, both admit that the shipment was knocked down and crated.

It also appears that the complainant made a shipment of school desks from La Porte to Denver on November 17th, 1913, which was billed as "School Desks, Second Hand", set up in boxes or crated, billed weight 24,000 pounds. The testimony, however, shows that the actual weight of this shipment was 9,579 pounds. Charges were assessed at the rate of 15 cents per hundred pounds on a minimum weight of 24,000 pounds.

The two Items of the classifications involved in this case are Items Nos 188 and 182, Page 38, Supplement No 6, to Western Classification No 51, and Items Nos 13 and 22, Page 138, of Western Classification No 52. The first shipment

moved under the former and the second under the latter classification. However, as these Items are identical in both classifications, we will refer, as a matter of convenience, only to items Nos 13 and 22 of Classification No 52.

Item No 13, Page 138, Western Classification No 52, reads as follows:

> "FURNITURE AND FURNITURE FRAMES, INCLUDING PIANO BENCHES, BUT EXCLUSIVE OF BANK, STORE, SALOON OR OFFICE FURNITURE, in packages or loose, straight or mixed, C.L., min wt, 12,000 lbs., subject to Rule 6-B.....3".

Item No 22, Page 138, of Western Classification No 52, reads as follows:

> "SCHOOL DESKS OR SEATS, PUPILS', IRON OR STEEL AND WOOD COMBINED:
> S. U., in Boxes or crates, L.CL.....1
> Seats and tops folded, in boxes, crates or wrapped, L.C.L.....2
> K. D., or taken apart, in boxes, bundles or crates, L.C.L.....2
> In packages named, straight or mixed C.L., min. wt., 24,000 lbs., Subject to Rule 6-B.....4".

The issues of this case are confined solely to the proper classification of the two shipments of school desks in question. The Commission is called upon to decide whether these shipments should have been classified under Item No 13 or No 22; in other words, whether"school desks and seats"can be classified as "furniture" and shipped as such, in order to obtain a lower minimum with a slightly higher rating. Both of the items, above referred to, are classified under the general heading "furniture", the first one of which makes a general classification of "furniture" with certain exceptions, the second makes a specific rating on "school desks", when shipped under certain conditions such as packing, etc.

The complaint alleges that the third class rate of 20 cents per hundred pounds should have been assessed on the shipment, which moved from Denver to La Porte, or, in other words, it should have been classified as per Item No 13 of the Classification instead of classifying it under Item No 22 of the same Classification, as was done by defendant. The rule adopted by all common carriers, as well as all regulating commissions, is that, when a specific rating is given to a particular commodity, it removes it from the general class:

> "84. A COMMODITY RATE TAKES THE COMMODITY OUT OF THE CLASSIFICATION.-- A carrier having a high class rate on furniture with a low minimum also had a lower commodity rate with a higher minimum. In response to an inquiry whether they are privileged to use either rate as they desire: HELD, that the only purpose of making a commodity rate is to take the commodity out of the classification. The commodity rate is, therefore, as stated in Rule 7, Tariff Circular 15-A, the lawful rate. And if the carrier does not desire to apply it on all shipments it must be canceled. (See also Rule 7 of Tariff Circular 18-A)
>
> Conference Rulings Bulletin No 6, I.C.C., Page 22-23.

So in this case the testimony shows that the shipment which moved from Denver to La Porte, was knocked down and crated, and conformed in every detail with the specific provisions of Item No 22. We are of the opinion, therefore, that the defendant was justified in classifying this shipment under the provisions of Item No 22 of the classification. They could have applied no other rating and kept within the bounds of the rule, as set forth above, or with the clear intent of the framers of the classification.

There is, however, a different condition surrounding the shipment, which moved from La Porte to Denver. The evidence shows that this shipment was billed as "School Desks, second hand,

set up in boxes or crated, billed weight 24,000 pounds", on which the fourth class rate of 15 cents per hundred pounds was assessed. As in the case of the other shipment, the complaint alleges that this shipment should have been classified under Item No 13 instead of Item No 22; in other words, it should have been billed at a minimum weight of 12,000 pounds instead of being billed at a minimum weight of 24,000 pounds at the fourth class rating of 15 cents per hundred pounds. The testimony shows the actual weight of this shipment to have been 9,579 pounds, which is less than the minimum which the complainant alleges should be used.

In determining which classification should be applied in this case, the Commission is bound to place a literal construction upon the classification as we find it.

> "In construing classification sheets, the intent of the framers as to the meaning of words used, when it can be ascertained, should be given effect. xxxxxxxxxxxxxxxx."
>
> Smith vs Great Northern Railway Company, 107 N. W. 56.

By placing a literal construction upon the classification, we are unable to apply Item No 22 to the shipment, which moved from La Porte to Denver, as none of the provisions of that Item were complied with, in that the commodity was not in packages named. This being true, the only other Item which could be applied to this shipment is No 13, which provides for a minimum of 12,000 pounds at the third class rate; and we are of the opinion that Item No 13 should have been applied to this shipment.

We are not called upon, at this time, to pass judgment on the reasonableness or unreasonableness of the classification, except as it affects the shipments in question. There is no doubt that ambiguities exist in the classification in

relation to the two Items in question, in fact the testimony of the complainant shows very clearly that different carriers place a different construction upon these two Items.

O R D E R.

IT IS HEREBY ORDERED that the complaint, in reference to the shipment which moved from Denver to La Porte, under way-bill No 2387, prepay freight bill No 2376, of September 17th, 1913, be and the same is hereby dismissed, on account of the classification applied to and the charges assessed against the same being the lawful classification and rates, as shown by the classification and tariffs on file with this Commission.

FURTHER, that the defendant, The Colorado & Southern Railway Company, be and they are hereby ordered and directed to forthwith pay to the complainant, The Centennial School Supply Company, by way of reparation, the sum of $12,00, being the amount of overcharge which they unlawfully collected from the complainant on the shipment of school desks from La Porte to Denver, shipped in car C & S 5357, covered by way bill 121of November 7th, 1913, together with interest at the rate of six per cent per annum from December 22nd, 1913, being the date when the same was collected from the complainant.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

Aaron P Anderson

S. S. Kendall

Geo T. Bradley

Commissioners.

Dated this 13th day of October, 1914,

at Denver, Colorado.

Original

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

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In the Matter of An Investigation and Hearing, on motion of the Commission, of the class rates charged for express matter transported between certain points within the State of Colorado by the following common carriers:

The Adams Express Company,
The Globe Express Company, and
Wells-Fargo & Company Express.

THE PUBLIC UTILITIES COMMISSION
FILED
OCT 15 1914
OF THE STATE OF COLORADO

CASE NO 4.

****

NOTICE OF HEARING.

****

TO

THE ADAMS EXPRESS COMPANY

THE GLOBE EXPRESS COMPANY, and

WELLS-FARGO & COMPANY EXPRESS.

You, and each of you, are hereby notified that The Public Utilities Commission of the State of Colorado has set the above entitled case for hearing, before the Commissioners en banc, on the 28th day of October, A. D. 1914, at the hour of ten o'clock a. m., in the office of the Commission, in the Capitol Building, Denver, Colorado, at which time and place you, and each of you, are hereby directed to appear and show cause why the Commission should not, by an order entered therein, substitute other and different class rates from those now charged and assessed on express shipments transported between the following places within the State of Colorado, to-wit: Between Colorado Springs and Cripple Creek, and between Cripple Creek and Colorado Springs; between Denver and Cripple Creek, and between Cripple Creek and Denver; and between Pueblo and Cripple Creek, and between Cripple Creek and Pueblo; said rates to be followed by all of you, should there appear any good reason and necessity for making such an order in the premises.

And you, and each of you, are further notified that attached hereto is a certified copy of this Commission's order, instituting the above investigation.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Dated at Denver, Colorado,
this 15th day of October, 1914.

John W. Tilmichaux

Secretary.

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

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In the Matter of An Investigation and Hearing, on motion of the Commission, of the class rates charged for express matter transported between certain points within the State of Colorado by the following common carriers: The Adams Express Company, The Globe Express Company, and Wells-Fargo & Company Express.	CASE NO 4.

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INVESTIGATION ON THE COMMISSION'S OWN MOTION.

****

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation of the class rates, charged by the above named corporations on express shipments transported between the following places within the State of Colorado, to-wit:

Between Colorado Springs and Cripple Creek, and between Cripple Creek and Colorado Springs;

Between Denver and Cripple Creek, and between Cripple Creek and Denver;

Between Pueblo and Cripple Creek, and between Cripple Creek and Pueblo;

the rates now charged and assessed on shipments, transported between the places as above referred to, being fully and specifically set forth in Official Classification No 22 and Tariffs C. R. C. No 48, C. R. C. No 54 and C. R. C. No 55,--all of which have been filed with this Commission by F. G. Airy, Agent for the above named companies. That the said common carriers, and each of them be, and they are hereby, ordered to appear at the office of this Commission, in the Capitol Building, in the City and County of Denver, Colorado, on the 28th day of October, A. D. 1914, at the hour of ten o'clock a. m., before the Commissioners en banc, to show cause why the Commission should not substitute other and different class rates from those now charged and assessed between the aforementioned places.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is hereby, directed to serve upon each of the above named carriers a certified copy of this order, accompanied by a notice, directing said companies or common carriers to appear before this Commission, at the time and place above specified, in order to show cause why this Commission should not, by an order entered therein, establish other and different rates, to be followed by all of the aforementioned common carriers, for the transportation of express matter between the points mentioned within the State of Colorado, should there appear any good reason and necessity for making such an order in the premises.

Dated at Denver, Colorado, this 15th day of October, A. D. 1914.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

Aaron B Anderson

S. S. Kendall

Geo T. Bradley

Commissioners.

Original

BEFORE THE

PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

State Railroad Commission
Cases Nos 73 and 74

Public Utilities Commission
Case No 6.

The Consumers League of Colorado,
a Corporation,
Complainant,

vs.

The Colorado and Southern Ry Company,
Chicago, Burlington & Quincy Railroad
Company, Union Pacific Railroad
Company, The Denver & Salt Lake Railroad
Company, The Denver & Rio Grande Rail-
road Company, The Denver & Inter-
mountain Railroad Company,

Defendants.

---

and

The Consumers League of Colorado,
a Corporation,
Complainant,

vs.

The Colorado & Southern Ry Company,
Chicago Burlington & Quincy Railroad
Company, and Union Pacific Railroad
Company,
Defendants.

Submitted Oct 13-1914.

Decided November-6 1914

STATEMENT OF CASE.

On July 3rd, 1914, the complainant filed its complaints herein, as above stated, and, among other things, the following is alleged:

1. That defendants are, and each of them is a common carrier; that defendants The Colorado and Southern Railway Company, Chicago, Burlington and Quincy Railroad Company, and Union Pacific Railroad Company, are common carriers engaged in the transportation of lignite coal from the coal fields located in Boulder and Weld Counties, Colorado, (being the coal fields generally known as and hereinafter referred to as the "Northern Fields") to Denver; that each of the defendants operate railway terminals in the City and County of Denver and each of said defendants transports and delivers lignite coal from said Northern Fields over and upon the said terminals operated respectively by it; that as such common carriers and in respect to such traffic defendants are and each of them is subject to the provisions of Chapter 5 of the Session Laws of Colorado for 1910.

2. That the defendants, The Colorado and Southern Railway Company, Chicago, Burlington and Quincy Railroad Company, and Union Pacific Railroad Company have each recently published tariffs effective July 1st, 1914, said tariffs being respectively numbered Supplement No 11 to C. R. C. No 261, Supplement No 29 to C. R. C. No 33, and tariff C. R. C. No 51. That in and by said tariffs each of said defendants have published and established rates of 75, 70 and 60 cents per ton for the transportation of lump, mine run and slack lignite coal respectively in carload lots from said Northern Fields to Denver including delivery

upon the Denver terminals of any of the defendants other than the defendant upon whose line the traffic originated.

3. Complainant alleges that the aforesaid rates of 75, 70 and 60 cents for the transportation described in paragraph "Third" hereof, are and each of them is unjust, unreasonable, excessive and subject the citizens, residents and consumers of Denver and the City of Denver and the traffic thereof and the lignite coal traffic of said Northern Fields to undue and unreasonable prejudice and disadvantage in violation of the provisions of sections 3 and 5 of Chapter 5 of the Session Laws of Colorado for 1910. And further in this regard complainant alleges that a just and reasonable rate for the transportation of all grades of said lignite coal in carload lots from said Northern Fields to Denver including a delivery to one of the other defendants herein upon the interchange track with such other defendant is and would be 40 cents per ton and that any rate in excess of said rate of 40 cents per ton therefor would be unjust, unreasonable, and excessive. And complainant further alleges that defendant The Colorado and Southern Railway Company is and for several years last past has been transporting all grades of said lignite coal in carload lots from the mines in said Northern Coal Fields located upon the line of said Colorado and Southern road to Denver and delivering the same to the interchange track between it and the Rock Island road for 40 cents per ton. And complainant further alleges that a maximum rate of $3.00 per car is a reasonable, just and compensatory rate for defendants and each of them to charge for the switching service involved in delivering a carload of said lignite coal to any public track, spur, private siding or industry track upon its terminal after said car has been delivered to it by one of the

other defendants herein.

4. That defendants The Colorado and Southern Railway Company published and issued its tariff Supplement No 11 to C. R. C. No 261, and defendant Chicago, Burlington and Quincy Railroad Company issued its tariff Supplement No 29 to C. R. C. No 33 and defendant Union Pacific Railroad Company issued its tariff C. R. C. No 51, all of said tariffs being made effective July 1st, 1914; that each defendant in its aforesaid tariff published rates of 55, 50 and 45 cents per ton for the transportation of lump, mine run, and slack lignite coal respectively in carload lots from the mines in said "Northern Colorado Coal Fields" to Denver when billed direct from said mines for delivery at the public team tracks in Denver of the defendant upon whose line the coal originated and when so delivered and in and by said tariffs defendants, and each of them, have published rates of 75, 70, and 60 cents per ton on lump, mine run and slack coal respectively in carload lots when transported from said mines in said "Northern Colorado Coal Fields" and delivered in Denver upon the spurs, private sidings and industry tracks of the carrier upon whose line the coal originated.

5. Complainant further alleges that by the establishment by defendants of higher rates for delivery of the aforesaid lignite coal to the spurs, private sidings and industry tracks of the carrier upon whose line the traffic originated than is charged for delivery to the public team tracks of the carrier upon whose line the traffic originated constitutes an undue and unreasonable prejudice and disadvantage against those persons, firms, or corporations receiving their coal at said spurs, private sidings or industry tracks in violation of the provisions of Section 5 of Chapter 5 of the Session Laws of Colorado for 1910.

6. And complainant prays that an order be entered fixing and determining just and reasonable rates to be observed by defendants, The Colorado and Southern Railway Company, Chicago Burlington & Quincy Railroad Company, and Union Pacific Railroad Company, and each of them, for the transportation of lignite coal in carload lots from the said Northern Fields to Denver, including a delivery to its interchange track with any of the other defendants; and a further order fixing and determining just and reasonable rates to be observed by each and all of the defendants as maximum rates for the switching and delivering of a carload of said lignite coal to any public track, spur, private siding or industry track included in its Denver terminal after such car of coal has been delivered to it by one of the other defendants herein, and for such other and further order or orders as the Commission may deem necessary in the premises.

The material allegations of the answers filed herein are:

1. The defendant, Chicago, Burlington & Quincy Railroad Company, alleges:

(a) It admits that the defendants are and each of them is a common carrier and that defendants The Colorado & Southern Railway Company, Chicago, Burlington & Quincy Railroad Company and Union Pacific Railroad Company are common carriers engaged in the transportation of lignite coal from the coal fields located in Boulder and Weld Counties, Colorado, known as the northern coal fields, into Denver.

Defendant admits that it has certain railway terminals in the City and County of Denver and that it transports

and delivers lignite coal from northern Colorado over and upon said terminals operated by it and that it is subject to the provisions of Chapter 5 of the Session Laws of Colorado for 1910.

(b) Defendant denies each and every allegation of said petition except as hereinbefore specifically admitted.

2. The defendant, Union Pacific Railroad Company, alleges:

(a) Admits that the defendants The Colorado and Southern Railway Company, Chicago, Burlington and Quincy Railroad Company and Union Pacific Railroad Company have each recently published tariffs effective July 1st, 1914, said tariffs being respectively numbered Supplement No 11 to C. R. C. No 261, Supplement No 29 to C. R. C. No 33, and Tariff C. R. C. No 51, as alleged in paragraph third of the petition. Denies that in and by said tariffs each of said defendants have published and established rates of 75, 70 and 60 cents per ton for the transportation of lump, mine run and slack lignite coal respectively in carload lots from the Northern Fields to Denver including delivery upon the Denver terminals to any of the defendants other than the defendant upon whose line the traffic originated, as alleged in said paragraph third of the petition.

3. The defendant, The Denver & Rio Grand Railroad Company, alleges:

(a) Admits that it is a common carrier, and that it operates railway terminals in the City and County of Denver, but denies that it transports and delivers lignite coal from the so-

called Northern Colorado coal fields of the State of Colorado, but admits that it delivers such coal received from its connections within the corporate limits of the City and County of Denver to consignees at points of delivery upon its said terminals; and further admits that it is subject to the provisions of Chapter 5 of the Session Laws of the State of Colorado for the year 1910, in respect to matters within the jurisdiction of the State Railroad Commission of the State of Colorado.

(b) Denies that a maximum rate of Three Dollars ($3.00) per car is in all cases either a reasonable, just or compensatory rate for the switching service performed by it in connection with the transportation of the traffic involved in said petition.

(c) And further this defendant respectfully shows that its established switching charges effective within the limits of the City and County of Denver on the traffic which is made the subject of the complainant's petition herein are the same as its switching charges on other traffic within the limits of the City and County of Denver, both interstate and intrastate, and that such switching charges are the same within the limits of the City and County of Denver as within the limits of its terminals located elsewhere in the States of Colorado, New Mexico and Utah, and that such rates are uniform with the rates of other carriers elsewhere in the United States, and that any reduction in this defendant's switching charges within the limits of the City and County of Denver would instantly result in discrimination against the shippers and receivers of interstate traffic within the limits of the City and County of Denver and at other terminals in said named States, and that it is beyond the jurisdiction and power of the State Railroad Commission of the State of Colorado to reduce this defendant's switching charges, as prayed for in the petition herein, and thus

create such discrimination as aforesaid, and that jurisdiction over said matter is exclusive in the Interstate Commerce Commission.

4. The defendant, The Colorado & Southern Railway Company, alleges:

(a) Admits that the defendants are and each of them is a common carrier and that defendants The Colorado & Southern Railway Company, Chicago, Burlington & Quincy Railroad Company, and Union Pacific Railroad Company are common carriers engaged in the transportation of lignite coal from the coal fields located in Boulder and Weld Counties, Colorado, known as the northern coal fields, into Denver.

Defendant admits that it has certain railway terminals in the City and County of Denver and that it transports and delivers lignite coal from northern Colorado over and upon said terminals operated by it and that it is subject to the provisions of Chapter 5 of the Session Laws of Colorado for 1910.

(b) Defendant denies each and every allegation of said petition except as hereinbefore specifically admitted.

5. The defendant, The Denver & Salt Lake Railroad Company, alleges:

(a) That it operates the railroad tracks, terminals and other property of The Northwestern Terminal Railway Company, by virtue of an agreement with said Terminal Company to the effect that said The Denver & Salt Lake Railroad Company shall collect switching charges upon freight and traffic delivered to it east of Utah Junction and to points west of Utah Junction, and also

on all freight and traffic originating at Utah Junction or points west of Utah Junction, and destined to points east of Utah Junction, in the name and for the account of said The Northwestern Terminal Railway Company, to be applied upon and for the payment of the fixed charges of said Terminal Company and the taxes upon and maintenance and renewal of said terminals and property, which said earnings are guaranteed by The Denver & Salt Lake Railroad Company to be sufficient to provide therefor.

(b) That any interference with said charges for the use of said terminals would leave said Terminal Company with a large investment and bond issue, with no means whatever with which to meet said charges and obligations.

6. The defendant, The Denver and Inter-Mountain Railroad Company, alleges:

(a) That as to the allegations contained in paragraph First of said petition, this defendant states that it has not and cannot obtain sufficient knowledge or information upon which to base a belief, and therefore denies the same.

(b) Admits that the defendants, The Colorado and Southern Railway Company, Chicago, Burlington and Quincy Railroad Company, and Union Pacific Railroad Company have each recently published tariffs effective July 1st, 1914, said tariffs being respectively numbered Supplement No 11 to C. R. C. No 261, Supplement No 29 to C. R. C. No 33, and Tariff C. R. C. No 51, as alleged in paragraph Third of said petition.

The appearances on behalf of complainant and defendants were:

Carle Whitehead and Albert L. Vogl, Attorneys for complainant.

E. E. Whitted, T. R. Woodrow and T. M. Stuart, Attorneys for The Colorado and Southern Railway Company.

Chester M. Dawes, Chicago, Burlington and Quincy Railroad Company.

E. N. Clark and Frederick Wild, Jr., The Denver and Rio Grande Railroad Company.

C. C. Dorsey and E. I. Thayer, Union Pacific Railroad Company.

H. S. Robertson and E. I. Thayer, The Denver and Inter-Mountain Railroad Company.

Tyson S. Dines and Tyson Dines, Jr., The Denver and Salt Lake Railroad Company.

FINDINGS OF FACT.

Before commencing taking testimony in the two above entitled cases, it was agreed by all the interested parties thereto, that the two cases involved practically one question and that said two cases should be consolidated. The Commission thereupon ordered the two cases consolidated and there will be but one opinion herein.

On December 6th, 1909, complainant filed with the then State Railroad Commission its petition against The Colorado and

Southern Railway Company, and Chicago, Burlington and Quincy Railroad Company and Union Pacific Railroad Company were made parties defendant therein by intervention. This case was known as Case No 22. The Garwood Case was also decided by this Commission in January, 1913. In these cases the same rates were involved as are involved in the present cases. On April 4th, 1910, the Commission made and entered its order in Case No 22. From this order the defendant and intervenors appealed to the District Court of the City and County of Denver. On May 21st, 1910, the defendant and intervenors filed a motion to dismiss the case, which was granted. The case was thereafter taken to the Supreme Court upon writ of error, where the above mentioned judgment of this C o u r t was reversed and the case was remanded for further proceedings to the District Court of the City and County of Denver, where a judgment was rendered in favor of the complainant on October 28th, 1912. However, said decree was again vacated and a new trial granted. A second trial was then had in the District Court of the City and County of Denver, and on the 2nd day of May, 1914, Judge Perry, sitting in said court rendered his opinion and decree therein. In said decree the said District Court of the City and County of Denver held in substance, that where a shipment was delivered to any point on the line or to any industry track on the line of the carrier on which the said shipment originated, that the rates fixed by the Commission in that case of 55, 50 and 45 cents were not unreasonable. But the Court further held that, where a shipment originated on the line of one carrier and was brought to Denver on that line and was switched to an industry located on a connecting or foreign line, that an additional switching charge might be added to the said rates of 55, 50 and

45 cents; the prevailing switching charge in the City of Denver being 20 cents per ton. Thus, by the said decision of the District Court of the City and County of Denver, the carriers were allowed to charge different prices for transportation of coal. They then immediately proceeded to file their tariffs with this Commission. Where the haul involved a carriage from the mines to any team track in the City and County of Denver, a rate of 55, 50 and 45 cents was charged; where the haul involved a carriage of a shipment of coal from the mines to the City of Denver and was switched to any industry on any line of defendant carriers, in addition to the 55, 50 and 45 cents a 20 cent switching charge was added.

The District Court, in rendering its decision aforesaid, says in part:

> "Every charge for transportation comprehends compensation for initial terminal services, for haulage services and for final terminal services. In fixing a rate, all incidental terminal services, that is to say all terminal services which appertain to the traffic as a whole, must be considered and the rate must include and must be understood to include these incidental terminal services. In fixing a rate, neither the carrier nor the commission has the right to consider any extra terminal services, that is to say terminal services which do not appertain to the traffic as a whole but which are to be rendered in connection with certain parts of the traffic only and as occasion may from time to time require. Neither the carrier nor the commission may fix a rate which will include these extra terminal services. A rate fixed, either by the carrier or commission, is understood to mean simply for the haulage services, including the incidental and excluding the extra terminal services."
>
> "The carriers were under no obligation to deliver this coal except on their own tracks respectively. If the coal, after reaching Denver, had to be transferred to the track of a second carrier, the shipper or consignee could be obliged to pay for this transfer either directly to the second carrier or to reimburse the first carrier for making or paying for the transfer; or, in railroad parlance, "For absorbing the switching."

"In fixing the rates in this case, the commission simply determined what would be a reasonable charge for the line haul, including of course charges for incidental terminal services, and there is nothing in the order set out in paragraph 3, supra, nor in the law which prevented the carriers from making special charges for storage, reconsignments, absorbed switching and other extra terminal services and that the carriers understood that this is the meaning of the statute and that there was nothing in the order of the commission to the contrary, is proven by the fact, that they have subsequently made special schedules covering some of the extra terminal services above mentioned. It was practically conceded at the trail, that the rates fixed by the commission would be reasonable if they did not preclude the carriers from collecting for these extra terminal services. After deducting from the old rates of 80, 70 and 60 and the average rate of 70 cents per ton respectively, the commission rates of 55, 50 and 45, and the commission's average rate 50 cents per ton respectively the remainders are 25, 20, 15 and 20 respectively which practically represent the unlawful charge for "absorbed switching" alone."

"Item 4 is based upon the erroneous assumption that the carriers may not by proper special schedules charge 20 cents if reasonable for all switching actually absorbed in addition to the average rate of 50 cents which the commission has fixed as the charge for the line haul and incidental terminal services."

The present action was brought by petitioner to establish a rate for the entire haul and a charge for switching. It was admitted by all parties, both plaintiff and defendant, that it would be to the best interests of the mine operator, the common carrier, and the dealer that one through route and one through rate be established by this commission. It was also admitted by the attorneys herein, both plaintiff and defendant, that the commission had the legal authority to establish such a through route and through rate, if, in their judgment, it was best to do so.

The present action is based upon the new tariffs recently filed with this commission, following Judge Perry's decision permitting a switching charge to be added to the line

haul rates of 55, 50 and 45 cents per ton on lump, mine run, and slack coal.

In the judgment of the Commission, if it would be permitted that two rates might be in effect at one time from the Northern Fields to the different industries in the City of Denver, the natural result of this manner of fixing rates would be a discrimination between the mines situated in the Northern Coal Fields. If the defendant, The Colorado and Southern Railway Company, were to ship a car of coal from a coal mine located on its line in the northern fields to any industry located on any industrial track on any of its spurs in the City of Denver, according to Judge Perry's decision, as far as the Commission interprets the same, the legal rate would be 55 cents on lump, 50 cents on mine run, and 45 cents on slack. The same mine, shipping a carload of coal from its mine located on the said Colorado and Southern Railway in the northern coal fields to Denver, and thence switching to an industry located on The Denver & Rio Grande Railroad Company's tracks, or on the tracks of any other foreign carrier, according to Judge Perry's decision, a reasonable switching charge might be added thereto, and, at the present time, the uniform switching charge in the City of Denver is 20 cents. This would compel the mine operator to sell his coal to this industry located on the Denver & Rio Grande at a price 20 cents higher, in order to take care of the switching charge, or, if the industry paid the freight, it would cost the industry 20 cents more to get its coal from a foreign line than from a mine situated on the same line on which it is located. On the other hand, a coal dealer, having its coal yards on The Colorado and Southern tracks, if the present switching rate were to obtain, could buy his coal from a mine situated upon the same line 20 cents cheaper

than he could if he were to buy his coal from a mine located on a different line of railroad. It was the judgment of all the attorneys for both petitioner and defendant, at the hearing in this case, that, as the rates from the northern coal fields into the City of Denver are at the present time blanketed, that is, that the same rate is charged from any mine located on any line of road in the northern coal fields into the City of Denver, that, if there is good reason for the said blanketing of this rate from the different mines in the northern field, there is as good reason that the rates from the northern fields to any industry situated within the limits of the City of Denver should also be blanketed; that if there is good reason that the rates should be blanketed on one end they should be blanketed on the other end. In other words, it was agreed by all of the attorneys concerned in this hearing that, if the rates could be so made by this Commission legally, that there should be but one rate from any mine located on any line of railroad in the northern fields to any industry or plant situated on the spurs of any of defendants' lines of railroad involved in this hearing. This would involve a through rate, whose integral parts would be composed of the line haul together with all incidental switching or switching charge pertaining to the line haul, and also switching to a connecting carrier.

The Commission, at the time of the hearing, admitted the evidence introduced in the former hearing herein in the District Court of the City and County of Denver in regard to the reasonable value of the switching service, and also admitted evidence and statistics in regard to the reasonable value of the line haul, within the state of Colorado.

As we have heretofore stated, it is the opinion of

the Commission that it would be better for all parties concerned if a blanket rate from all points in the northern fields to all industries in the City of Denver were fixed.

The Commission has heretofore, in what is known as The Consumers League Case No 22, and The Garwood Case No 34, gone so fully into the integral parts which go to make up the total cost of the line haul, together with the cost of switching, and all incidental costs pertaining to either of them, that it is not its intention, in this case, to set out in detail these statistics, the commission rather choosing to refer to these figures as set out in these former cases. If then, it is the desire of all parties concerned herein as well as of the commission, that a blanket rate be fixed as aforesaid, the question arises in what manner can this be done in justice to all concerned.

In the case entitled "in re investigation of the switching rates of The Chicago, Milwaukee and St Paul Railway Company at Milwaukee", decided April 9th, 1914, the Railroad Commission of Wisconsin, one of the best authorities on rate regulation in the land, says:

> "An elaborate analysis has been made of the elements entering into the cost of the service and an additional study has been made of the economic conditions existing in the district under consideration. These two factors have been borne in mind in determining a rate which, although it will not render the class of business in question as profitable to the carrier as its regular line-haul business, will nevertheless increase the profitableness of the former to the extent to which economic conditions allow an increase. While in determining what is a reasonable rate for a given service the Commission seeks to isolate all the costs, both direct and indirect, yet in applying the various elements of reasonableness to a given rate the Commission must again view the service in connection with the manifold other services that a transportation agency renders. Accordingly the rate should not materially change the competitive conditions under which the industries affected exist.

While there should be no difference at present between the charge made for a haul of ten miles and that for one of five miles, it must not be inferred that this Commission believes such a situation will or should generally continue.

"It is evident that the question of available transportation facilities--and by facilities both service and rates are meant--has been a large factor in the past in the establishment of industries at points which are not naturally well adapted for them. The ability of such industries to compete successfully with competitors nearer markets or raw materials is dependent, therefore, upon the continuance of rates and services which offset disadvantages of location. On the other hand, rates that attempt to place different districts more or less fortunately situated upon an equal basis tend to work an economic loss to the community. But rates of this kind have been in existence for a long time and must not be quickly changed. It is hoped that adjustments may be worked out so that this class of patrons will ultimately pay rates commensurate with the costs of performing the service, and that these changes may be reached in such a way as to have little effect upon the competitive relations of these patrons."

The Commission then proceeds to average the cost of terminal switching, the lower cost of movement being added to the higher cost of movement, and the average taken as a guide, as a reasonable charge for switching within the Milwaukee terminals, fixing a switching charge of 20¢ per ton.

The following statistics and tabulation have been compiled from the testimony offered herein:

"COLORADO AND SOUTHERN.

Statistics for Entire System.

	1910	1911	1912	1913	Average per year.
Total operating revenues per mile freight and passenger (annual reports P. 93, Item 21)	$ 7866.05	$7486.31	$7287.34	$7954.81	$7648.63
Total operating expenses per mile including freight and passenger (annual reports P 93, Item 24)	5274.89	$5006.94	5032.46	5590.26	5226.14

Net operating revenues per mile (annual reports P 93, Item 27)	$2591.16	$2479.37	$2254.88	$2364.55	$2422.49
Ratio of operating expenses to operating revenues (annual reports page 65)	67.06%	66.88%	69.06%	70.27%	
Total freight revenues per mile of road for all kinds of freight for entire system (An. Rpts. p.93,Item 18)	6174.11	$5763.27	$5583.76	$6215.70	$5935.46
Average density of all kinds of freight traffic for entire system in tons (Annual Reports Page 93,Item 17)	663,213	633,072	623,925	676.307	649,129
Average receipts per ton per mile of all kinds of traffic for entire system (Annual reports Page 93, Item 17)	Mills 9.31	Mills 9.11	Mills 8.95	Mills 9.19	Mills 9.14

Total mileage 1913 - 1131.18 of which 881.44 is in Colorado.

C. &. S. DENVER TERMINAL ACCOUNT.

Operating Expenses.

	1911	1912	1913	1914
Maintenance of ways	$ 106,408.34	120,918.19	108,377.47	118,222.65
" of equipment	113,905.44	97,512.35	105,754.06	92,406.41
Transportation	414,306.87	421,803.56	413,867.40	446,118.19
General Expense	22,675.09	23,093.18	23,199.55	24,662.55
Hire of equipment	49,324.16	42,062.90	42,132.20	42,993.38
	$ 706,619.90	705,390.18	693,330.68	724,403.18

Average per year $707,436.01

	1911	1912	1913	1914	Av per yr
No. of cars handled in terminal	240,599	230,551	230,108	211,351	228,152
Equals operating expense per car	$ 2.94	$3.06	$3.02	$3.42	$3.11

Terminal Revenue received for switching for other lines	$ 142,555.67	$ 157,862.02

Reproduction of entire main line and terminal tracks of Colorado and Southern (Cowan)			$1,747,761.00
DEDUCTIONS:			
Coach yards devoted to passenger service		$47,731.00	
Vegetable platform (folio 1316-1317)		147.97	
" " "		160.00	
Automobile " "		420.00	
Travelling Crane "		474.60	
Coach Yard Air line connection "		2,172.64	
" " Water " " "		4,000.00	
Machinery Platform	"	960.00	
Vegetable Platform	"	1,500.00	
Freight House	"	56,410.70	
Office Building in coach yard	"	9,000.00	122,976.91
			1,624,784.09
McMurray's Real Estate Value			5,341,539.00
			6,966,323.09
Disallowed by Judge Perry			289,065.25
			6,677,257.84
6% interest on $6,700,000.00			402,000.00
Total operating expense of terminals			707,436.01
			1,109,436.01
Average per car			$ 4.86
Average per ton			$ 0.15'

COLORADO & SOUTHERN

Statistics of Coal Traffic.

Tonnage.

	1910	1911	1912	1913	Average per year
Lump	138,941	138,304	149,353	127,827	
Mine Run	10,335	23,832	53,160	93,351	
Slack	128,781	161,097	155,619	114,335	
Total	278,057	323,233	358,132	335,513	323,734

Revenue on above coal at Commission's Rates.

	1910	1911	1912	1913	Average per year
Total	$139,536.50	$160,476.85	$178,752.70	$168,431.10	$161,799.29
Average per ton in cents	50.18	49.64	49.91	50.20	49.98
Actual Revenue	$195,655.90	$223,983.80	$250,065.80	$236,208.30	
Average per ton in cents	70.36	69.29	69.99	70.90	70.13

Amount paid to other companies for switching	1910	1911	1912	1913	Average per year
	15,418.81	24,026.18	25,867.38	24,025.00	22,334.34

Average line haul mileage to coal fields 22 miles.

Switching Expense at Mines

Total Tonnage of Coal handled in Northern fields by C & S Ry	1910	1911	1912	Average per year
	505,523	578,513	641,069	574,702

Wages of switching crew $21.232 per day or per year of 310 days $6581.92

Conductor	$5.35
Engineer	5.20
Brakeman	3.746
"	3.746
Fireman	3.19
	21.232"

Average 1.15 cents per ton

UNION PACIFIC.

Statistics for Colorado Only.

Total operating revenues per mile freight and passenger (Annual Reports pg 93, a, Item 21)	11,172.32	9,582.73	8,388.21	9011.95	9538.80
Total operating expenses per mile freight and passenger (Annual reports page 93a Item 27)	7,224.31	6,266.02	5,983.97	6020.06	6373.59
Net Operating Revenue Per Mile (Annual Reports page 93 a, Item (27)	3,948.01	3,316.71	2,404.24	2991.89	3165.21
Ratio of operating expenses to operating revenues (Annual reports page 65)	64.66%	65.39%	71.34%	66.80%	
Total freight revenue per mile for all kinds of freight (Annual reports page 93a item 18)	6,946.50	5,851.82	5,164.43	5712.92	5918.92
Average Density of total freight traffic in tons (Annual reports page 93a, Item 13)	631.821	569.797	536,519	606,647	586,196
Average receipts per ton per mile for all kinds of traffic (Annual reports page 93a, Item 17)	Mills 10.99	Mills 10.27	Mills 9.63	Mills 9.42	Mills 10.08
Average receipts per ton per mile for all kinds of traffic for entire system (Annual reports page 93a Item 17)	Mills 10.11	Mills 9.78	Mills 9.39	Mills 9.27	Mills 9.64

UNION PACIFIC.

Statistics of Coal Traffic

Tonnage

	1910	1911	1912	1913	Average per year
Lump	54,496	104,013	127,164	124,610	
Mine Run	42,661	105,406	40,647	11,092	
Slack	54,755	75,920	81,210	84,998	
Total	151,912	285,339	249,021	220,700	226,743

REVENUE ON ABOVE COAL AT COMMISSION'S RATES.

	1910	1911	1912	1913	Average per year
Total	$75,943.05	$144,074.15	$126,808.	$112,330,60	$114,788.95
Average per ton in cents	49.9	50.4	50.9	50.89	50.52

	1910	1911	1912	1913	Average per year
Actual Revenue	$106,090.01	202,763,14	178,904.93	158,540.61	161,574.67
Average per ton in cents	69;8	70.7	71.8	71.8	71

Amount paid to other companies for switching Not Given

Average line haul mileage to coal fields----26.9 miles

BURLINGTON

Statistics for Colorado Only

	1910	1911	1912	1913	Average per year
Total operating Revenue per mile, freight and passenger (Annual reports page 93a, Item 21)	$10,516.09	$9616.03	$8883.13	$9175.25	$9547.62
Total operating expenses per mile, freight and passenger (Annual Reports page 93a, Item 24)	6,320.54	5753.07	5402.91	5589.06	5766.39
Net operating revenue per mile (annual reports page 93a, Item 27)	4,195.55	3862,96	3480.22	3586.19	3781.23
Ratio of operating expenses to operating revenues (annual reports page 65)	60.10%	59.83%	60.82%	60.91%	
Total freight revenue per mile for all kinds of freight (Annual report page 93a, Item 18)	6,498.61	6147.86	5820.33	4999.92	6.116.68
Average density of total freight traffic in tons (Annual reports page 93a, Item 13)	728.119	691,159	703,191	735,699	714,542

Average receipts per ton per mile on all kinds of traffic (Annual reports page 93a, Item 17)	Mills 8.82	Mills 8.89	Mills 8.82	Mills 8.15	Mills 8.67
Average receipts per ton per mile on all kinds of traffic for entire system (annual reports page 93 Item 17)	Mills 7.83	Mills 8.16	Mills 7.52	Mills 7.29	Mills 7.72

BURLINGTON STATISTICS OF LYONS BRANCH.

Length of Branch 48.2

	1910	1911	1912	Average per year
Total revenue of all freight and passenger traffic per mi.	$ 5731.32	4951.65	4640.93	5107.97
Total operating expenses of all freight and passenger traffic per mile		4443.47	4321.81	4382.64
Total freight revenue for Lyons Branch per mi	2221.30	1983.46	1824.61	2009.79
Tons of freight per mile of road (density)	290,240	166,991	154,772	204,001
Cost of switching crew at mines	$2973.22	$5429.88	$4164.38	$4189.16
Total number of tons of coal handled at mines	298.889	391.119	427,676	372.561

An average of 372,561 tons at an average cost of $4,189.16 equals 1.12 per ton

Total number of tons of commercial coal handled	222,457	253,425	213,474
Number of tons of Company coal handled	76,432	137,694	214,202

BURLINGTON DENVER TERMINALS
(Year ending June 30th, 1914)

Freight expenses without taxes		$244,410	
Number of freight cars handled		162,048	
Average per car (32 tons)			1.50
Average per ton of coal			4.75 cents

Repairs, renewals and depreciation average $137 per car per annum.

Average time in Denver Terminals, 5 days

Equivalent to, per car $ 1.87
Average per ton of coal 5.84

Interest on value of car $800.00, for five days at 6% is 65.7 cents
Average per ton of coal 2.05

Interest on investment in Terminals, total value $ 8,512,452***
at 6% is 510,747
Total loaded freight cars and passenger coaches 203,771
Average interest on Terminal investment per car $ 2.50
Equivalent to, per ton of coal 7.8 cents
Total terminal expense per ton 20.44 cents
Mileage of terminal tracks(not including Market St track) 37.83
Denver Revenue
June 30 $4,052.00 car service
18,039.96 storage
78.75 weighing and unloading revenue switching.

*** $688,409.90 of this is under lease to industries.

BURLINGTON COAL STATISTICS:

Tonnage

	1910	1911	1912	1913	Average per year
Lump	45,779	51,846	43,271	30,817	
Mine Run	16,171	53,139	23,724	21,397	
Slack	43,258	48,106	38,520	24,261	
Total	105,208	153,091	105,515	76,475	110,072
Revenue on above at Commission's rates	52,709.28	76,545.50	52,863.36	38,565.30	55,170.86
or in cents per ton	50.01	50.	50.01	50.44	50.11
Actual Revenue collected	73,896.33	105,537.60	74,336.00	54,188.90	76,989.71
Amount paid out of above for foreign switching	14,669.14	23,074.58	15,444.13	10,295.95	15,870.95
Average receipts after deducting amount paid for foreign switching in cents	56.2	55.1	55.8	75.3	

Average distance coal fields to Denver 24 miles. "

In what is known as case No 22, the Commission took occasion to refer to the case of The Northern Coal & Coke Company v The Colorado & Southern Railway Company, 16 I. C. C. Page 373. The Commission, in discussing the line haul--which is the same line haul that is involved in this present hearing--, said:

> "In the opinion of the Commission the local rate of 80 cents per ton on Lignite coal from Louisville to Denver was applied on through traffic to Chicago, Rock Island & Pacific points, as referred to, is unjust and unreasonable. The charge covers a haul of twenty miles as part of a through haul of several hundred miles on coal of an inferior grade. Defendant admits that the same is too high and expresses the willingness to re-publish a proportional rate of 50 cents net ton for that part of the haul from Louisville to Denver to apply on through traffic to Rock Island points.
>
> "We think even this rate would be UNREASONABLE FOR THAT SERVICE, and that joint rates should be established by defendants to apply on through traffic from Louisville to the various points reached by the line of the Chicago, Rock Island & Pacific in Kansas, Nebraska, Missouri, Iowa and Oklahoma, which shall in no case exceed the rate in effect via C. R. I. & P from Denver and Roswell by more than 40 cents per net ton. The through rate may be so apportioned between the Colorado & Southern and the Rock Island Companies on any basis of division which those carriers may deem proper."

We note that the Commission says "We think even this rate would be UNREASONABLE FOR THAT SERVICE". For what service? The service in question was the service of the carriage of coal from the northern coal fields to the City of Denver. The Commission goes on then to say that joint rates should be established by the defendant to apply on through traffic, which shall in no case exceed the rate in effect by way of the C. R. I & P from Denver and Roswell by more than forty cents per net ton. It is plain to the minds of the Commission that The Interstate Commerce Commission considered the value of the haul from the northern coal fields to Denver to be not to exceed forty cents per ton.

Judge Perry, in reviewing The Consumers League Case in the District Court of the City and County of Denver, in his decision, after elaborate figuring, finds a reasonable cost of switching in the Denver terminals to be 15 & 16/100 cents per ton. Later on, at the latter end of paragraph 34, the Judge says: "Item 4 is based upon the erroneous assumption that the carriers may not by proper special schedules charge 20 cents if reasonable for all switching actuallyabsorbed." The Judge does not, in any part of his decision, decide what figure should be fixed as a reasonable charge per ton for switching.

The Commission believes that it has the legal right to fix one through rate and one through route as a reasonable charge for the transportation of coal from the northern coal fields to the City of Denver. The Commission feels that this rate should be blanketed on both ends. It feels that it is to the best interests of the operators, the carriers, the dealers, and the consumers.

The Interstate Commerce Commission in the Northern Coal & Coke Company case, above referred to, says that 40 cents would be a reasonable price for that haul. That haul contemplated the carriage of coal to the City of Denver and evidently did not include switching, at least did not include switching to a connecting or foreign carrier, which Judge Perry says may be made the subject of an additional charge. If we take 40 cents as a reasonable average charge, the rates on slack, mine-run and lump coal should be 35, 40 and 45 cents for the different grades of coal; this not including switching to a foreign carrier. As the Commission has stated before, if 55 cents is used as a basis for the haul to the City of Denver and a 20 cent additional switching charge is added, where it is delivered to a connecting or foreign carrier, this would make the price on lump coal 75

cents per ton. This we think is too high. We also believe that there should not be two rates in effect in the City of Denver for hauling coal from points in the Northern Coal Fields to the different industries in the City of Denver.

While, in the case above referred to, The Wisconsin State Railroad Commission fixes one cent per hundred or 20 cents per ton as a reasonable charge for switching within the switching limits of the City of Milwaukee, which said city is not unlike the City of Denver as to territory and population, the Commission is not inclined, at this time, to say that 20 cents per ton would be a reasonable switching charge.

The Commission believes, and so finds, that for the entire haul from any mine situated on any of the lines of defendants in the Northern Coal Fields to the City of Denver, and including a switching charge to connecting or foreign carriers, the rates of 65 cents on lump, 60 cents on mine run, and 55 cents on slack would be a reasonable charge; this charge to include the line haul as well as switching charges necessarily involved in spotting cars on industries within the limits of the City of Denver and including delivery to connecting or foreign carriers.

The Commission has reached this conclusion after long and laborious work in endeavoring to reconcile the opinion of Judge Perry with the previous opinions of this Commission. We believe it would be disasterous to the mines, the carriers, and the dealers, if two charges were permitted to exist at one and the same time.

The Commission, at this time, does not intend to say what division of this charge shall be made in cases where the haul involves switching to a foreign carrier. It will leave the division of this charge to be agreed upon between the

carriers themselves. If it should appear that the carriers are unable to arrive at a definite conclusion as to how this charge should be divided, the Commission can then, in another hearing, apportion this charge between the carriers.

ORDER.

IT IS HEREBY ORDERED BY THE COMMISSION that there be, and is hereby, established a through and joint route for the carrying of coal involved in this action, which route shall include the carriage of coal from any point or mine in the territory that is now known as The Northern Coal Fields into the City of Denver, and including the spotting of cars on any industry on any line of defendants herein within the limits of the City of Denver, including switching, and delivery to a third carrier.

IT IS FURTHER ORDERED that the defendant, The Colorado and Southern Railway Company, Chicago, Burlington & Quincy Railroad Company, Union Pacific Railroad Company, The Denver & Salt Lake Railroad Company, The Denver & Rio Grande Railroad Company, and The Denver and Inter-Mountain Railroad Company, he, and they hereby are, severally notified to cease and desist on or before the 30th day of November, A. D. 1914, and thereafter abstain from demanding, charging, collecting or receiving for the transportation of lump, mine-run and slack coal from mines on defendants' lines in and around Louisville, Lafayette, Marshall, Erie and Dacona-Frederick Districts in the Counties of Boulder and Weld, and what is known as The Northern Coal Fields, to Denver in the State of Colorado, including the switching and spotting of cars on the different industries within the limits of the City of Denver, their present rates of 75 cents per ton on lump carloads, 70 cents per ton on mine-run

carloads, and 60 cents per ton on slack carloads, and publish and charge, on or before the 30th day of November, 1914, and collect and receive for the transportation of coal from any of said mines to Denver, including the switching and spotting of said cars on any industry track or spur of any of defendants herein, within the limits of the City of Denver, a rate not exceeding 65 cents per ton carloads on lump coal, and not exceeding 60 cents per ton carloads on mine run coal, and not exceeding 55 cents per ton carloads on slack coal. The said defendants are hereby authorized to make said rates effective upon three days' notice to the public and to the Commission.

BY ORDER OF THE COMMISSION

A. P. Anderson

S. S. Kendall

Geo T. Bradley.

COMMISSIONERS.

Dated this 6th day of November, 1914, at Denver, Colorado.

BEFORE THE

PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

State Railroad Commission
Cases Nos 73 and 74.

Public Utilities Commission
Case No 6.

THE CONSUMERS LEAGUE OF COLORADO,
a Corporation,

Complainant,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, UNION PACIFIC RAILROAD COMPANY, THE DENVER & SALT LAKE RAILROAD COMPANY, THE DENVER & RIO GRANDE RAILROAD COMPANY, THE DENVER & INTERMOUNTAIN RAILROAD COMPANY,

Defendants.

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and

THE CONSUMERS LEAGUE OF COLORADO,
a Corporation,

Complainant,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, and UNION PACIFIC RAILROAD COMPANY,

Defendants.

ORDER DENYING MOTION FOR REHEARING.

On November 16th, 1914, the complainant, The Consumers League of Colorado, a Corporation, filed its motion herein wherein it moves the Commission to set aside the opinion and order heretofore entered in the above entitled case, and reopen and reconsider said case and grant a rehearing therein.

The petition then proceeds to set forth nine alleged errors which the petitioner claims the Commission made in its final order in this case.

The Commission set the above motion for h e a ring on November 24th, 1914, and the defendants herein as well as the complainant were notified of such setting, and on that day the complainant was represented by Mr Albert L. Vogl, its attorney, and the defendants, The Colorado & Southern Railway Company and Chicago, Burlington & Quincy Railroad Company, were represented by their attorney Mr E. E. Whitted, and Union Pacific Railroad Company by its attorney, Mr E. I. Thayer.

A full discussion was had on the alleged errors committed by the Commission, as alleged in the complainant's petition.

ORDER.

Now on this 27th day of November, 1914, the Commission, all three of its members being present, after a full discussion and due consideration of complainant's petition herein, it is hereby ordered by the Commission that the petition and motion of complainant herein for a rehearing, reopening and reconsideration of this cause be, and the same is hereby, denied, and a rehearing in said cause is hereby refused.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. P. Anderson
S. S. Kendall
Geo T. Bradley.

COMMISSIONERS.

Dated at Denver, Colorado,
this 27th day of November, 1914.

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

Submitted November 5, 1914 -- Decided November 28, 1914.

In the Matter of an Investigation and Hearing, on motion of the Commission, of the class rates charged for express matter, transported between certain points within the State of Colorado by the following common carriers: The Adams Express Company, The Globe Express Company, and Wells Fargo & Company Express.	)	Case No 4.

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OPINION AND ORDER.

This is an action brought by the Commission, on its own motion, to determine the reasonableness of the class rates as charged by the defendant Express Companies between the cities of Denver, Colorado Springs and Pueblo, and the city of Cripple Creek, all within the State of Colorado.

On February 1st, 1914, the block and sub-block method of computing express rates, as adopted by the Interstate Commerce Commission, became effective on all interstate traffic within the United States. By this system the United States was divided into five general zones. For the purpose of fixing a standard of computing rates, a slightly different scale of rates was adopted in each zone. The third and fourth zones, the only two in which this Commission is interested, are separated by the one hundred and fifth meridian, which results in about one half of the state being

located in the third zone and the other half in the fourth zone. The cities of Denver, Colorado Springs, and Pueblo are located in the third zone, and the city of Cripple Creek is located in the fourth zone, thus resulting in an inter-zone haul on all shipments involved in this inquiry. Under this system of rates the United States is also divided into a system of blocks, which are practically uniform in size all over the country, being divided by latitudinal and longitudinal lines and containing approximately thirty five hundred square miles. These blocks are in turn subdivided into sixteen different parts, which parts are designated as sub-blocks.

This system of computing rates is a radical departure from any other system heretofore used, and provides in general for two classes of express matter, first class covering articles of a general nature and is substituted for what was formerly designated as merchandise rates, and second class, which were formerly designated as general special rates, and, with certain exceptions, apply to articles of food and drink. Generally speaking the second class rates are seventy-five per cent. of the first class rates.

For the purpose of uniformity and a desire on the part of the express officials throughout the country to obviate the necessity of carrying two sets of tariffs, inter- and intra-state, each radically different from the other, conferences were held with practically all of the state commissions with a view of establishing one set of tariffs for all purposes. On January 9th, 1914, a conference was held at Denver between the various express officials and representatives of the states of New Mexico, Arizona, Colorado, and Idaho, at which conference it was unanimously agreed by the representatives of all interested states to recommend the

adoption of the modified principle of computing express rates. In explanation of the modified principle, it might be well to state that the original plan of the Interstate Commerce Commission provided for a minimum charge of 70 cents per hundred pounds on all shipments moving from one to four sub-blocks in zone three, and a minimum charge of $1.05 per hundred pounds on all shipments moving from one to four sub-blocks in zone four. The modified plan, as adopted by this and other state commissions, provided for a minimum charge per hundred pounds of 55, 60 and 70 cents for one, two, three and four sub-block haul respectively in the third zone, and a minimum charge of 60, 75, 90 and $1.05 per hundred pounds for a one, two, three and four sub-block haul respectively in the fourth zone.

Under this agreement the Express Companies filed their tariffs, to become effective April 1st, 1914, with the understanding that on all shipments moving between the two zones the lower zone rate would be applied. After the tariffs were filed it was discovered that a great many rates were not in accord with this agreement; many rates were found to be excessive and prohibitive, and, in every case of the inter-zone haul, the higher zone rate had been used.

At the Denver conference, held on January 9th, in reply to the question: "What is the attitude of the Express Companies with reference to shipments moving between the third and fourth zones?" Mr Stockton, General Counsel of Wells Fargo & Company Express, speaking for all the express companies, replied: "They get the benefit of the third zone terminals, in fact they take the same rate as the third rate system. We take the same rate both ways. They take the lowest zone."

On the filing of the aforementioned tariffs, the Commission immediately checked the same and, finding so many inconsistencies and in many cases a radical departure from the system and general scheme, took the matter up with the Express Companies by correspondence, which was followed by several conferences, resulting in the Commission recommending a new scale of sub-block rates to be used in Colorado. It developed that, owing to the peculiar conditions existing in this state, it would be impracticable to hold strictly to the theory of the block and sub-block scheme of rates. Then, in order to harmonize the situation, the Commission recommended many arbitrary rates, especially on shipments moving between two zones. Most of our recommendations were accepted by the express officials. Among other suggestions, we recommended the establishment of the following rates:

Between Colorado Springs and Cripple Creek,
Rate Scale No 8, or 90¢ per hundred lbs., first class;

Between Denver and Cripple Creek,
Rate Scale No 14, or $1.20 per hundred lbs., first class;

Between Pueblo and Cripple Creek,
Rate Scale No 11, or $1.05 per hundred lbs., first class.

These recommendations, however, were not accepted by the Express Companies, and they published in lieu thereof the following scale of rates:

Between Colorado Springs and Cripple Creek,
Rate Scale No 16 or $1.30 per hundred lbs., first class;

Between Denver and Cripple Creek,
Rate Scale No 21 or $1.55 per hundred lbs., first class;

Between Pueblo and Cripple Creek,
Rate Scale No 16 or $1.30 per hundred lbs., first class.

At the time these negotiations were carried on the Commission was acting under the Railroad Act of 1910 and could do nothing more than suggest. We had no authority under that Act to fix a rate or suspend a tariff, except after formal

complaint and hearing thereon.

The testimony in this case shows that the distance from Denver to Cripple Creek is one hundred and twenty-eight miles. There are two routes west of Colorado Springs. Via one line there is a four sub-block haul in zone three and a two sub-block haul in zone four; via the other route there is a five sub-block haul in zone three and one sub-block haul in zone four. The distance from Colorado Springs to Cripple Creek is fifty-four miles, or a two sub-block haul in zone three and a one sub-block haul in zone four via one route, and a one sub-block haul in zone three and a two sub-block haul in zone four via the other route. The distance from Pueblo to Cripple Creek is ninety-nine miles, being a four sub-block haul in zone three and a two sub-block haul in zone four via one route, and a five sub-block haul in zone three and a one sub-block haul in zone four via the other route.

Under this system of computing rates, we have a right to use the shortest mileage, which would result in each of these instances of making the short haul in zone four. There are also two ways of computing rates under this system; one on the mileage basis and the other on the sub-block basis. If the mileage basis is used on the third zone basis, the following rates are obtained:

Between Denver and Cripple Creek, $1.15 per hundred pounds first class;

Between Colorado Springs and Cripple Creek, 90¢ per hundred pounds first class; and

Between Pueblo and Cripple Creek, 90¢ per hundred pounds first class.

Figuring these rates on the sub-block basis, based on third zone rates, the following rates would be obtained:

Between Denver and Cripple Creek, 90¢ per hundred pounds, first class;

Between Colorado Springs and Cripple Creek, 65¢ per hundred pounds, first class; and

Between Pueblo and Cripple Creek, 90¢ per hundred pounds, first class.

The Commission feels that the evidence in this case fully justifies the belief that the present rates, as charged by defendants between the points in controversy, are unjust and unreasonable, and it so finds. However, conceding the fact that part of each of the hauls in question are in the fourth zone, a mountainous district, we do not feel that it would be fair to the defendants or be of any material benefit to the shipper to use either of the third zone basis of rates, as set forth above. In order to harmonize the situation other rates should be substituted. The following table of express rates were submitted as evidence and are used for comparative purposes.

"Between	And	Mileage	Present Scale	Rate
Silverton	Durango	45	8	.90
Cripple Creek	Colorado Spgs	54	16	1.30
Denver	Silver Plume	54	11	1.05
"	Baileys	55	8	.90
Canon City	Salida	55	11	1.05
Ouray	Telluride	55	11	1.05
Leadville	Eagle	57	16	1.30
Walsenburg	Blanca	57	13	1.15
Montrose	Grand Jct	72	16	1.30
Cripple Creek	Pueblo	99	16	1.30
Colo. Spgs	Forks Creek	103	13	1.15
Cripple Creek	Buena Vista	104	16	1.30
Silverton	Pagosa Jct	107	16	1.30
Cripple Creek	Denver	128	21	1.55
Colo Spgs	Silver Plume	128	13	1.15
"	Baileys	129	14	1.20
Cripple Creek	Canon City	141	16	1.30
"	Baileys	183	21	1.55
"	Trinidad	192	21	1.55"

The Commission feels that its former recommendations respecting the rates in controversy are fair, just and reasonable, and are inclined to adhere to them. An order will, therefore, be entered to that effect.

ORDER.

It is hereby ordered that the defendants, and each of them, to-wit: The Adams Express Company, The Globe Express Company, and Wells Fargo & Company Express, be, and they are hereby, ordered to cease and desist from demanding, charging or collecting the present class rates on express matter between the city of Denver and the city of Cripple Creek, between the city of Colorado Springs and the city of Cripple Creek, and between the city of Pueblo and the city of Cripple Creek, said rates and scale numbers being set forth in detail as follows, to-wit:

Between Denver and Cripple Creek, Rate Scale No 21,
or $1.55 per hundred pounds first class,
$1.17 per hundred pounds second class;

Between Colorado Springs and Cripple Creek, Rate Scale No 16,
or $1.30 per hundred pounds first class,
$0.98 per hundred pounds second class; and

Between Pueblo and Cripple Creek, rate scale No 16,
or $1.30 per hundred pounds first class,
$0.98 per hundred pounds second class,

all of which scale numbers and rates appear in their official classification No 22, effective February 1st, 1914, and tariffs Nos C. R. C. 48, 54 and 55, effective September 1st, 1914, and filed with this Commission by F. C. Airy, Agent; and publish, charge, collect and file with this Commission tariffs in lieu thereof as follows, to-wit:

Between Denver and Cripple Creek, Rate Scale No 14,
or $1.20 per hundred pounds first class,
.90 cents per hundred pounds second class;

Between Colorado Springs and Cripple Creek, Rate Scale No 8,
or 90 cents per hundred pounds first class,
68 cents per hundred pounds second class;

Between Pueblo and Cripple Creek, Rate Scale No 11,
or $1.05 per hundred pounds first class,
79 cents per hundred pounds second class.

The rate scales as used in this order are published

in official classification No 22, which classification has been filed with this Commission by F. G. Airy, Agent for defendants herein. This order effective December 20th, 1914.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
A. P. ANDERSON
(SEAL) S. S. KENDALL
GEO. T. BRADLEY.
Commissioners

Dated at Denver, Colorado,
this 28 day of November, 1914.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

Submitted November 5, 1914 --- Decided November 28, 1914.

In the Matter of an Investigation	)	THE PUBLIC UTILITIES COMMISSION FILED NOV 28 1914 OF THE STATE OF COLORADO
and Hearing, on motion of the	)	
Commission, of the class rates	)	
charged for express matter, transported	)	
between certain points within the	)	
State of Colorado by the following	)	Case No 4.
common carriers: The Adams Express	)	
Company, The Globe Express Company, and	)	
Wells Fargo & Company Express.	)	

OPINION AND ORDER.

This is an action brought by the Commission, on its own motion, to determine the reasonableness of the class rates as charged by the defendant Express Companies between the cities of Denver, Colorado Springs and Pueblo, and the city of Cripple Creek, all within the State of Colorado.

On February 1st, 1914, the block and sub-block method of computing express rates, as adopted by the Interstate Commerce Commission, became effective on all interstate traffic within the United States. By this system the United States was divided into five general zones. For the purpose of fixing a standard of computing rates, a slightly different scale of rates was adopted in each zone. The

third and fourth zones, the only two in which this Commission is interested, are separated by the one hundred and fifth meridian, which results in about one half of the state being located in the third zone and the other half in the fourth zone. The cities of Denver, Colorado Springs, and Pueblo are located in the third zone, and the city of Cripple Creek is located in the fourth zone, thus resulting in an inter-zone haul on all shipments involved in this inquiry. Under this system of rates the United States is also divided into a system of blocks, which are practically uniform in size all over the country, being divided by latitudinal and longitudinal lines and containing approximately thirty five hundred square miles. These blocks are in turn subdivided into sixteen different parts, which parts are designated as sub-blocks.

This system of computing rates is a radical departure from any other system heretofore used, and provides in general for two classes of express matter, first class covering articles of a general nature and is substituted for what was formerly designated as merchandise rates, and second class, which were formerly designated as general special rates, and, with certain exceptions, apply to articles of food and drink. Generally speaking the second class rates are seventy-five per cent. of the first class rates.

For the purpose of uniformity and a desire on the part of the express officials throughout the country to obviate the necessity of carrying two sets of tariffs, inter- and intra-state, each radically different from the other, conferences were held with practically all of the state commissions with a view of establishing one set of tariffs for all purposes. On January 9th, 1914, a conference

was held at Denver between the various express officials and representatives of the states of New Mexico, Arizona, Colorado, and Idaho, at which conference it was unanimously agreed by the representatives of all interested states to recommend the adoption of the modified principle of computing express rates. In explanation of the modified principle, it might be well to state that the original plan of the Interstate Commerce Commission provided for a minimum charge of 70 cents per hundred pounds on all shipments moving from one to four sub-blocks in zone three, and a minimum charge of $1.05 per hundred pounds on all shipments moving from one to four sub-blocks in zone four. The modified plan, as adopted by this and other state commissions, provided for a minimum charge per hundred pounds of 55, 60, 65 and 70 cents for a one, two, three and four sub-block haul respectively in the third zone, and a minimum charge of 60, 75, 90 and $1.05 per hundred pounds for a one, two, three and four sub-block haul respectively in the fourth zone.

Under this agreement the Express Companies filed their tariffs, to become effective April 1st, 1914, with the understanding that on all shipments moving between the two zones the lower zone rate would be applied. After the tariffs were filed it was discovered that a great many rates were not in accord with this agreement; many rates were found to be excessive and prohibitive, and, in every case of the inter-zone haul, the higher zone rate had been used.

At the Denver conference, held on January 9th, in reply to the question: "What is the attitude of the Express Companies with reference to shipments moving between the third and fourth zones?" Mr Stockton, General Counsel of Wells Fargo & Company Express, speaking for all the express companies, replied "They get the benefit of the third zone

terminals, in fact they take the same rate as the third rate system. We take the same rate both ways. They take the lowest zone."

On the filing of the aforementioned tariffs, the Commission immediately checked the same and, finding so many inconsistencies and in many cases a radical departure from the system and general scheme, took the matter up with the Express Companies by correspondence, which was followed by several conferences, resulting in the Commission recommending a new scale of sub-block rates to be used in Colorado. It developed that, owing to the peculiar conditions existing in this state, it would be impracticable to hold strictly to the theory of the block and sub-block scheme of rates. Then, in order to harmonize the situation, the Commission recommended many arbitrary rates, especially on shipments movning between two zones. Most of our recommendations were accepted by the express officials. Among other suggestions, we recommended the establishment of the following rates:

Between Colorado Springs and Cripple Creek,
Rate Scale No 8, or 90¢ per hundred lbs., first class;

Between Denver and Cripple Creek,
Rate Scale No 14, or $1.20 per hundred lbs., first class;

Between Pueblo and Cripple Creek,
Rate Scale No 11, or $1.05 per hundred lbs., first class.

These recommendations, however, were not accepted by the Express Companies, and they published in lieu thereof the following scale of rates:

Between Colorado Springs and Cripple Creek,
Rate Scale No 16 or $1.30 per hundred lbs; first class;

Between Denver and Cripple Creek,
Rate Scale No 21 or $1.55 per hundred lbs., first class;

Between Pueblo and Cripple Creek,
Rate Scale No 16 or $1.30 per hundred lbs., first class.

At the time these negotiations were carried on the

Commission was acting under the Railroad Act of 1910 and could do nothing more than suggest. We had no authority under that Act to fix a rate or suspend a tariff, except after formal complaint and hearing thereon.

The testimony in this case shows that the distance from Denver to Cripple Creek is one hundred and twenty-eight miles. There are two routes west of Colorado Springs. Via one line there is a four sub-block haul in zone three and a two sub-block haul in zone four; via the other route there is a five sub-block haul in zone three and one sub-block haul in zone four. The distance from Colorado Springs to Cripple Creek is fifty-four miles, or a two sub-block haul in zone three and a one sub-block haul in zone four via one route, and a one sub-block haul in zone three and a two sub-block haul in zone four via the other route. The distance from Pueblo to Cripple Creek is ninety-nine miles, being a four sub-block haul in zone three and a two sub-block haul in zone four via one route, and a five sub-block haul in zone three and a one sub-block haul in zone four via the other route.

Under this system of computing rates, we have a right to use the shortest mileage, which would result in each of these instances of making the short haul in zone four. There are also two ways of computing rates under this system; one on the mileage basis and the other on the sub-block basis. If the mileage basis is used on the third zone basis, the following rates are obtained:

Between Denver and Cripple Creek, $1.15 per hundred pounds first class;

Between Colorado Springs and Cripple Creek, 90¢ per hundred pounds first class; and

Between Pueblo and Cripple Creek, 90¢ per hundred pounds first class.

Figuring these rates on the sub-block basis, based on third zone

rates, the following rates would be obtained:

Between Denver and Cripple Creek, 90¢ per hundred pounds, first class;

Between Colorado Springs and Cripple Creek, 65¢ per hundred pounds, first class; and

Between Pueblo and Cripple Creek, 90¢ per hundred pounds, first class.

The Commission feels that the evidence in this case fully justifies the belief that the present rates, as charged by defendants between the points in controversy, are unjust and unreasonable, and it so finds. However, conceding the fact that part of each of the hauls in question are in the fourth zone, a mountainous district, we do not feel that it would be fair to the defendants or be of any material benefit to the shipper to use either of the third zone basis of rates, as set forth above. In order to harmonize the situation other rates should be substituted. The following table of express rates were submitted as evidence and are used for comparitive purposes:

"Between	And	Mileage	Present Scale	Rate
Silverton	Durango	45	8	90
Cripple Creek	Colorado Spgs	54	16	1.30
Denver	Silver Plume	54	11	1.05
"	Baileys	55	8	90
Canon City	Salida	55	11	1.05
Ouray	Telluride	55	11	1.05
Leadville	Eagle	57	16	1.30
Walsenburg	Blanca	57	13	1.15
Montrose	Grand Jct.	72	16	1.30
Cripple Creek	Pueblo	99	16	1.30
Colo. Spgs	Forks Creek	103	13	1.15
Cripple Creek	Buena Vista	104	16	1.30
Silverton	Pagosa Jnct.	107	16	1.30
Cripple Creek	Denver	128	21	1.55
Colo Spgs	Silver Plume	128	13	1.15
"	Baileys	129	14	1.20
Cripple Creek	Canon City	141	16	1.30
"	Baileys	183	21	1.55
"	Trinidad	192	21	1.55."

The Commission feels that its former

recommendations respecting the rates in controversy are fair, just and reasonable, and are inclined to adhere to them. An order will, therefore, be entered to that effect.

ORDER.

It is hereby ordered that the defendants, and each of them, to-wit: The Adams Express Company, The Globe Express Company, and Wells Fargo & Company Express, be, and they are hereby, ordered to cease and desist from demanding, charging or collecting the present class rates on express matter between the city of Denver and the city of Cripple Creek, between the city of Colorado Springs and the city of Cripple Creek, and between the city of Pueblo and the city of Cripple Creek, said rates and scale numbers being set forth in detail as follows, to-wit:

Between Denver and Cripple Creek, Rate Scale No 21,
or $1.55 per hundred pounds first class,
$1.17 per hundred pounds second class;

Between Colorado Springs and Cripple Creek, Rate Scale No16,
or $1.30 per hundred pounds first class,
.98 per hundred pounds second class; and

Between Pueblo and Cripple Creek, rate scale No 16,
or $1.30 per hundred pounds first class
.98 per hundred pounds second class,

all of which scale numbers and rates appear in their official classification No 22, effective February 1st, 1914, and tariffs Nos C. R. C. 48, 54 and 55, effective September 1st, 1914, and filed with this Commission by F. C. Airy, Agent; and publish, charge, collect and file with this commission tariffs in lieu thereof, as follows, to-wit:

Between Denver and Cripple Creek, Rate Scale No 14,
or $1.20 per hundred pounds first class,
.90 cents per hundred pounds second class;

Between Colorado Springs and Cripple Creek, Rate Scale No 8,
or 90 cents per hundred pounds first class,
68 cents per hundred pounds second class;

Between Pueblo and Cripple Creek, Rate Scale No 11,
or $1.05 per hundred pounds first class,
79 cents per hundred pounds second class.

The rate scales as used in this order are published in official classification No 22, which classification has been filed with this Commission by F. G. Airy, Agent for defendants herein. This order effective December 20th, 1914.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

A P Anderson

S A Kendall

Geo T. Bradley,

COMMISSIONERS.

Dated at Denver, Colorado,

this 28 day of November, 1914.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

South Park Ranchmen's Protective Association, and Park County Metal Mining Association, Complainants, vs. The Colorado and Southern Railway Company, Defendant.	State Railroad Commission Case No 70. ORDER OF DISMISSAL.

Now on this third day of December, 1914, on reading and filing the motion of the complainants herein by G. K. Hartenstein, their attorney, for an order of dismissal in the above entitled cause, and after considering the same,

IT IS HEREBY ORDERED by the Commission that the above entitled cause be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A P Anderson
J S Kendall
Geo T. Bradley.

Commissioners.

Dated at Denver, Colorado,
December 3rd, 1914.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

South Park Ranchmen's Protective Association and Park County Metal Mining Association, Complainants, vs. The Colorado Midland Railroad Company, Geo. W. Vallery, Receiver for said Company, Defendants.	State Railroad Commission Case No 71 ORDER OF DISMISSAL.

Now on this third day of December, 1914, on reading and filing the motion of the complainants herein by G. K. Hartenstein, their attorney, for an order of dismissal in the above entitled cause, and after considering the same,

IT IS HEREBY ORDERED by the Commission that the above entitled cause be, and the same is hereby, dismissed.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

A P Anderson

S S Kendall

Geo T. Bradley

Commissioners.

Dated at Denver, Colorado,

December 3rd, 1914.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

In the Matter of An Investigation and Hearing, on motion of the Commission, of the rules and practice of charging excess passenger fares and the subject of refunding the same on the part of the following common carriers:	)	Case No 3 ORDER, RULE, REGULATION AND REQUIREMENT.

The Argentine & Grays Peak Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Beaver, Penrose & Northern Railway Company,
The Book Cliff Railroad Company,
The Canon City & Cripple Creek Railroad Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company,
The Colorado & Southern Railway Company,
The Colorado & Southeastern Railroad Company,
The Colorado & Wyoming Railway Company,
The Colorado Eastern Railroad Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
George W. Vallery, Receiver,
The Colorado, Wyoming & Eastern Railway Company,
The Cripple Creek Central Railway Company,
The Crystal River & San Juan Railroad Company,
The Crystal River Railroad Company,
The Denver & Crown Hill Railroad Company,
The Denver & Intermountain Railroad Company
The Denver & Interurban Railroad Company,
The Denver & Northwestern Railway Company,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Denver & South Platte Railway Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
The Continental Trust Company & Marshall B. Smith, Receivers,
The Florence & Cripple Creek Railroad Company,
Georgetown & Grays Peak Railway Company,
The Argentine & Grays Peak Railway Company, Lessee
The Golden Circle Railroad Company,
The Grand Junction & Grand River Valley Railway Company,
The Great Western Railway Company,
The Greeley Terminal Railway Company,
The Manitou & Pikes Peak Railway Company,
The Midland Terminal Railway Company,

The Missouri Pacific Railway Company,
The Northwestern Terminal Railway Company,
The Pueblo Union Depot & Railroad Company,
The Rio Grande & Southwestern Railroad Company,
The Rio Grande Junction Railway Company,
The Rio Grande Southern Railroad Company,
The San Luis Central Railroad Company,
The San Luis Southern Railway Company,
The Silverton Railway Company,
The Silverton, Gladstone & Northerly Railroad Company,
Silverton Northern Railroad Company, Lessee,
The Silverton Northern Railroad Company,
The Trinidad Electric Transmission Railway & Gas Company,
The Uintah Railway Company,
The Union Depot & Railway Company,
Union Pacific Railroad Company.

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Submitted October 26th, 1914 Decided December 11th, 1914.

On October 8th, 1914, the Commission instituted this proceeding, on its own motion, for the purpose of investigating the rules and practices of the different common carriers within the State of Colorado, in regard to charging excess passenger fares and the refunding of the same. It had appeared to the Commission, through informal complaints, that some of the carriers were charging excess passenger fares over and above a reasonable amount. The different carriers were all duly notified of the time and place of this hearing, and on the 26th day of October, 1914, the Commission proceeded to prosecute this inquiry, practically all of the respondent companies being present. A great many witnesses were produced and examined under oath, and the evidence shows that the work incident to the collection of cash fares, in looking up rates, making change, and answering questions relative to the distance and amount of fares, takes up a great deal of time, more than simply collecting tickets. It appears from the evidence of Mr J. P. Hall, General Agent of The Atchison, Topeka & Santa

Fe Railway Company, that the temptation not to report cash fares is great, and that the railroad company might often fail to receive cash fares at all. It also appears from the evidence that an excess cash fare should be charged in order to impel the purchase of tickets at stations where passengers board trains; that by so charging and collecting excess cash fares the tendency is to reduce the number of cash fares collected, thereby increasing the purchase of tickets and allowing the railroad company to obtain more full and better information in regard to the number of passengers carried.

It also appears from the evidence that the practice of charging excess cash fares in Colorado is not general. The Atchison, Topeka & Santa Fe Railway Company has two sets of tariffs; one is train fares used by conductors, being based on four (4¢) cents per mile within the state of Colorado, the other is the agent fares, based on three (3¢) cents per mile within the State of Colorado.

It also appears from the evidence that in some parts of the state, viz: between Pueblo and Denver and between Pueblo and Canon City, that the excess one (1¢) cent per mile fare is not in force, that is no excess at all is charged between these points.

It also appears that the Union Pacific Railroad Company has an excess fare of twenty-five (25¢) cents, which is refunded on application to the passenger. On other roads flat excess fares are charged, the maximum in most instances being fifty (50¢) cents.

It also appears from the evidence that other railroads, such as The Denver & Rio Grande, The Colorado &

Southern, The Colorado Midland, charge no excess fares. In the case of The Santa Fe, Rock Island, Missouri Pacific, and other roads, no excess fares are refunded.

The hearing before the Commission was quite general and exhaustive, and, from the evidence produced, the Commission is of the opinion that one system should be adopted throughout the state of Colorado. The Commission also finds that it would be to the best interests of the different common carriers and the general public that a small uniform excess cash fare be charged. This would induce the general traveling public to purchase tickets on boarding trains and, in this way, better enable the common carriers to check and ascertain the exact number of passengers carried and the exact earnings of the companies in carrying passengers. The Commission believes that this practice will have a tendency to allow the companies to collect fares from all persons whom they carry and will give them a better check on the same. The Commission is also of the opinion that, in order to accomplish this object, it is better that no cash fares be refunded; also that at the stations where there are no agents or where a passenger is unable to purchase a ticket for any reason that no excess fares should be charged.

The Commission is also of the opinion that street cars within cities and towns, and interurban electric railways, should be exempt from this order, for the reason that it is a general practice on these railways to collect cash fares, and, as a rule, no tickets are sold to passengers on these cars. It is also of the opinion that this order should be limited to steam railways, and that any steam

railways operating suburban or interurban electric cars in connection with their steam railway operations, in these instances, the said suburban or interurban railways should be exempt from this order.

ORDER.

IT IS, THEREFORE, ORDERED by The Public Utilities Commission of the State of Colorado that all passengers boarding trains without tickets at stations where tickets are sold, and where the passenger has had a reasonable opportunity to purchase a ticket before boarding the train, may be required to pay the following schedule of excess cash fares, in addition to the regular published tariff of fares in existence and on file with this Commission:

Where the fare is 50¢ or less an excess of 10¢,
Where the fare is more than 50¢ and not more than $1.00 an excess of 15¢,
Where the fare is more than $1.00 and not more than $1.50 an excess of 20¢, and
Where the fare is more than $1.50, an excess of 25¢;

provided, however, that where a passenger boards a train at a non-agency station, or where for any reason he is unable to purchase a ticket, no excess fare may be charged; and provided further that all passengers may have the privilege of purchasing tickets at the first station where tickets are sold and at which the train stops, in which case the excess scale herein provided to such station shall apply.

For a child of five (5) years of age and under twelve (12) years of age, one-half of the ticket fare, as shown in the tariff for adults, shall be charged, and

one-half of the excess fare, provided above, may be added with enough more sufficient to make the fare end in 0 or 5. The different common carriers to which this order applies will be allowed to retain all excess cash fares collected in accordance with this order.

This order, rule, and regulation shall apply to common carriers operating steam railways within the state of Colorado, and shall not apply to any inter-urban or suburban electric or street railways, nor to such railways when operated by steam railway companies.

This order shall become effective and be in full force on and after the first day of January, 1915.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

A P Anderson

S S Kendall

Geo T. Bradley

COMMISSIONERS

Dated at Denver, Colorado,
this 11th day of December, 1914.

ORIGINAL

CASE NO. 52

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO.

THE CITY OF CANON CITY,
Petitioner and Complainant,

vs.

THE FLORENCE AND CRIPPLE CREEK RAILROAD COMPANY and THE CANON CITY AND CRIPPLE CREEK RAILROAD COMPANY,

Defendants,

And the City of Florence,

Intervenor.

ORDER.

Now on this 22nd day of December, A. D. 1914, the plaintiff, defendants, and intervenor having on this date agreed by and with the consent of The Public Utilities Commission of the State of Colorado that the effective date of the order, heretofore made and entered in this cause, may be continued to the first day of July, A. D. 1915,

IT IS HEREBY ORDERED BY THE COMMISSION that the said effective date, heretofore entered in the above entitled cause, be, and the same hereby is, continued until the first day of July, A. D. 1915, and that the said order on the said first day of July, A. D. 1915, become effective in all respects and each particular with the same force and effect as ordered in the original order entered herein.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A O Anderson
S. S. Kendall
Geo T. Bradley

COMMISSIONERS.

ORIGINAL

BEFORE

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

Abraham D. Radinsky, doing business as The Continental Junk House, Complainant, vs. The Florence & Cripple Creek Railroad Company, and The Colorado & Southern Railway Company, Respondents.	)	Case No 7.
	)	O R D E R.

Submitted December 9th, 1914. Decided December 23rd, 1914.

The complainant filed his complaint in this case on November 14th, 1914, and on November 24th, 1914, the respondents herein filed their respective answers. The points contended for by the respective parties and the issues in this case are as follows:-

On August 10th, 1914, one A. Peterman tendered to The Florence & Cripple Creek Railroad Company his bill of lading for car No 14088, the contents being described therein as 30,000 lbs of junk, to be shipped from Cripple Creek over The Florence & Cripple Creek Railroad and The Colorado & Southern Railway to Denver, billed to The Continental Junk Company of Denver, Colorado. On the arrival of the shipment in Denver The Colorado & Southern Railway Company presented to The Continental Junk Company its freight bill for the said shipment, on which charges

of $228.00 were assessed as the freight charges on the same, and which shipment was described as "second hand bags", 30,000 lbs, at the rate of 65¢ per cwt., making $195, and "rags in sacks and bundles", 4,400 lbs., at the rate of 75¢ per cwt, making the total charge, as aforesaid, of $228.00 for the said shipment.

The complainant contends that he knew nothing of the shipment to him until the same had been loaded and billed to him in Denver. Complainant further claims that on the 10th day of August, 1914, he received the said car, which contained 21,955 lbs of rags and 1,350 lbs of second hand gunny sacks; and that respondents rendered him a freight bill, No 3447, on which there was charged and on which complainant paid to the respondents for the said shipment the sum of $228.00. Complainant further claims that he has been overcharged for this shipment, and that a reasonable charge on the same would be $48.00. He asks that an order be made herein fixing charges and reasonable rates for the transportation of rags and gunny sacks from Cripple Creek to Denver.

The respondents, in their respective answers to said petition, deny that the shipment consisted of 21,955 lbs of rags and 1350 lbs of second hand gunny sacks, but admit that they collected from complainant the sum of $228.00 as transportation charges on the same. Deny that the charges were excessive, unjust or extortionate, and allege that the charges were in accordance with the provisions of the tariffs of respondents, and that the same were fair and just.

The real contention in this case seems to be as to how the carload shipment should have been classified,

the respondents contending that there were more second hand bags than there were rags in the carload and that the carload should be assessed at the minimum weight of 30,000 lbs per carload for the bags at the rate of 65¢ per cwt, and 4,400 lbs of rags at the rate of 75¢ per cwt, in this manner making up the $228.00 charged. The petitioner herein contends that there were actually 21,955 lbs of rags in the car and 1,350 lbs of second hand bags in the car, and that the car should not have been assessed in this manner but should have been assessed for the carload at a minimum of 24,000 lbs at 20¢ per cwt, making the charges $48.00.

FINDINGS OF FACT.

It appears from the evidence that the consignor billedthis car to The Continental Junk Company as "junk", the complainant contending that he had nothing to do with the billing of the car and did not know of its contents until its arrival in Denver. It is evident to the minds of the Commission that this car was misbilled, and the Commission is unanimous in its opinion that, whether the responsibility for the misbilling of this car lies with the consignor or The Continental Junk Company, that some mode of punishment should be provided for just such cases and that a heavy penalty should be enforced against the offending party. However, from the evidence in this case, the Commission has tried to get at the facts as to the real contents of this car, and as to the just and reasonable assessment of rates that should be made thereon.

The complainant, Mr Abraham D. Radinsky, testified that, after the car arrived in Denver, he and Miss Leah Sach weighed the rags and that the correct weight of the same

was 21,955 lbs. This testimony was corroborated by Miss Sach, who testified that she saw the car unloaded and personally weighed all but two or three wagon-loads of the rags contained in the car; that these remaining two or three wagon-loads were weighed while she was at dinner, and that the weight slips thereof were given to her; that she figured them up and gave them to Mr Radinsky. Mr Radinsky also testified that he added up the total weights and entered them in a book, and the book containing this entry Mr Radinsky identified and testified that he made the original entry therein and he knew that it was correct. The complainant also testified that the sacks were not weighed, but that there were 2255 sacks in the car, and that they would not weigh more than 80 lbs to each 100 sacks.

Mr William Walsh of Cripple Creek, a witness for respondents, testified that he is an inspector for The Western Weighing and Inspection Bureau; that he saw the car in Cripple Creek when the same was being loaded; that when he saw the car it was about one-half to two-thirds loaded; that, in his opinion, when he saw the same there was from 10,000 to 15,000 lbs of sacks in the car; that there was about as much rags as sacks in the car at that time, that the car was pretty evenly divided--about half and half; that he did not stay to see the finishing of the loading of the car, but that he notified the proper authorities in Denver to inspect the car on its arrival. It is in evidence that the minimum weight of this car was 30,000 lbs. If the car was from one-half to two-thirds loaded, and there was at that time from 10,000 to 15,000 lbs, each, equally divided, of rags and bags, according to these figures

the car would hold from 40,000 to 60,000 lbs.

Mr Corn, a witness for respondents, testified that, when the car arrived in Denver, he went into the car and inspected the same; that when he broke the seal all he could see from the door was rags; that he re-sealed the car and called up The Continental Junk Company, and that the phone was answered by the witness, Miss Sach; that he asked for a check on the car and witness Sach told him that they did not have a check at that time; that afterwards he made another inspection of the contents of the car; that he saw the sacks in the car; that the same were tied in bundles of 50 each, representing about the size of a sack of bran; that, in his judgment, there were from 3,000 to 4,000 bundles. This estimate of the number of bundles was repeated by Mr Corn two or three different times, and also repeated on cross-examination; afterwards, however, on re-direct examination, witness Corn testified he meant 300 or 400 bundles. Witness Corn also testified that he stood upon and walked upon the bundles of sacks. It is evident to the minds of the Commission that witness Corn must have been mistaken in his opinion that there was even 300 or 400 bundles of sacks of the size of a sack of bran in the car. It would seem, with this number of bundles of that size in the car, that witness could hardly have stood up and walked upon the same while in the car. However, the witness did not testify that he knew or had even counted the number of bundles or the number of sacks.

It appears to the Commission that the testimony herein is extremely conflicting and is not calculated to help the Commission much in its arrival at a determination

of the contents of this car. Witness Walsh's testimony and witness Corn's testimony was the principal part of respondents' evidence, and, in no place, do they contend that they know the contents of the car, and admit that the same is a guess or at least only an estimate.

There were some affidavits introduced by respondents, tending to show the number of sacks that were sold to Peterman, the consignor, prior to the date of the shipment of this car, but the affidavits do not show that the sacks sold to Mr Peterman were placed in this particular car. They are uncertain and unsatisfactory.

The Commission is, therefore, confronted with the fact that the only direct testimony of any of the witnesses who testified that they knew the exact contents of this car was that of plaintiff Radinsky and his stenographer, Miss Sach. They testified that they weighed the rags and the rags weighed 21,955 lbs. It was admitted by both complainant and respondents herein that the correct weight of the car was 24,400 lbs. While, as stated before, the testimony on both sides is very contradictory and conflicting, yet the Commission is constrained to find, and does so find, that the correct weight of the rags contained in the car was 21,955 lbs. The Commission is compelled to accept the conclusions of both complainant and respondents that the total weight of the car was 24,400 lbs. From these facts the Commission must find, and does so find, that the weight of the sacks contained therein was the difference between the weight of the rags as aforesaid and the total weight of the car, and that the actual weight of the same was 2445 lbs.

It is also the opinion of the Commission, and the Commission so finds, that prior to the date of the shipment

in question the rate on rags, carloads, was 20¢ per cwt; further that respondents have filed their tariffs with this Commission, and that on the second day of January, 1915, the same will go into effect carrying a rate of 20¢ per cwt carloads on rags. The Commission is, therefore, of the opinion, and so finds, that the assessed rate of 47¢ per cwt on the rags in question was an unjust and unreasonable rate, and that the just and reasonable rate to be assessed would be 20¢ per cwt carload minimum weight 30,000 lbs. The Commission is also of the opinion that complainant should pay on the sacks in question the present rate of 70¢ per cwt L. C. L.

It is, therefore, the opinion of the Commission that the reasonable rate on the rags was 20¢ per hundred lbs carload, and on the bags 70¢ per hundred lbs, and the complainant herein is entitled to reparation of the difference between $228.00, the amount charged on the shipment in question, and $77.11, the amount that should have been charged, which is $150.89.

IT IS, THEREFORE, ORDERED BY THE COMMISSION that the respondents, The Florence & Cripple Creek Railroad Company and The Colorado & Southern Railway Company, be, and they are hereby ordered and directed to, within twenty days from this date, pay to the complainant, Abraham D. Radinsky, by way of reparation, the sum of $150.89, being the amount of overcharge which they collected from the complainant on the aforesaid shipment from Cripple Creek to Denver in C & S Car No 14088, covered by freight bill No 3447.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A P Anderson

S. S. Kendall

Geo T. Bradley

COMMISSIONERS.

Dated this 23rd day of December, 1914, at Denver, Colorado

1

ORIGINAL

THE PUBLIC UTILITIES COMMISSION
FILED
DEC 29 1914
OF THE STATE OF COLORADO

BEFORE
THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO.

Omar E. Garwood, Et Al., Petitioners, vs. The Colorado & Southern Railway Company, a Corporation, Chicago, Burlington & Quincy Railroad Company, a Corporation, and Union Pacific Railroad Company, a Corporation, Defendants.	)	Case No 34 ORDER DENYING PETITION FOR REHEARING AND MODIFICATION OF ORDER.

This cause coming on for hearing on the petition of defendants herein for a rehearing and modification of the order, heretofore entered herein, in the above entitled cause, said petition having been filed with the Commission on November 21st, 1914, and a hearing and oral argument having been had thereon on, to-wit: the 16th day of December, 1914; and the several parties hereto having filed their briefs herein; and the Commission being fully advised in the premises; and it appearing to the Commission that the defendants herein have appealed from the said order of this Commission, and that said cause is now pending on appeal at this time in the District Court of the City and County of Denver, Colorado,

IT IS HEREBY ORDERED BY THE COMMISSION that the said petition for a rehearing and modification of the order herein be, and the same is, hereby dismissed, and the said rehearing and modification of said order is hereby denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

C P Anderson

J D Kendall

Geo T. Bradley

COMMISSIONERS

Dated this 29th day of December, 1914,
at Denver, Colorado.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

GEORGE W. VALLERY, as Receiver of The Colorado Midland Railway Company, a corporation,

Complainant,

vs.

THE MIDLAND TERMINAL RAILWAY COMPANY, THE COLORADO SPRINGS AND CRIPPLE CREEK DISTRICT RAILWAY COMPANY, and THE FLORENCE AND CRIPPLE CREEK RAILROAD COMPANY,

Defendants.

Case No 5

THE PUBLIC UTILITIES COMMISSION FILED JAN 4 1915 OF THE STATE OF COLORADO

ORDER OF DISMISSAL.

Now on this 4th day of January, 1915, on reading and filing the motion of George W. Vallery, Receiver of The Colorado Midland Railway Company, that the above entitled cause be dismissed,

IT IS HEREBY ORDERED BY THE COMMISSION that the above entitled cause be, and the same is, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

A P Anderson

S S Kendall

Geo T. Bradley

COMMISSIONERS.

Dated at Denver, Colorado,

this 4th day of January, 1915

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

In the Matter of an Investigation and)
Hearing, on motion of the Commission)
as to the Reasonableness of Local Pass-)
enger Fares applying between the follow-)
ing named places, all within the State)
of Colorado, as follows, to-wit:)
Between Pueblo and Canon City, and Points)
Intermediate Therewith, and between)
Pueblo and Trinidad, and Points Inter-)
mediate Therewith,--as charged by the)
Following Common Carriers:)
The Atchison, Topeka & Santa Fe Railway)
Company, The Colorado & Southern Railway)
Company, and The Denver & Rio Grande)
Railroad Company.)

THE PUBLIC UTILITIES COMMISSION
FILED
JAN 11 1915
OF THE STATE OF COLORADO

CASE NO 8.

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation as to the reasonableness of the local passenger fares applying between Pueblo and Canon City, and points intermediate therewith, and between Pueblo and Trinidad, and points intermediate therewith, all within the State of Colorado, as are now being charged and collected by the above named defendants, as shown by tariffs on file with this Commission. That the said common carriers, and each of them be, and they are, hereby ordered to appear at the office of this Commission, in the Capitol Building, in the City and County of Denver, Colorado, on the 8th day of February, A. D. 1915, at the

hour of ten o'clock a. m., before the Commissioners en banc, to show cause, if any there be, why the Commission should not substitute other and different fares from those now charged and assessed between the aforementioned places.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is, hereby directed to serve upon each of the above named carriers a certified copy of this order, accompanied by a notice, directing said companies or common carriers to appear before this Commission at the time and place above specified, in order to show cause why this Commission should not, by an order entered therein, establish other and different fares, to be followed by all of the aforementioned carriers, for the transportation of passengers between the points mentioned within the State of Colorado, should there appear any good reason and necessity for making such an order in the premises.

Dated at Denver, Colorado, this 11th day of January, A. D. 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A P Anderson
S. S. Kendall
Geo T. Bradley

COMMISSIONERS.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

In the Matter of an Investigation and)
Hearing, on motion of the Commission,)
as to the reasonableness of Local Pass-)
enger Fares applying between Divide and)
Cripple Creek, and points intermediate)
therewith, as charged by the following)
common carrier: The Midland Terminal)
Railway Company.)

CASE NO 9.

THE PUBLIC UTILITIES COMMISSION
FILED
JAN 11 1915
OF THE STATE OF COLORADO

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation as to the reasonableness of the local passenger fares applying between Divide and Cripple Creek, and points intermediate therewith, all within the State of Colorado, as are now being charged and collected by the above named defendant, as shown by tariffs on file with this Commission. That said common carrier be, and it is, hereby ordered to appear at the office of this Commission, in the Capitol Building, in the City and County of Denver, on the 8th day of February, A. D. 1915, at the hour of ten o'clock a. m., before the Commissioners en banc, to show cause, if any there be, why the Commission should not substitute other and different fares from those now charged and assessed between the aforementioned places.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is, hereby directed to serve upon the above named carrier a certified copy of this order, accompanied by a notice, directing said company or common carrier to appear before this Commission at the time and place above specified, in order to show cause why this Commission should not, by an order

entered therein, establish other and different fares, to be followed by the above named common carrier, for the transportation of passengers between the points mentioned within the State of Colorado, should there appear any good reason and necessity for making such an order in the premises.

Dated at Denver, Colorado, this 11" day of January, A. D. 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

A P Anderson

S. A. Kendrew

Geo T. Bradley

COMMISSIONERS.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

In the Matter of an Investigation)
and Hearing, on motion of the)
Commission, as to the reasonableness)
of the local, joint or proportional rates)
on coal, (all classes), between Northern)
Colorado Points, Leyden, Walsenburg,)
Trinidad, Oak Hills, Canon City,)
South Canon, Bowie, Baldwin, Pikeview,)
Starkville and Roswell, and the Colorado-)
Kansas and Colorado-Nebraska State Lines,)
and all points intermediate therewith,)
all within the State of Colorado, as)
charged by the following common carriers:)
The Atchison, Topeka & Santa Fe Railway)
Company, Chicago, Burlington & Quincy)
Railroad Company, The Chicago, Rock Island
& Pacific Railway Company, The Colorado)
& Southern Railway Company, The Missouri)
Pacific Railway Company, Union Pacific)
Railroad Company, The Colorado Midland)
Railway Company, The Denver & Salt Lake)
Railroad Company, The Denver & Inter-)
mountain Railroad Company, The Denver &)
Rio Grande Railroad Company, The Colorado)
& Southeastern Railroad Company, and The)
Colorado & Wyoming Railway Company.)

CASE NO 10

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation as to the reasonableness of the local, joint and proportional rates on coal (all classes), between Northern Colorado Points, Leyden, Walsenburg, Trinidad, Oak Hills, Canon City, South Canon, Bowie, Baldwin, Pikeview, Starkville, and Roswell, and the Colorado-Kansas and Colorado-Nebraska State Lines, and all points intermediate therewith, all within the State of Colorado, as are now being charged and collected (by the above named defendants) as shown by tariffs on file with this Commission. That the said common carriers, and each of them, be, and they are, hereby ordered to appear at the office of this Commission, in the Capitol Building, in the City and County of Denver, on the 15th day of February, A. D. 1915, at the hour of ten o'clock a. m., before the Commissioners en banc, to show cause, if any there be, why the Commission should not substitute other and different rates from those now charged and assessed between the aforementioned places.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is, hereby directed to serve upon each of the above named carriers a certified copy of this order, accompanied by a notice, directing said companies or common carriers to appear before this Commission at the time and place above specified, in order to show cause why this Commission should not, by an ordered entered therein, establish other and different rates, to be followed by all of the aforementioned common carriers, for the transportation of all classes of coal between the points mentioned within the State of Colorado, should there appear any good reason and necessity for

making such an order in the premises.

Dated at Denver, Colorado, this 11th
day of January, A. D. 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A O Auburn

S. S. Kendall

Geo. T. Bradley

COMMISSIONERS.

1

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

In the Matter of an Investigation and Hearing, on Motion of the Commission, as to the Reasonableness of Local Passenger Fares applying between the following named places, all within the State of Colorado, as follows, to-wit: Between Pueblo and Canon City, and Points Intermediate therewith; and between Pueblo and Trinidad, and Points Intermediate therewith,-as charged by the following common carriers:

The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company.

Case No 8.

ORDER OF DISMISSAL

The Commission having on January 28th, A. D. 1915, passed a resolution dismissing the above entitled proceeding,

IT IS HEREBY ORDERED that the above entitled proceeding be, and the same is, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

S S Kendall

Geo T. Bradley

W. H. Lynch

COMMISSIONERS

Dated at Denver, Colorado, this 28th day of January, A. D. 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

In the Matter of an Investigation and	)	Case No 9.
Hearing, on motion of the Commission, as	)	
to the Reasonableness of Local Passen-	)	
ger Fares applying between Divide and	)	
Cripple Creek, and points intermediate	)	
therewith, as charged by the following	)	
named common carrier:	)	ORDER OF DISMISSAL.
The Midland Terminal Railway Company.	)	

THE PUBLIC UTILITIES COMMISSION
FILED
JAN 28 1915
OF THE STATE OF COLORADO

The Commission having on January 28th, A. D. 1915, passed a resolution dismissing the above entitled proceeding,

IT IS HEREBY ORDERED that the above entitled proceeding be, and the same is, hereby dismissed.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley

M. N. Aylsworth

COMMISSIONERS.

Dated at Denver, Colorado, this
28th day of January, A. D. 1915.

ORIGINAL

THE PUBLIC UTILITIES COMMISSION
FILED
JAN 28 1915
OF THE STATE OF COLORADO

RESOLUTION.

WHEREAS this Commission did, on the 11th day of January, A. D., 1915, institute an action on its own motion, known as Case No. 9, wherein The Midland Terminal Railway Company was named as defendant and ordered to appear before this Commission on the 8th day of February, 1915, and show cause why this Commission should not substitute other and different fares from those now charged and assessed between Divide, Colorado, and Cripple Creek, Colorado, and points intermediate therewith, and

WHEREAS it appearing to the Commission that any change made in passenger fares applying between the aforementioned places would indirectly affect fares between other points not covered by said petition, and

WHEREAS divers and numerous complaints have come to this Commission in relation to passenger fares in various parts of the state, and

WHEREAS it is the purpose of this Commission to enter into an exhaustive inquiry concerning the reasonableness of passenger fares, practices, etc., as charged, demanded, and collected by all common carriers in the State of Colorado, now therefore be it

RESOLVED that the petition above referred to, and known as Public Utilities Commission Case No. 9, be, and the same is, hereby dismissed on the Commission's own motion, and the Secretary of this Commission be, and he is hereby, directed to forthwith notify the above named carrier of this action on the part of this Commission.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION
FILED
JAN 28 1915
OF THE STATE OF COLORADO

IN THE MATTER OF AN INVESTIGATION AND HEARING, ON MOTION OF THE COMMISSION, AS TO THE REASONABLENESS OF THE PASSENGER FARES, AND RULES, REGULATIONS AND PRACTICES AFFECTING THE SAME, AS ARE NOW IN EFFECT BETWEEN ALL STATIONS IN THE STATE OF COLORADO ON THE LINES OF THE FOLLOWING NAMED COMMON CARRIERS, TO-WIT:

CASE NO. 11.

NOTICE OF HEARING.

The Argentine & Grays Peak Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Beaver, Penrose & Northern Railway Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company,
The Colorado & Southern Railway Company,
The Colorado & Wyoming Railway Company,
The Colorado Eastern Railroad Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
George W. Vallery, Receiver,
The Colorado, Wyoming & Eastern Railway Company,
The Crystal River Railroad Company,
The Crystal River & San Juan Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
The Continental Trust Company & Marshall B. Smith, Receivers,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Florence & Cripple Creek Railroad Company,
The Great Western Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company,
The Rio Grande Southern Railroad Company,
The San Luis Central Railroad Company,
The San Luis Southern Railway Company,
The Silverton Northern Railroad Company,
The Silverton Railway Company,
Union Pacific Railroad Company,
The Uintah Railway Company.

TO THE ABOVE NAMED COMMON CARRIERS:

You, and each of you, are hereby notified that The Public Utilities Commission of the State of Colorado has set the above entitled case for hearing, before the Commissioners en banc, on the first day of March, A. D. 1915, at the hour of ten o'clock a. m., in the office of the Commission, in the Capitol Building, Denver, Colorado, at which time and place you, and each of you, are hereby directed to appear and show cause why the Commission should not, by an order entered therein, substitute other and

different passenger fares, and rules, regulations and practices affecting the same, from those now in effect between all stations in the State of Colorado; said passenger fares, rules, regulations and practices affecting the same, to be followed by you, should there appear any good reason and necessity for making such an order in the premises.

And you are further notified that attached hereto is a certified copy of this Commission's order, instituting the above investigation.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

John W. Thurtam
Secretary

Dated at Denver, Colorado,
this 28th day of January, A. D. 1915.

January 28, 1915

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation as to the reasonableness of the passenger fares, and rules, regulations and practices affecting the same, as are now in effect between all stations in the State of Colorado, of the above named defendants; that the said carriers, and each of them, be, and they are, hereby ordered to appear at the office of this Commission in the Capitol Building, in the City and County of Denver, on the first day of March, A. D. 1915, at the hour of ten o'clock a. m., before the Commissioners en banc, to show cause, if any there be, why the Commission should not substitute other and different fares, and rules, regulations and practices affecting the same, from those now charged between the aforementioned places.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is, hereby directed to serve upon each of the above named common carriers a certified copy of this order, accompanied by a notice, directing said companies or common carriers to appear at the time and place above specified, in order to show cause, why this commission should not, by an order entered therein, establish other and different fares, and rules, regulations and practices affecting the same, to be followed by all of the aforementioned common carriers, for the transportation of passengers between the points named within the State of Colorado, should there appear any good reason and necessity for making such an order in the premises.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall
Geo T. Bradley
M. H. Aylesworth

COMMISSIONERS

Dated at Denver, Colorado, this 28th day of January, A. D. 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

IN THE MATTER OF AN INVESTIGATION AND HEARING, ON MOTION OF THE COMMISSION, AS TO THE REASONABLENESS OF THE PASSENGER FARES, AND RULES, REGULATIONS AND PRACTICES AFFECTING THE SAME, AS ARE NOW IN EFFECT BETWEEN ALL STATIONS IN THE STATE OF COLORADO ON THE LINES OF THE FOLLOWING NAMED COMMON CARRIERS, TO-WIT:

CASE NO 11

The Argentine & Grays Peak Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Beaver, Penrose & Northern Railway Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company,
The Colorado & Southern Railway Company,
The Colorado & Wyoming Railway Company,
The Colorado Eastern Railroad Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
George W. Vallery, Receiver,
The Colorado, Wyoming & Eastern Railway Company,
The Crystal River Railroad Company,
The Crystal River & San Juan Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
The Continental Trust Company & Marshall B. Smith, Receivers,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Florence & Cripple Creek Railroad Company,
The Great Western Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company,
The Rio Grande Southern Railroad Company,
The San Luis Central Railroad Company,
The San Luis Southern Railway Company,
The Silverton Northern Railroad Company,
The Silverton Railway Company,
Union Pacific Railroad Company,
The Uintah Railway Company.

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION
FILED
FEB 1 1915
OF THE STATE OF COLORADO

IN THE MATTER OF AN INVESTIGATION AND HEARING, ON MOTION OF THE COMMISSION, AS TO THE REASONABLENESS OF DEMURRAGE CHARGES, AND RULES, REGULATIONS AND PRACTICES AFFECTING THE SAME, AS NOW CHARGED, DEMANDED, COLLECTED, AND ENFORCED IN THE STATE OF COLORADO BY THE FOLLOWING NAMED COMMON CARRIERS, TO-WIT:

CASE NO. 12.

NOTICE OF HEARING.

The Argentine & Grays Peak Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Beaver, Penrose & Northern Railway Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company,
The Colorado & Southern Railway Company,
The Colorado & Wyoming Railway Company,
The Colorado & Southeastern Railroad Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
George W. Vallery, Receiver,
The Colorado Wyoming & Eastern Railway Company,
The Crystal River Railroad Company,
The Crystal River & San Juan Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
The Continental Trust Company & Marshall B. Smith, Receivers,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Florence & Cripple Creek Railroad Company,
The Great Western Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company,
The Northwestern Terminal Railway Company,
The Rio Grande Southern Railroad Company,
The San Luis Central Railroad Company,
The San Luis Southern Railway Company,
The Silverton Northern Railroad Company,
The Silverton Railway Company,
Union Pacific Railroad Company,
The Uintah Railway Company.

TO THE ABOVE NAMED COMMON CARRIERS:

You, and each of you, are hereby notified that The Public Utilities Commission of the State of Colorado has set the above entitled case for hearing, before the Commissioners en banc, on the twenty-third day of February, A. D. 1915, at the hour of ten o'clock a. m., in the office of the Commission, in the Capitol Building, Denver, Colorado, at which time and place you, and each of you, are hereby directed to appear and show cause why the Commission should not, by an order entered therein, establish other and different demurrage

charges, and rules, regulations and practices affecting the same, to be followed by all of the aforementioned common carriers, for the regulation and assessment of demurrage charges within the State of Colorado, should there appear any good reason and necessity for making such an order in the premises.

And you are further notified that attached hereto is a certified copy of this Commission's order, instituting the above investigation.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

John W. Shuttuck
Secretary.

Dated at Denver, Colorado, this
first day of February, A. D. 1915.

ORIGINAL

RESOLUTION.

WHEREAS several of the railroads operating within the State of Colorado have heretofore published tariffs providing for increases in demurrage charges on refrigerator cars, effective January 29th, 1915, and

WHEREAS the Interstate Commerce Commission has suspended the effective date of said tariffs, as affecting interstate business, for a period of sixty days: Following this action on the part of the Interstate Commerce Commission the railroad companies have suspended the effective date of said tariffs on intrastate business, now therefore be it

RESOLVED that this Commission, on its own motion, institute an investigation as to the reasonableness of demurrage charges, and rules, regulations and practices affecting the same, as are now charged and enforced by the common carriers operating in this state, and

BE IT FURTHER RESOLVED that the Secretary be, and he is, hereby instructed to give this resolution as much publicity as possible, and to notify all the commercial organizations throughout the state when and where such hearing and investigation is to be held, to the end that any interested parties may appear and be heard.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION
FILED
FEB 1 1915
OF THE STATE OF COLORADO

IN THE MATTER OF AN INVESTIGATION AND HEARING, ON MOTION OF THE COMMISSION, AS TO THE REASONABLENESS OF DEMURRAGE CHARGES, AND RULES, REGULATIONS AND PRACTICES AFFECTING THE SAME, AS NOW CHARGED, DEMANDED, COLLECTED, AND ENFORCED IN THE STATE OF COLORADO BY THE FOLLOWING NAMED COMMON CARRIERS, TO-WIT:

CASE NO. 12.

The Argentine & GraysPeak Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Beaver, Penrose & Northern Railway Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company,
The Colorado & Southern Railway Company,
The Colorado & Wyoming Railway Company,
The Colorado & Southeastern Railroad Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
George W. Vallery, Receiver,
The Colorado Wyoming & Eastern Railway Company,
The Crystal River Railroad Company,
The Crystal River & San Juan Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
The Continental Trust Company & Marshall B. Smith, Receivers,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Florence & Cripple Creek Railroad Company,
The Great Western Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company,
The Northwestern Terminal Railway Company,
The Rio Grande Southern Railroad Company,
The San Luis Central Railroad Company,
The San Luis Southern Railway Company,
The Silverton Northern Railroad Company,
The Silverton Railway Company,
Union Pacific Railroad Company,
The Uintah Railway Company.

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation as to the reasonableness of demurrage charges, and rules, regulations and practices affecting the same, as are now charged, demanded, collected, and enforced in the State of Colorado by the above named defendants; that the said carriers, and each of them, be, and they are, hereby ordered to appear at the office of the Commission in the Capitol Building, in the City and County of Denver, on the twenty-third day of February, A. D. 1915, at the hour of ten o'clock a. m., before the Commissioners en banc, to show cause, if any there be, why the Commission should not substitute other and different demurrage charges, and rules, regulations and practices affecting the same, as are now charged, demanded, collected and enforced.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is, hereby directed to serve upon each of the above named common carriers a certified copy of this order, accompanied by a notice, directing said companies or common carriers to appear before this Commission at the time and place above specified, in order to show cause, why this Commission should not, by an order entered therein, establish other and different demurrage charges, and rules, regulations and practices affecting the same, to be followed by all of the aforementioned common carriers, for the regulation and assessment of demurrage charges within the State of Colorado, should there appear any good reason and necessity for making such an order in the premises.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. S. Kendall

Geo. T. Bradley

W. N. Aylesworth

Commissioners.

Dated at Denver, Colorado, this
first day of February, A. D. 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO.

The Breckenridge Chamber of Commerce, Petitioner, vs. The Colorado & Southern Railway Company, Defendant.	Case No 58

IN RE APPLICATION FOR REHEARING OF DEFENDANT, THE COLORADO & SOUTHERN RAILWAY COMPANY.

WHEREAS, on December 26th, 1914, The Colorado & Southern Railway Company, the defendant in the above entitled cause, did file its certain application for rehearing of said cause, and The Breckenridge Chamber of Commerce, the petitioner in said cause, on the 10th day of February, A. D. 1915, did resist said application for rehearing by filing its certain motion to dismiss said application; and,

WHEREAS, the Commission has duly considered the application for rehearing and the motion to dismiss said application:

ORDER.

IT IS NOW ORDERED BY THE COMMISSION on this 13th day of February, A. D. 1915, that the application for rehearing be denied and the same is hereby dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley

M. H. Aylesworth

COMMISSIONERS.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

RAILROAD COMMISSION

Harry E. Robinson, et al.,)
Petitioners,)
vs.)
Chicago, Burlington & Quincy)
Railroad Company,)
Defendant.)

CASE NO 65.

ORDER OF DISMISSAL.

And now on this day, after reading and filing the motion of petitioners herein to dismiss the complaint, heretofore filed in this action, for the reasons as therein stated that the above entitled cause has been settled between the parties thereto by satisfaction by defendant of the demands of the petitioners herein,

IT IS HEREBY ORDERED that the above entitled cause be, and the same is, hereby dismissed.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall
Geo T. Bradley
M. N. Aylesworth

COMMISSIONERS

Dated this 15th day of February,
A. D. 1915, at Denver, Colorado.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

The United Imperial Mining Company, Petitioner, vs. The Argentine & Gray's Peak Railway Company, Defendant.	RAILROAD COMMISSION CASE NO 76

THE PUBLIC UTILITIES COMMISSION FILED FEB 16 1915 OF THE STATE OF COLORADO

ORDER OF DISMISSAL.

And now on this day, on the reading and filing of the motion of petitioner herein to dismiss the above entitled action,

IT IS HEREBY ORDERED that, upon the said motion, the said cause be, and the same is, hereby dismissed.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall
Geo T. Bradley
M. H. Aylesworth

Dated at Denver, Colorado, this
16th day of February, A. D. 1915.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Englewood Commercial Association, Petitioner, vs. The Denver & Rio Grande Railroad Company, The Colorado & Southern Railway Company, and The Atchison, Topeka & Santa Fe Railway Company, Defendants.	RAILROAD COMMISSION CASE NO 61. Petition for Depot and Agent at Englewood, Colorado.

ORDER OF DISMISSAL.

And now on this day, on reading and filing the motion of A. E. Ferguson, Secretary of The Englewood Commercial Association, to dismiss the complaint herein, and it appearing to the Commission that The Atchison, Topeka & Santa Fe Railway Company is now complying with the demands of said petition and has under construction a depot at Englewood, Colorado,

IT IS HEREBY ORDERED that the above entitled cause be, and the same is, hereby dismissed without prejudice.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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COMMISSIONERS

Dated at Denver, Colorado,
February 17th, 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

Norman F. Kerr, who brings this action on behalf of himself and all other coal consumers of the City and County of Denver who are similarly situated and interested,

Petitioner,

vs.

The Denver & Salt Lake Railroad Company,

Defendant.

RAILROAD COMMISSION

CASE NO 63.

THE PUBLIC UTILITIES COMMISSION
FILED
FEB 18 1915
OF THE STATE OF COLORADO

ORDER OF DISMISSAL.

And now on this day, on the reading and filing of the motion of petitioner herein, to dismiss the above entitled action,

IT IS HEREBY ORDERED that, upon the said motion, the said cause be, and the same is, hereby dismissed without prejudice.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

S. S. Kendall

Geo. I. Bradley.

M. N. Aylsworth

COMMISSIONERS.

Dated at Denver, Colorado, this 18th day of February, A. D. 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

Norman F. Kerr, who brings this action on behalf of himself and all other coal consumers of the City and County of Denver who are similarly situated and interested,

Petitioner,

vs.

The Colorado & Southern Railway Company, a Corporation, and The Denver & Inter-Mountain Railroad Company, a Corporation,

Defendants.

RAILROAD COMMISSION

CASE NO 69.

THE PUBLIC UTILITIES COMMISSION
FILED
FEB 18 1915
OF THE STATE OF COLORADO

ORDER OF DISMISSAL.

And now on this day, on the reading and filing of the motion of petitioner herein, to dismiss the above entitled action,

IT IS HEREBY ORDERED that, upon the said motion, the said cause be, and the same is, hereby dismissed without prejudice.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley.

M. N. Aylsworth

COMMISSIONERS

Dated at Denver, Colorado, this 18th day of February, A. D. 1915.

ORIGINAL

BEFORE
THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO.

IN THE MATTER OF AN INVESTIGATION AND HEARING ON MOTION OF THE COMMISSION, AS TO THE REASONABLENESS OF DEMURRAGE CHARGES, AND RULES, REGULATIONS AND PRACTICES AFFECTING THE SAME, AS NOW CHARGED, DEMANDED, COLLECTED, AND ENFORCED IN THE STATE OF COLORADO BY THE FOLLOWING NAMED CARRIERS, TO-WIT:

CASE NO.12.

ORDER.

THE PUBLIC UTILITIES COMMISSION FILED MAR 29 1915 OF THE STATE OF COLORADO

The Argentine & Grays Peak Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Beaver, Penrose & Northern Railway Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company,
The Colorado & Southern Railway Company,
The Colorado & Wyoming Railway Company,
The Colorado & Southeastern Railroad Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
George W.Vallery, Receiver,
The Colorado, Wyoming & Eastern Railway Company,
The Crystal River Railroad Company,
The Crystal River & San Juan Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
Marshall B.Smith, Receiver,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Florence & Cripple Creek Railroad Company,
The Great Western Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company,
The Northwestern Terminal Railway Company,
The Rio Grande Southern Railroad Company,
The San Luis Central Railroad Company,
The San Luis Southern Railway Company,
The Silverton Railway Company,
The Silverton Northern Railroad Company,
The Uintah Railway Company,
Union Pacific Railroad Company.

Submitted February 23, 1915. Decided March 29, 1915.

STATEMENT.

By the Commission:

Pursuant to an investigation and hearing held on motion of the Commission to inquire into the practices, rules and charges, on car demurrage of the Colorado carriers, a hearing was held at

the office of the Commission in Denver, Colorado, on February 23, 1915, and at which all of the larger carriers in the State were represented by their attorneys, traffic and operating officials, also Mr.Arthur Hale, General Agent of the American Railway Association, and Mr.W.E Backensto of the Colorado Demurrage Bureau. Notice of the pending hearing was sent to each of the Commercial Organizations within the State but no representatives appeared from any of such bodies.

Upon March 15, 1915, the Commission tentatively adopted and issued a set of rules and charges and distributed same to all of the carriers, to which the carriers were to set forth all objections prior to April 1, 1915, at which date the rules were to become effective providing sufficient objections had not been received. Upon the request of the carriers the Commission named March 23, 1915, as a day upon which to hear any and all objections to said tentative rules. Upon this date the carriers presented a request to amend Rule 2, Section B, Par.4, by eliminating the words "or hay" immediately following the word "grain". This elimination has been made. Objections were made by the prairie lines to Section C of Rule 2, which provides for additional free time on traffic to or from interior towns. It was stated by such lines that this was a rule which should be applicable to mountain roads only. After a careful consideration given to this matter the Commission is of the opinion that for the sake of uniformity this section should be applied to both mountain and prairie districts and will so hold at this time. Objection was made by the Santa Fe to Rule 2, Section A, Exception No.2, providing for additional free time on cars loaded with coke at coke ovens not equipped with machine loaders. The objection was considered negligible and no change will be made in same. Objection was made by all carriers to Rule 7, Section B, which provides for demurrage charge on refrigerator equipment,- the carriers asking that the same charges be applied as in effect on interstate business, as set forth in the National Car Demurrage Code, which grade from $1 to $5. The Commission feels that the same results will be accomplished by the application of the lower $3 maximum and no change, therefor, will be made in this rule. Attention of the Commission was called to typographical error in Rule 6 reading "on order of the consignee". The word "consignee" has been changed to read "consignor".

It has been the aim of the Commission, as closely as possible, to have these Rules follow the National Car Demurrage Rules and to contain only such exceptions thereto as considered necessary to Colorado intrastate traffic. They will be applicable to all standard gauge lines, no recommendation being made at this time as to narrow gauge lines, although if such lines so desire the Rules may be published and applied as a maximum. The Commission does not consider these Rules inflexible, and applications for changes or amendments will be entertained from shippers or carriers in order they may be revised to either conform to the changes which may occur in the National Car Demurrage Rules, or to meet the exigencies of necessary intrastate exceptions. An order will be

entered requiring all standard gauge lines to publish the attached Car Demurrage Rules on Colorado intrastate traffic effective April 1, 1915.

O R D E R.

IT IS ORDERED, That the above-named defendants, in so far as they operate standard gauge lines within the State of Colorado, be, and they are hereby, notified and required to cease and desist, on or before April 1, 1915, and thereafter to abstain from charging, demanding, collecting or enforcing their present charges and rules upon car demurrage.

IT IS FURTHER ORDERED, That the said defendants, in so far as they operate standard gauge lines within the State of Colorado, be, and they are hereby, notified and required to establish, effective April 1, 1915, and thereafter to maintain and apply demurrage rules and charges named in the report of the Commission which are attached hereto and made a part hereof.

IT IS FURTHER ORDERED, That the said defendants, in so far as they operate narrow gauge lines within the State of Colorado, be exempt from the provisions of this order, it being optional with such carriers to publish said demurrage rules and charges as a maximum.

Sheridan S Kendall

Geo T. Bradley

M. H. Aylesworth

Commissioners.

COLORADO CAR DEMURRAGE RULES.

RULE No.1.- CARS SUBJECT TO RULES.

Cars held for or by consignors or consignees for loading, unloading, forwarding directions, or for any other purpose, are subject to these Demurrage Rules, except as follows:

SECTION A.- Cars loaded with live stock.

SECTION B.- Empty cars placed for loading coal at mines or mine sidings, or coke at coke ovens.

SECTION C.- Empty private cars stored on carrier's or private tracks, provided such cars have not been placed or tendered for loading on the orders of a shipper.

NOTE.-Private cars while in railroad service, whether on carrier's or private tracks, are subject to these Demurrage Rules to the same extent as cars of railroad ownership.

(Empty private cars are in railroad service from the time they are placed by the carrier for loading or tendered for loading on the orders of a shipper. Private cars under lading are in railroad service until the lading is removed and cars are regularly released. Cars which belong to an industry performing its own switching service are in railroad service from the time they are placed by the industry upon designated interchange tracks and thereby tendered to the carrier for movement. If such cars are subsequently returned empty they are out of service when withdrawn by the industyy from the interchange; if returned under load, railroad service is not at an end until the lading is duly removed.

RULE No.2.- FREE TIME ALLOWED.

SECTION A.- Forty-eight hours' (two days) free time will be allowed for loading or unloading on all commodities. (See Exceptions.)

NOTE.- If a consignee wishes his car held at any break-up yard or a hold-yard before notification and placement, such car will be subject to demurrage. That is to say, the time held in the break-up yard will be included within the forty-eight hours of free time. If he wishes to exempt his cars from the imposition of demurrage he must either by general orders given to the carrier or by specific orders as to incoming freight notify the carrier of the track upon which he wishes his freight placed, in which event he will have the full forty-eight hours' free time from the time when the placement is made upon the track designated.

EXCEPTION No.1.- On carload shipments of Coal, Coke, Ore, Concentrates and Lime Rock, destined to smelters or ore reduction works, five days' free time will be allowed for unloading; and on ore, sampled in transit, five days' free time will be allowed for sampling.

EXCEPTION No.2.- Coke cars of forty tons capacity loaded with Coke at coke ovens not equipped with machine loaders, seventy-two hours' (three days) free time will be allowed for loading.

SECTION B.- Twenty-four hours' (one day) free time will be allowed:

1.- When cars are held for switching orders.
Note.-Cars held for switching orders are cars held by a carrier to be delivered to a consignee within switching limits and which when switched become subject to an additional charge for such switching movement.

2.- When cars are held for reconsignment or reshipment in same car received.
Note.- A reconsignment is a privilege permitted by tariff under which the original consignee has the right of diversion. In event of the presence of such a privilege in the tariff twenty-four hours' free time is allowed for the exercise of that privilege by the consignee. A reshipment under this rule is the making of a new contract of shipment by which under a new rate the consignee forwards the same car to another destination.

3.- When cars destined for delivery to or for forwarding by a connecting line are held for surrender of bill of lading or for payment of lawful freight charges.

4.- When cars are held in transit and placed for inspection or grading. When cars loaded with grain are so held subject to recognized official inspection and such inspection is made after 12 o'clock noon, twenty-four hours (one day) extra will be allowed for disposition.

5.- When cars are stopped in transit to complete loading, to partly unload, or to partly unload and partly reload (when such privilege of stopping in transit is allowed in the tariffs of the carrier).

6.- On cars containing freight in bond for Customs entry and Government inspection.

SECTION C.- At stations where freight is teamed to or from interior points, the following schedule of free time will be allowed on carloads:

Five to ten miles..... Five (5) days.
Ten to twenty miles..... Six (6) days.
Twenty to forty miles..... Seven (7) days.
Forty miles or more..... Ten (10) days.

RULE No.3.- COMPUTING TIME.

NOTE.- In computing time, Sundays and legal holidays (National and State) will be excluded, except as otherwise provided in Section A, Rule 9. When a legal holiday falls on a Sunday, the following Monday will be excluded.

SECTION A.- On cars held for loading, time will be computed from the first 7 00 a.m., after placement on public-delivery tracks. See Rule 6 (Cars for loading).

SECTION B.- On cars held for orders, time will be computed from the first 7 00 a.m., after the day on which notice of arrival is sent or given to the consignee.

When orders for cars held for disposition or reconsignment are mailed, such orders will release cars at 7 00 a.m., of the date orders are received at the station where the freight is held, provided the orders are mailed prior to the date received, but orders

mailed and received on the same date release cars the following 7.00 a. m.

SECTION C.-- On cars held for unloading, time will be computed from the first 7.00 a. m., after placement on public-delivery tracks, and after the day on which notice of arrival is sent or given to consignee.

SECTION D.-- On cars to be delivered on any other than public delivery tracks, time will be computed from the first 7.00 a. m., after actual or constructive placement on such tracks. See Rule 4 (Notification) and Rules 5 and 6 (Constructive Placement).

NOTE.-- "Actual Placement" is made when car is placed in an accessible position for loading or unloading or at a point previously designated by the consignor or consignee.

SECTION E.-- On cars to be delivered on interchange tracks of industrial plants performing their own switching service, time will b computed from the first 7.00 a. m., following actual or constructive placement on such interchange tracks until return thereto. See Rule 4 (Notification) and Rules 5 and 6 (Constructive Placement). Cars returned loaded will not be recorded released until necessary billing instructions are given.

RULE No 4.--NOTIFICATION.

SECTION A.-- Notice shall be sent or given consignee by carrier's agent in writing, or as otherwise agreed to by carrier and consignee, within twenty-four hours after arrival of cars and billing at destination, such notice to contain point of shipment, car initials and numbers, and the contents, and, if transferred in transit, the initials and number of the original car. In case car is not placed on public-delivery track within twenty-four hours after notice of arrival has been sent or given, a notice of placement shall be sent or given to consignee.

SECTION B.-- When cars are ordered stopped in transit notice shall be sent or given the party ordering the cars stopped upon arriva of cars at point of stoppage.

SECTION C.-- Delivery of cars upon private or industrial interchange tracks, or written notice sent or given to consignees of readiness to so deliver, will constitute notification thereof to consignee.

SECTION D.-- In all cases where notice is required the removal of any part of the contents of a car by the consignees shall be considered notice thereof to the consignee.

RULE No 5.-- PLACING CARS FOR UNLOADING.

SECTION A.-- When delivery of cars consigned or ordered to any other than public-delivery tracks or to industrial interchange tracks cannot be made on account of the act or neglect of the consignee, or the ability of the consignee to receive, delivery will be considered t have been made when the cars were tendered. The carrier's agent must send or give the consignee written notice of all cars he has been unable to delivery because of the condition of the private or interchange tracks, or because of other conditions attributable to the consignee. This will be considered constructive placement. See Rule (Notification.)

SECTION B.-- When delivery cannot be made on specially designated public-delivery tracks on account of such tracks being fully occupied or from other cause beyond the control of the carrier, the carrier shall send or give the consignee notice in writing of its intention to make delivery at the nearest point available to the consignee, naming the point. Such delivery shall be made unless the consignee shall before delivery indicate a preferred available point, in which case the preferred delivery shall be made.

RULE No 6.-- CARS FOR LOADING.

SECTION A.-- Cars for loading will be considered placed when such cars are actually placed or held on order of the consignor. In the latter case the agent must send or give the consignor written notice of all cars which he has been unable to place because of condition of the private track or because of other conditions attributable to the consignor. This will be considered constructive placement. See Rule 3, Section A. (Computing Time.)

SECTION B.-- When empty cars, placed for loading on orders, are not used, demurrage will be charged from the first 7.00 a.m., afte placing or tender until released, with no time allowance.

RULE NO 7.-- DEMURRAGE CHARGE.

SECTION A.-- After the expiration of free time allowed, a charge of $1 per car per day, or fraction of a day, will be made until car is released. This charge is included in and is not in addition to the charges named in Section b.

SECTION B.-- 1. Refrigerator or other fully insulated cars (which have been ordered by consignor or shipper) will be subject to the following charges after the expiration of free time allowed;

NOTE 1. A fully insulated car is a box car having walls, floor and roof insulated, not equipped with ice bunkers or ice baskets.

NOTE 2.-- This section does not apply to ordinary box cars with temporary lining.

2. When held for loading or unloading--for the first seventy-two hours (three days), $1. per car per day or fraction of a day; for each succeeding day or fraction thereof $3.

3. When held for any other purposes--for the first seventy-two hours (three days) $1 per car per day or fraction of a day; for each succeeding day or fraction thereof $3.

4. Credits earned under Rule 9 (Average Agreement) cannot be used to offset any charges provided above which are in excess of $1 per day.

5. This section shall apply to cars into which freight is loaded, or transferred in transit, for the purpose of providing necessary protection from climatic conditions.

RULE NO 8.-CLAIMS.

No demurrage charges shall be collected under these rules for

detention of cars through causes named below. Demurrage charges assessed or collected under such conditions shall be promptly cancell or refunded by the carrier.

CAUSES.

SECTION A.-- Weather interference.

1. When the condition of the weather during the prescribed free time is such as to make it impossible to employ men or teams in loading or unloading, or impossible to place freight in cars, or to move it from cars, without serious injury to the freight, the free time shall be extended until a total of forty-eight hours free from such weather interference shall have been allowed.

2. When shipments are frozen while in transit so as to prever unloading during the prescribed free time. This exemption shall not include shipments which are tendered to consignee in condition to unload. Under this rule consignees will be required to make diligent effort to unload such shipments.

3. When because of high water or snow drifts, it is impossibl to get to cars for loading or unloading during the prescribed free tim

This rule shall not absolve a consignor or consignee from liability for demurrage if others similarly situated and under the same conditions are able to load or unload cars.

SECTION B.-- Bunching.

1. Cars for loading.-- When by reason of delay or irregularit of the carrier in filling orders, cars are bunched and placed for loading in accumulated numbers in excess of daily orders, the shipper shall be allowed such free time for loading as he would have been entitled to had the cars been placed for loading as ordered.

2. Cars for unloading or reconsigning.-- When, as the result of the act or neglect of any carrier, cars destined for one consignee, at one point, are bunched at originating point, in transit, or at destination, and delivered by the carrier line in accumulated numbers in excess of daily shipments, the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered in accordance with the daily rate of shipment. Claim to be presented to carrier's agent within fifteen (15) days.

SECTION C.-- Demand of overcharge.

When the carrier's agent demands the payment of transportation charges in excess of tariff authority.

SECTION D.-- Delayed or improper notice by carrier.-- When notic has been sent or given in substantial compliance with the requirements as specified in these rules, the consignee shall not thereafter have the right to call in question the sufficiency of such notice unless within forty-eight hours from 7.00 a. m., following the day on which notice is sent or given, he shall serve upon the delivering carrier a full written statement of his objections to the sufficiency of such notice.

1. When claim is made that a mailed notice has been delayed the postmark thereon shall be accepted as indicating the date of the notice.

2. When a notice is mailed by carrier on Sunday, a legal holiday, or after 3.00 p. m., on other days (as evidenced by the postmark thereon) the consignee shall be allowed five hours additional free time, provided he shall mail or send to the carrier's agent, within the first twenty-four hours of free time, written advice that the notice had not been received until after the free time had begun to run; in case of failure on the part of consignee so to notify carrier's agent, no additional free time shall be allowed.

SECTION E.-- Railroad errors which prevent proper tender or delivery.

SECTION F.-- Delay by United States Customs.-- Such Additional free time shall be allowed as has been lost through such delay.

RULE No 9.--AVERAGE AGREEMENT.

When a shipper or receiver enters into the following agreement, the charge for detention to cars, provided for by Section A of Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows:

SECTION A.-- A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B, Paragraph 5). A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one days' credit be allowed on any one car, and in no case shall more than five (5) days' credit be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) debits, the charge provided for by Rule 7 will be made for all subsequent detention, including Sundays and holidays.

SECTION B.-- At the end of the calendar month the total number of days credited will be deducted from the total number of days debited, and $1 per day charged for the remainder. If the credits equal or exceed the debits, no charge will be made for the detention of the cars, and no payment will be made to shippers or receivers on account of such excess of credits, nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

SECTION C.-- A shipper or receiver who elects to take advantage of this average agreement shall not be entitled to cancellation or refund of demmurage charges under Section A, Paragraph 1 and 3, or Section B of Rule 8.

SECTION D.-- A Shipper or receiver who elects to take advantage of this average agreement may be required to give sufficient security to the carrier for the payment of balances against him at the end of each month.

AGREEMENT.

.....Rail.....Company:

Being fully acquainted with the terms, conditions, and effect of the average basis for settling for detention to cars as set forth in ....., being the car demurrage rules governing at all stations and siding on the lines of said .....

rail..... company, except as shown in said tariff, and being desirous of availing (myself or ourselves) of this alternate method of settlement (I or we) do expressly agree to and with the .....Rail.....Company that with respect to all cars which may, during the continuance of this agreement, be handled for (my or our) account at .....(Station) (I or we) will fully observe and comply with all the terms and conditions of said rules as they are now published or may hereafter be lawfully modified by duly published tariffs, and will make prompt payment of all demurrage charges accruing thereunder in accordance with the average basis as therein established or as hereafter lawfully modified by duly published tariffs.

This agreement to be effective on and after the ..... day of .....19...., and to continue until terminated by written notice from either party to the other, which notice shall become effective on the first day of the month succeeding that in which it is given.

.....

Approved and accepted .....19...., by and on behalf of the above-named rail.....company by.....

MAKE NO COPY

ORIGINAL

BEFORE THE

PUBLIC UTILITIES COMMISSION OF THE

STATE OF COLORADO.

Informal Complaint No. 31.
Formal Complaint No. 16.

The Johnstown Commercial Club,

Petitioner,

-vs-

The Great Western Railway Company,

Defendant.

O R D E R.

INADEQUATE PASSENGER TRAIN FACILITIES.

Submitted December 3rd, 1914. Decided April 1st, 1915.

STATEMENT OF CASE.

On December 3rd, 1914, the above named petitioner filed an informal complaint with the Commission, wherein it was alleged that the passenger service afforded the patrons of the Great Western Railway Company, the defendant herein, was insufficient and inadequate, particularly on that portion of its line between Johnstown, Colorado, and Milliken, Colorado.

The complaint was made the subject of correspondence with the officials of the railroad company, which was later followed by conferences in an endeavor to bring about a condition which would be satisfactory to all parties concerned.

Pursuant to an invitation extended by the Commission, a conference was arranged between representatives of the Johnstown Commercial Club and the railroad officials, which conference was held in the office of the Commission on March 12th, 1915.

At this conference the fullest opportunity was afforded all parties to express their opinions. It developed that the prinicpal cause for complaint was the inability of the citizens of Johnstown to make a trip to Denver and return home the same day, and a request was made of the railroad officials to so arrange their schedules that connections could be made at Milliken with the Union Pacific morning train to Denver, and also to make connections at the same place with the Union Pacific evening train from Denver.

It developed, however, that it would be impossible for the defendant to so arrange its schedules ~~so~~ to make these connections with the Union Pacific Railroad. Mr. Griffin, Vice-President and General Manager of the Great Western Railway Company, suggested, however, that if a slight change was made in the schedules of the Denver, Laramie & Northwestern Railroad he thought possibly he could arrange the schedules of the Great Western Railway Company to meet the requirements of the situation and in this manner satisfy the complaint. This was followed by a conference with the Receiver of the Denver, Laramie & Northwestern Railroad Company, who agreed to make the necessary changes in the schedules of trains on that road in order to make connections with the Great Western Railway Company's trains at Milliken. Whereupon the officials of the Great Western Railway Company agreed to so change their schedules that connections could be made at Milliken with the morning train to Denver, and the evening train from Denver, thus affording service which would be satisfactory to the citizens of Johnstown.

The attorney for the defendant entered into a written stipulation with the Commission, under date of March 31st, 1915, wherein

it was agreed that an order might be made in this case, said order to be predicated on the written statement made to the Commission under date of March 30th, 1915 by Mr. E. R. Griffin, Vice-President and General Manager of the Great Western Railway Company, wherein the specific schedules in question are fully set forth.

The Commission will, therefore, treat this matter as a formal complaint and an order will be entered accordingly.

O R D E R.

IT IS HEREBY ORDERED, that the Great Western Railway Company institute, maintain, and operate a passenger train service between Johnstown, Colorado, and Milliken, Colorado, each day except Sunday, on the following schedule:

Leave Johnstown at 8:25 a. m., arrive at Milliken at 8:35 a. m.
Leave Milliken at 9:00 a. m., arrive at Johnstown at 9:10 a. m.
Leave Johnstown at 5:50 p. m., arrive at Milliken at 6:00 p. m.
Leave Milliken at 6:45 p. m., arrive at Johnstown at 6:55 p. m.

It being the purpose of this schedule to make connections at Milliken with the trains of the Denver, Laramie & Northwestern Railroad Company to and from Denver.

This Order shall be in full force and effect on and after date and continue in force until September 1st, 1915, unless sooner revoked by the Commission.

S. S. Kendall
Geo T. Bradley
M. N. Ayleworth
COMMISSIONERS.

Dated at Denver, Colorado,
this 1st day of April, 1915.

ORIGINAL

At a General Session of the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO, held at its office in Denver, Colorado, on the 14th day of April, 1915.

INVESTIGATION AND SUSPENSION DOCKET NO.1.

IT APPEARING, That there has been filed with the Public Utilities Commission of the State of Colorado, tariff containing schedules stating joint rates and charges, to become effective May 1st, 1915, designated as follows:

Tariff G.F.O.No.201-I, Colorado & Southern Railway Company Colo.P.U.C.No.288.

IT IS ORDERED, That the Commission enter upon a hearing to be held at the office of the Commission in Denver, Colorado, at 10 a.m., Monday April 19th, 1915, concerning the propriety of the increases and the lawfulness of the schedules contained in said tariff.

IT FURTHER APPEARING, That said tariff makes certain increases in rates for the intrastate transportation of classes and commodities, and the rights and interests of the public appearing to be injuriously affected thereby, and it being the opinion of the Commission that the effective date of the schedules above specified, contained in said tariff, should be postponed pending said hearing and decision thereon.

IT IS FURTHER ORDERED, That the operation of the schedules above specified, contained in said tariff, be suspended, and that the use of the rates, charges, regulations and practices therein be deferred upon intrastate traffic until the 1st day June, 1915, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the Secretary of this Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariff, a certified copy of this order, accompanied by a notice directing said carriers to appear before this Commission at the time and place above specified.

Dated at Denver, Colorado, this 14th day of April, A.D. 1915.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

S. S. Kendall

Geo. I. Bradley

M. N. Arbuckle

Commissioners.

MAKE NO COPY

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION
FILED
APR 23 1915
OF THE STATE OF COLORADO

In the Matter of an Investigation and Hearing, on motion of the Commission, as to the service, and rules, regulations and practices affecting the same, as is now in effect, between all stations, on The Denver & Interurban Railroad Company.

CASE NO 17.

NOTICE OF HEARING.

TO THE ABOVE NAMED, THE DENVER & INTERURBAN RAILROAD COMPANY:

YOU ARE HEREBY NOTIFIED that numerous complaints have been made to this Commission as to your service, and the rules, regulations and practices affecting the same, and that this Commission has decided to investigate the same upon its own motion.

AND YOU ARE FURTHER NOTIFIED that such investigation and hearing will begin, at the hearing room of the Commission, on the 29th day of April, A. D. 1915, at the hour of ten o'clock a. m., in the Capitol Building, in the City and County of Denver. You are formally cited to appear at such investigation and hearing, and take such part therein and make such showing upon your own behalf, as you may desire to, and as your interests seem to require.

YOU ARE FURTHER NOTIFIED that attached hereto is a certified copy of this Commission's order instituting the above investigation and hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO
BY John W. Whitham
SECRETARY.

Dated at Denver, Colorado, this 23rd day of April, A. D. 1915.

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

CASE NO 17.

In the Matter of an Investigation and Hearing,)
on motion of the Commission, as to the service,)
and rules, regulations and practices affecting)
the same, as is now in effect between all stations)
on The Denver & Interurban Railroad Company.)

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation into the service, and rules, regulations, and practices affecting the same, as is now in effect, between all stations, of the above named defendant, The Denver & Interurban Railroad Company; that the said defendant be, and is hereby, ordered to appear at the hearing room of this Commission, in the Capitol Building, in the City and County of Denver, on the 29th day of April, A. D. 1915, at the hour of ten o'clock a. m., before the Commissioners en banc, to make such defense of its service, and rules, regulations and practices affecting the same, as may be thought necessary by the said defendant.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is hereby, directed to serve upon the above named defendant a certified copy of this order, accompanied by a notice, directing the said defendant to appear, at the time and place above specified, to take such part in said hearing as the

said defendant may desire, and make such defense as shall appear necessary to said defendant.

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

W. N. Aylesworth

COMMISSIONERS.

Dated at Denver, Colorado, this 23rd day of April, A. D. 1915.

May 1, 1915

ORIGINAL

THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO.

INVESTIGATION AND SUSPENSION DOCKET NO.1.

DENVER, BOULDER & WESTERN RAILROAD JOINT FREIGHT RATES.

Submitted April 19, 1915. Decided April 28, 1915.

REPORT OF THE COMMISSION.

By the Commission:

The tariff involved in this proceeding, the operation of which has been suspended until June 1, 1915, is Colo.P.U.C.No.288 of the Colorado & Southern Railway Company, and its effect would be to increase rates on classes and commodities between points on the Colorado & Southern Railway and its connections on the one hand and points on the Denver, Boulder & Western Railroad on the other.

It appears from the record that the Denver, Boulder & Western Railroad would receive almost the entire percentage of the increases proposed; that the Colorado & Southern Railway would receive less than 6% of the increases and its connections would not participate in the increases. It is clear that unless additional revenue is provided that the Denver, Boulder & Western will be unable to meet operating expenses, a condition which actually existed during the fiscal year ending June 30, 1914. The Commission has had some doubt authorizing the increase in view of the fact that the Denver, Boulder & Western was not the only carrier participating in the increase. However, after a full hearing it appearing that the respondents have justified the increases in rates in question, an order of vacation will be issued.

An order in accordance herewith will be entered.

O R D E R

At a General Session of the
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,
held at its office in
Denver, Colorado, on the
28th day of April, 1915.

IT APPEARING, That on April 14th, 1915, the Commission entered upon an investigation concerning the propriety of the increases and the lawfulness of the rates, charges, regulations and practices stated in the schedules contained in the tariff designated as follows: The Colorado & Southern Railway, Colo.P.U.C. No.288, and subsequently ordered that the operation of said schedules contained in said tariff be suspended until June 1, 1915.

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

IT IS ORDERED, That the order of the Commission heretofore entered in this proceeding suspending the operation of said schedules be, and it is hereby, vacated and set aside as of May 1st, 1915.

IT IS FURTHER ORDERED, That copies hereof be forthwith served upon The Colorado & Southern Railway Company, issuing carrier, and upon the other carriers respondent herein, parties to said schedules, and that a copy hereof be filed with said schedules in the office of the Commission.

Dated at Denver, Colorado, this 28th day of April, 1915.

S. S. Kendall

Geo T. Bradley

W. R. Aylesworth

Commissioners.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF AN INVESTIGATION AND HEARING, ON MOTION OF THE COMMISSION, AS TO THE REASONABLENESS OF THE PASSENGER FARES, AND RULES, REGULATIONS AND PRACTICES AFFECTING THE SAME, AS ARE NOW IN EFFECT BETWEEN ALL STATIONS IN THE STATE OF COLORADO ON THE LINES OF THE FOLLOWING NAMED COMMON CARRIERS, TO-WIT:

CASE NO.11

The Argentine & Grays Peak Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Beaver, Penrose & Northern Railway Company,
The Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company,
H.U.Mudge and Jacob N.Dickinson, Receivers,
The Colorado & Southern Railway Company,
The Colorado & Wyoming Railway Company,
The Colorado Eastern Railroad Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
George W.Vallery, Receiver,
The Colorado, Wyoming & Eastern Railway Company,
The Crystal River Railroad Company,
The Crystal River & San Juan Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
The Continental Trust Company and Marshall B.Smith,Receivers
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Florence & Cripple Creek Railroad Company,
The Great Western Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company,
The Rio Grande Southern Railroad Company,
The San Luis Central Railroad Company,
The San Luis Southern Railway Company,
The Silverton Northern Railroad Company,
The Silverton Railway Company,
Union Pacific Railroad Company,
The Uintah Railway Company.

Decided May 8, 1915.

OPINION AND ORDER

The Commission having received numerous informal complaints from communities and civic bodies concerning the passenger fares on the various railroads in the State of Colorado, and the Commission, on its own motion, having filed Case No.8 against The Atchison, Topeka & Santa Fe Railway Company and The Denver & Rio Grande Railroad Company, investigating the reasonableness of the passenger rates between Pueblo

and Canon City and Pueblo and Trinidad, and Case No.9 against the Midland Terminal Railway investigating the reasonableness of the passenger rates between Divide and Cripple Creek, and the defendants having objected to this method of procedure in that any changes in passenger rates made by the Commission in these two formal complaints would result in confusing the so-called "scheme of rates" now in force and effect upon the entire lines of the defendants, and the Commission having taken into consideration the great number of informal complaints brought to the attention of the Commission, and more particularly concerning the passenger rates in the entire State of Colorado, as well as the practices of the various steam railroads concerning the issuance of mileage books and the regulations controlling the same; it was decided by this Commission to investigate, on its own motion, the passenger rates between all stations and on all steam railroads in the State of Colorado. Out of this decision, of the Commission, arose the above case, Case No.11, which was instigated on January 28, 1915, and on the same date Cases Nos. 8 and 9 were dismissed.

A copy of the notice and petition of Case No.11 having been duly served upon each of the defendants, the Commission convened the above cause at its Hearing Room in the State Capitol in the City and County of Denver on March 1, 1915, at 10:00 o'clock a.m., and the defendants, having had notice of the time and place of said hearing, entered their appearance in said cause. The defendants were requested by the Commission to agree among themselves as to the order and method of procedure, and it was finally agreed by the defendants that the evidence of each defendant should be taken separately and apart from the evidence of any other defendant. The Commission introduced into evidence

petitions and letters condemning many passenger rates, and the Breckenridge Chamber of Commerce, the Pueblo Commerce Club and the Canon City Chamber of Commerce, through their representatives,presented testimony. In accordance with the agreement of the defendants The Atchison, Topeka & Santa Fe Railway Company first presented its testimony.

At this point the defendants raised two objections to the method of procedure in this investigation. 1st. That this petition was in reality an "omnibus complaint", affecting all of the steam roads in the State of Colorado, and all of the passenger rates in the State of Colorado, and was too broad and vague. 2nd. That the Commission was placing the burden of proof upon the defendants to show that the passenger rates now in effect in the State of Colorado were reasonable.

The Commission tentatively overruled these two objections, and, after the tentative ruling of the Commission, and under protest, the defendants introduced such evidence as they desired to the Commission, each defendant presenting its evidence separately and apart from the evidence of every other defendant.

On Monday, March 8th, the Commission called Mr.C.P.Link, a member of the Colorado State Tax Commission, who presented evidence as to the physical valuation of each defendant for the year 1912, which testimony Mr.Link presented from a written report made, under oath, by each defendant, to the Colorado State Tax Commission in the year 1912. Mr.Link testified that since the year 1912 the defendants had not presented to the Colorado State Tax Commission statements of their physical valuations, but the said Link testified as to the assessed valuation of each defendant by the Colorado Tax Commission for the years 1913 and 1914.

At the request of the defendants the Commission set

March 24th as a day for the argument of the two objections raised.

After giving each defendant due and proper notice this case was re-opened on May 6, 1915, at 10:00 o'clock a.m., for final ruling by the Commission upon the two objections raised by the defendants and for the presentation of such testimony as might be desired by the Commission or the defendants, and at which time the Commission ruled, in substance, that it had proceeded in a proper manner in this investigation, in that all passenger rates in the State of Colorado were involved and naturally the defendants named in the petition became involved; that the Commission had taken testimony of each defendant separately and apart from the testimony of any other defendant, and would consider the testimony of each defendant separately and apart from the testimony of any other defendant, except where the testimony of one defendant, developed in the record, would be applicable to any other defendant, and further that it would base its opinion in this case upon the evidence introduced and from the record, but would, of course, take into consideration the tariffs, schedules and annual reports of the various defendants now on file with the Commission, it having been agreed by the defendants that the schedules, tariffs and annual reports should be a part of the record, and that the Commission should take notice of the things therein contained. The Commission further decided that it was a creature of the Legislature, with defined powers, and was not a court, and that the practice before the Commission was, by the laws of the State of Colorado, intended to be informal within reasonable bounds, and it was the duty of the defendants and the Commission to introduce all testimony which would aid the Commission in deciding the reasonableness or unreasonableness of the passenger rates on the lines of the defendants in the State of Colorado. It was further held that the defendants should have their day in court, and be given

an opportunity to meet the issues brought out in the investigation, and that the question of burden of proof did not enter into the investigation in that the Commission was endeavoring to get the facts which would show to the Commission the reasonableness or unreasonableness of any passenger rate or rates. It was further held that in the event the evidence in the case convinced the Commission that a part or all of the rates were reasonable then those reasonable rates would not be molested by an order of this Commission, but if, on the other hand, the Commission should find from the evidence in this cause that a part or all of the rates were unreasonable, then the Commission would, in a proper order in the cause, set forth the reasonable rate or rates, and the decision would be based upon the records of the Commission and every reasonable doubt in the minds of the Commission as to the reasonableness of rates would be decided in favor of the defendants.

The Commission then made plain to the defendants the issues in this cause, which had been ascertained by it from the evidence already introduced, and the several defendants were given an opportunity to introduce further testimony to meet these issues if they so desired.

Since the 8th day of March, and even prior thereto, we have made a very careful study of the passenger rates now in force and effect on each of the steam railroads in the State of Colorado. We have been able to ascertain that there has been no basis for passenger rates in this State, but that most of the rates are arbitrary and of long standing. In some parts of the State passenger rates vary from six to eleven cents per mile without any reasonable basis for the same. The Commission is of the opinion that the rate of five cents a mile from Pueblo to Canon City is unreasonable, and that the rate of four cents a mile between Pueblo, Walsenburg and Trinidad is unreasonable.

This territory is not mountainous but, on the other hand, is comparatively level, and the rate should not exceed three cents a mile.

We have carefully examined the record in this cause and the tariffs, schedules and reports of the defendants. We have also investigated into the passenger rates of other States, taking into consideration the similarity and geographical conditions, as well as the density of population and difficulties of operation. We have made a careful study of the record in regard to the sale, regulations and practices affecting the sale of mileage books on the lines of the several defendants. We are of the opinion that there should be certain definite changes in regard to the sale, and practices and regulations affecting the same. We have become convinced that the local passenger fares on the lines of the defendants traversing the mountainous country, and known as the mountain lines in Colorado, are, to a great extent, out of proportion, and on certain lines prohibitive, and therefore unreasonable.

This Commission cannot see its way to making one maximum passenger rate per mile for the State of Colorado, as has been done by legislative enactment in some of the older States. The State of Colorado is a new State, in need of development, and, while not having the density of population possessed by a great many of the States with maximum passenger rates enacted by the Legislature, its geographical conditions are such that in parts of the State of Colorado the difficulties of operation brin the cost of operation out of all proportion to that of the prairi lines, so it seems that a maximum rate per mile for passenger transportation cannot be made for the entire State of Colorado. It is also the opinion of this Commission that while the several defendants operating mainly through the mountainous area of this State have brought about every effort to bring tourist travel int

and through the State, these defendants have, for some reason or other, refused or neglected to reconstruct the local passenger rates in the State, to the end that certain communities on these railroads have been discriminated against, and that the readjustment of these rates is highly desirable, not only for the benefit of the State at large, but we feel also that local traffic will be stimulated by a readjustment of these conditions.

It is therefore the opinion of this Commission that there should be a maximum rate per mile for passenger transportation on the railroads traversing the mountainous area of the State, which will be more definitely defined in the order of this Commission, in the sum of not to exceed four cents a mile, with certain exceptions which we shall refer to presently.

The defendants operating railroads for passenger traffic and traversing the prairies and valleys of this State, wh ich will be more particularly defined in the order of this Commission in this cause, should have a maximum rate per mile for passenger traffic not to exceed three cents, with the specific understanding that the rules and regulations concerning mileage books, adopted by this Commission in its order in this cause, should be strictly observed by the defendants operating in the valley and prairie districts of this State, and more particularly defined in the order of this Commission.

The defendants operating in the prairie and valley territory have, in the past, sold mileage books of one thousand miles each, for the sum of $25.00, and these mileage books have entitled the holder thereof, with certain exceptions, to travel one thousand miles for the sum stated, which is on the basis of 2½ cents a mile. It is the opinion of this Commission that these mileage books should entitle the holder or any member of his immediate family to travel on

the same. In our opinion the sale of the family mileage book will stimulate travel within the State, and will be of great benefit to the traveling public.

We believe that the defendants now operating in the valley and prairie districts of the State, which we shall more particularly define in the order in this cause, should continue to offer for sale a mileage book, and furthermore should sell this book, with one thousand coupons therein attached, for the sum of $25.00, which should entitle the holder or any member of his immediate family to travel one thousand miles within the State of Colorado at a rate not to exceed 2½ cents a mile, and, in consideration of this regulation, it is our opinion that these defendants should charge a maximum rate for passenger travel of not to exceed three cents a mile.

The several defendants operating railroads for passenger travel in the mountainous districts of this State now sell mileage books for the sum of $30.00, each book having therein attached one thousand coupons. The holder, however, is not in every instance entitled to travel one mile for every coupon pulled by the conductor, and therefore the holder does not at all times travel one thousand miles for the sum of three cents a mile. The Commission feels that this regulation is unfair and discriminatory, and therefore it is the opinion of this Commission that the holder of a mileage book, sold by a defendant operating its railroad for passenger travel in that territory, which will hereafter be defined, should travel at a rate not to exceed three cents a mile, except as hereinafter specifically excepted by the order of this Commission in this cause, and that a mileage book should entitle the holder or any member of his immediate family to transportation within the State of Colorado.

IT IS ORDERED:

The Atchison, Topeka & Santa Fe Railway Company.

The Atchison, Topeka & Santa Fe Railway Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Chicago, Burlington & Quincy Railroad Company.

The Chicago, Burlington & Quincy Railroad Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at

a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Chicago, Rock Island & Pacific Railway Company, H.U.Mudge and Jacob N.Dickinson, Receivers.

The Chicago, Rock Island & Pacific Railway Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Denver, Laramie & Northwestern Railroad Company, Continental Trust Company and Marshall B.Smith,Receivers.

The Denver, Laramie & Northwestern Railroad Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Missouri Pacific Railway Company.

The Missouri Pacific Railway Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the S

in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

Union Pacific Railroad Company.

The Union Pacific Railroad Company shall have a rate not to exceed three cents a mile on its entire system within the State of Colorado, in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book shall be sold by this defendant for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Colorado & Southern Railway Company.

The Colorado & Southern Railway Company shall have a rate not to exceed three cents a mile on its entire system within

the State of Colorado, except that branch of the Colorado & Southern Railway known as the "South Park" branch, and operating between Denver and Leadville, and on that portion of its line shall have a rate not to exceed five cents a mile, and also excepting that part of its line known as the "Clear Creek" branch, and operating between Denver, Silver aPlume and Central City, and on that portion of its line shall have a rate not to exceed four cents a mile; the above rates being adjudged reasonable in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book on the entire system of the Colorado & Southern Railway Company in Colorado shall be sold for the sum of $25.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $25.00, or at a rate not to exceed 2½ cents for every mile actually traveled with the following exceptions:

(a) On the "South Park" branch of the Colorado & Southern Railway the mileage book shall entitle the holder and any member of his immediate family to travel at the rate of four cents a mile;

(b) On the "Clear Creek" branch of the Colorado & Southern Railway the mileage book shall entitle the holder and any member of his immediate family to travel at a rate not to exceed three cents for every mile actually traveled.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Colorado Midland Railway Company,
George W. Vallery, Receiver.

The Colorado Midland Railway Company shall have a rate not to exceed four cents a mile on its entire system, with the following exceptions; Between Arkansas Junction and Glenwood Springs, and intermediate points, the rate shall not exceed 4½ cents a mile; the above rates being adjudged reasonable in consideration of the said defendant continuing to sell a mileage book with the following regulations:

1. The mileage book on the entire system of the Colorado Midland shall be sold for the sum of $30.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel one thousand miles for the sum of $30.00 or at a rate not to exceed 3 cents for every mile actually traveled.

2. These mileage books shall be on sale at every station where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Denver & Salt Lake Railroad Company.

The Denver & Salt Lake Railroad Company shall have a rate not to exceed 4½ cents a mile on its entire system within the State of Colorado, the above rate being adjudged reasonable in consideration of the said defendant offering for sale a mileage

book with the following regulations:

1. The mileage book on the Denver & Salt Lake Railroad shall be sold for the sum of $30.00, having attached therein one thousand coupons, and shall entitle the holder and any member of his immediate family to travel at a rate not to exceed four cents for every mile actually traveled.

2. The mileage books shall be on sale at every station in the State of Colorado where the defendant has employed a ticket agent.

3. This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Denver & Rio Grande Railroad Company, and
The Rio Grande Southern Railroad Company.

The Commission has considered the evidence introduced by The Denver & Rio Grande Railroad Company separately and apart from the evidence introduced by The Rio Grande Southern Railroad Company, but, for the purpose of convenience, and due to the circumstances surrounding these defendants, they are joined in this order.

The Denver & Rio Grande Railroad Company shall have a rate not to exceed three cents a mile on its lines operating between Denver and Canon City, and Denver, Walsenburg and Trinidad, and a rate not to exceed four cents a mile on the remainder of its system in the State of Colorado, with the following exceptions:

(a) Salida to Glenwood Springs and all intermediate points, a rate not to exceed 4½ cents a mile.

(b) Salida to Gunnison and all intermediate points, a rate not to exceed 4½ cents a mile.

(c) Antonito to Silverton and all intermediate points, a rate not to exceed 4½ cents a mile,

(d) On the Rio Grande Southern Railroad, ~~a branch of the Denver & Rio Grande Railroad~~, a rate not to exceed 5 cents a mile; the above rates being adjudged reasonable in consideration of the said defendants continuing to sell a mileage book with the following regulations:

1. The mileage book on the entire system of the Denver & Rio Grande Railroad in the State of Colorado, including the Rio Grande Southern Railroad, shall be sold for the sum of $30.00 and have attached therein one thousand coupons, which shall entitle the holder and any member of his immediate family to travel at the following rates:

(a) Denver to Canon City and all intermediate points at a rate not to exceed 2½ cents a mile,

(b) Denver to Walsenburg and Trinidad and all intermediate points at a rate not to exceed 2½ cents a mile,

(c) On the remainder of its entire system in the State of Colorado at a rate not to exceed 3 cents a mile, with the following exception, viz; on the Rio Grande Southern Railroad at a rate not to exceed 4 cents a mile.

2. These mileage books shall be on sale at every station in the State of Colorado where the defendants have employed a ticket agent.

3. These defendants shall also sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on their lines in Colorado, for the sum of double the one way fare less ten per cent.

4. This order shall become effective at a date not later than July 1st, 1915.

The Florence & Cripple Creek Railroad Company

The Florence & Cripple Creek Railroad, its successors and assigns, shall have a rate not to exceed 4½ cents a mile between Colorado Springs and Cripple Creek and intermediate points.

This defendant shallsell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the ~~xxxxx~~ one way fare ~~fares~~ less ten per cent.

This order shall become effective at a date not later than July 1st, 1915.

The Midland Terminal Railway Company

The Midland Terminal Railway, shall have a rate not to exceed 4½ cents a mile between Divide and Cripple Creek and intermediate points.

This defendant shall sell round trip tickets, limited to not less than fifteen days from the date of purchase, between all stations on its lines in Colorado, for the sum of double the one way fare ~~xxxxxxxxx~~ less ten per cent.

This order shall become effective at a date not later than July 1st, 1915.

The Great Western Railway Company

The Great Western Railway shall have a rate not to exceed 3 cents a mile on its entire system within the State of Colorado.

This defendant shall sell round trip tickets, limited to not less than fifteen d ays from the date of purchase, between all stations on its lines in Colorado, for the sum of double the ~~xxxxx~~ one way fare ~~fares~~ less ten per cent.

This order shall become effective at a date not later than July 1st, 1915.

The defendants not covered by this order operate small properties with short mileage, and, as to them, the Commission makes no order at this time.

All mileage books covered by this order shall be good for transportation within the State of Colorado for a period of one year from the date of sale.

It is the opinion of this Commission that the family mileage book should be interchangeable as between the various defendants, and, where feasible, we respectfully recommend this practice, but shall not so order.

By order of the Commission:

S. S. Kendall

Geo T. Bradley

M. H. Aylesworth

Commissioners.

Dated this 8th day of May, 1915, at Denver, Colorado.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

IN THE MATTER OF AN INVESTIGATION AND HEARING, ON MOTION OF THE COMMISSION, AS TO THE REASONABLENESS OF THE LOCAL, JOINT, OR PROPORTIONAL RATES ON COAL (ALL CLASSES), BETWEEN NORTHERN COLORADO POINTS, LEYDEN, WALSENBURG, TRINIDAD, OAK HILLS, CANON CITY, SOUTH CANON, BOWIE, BALDWIN, PIKEVIEW, STARKVILLE, AND ROSITA, AND THE COLORADO-KANSAS AND COLORADO-NEBRASKA STATE LINES, AND ALL POINTS INTERMEDIATE THEREWITH, ALL WITHIN THE STATE OF COLORADO, AS CHARGED BY THE FOLLOWING NAMED COMMON CARRIERS:

THE PUBLIC UTILITIES COMMISSION
FILED
MAY 10 1915
OF THE STATE OF COLORADO

The Atchison, Topeka & Santa Fe Railway Company,	
The Chicago, Burlington & Quincy Railroad Company,	
The Chicago, Rock Island & Pacific Railway Company, H.U.Mudge and Jacob M.Dickinson,Receivers,	
The Colorado & Southern Railway Company,	
The Missouri Pacific Railway Company,	
Union Pacific Railroad Company,	
The Colorado Midland Railway Company, George W.Vallery, Receiver,	CASE No.10.
The Denver & Salt Lake Railroad Company,	
The Denver & Intermountain Railroad Company,	
The Denver & Rio Grande Railroad Company,	
The Colorado & Southeastern Railroad Company,	
The Colorado & Wyoming Railway Company,	

Submitted March 17,1915. Decided May 10,1915.

STATEMENT OF THE CASE

On January 11, 1915, the Commission, on its own motion, instituted an inquiry as to the reasonableness of the existing rates charged by the above named common carriers for the transportation of coal, all classes, from the coal producing sections of the State to all stations intermediate with Colorado-Kansas and Colorado-Nebraska state lines. The inspiration which actuated the Commission to make this investigation was the fact that for many years the general public had labored under the impression that the carriers were exacting an excessive charge for the transportation of this commodity, and from the further fact that many insistent demands had been made upon the Commission to lower coal rates in specific instances. Upon making an examination of the various tariffs and rates, as shown by the schedules filed by the common carriers, many apparent discrepancies were

discovered, and the Commission felt that it would be a loss of time, without any general benefit, to attempt to justify any specific rate without making an investigation as to the whole situation, owing to the fact that the coal rates in the State are so closely related to each other, from the various producing points, that if one rate or set of rates were disturbed the change would immediately affect every other rate. Thus, from the very nature of the situation, it became necessary for the Commission to investigate the entire field at one and the same time, to the end that no injustice would result to any of the carriers and no discrimination would result to either the coal producing centers or the various coal consuming places.

This case came on for hearing on February 15, 1915, at which time all parties in interest were represented. The Commission deeming it advisable to extend the scope of inquiry, announced that the petition would be amended so as to include all shipping points in Routt county, Huerfano county, Las Animas county, Gunnison county, Fremont county, Delta county, El Paso county, and the stations of Palisade, Cameo, Newcastle, Sunshine and Spring Gulch on the line of the Colorado Midland Railroad. At the same time the South Canon Coal Company, The Grand Junction Mining & Fuel Company and the Huerfano Coal Company were allowed to intervene and be heard.

In addition to the complaint, as set forth in the petition, the Commission, at the very beginning of the hearing, announced in detail just what the range of inquiry would be, and indicated the specific matters upon which the Commission desired information. The carriers interposed two objections in this case as to the method of procedure, as follows, to-wit:

1st. Into the form of petition, in that objection was made that said petition was in fact an"omnibus complaint"and was improper, for the reason that more than one carrier was named

as defendant in the petition, and that the petition was too general in that it set forth no specific rate under investigation by the Commission.

2nd. That the burden of proof should be upon the Commission to show by preponderance of the evidence that the rates were unreasonable.

In referring to the objections raised by the defendants it might be noted here that the representative of one of the largest lines involved in this hearing indicated very clearly that the line which he represented had no objections to offer as to the method of procedure adopted by the Commission.

The objections as raised by the common carriers were tentatively overruled by the Commission and the taking of testimony proceeded. On March 24, 1915, the objections raised by the carriers were argued before the Commission and the questions involved were taken under advisement, and the Commission, being fully advised in the premises, did, on the 5th day of May 1915, rule thereon as follows, to-wit:

That the Commission has proceeded in a proper manner in this investigation, in that all of the coal rates in the territory designated in the petition of the Commission were involved, and naturally the defendants named in the petition became involved. That the Commission has taken testimony of each defendant separate and apart from the testimony of any other defendant and will consider the testimony of each defendant separately and apart from the testimony of any other defendant, except where the testimony of one defendant developed in this record will be applicable to any other defendant. The Commission further decides that it will base its opinion in this case upon the evidence introduced, and solely from the record, but will, of course, take into consideration the tariffs, schedules and annual reports of the various defendants now on file with this

Commission, it having been agreed by the defendants that said schedules, reports and tariffs should be a part of the record and the Commission should take notice of the things therein contained.

The Commission is of the opinion, and so decides, that it is a creature of the Legislature, with defined powers, and not a court. The practice before this Commission is, by the laws of Colorado, intended to be informal, within reasonable bounds, and it is the duty of the defendants and the Commission to introduce all testimony which will aid the Commission in deciding the reasonableness or unreasonableness of the coal rates on the lines of the defendants in the State of Colorado.

The Commission is firmly of the opinion that the defendants should have their day in court and be given an opportunity to meet the issues brought out in the investigation.

We are of the opinion that the question of the burden of proof does not enter into this investigation; the Commission is endeavoring to ascertain whether or not the existing coal rates in the State of Colorado are reasonable. If the evidence in this case convinces the Commission that one or more rates are reasonable then those reasonable rates will not be molested by this Commission, but if, on the other hand, the Commission finds from the evidence in this case that one or more rates are unreasonable, then the Commission will, in a proper order in this cause, set forth the reasonable rate or rates to be thereafter charged, demanded or collected by said common carriers.

We shall base our decision upon the record and every reasonable doubt in the minds of this Commission as to the reasonableness of the rates will be decided in favor of the defendants.

In taking testimony in this case the Commission followed a most liberal policy and allowed the widest range of latitude. Any evidence which had any bearing whatever on the case, or would assist the Commission in arriving at a decision, was admitted, which resulted in a very voluminous record. The testimony in this case shows that the coal supply for the territory involved in this hearing is brought from approximately ten different coal producing sections, as follows; viz; Northern Colorado points, Routt, El Paso, Fremont, Huerfano, Las Animas, Gunnison, Garfield, Mesa and Delta counties, and, in relation to the rates charged by the carriers, most of these districts bear a defined and long established relation to each other. Certain of these districts have definite and fixed arbitrary rates over other districts, for instance, coal from Canon City and Oak Hills to all points in Eastern Colorado, except points on the Atchison, Topeka & Santa Fe Railroad, are given the Walsenburg rate. Coal from Trinidad to points in Eastern Colorado take a rate of 25 cents per ton over Walsenburg, except to points on the Atchison, Topeka & Santa Fe Railroad. Coal from Pikeview to points in Eastern Colorado on the Chicago, Burlington & Quincy and Union Pacific are given the Walsenburg rate. This is especially true of interstate shipments and is followed more or less on intrastate shipments. In considering these relations we believed it to be of the greatest importance to adhere to the present differentials and have therefore followed that plan.

One of the most difficult problems which confronts the Commission in this case is the establishment of just and equitable rates from the South Canon and Palisade districts on the Colorado Midland Railroad. The operators of these districts, and the Colorado Midland Railway Company, have asked to be placed upon the same basis as are mines in the Walsenburg and Trinidad districts, as well as mines located in Routt county on the line of

the Denver & Salt Lake Railroad. The distance from Walsenburg to Denver is 185 miles, the distance from the Oak Hills district to Denver is 209 miles, the distance from the Trinidad district to Denver is 213 miles, the distance from Palisade district to Denver is 358, and the distance from the South Canon district to Denver is 291 miles. It appears that unless the mines in these two districts are afforded the Walsenburg and Trinidad basis of rates it will be absolutely impossible for them to compete with the mines in other districts. The distance from these mines is considerably greater than from either the Walsenburg or Trinidad districts, but notwithstanding this fact the Colorado Midland Railway Company has indicated its willingness to meet these rates and bear the burden of the disability of the distance in reference to the division with other lines entering Denver, and the Commission feels that under these circumstances they should be afforded the relief prayed for, and the same rate be given the mines in the South Canon district to Denver as now applies from the Walsenburg district, and the mines in the Palisade district be given the same rate to Denver as now applies from the Trinidad district.

It appears from the testimony that the mines in what may be termed the Palisade and South Canon groups have been badly handicapped in finding a market on account of being compelled to pay a much higher rate to the market centers of the State than other operators. The operators in these Districts, as well as the Colorado Midland Railway Company, one of the defendants herein, appeared before the Commission in this hearing and asked that an order might be entered wherein they, the mines in the South Canon district, would be given the same rate to Colorado Springs and Denver and points east thereof as now prevail from the Walsenburg district, and that the mines in the Palisade district be given the same rate to the same points as now apply from the Trinidad district.

It appears that the local and through rates on coal from the Colorado mines to points in eastern Colorado on the prairie lines at the present time bear no established relation to each other in reference to the distance hauled; that is, with few exceptions, or, as Mr.Johnson, General Freight and Passenger Agent of the Colorado & Southern Railway Company testified, page 202 of the record, "there is no specific or defined basis for present coal rates; numerous changes have been made from time to time, owing to competition between producing districts, commercial conditions surrounding its production, competitive conditions under which it moves, and the varying costs of the different fields; these and other factors have brought about the present coal rates, and have entirely wiped out any well-defined basis, if such originally existed". This, in fact, is the identical condition which the record in this case discloses, and it will be the purpose of this Commission not only to establish, by order, what we believe to be just and reasonable rates from one coal producing point to points of consumption, but also to make the rates uniform and harmonize with each other from the various coal producing sections.

It seems that to a great extent the method of blanketing rates has been used within the State for both long and short hauls. This is due sometimes to observing the short line rates. However, the method adopted by practically all of the carriers seems to be used with a total disregard to distance. A blanket rate will be applied to a certain stretch of line from a district some four or five hundred miles distant, while a blanket rate will also cover the same portion of the line from mines less than one hundred miles distant. This may be due to observance of market conditions at destination, but manifestly it is improper to so utterly disregard short hauls. As an example, the Union Pacific carry a blanket rate of $2.00 per ton to points on their Kansas-Pacific line from 57 miles distant from the mines to 130 miles distant,

and a blanket rate of $2.25 per ton from points 139 miles to 217 miles distant.

Another condition somewhat prevalent seems to be that of making rapid increases between points a short distance apart, in some cases being as high as $3.00 per ton for seven miles. Although it might be stated that this extreme instance, as well as many others, have voluntarily been remedied by the carriers, since the opening of this case. However, this condition still prevails with respect to a great number of points and undoubtedly works a discrimination against the localities immediately concerned. The carriers, as a defense for this, explain that it is caused by the use of the well recognized system of blanket rate making, but it is not denied that the application of these rates of necessity implies a discrimination between the near and far edge of the group, and consequently a discrimination between points just across the line. This situation, therefore, throws the primary importance on the following question: Where does distance affect blanket rates? Group rates, requiring, as they do, a disregard of distance, result in varying degrees of inequality. And how can it be determined as to what is considered a short haul and what a long haul, and where the line of demarcation?

This case was brought primarily for the purpose of relieving the towns of these inequalities, which it cannot be denied exist. The Interstate Commerce Commission, as well as this Commission, have heretofore approved the use of the blanket system, particularly as applied to location of mines at points of production, but only where the conditions are such as to justify its use.

> "Slight differences in distance are often and properly disregarded in the naming of rates, and the Commission has often approved blanket rates covering wide areas, but always with the reservation either that no one was objecting or that a substantial reason for that rate adjustment has been shown." (23-ICC-680)

In order to fix a just and proper rate to the various

points of distribution it will be necessary, in order to harmonize and equalize the situation, to eliminate the system of blanket rates, east of Colorado common points, which can be done without disturbing any interstate rates.

The fundamental principle of rate making is that the rate per ton per mile shall decrease as the distance increases. If the spread of rates along the prairie lines is equalized; that is, distributing the spread between the lowest and highest rate along the line according to mileage, it will result in a rate per ton per mile being in an inverse ratio to the ever increasing distance. The transportation and operating conditions on the prairie lines are not so dissimilar as to preclude the consideration of the rates being revised on this basis as a whole, nor to prevent the application of this principle to those lines.

Inasmuch as the transportation of slack and mine run coal seems to carry with it such special conditions and requirements in regard to rates, no consideration has been given to it except that the rates herein fixed by the Commission for the transportation of lump coal shall in every instance be considered a maximum rate for all other classes of coal, except as otherwise specified in this order. Slack coal, as produced at the different districts, varies a great deal as to value, size, durability, etc., and many rates are in effect to take care of the special conditions surrounding its use, such as sugar beet factories, etc, which rates, if undisturbed, will result in hardship to no one.

The several individual mines will not be referred to, it being deemed sufficient to refer to the general groupings as published in the carriers' tariffs. Where the short line mileage has fixed the rates to points on two different lines the short line rate has been shown for the longer line. This is the principle of rate making long recognized and used by the carriers themselves.

The Colorado Midland have already, prior to the institution of this case, voluntarily reduced their rates from these mines in the Palisade and South Canon districts to Colorado Springs, to the Walsenburg basis, but have been unable to get into Denver on account of the refusal of other lines to join with them in the establishment of through rates. It appears that the cause for this refusal was occasioned by the fact that all of the lines operating between Colorado Springs and Denver also operate lines from the Southern coal fields into Denver, and they naturally preferred to get all of the revenue on hauls from the Southern fields to Denver, rather than join with the Colorado Midland in applying the Walsenburg rate from South Canon to Denver and dividing the revenue with that road.

The Commission feels, however, that wherever possible the coal mining districts of this State should be placed on an equality, and given the fullest opportunity to compete with each other, At the present time the Atchison, Topeka & Santa Fe Railway and the Colorado & Southern Railway are carrying joint rates in connection with the Colorado Midland on coal from the South Canon and Palisade districts to Denver, as follows:

South Canon to Denver, Lump $2.25; Slack $1.65
Palisade to Denver, Lump $2.75, Slack $2.75.

The testimony shows that the coal from these districts comes in direct competition with coal from Southern Colorado and the Routt county district, rates from the Southern Colorado fields to Denver being as follows:

Walsenburg to Denver, Lump $1.60, Slack $1.40,
Trinidad to Denver, Lump $1.85, Slack $1.50.

It will be observed that the rates favor Walsenburg and Routt county over South Canon, of 65 cents per ton on lump, 25 cents per ton on slack, and favor Trinidad over Palisade of 90 cents per ton on lump and $1.25 on slack. The same differential also exists to all points east of Denver. It is apparent to the Commission that the operators in the Palisade

and South Canon districts cannot meet this situation; while the distance is somewhat greater, the Colorado Midland Railway, one of the defendants herein, has indicated that it was willing to meet the situation and publish the Walsenburg basis of rates and assume the burden of division with the other carriers, and an order will therefore be entered in accordance with this view. The Commission will not attempt to establish the division of rates between any two or more carriers, unless the carriers fail to agree among themselves.

The Commission feel that the system heretofore adopted by the carriers, and now in vogue, of applying a uniform rate from all mines in a certain district to a particular point, is equitable and fair, and the groupings in this particular, as now published by the various carriers, evidenced by published tariffs on file, are recognized by the Commission in fixing rates as shown by the accompanying order.

It is further understood that the South Canon group shall consist of and include the following points: Becker's Spur, Cardiff, Gulch, Doll, Marion, New Castle, Pocahontas, Rifle, Silt, South Canon, Sunlight Spur, Union Spur, Vulcan, and the Palisade group shall consist of and include the following points; Cameo, Gale, Palisade, and the rates fixed by the Commission in this cause shall apply uniformly from the several points in the respective groups.

The Commission, in perusing the testimony and exhibits in this case, have discovered that the rates on coal are anything but uniform, and vary from approximately one cent per ton per mile for a haul of four or five hundred miles distant, to four or five cents per ton per mile for short distances, the average being from 2 to 2½ cents per ton per mile. Coal is one of the cheapest commodities carried by a railroad,and forms a considerable bulk of the carriers' traffic. The risk is slight, and it is usually carried at the convenience of the carrier, and, all

things considered, should and could be carried at a much less rate per ton per mile than any other class of traffic. The average receipts per ton per mile on intrastate business in Colorado for the following lines for the year ending June 30, 1914, as shown by the annual reports on file with this Commission, and which have been considered as a part of this record, are as follows:

Chicago, Burlington & Quincy,	00.825 cents,
Atchison, Topeka & Santa Fe,	01.504 cents,
Chicago, Rock Island & Pacific	00.856 cents,
Colorado & Southern	01.037 cents,
Colorado Midland	01.418 cents,
Denver & Rio Grande,	01.223 cents,
Denver & Salt Lake,	01.161 cents,
Missouri Pacific	00.685 cents,
Union Pacific	02.094 cents

It will be seen from this that the general average on all classes of freight is considerably less than the rates heretofore applying on coal; in fact the rates as fixed by the Commission in this cause will yield a much larger return per ton per mile, to the carriers, than the general average as shown above. The Commission finds that the rates as now charged by the defendant carriers are unjust and unreasonable insofar as they exceed the rates as prescribed in the order attached herewith and made a part of this opinion. The Commission further finds that the rates named in the order are just and reasonable and will give the carriers a sufficient return for the service performed.

The Commission has given careful consideration to the conditions surrounding each particular line, and feels that they have been most liberal with the carriers in arriving at the various rates in this case. In no case, except in very long hauls. has the rate been reduced to less than one cent per ton per mile, the general average being from 12 to 14 mills per ton per mile.

O R D E R .

This case being at issue upon motion of the Commission, and having been heard, and full investigation of the matters and things involved having been had, and the Commission having considered the testimony and evidence of each of the defendants separate and apart from each other and having made and filed a report containing its findings of fact and conclusions thereon, which said report is made a part hereof:

(1.) IT IS ORDERED, That The Colorado & Southern Railway Co., and The Denver & Rio Grande Railroad Co., be, and they are hereby, ordered to cease and desist from charging, demanding, collecting, or receiving their present rates for the transportation of slack and lump coal from Ludlow to Trinidad.

(1-a.) IT IS FURTHER ORDERED, That The Colorado & Southern Railway Co., and The Denver & Rio Grande Railroad Co., be, and they are hereby, ordered to establish and put in force a rate of 60 cents per ton for the transportation of slack and lump coal, carloads, from Ludlow to Trinidad.

(2.) IT IS FURTHER ORDERED, That The Colorado Midland Railway Co., George W.Vallery,Receiver, be, and it is hereby, ordered to cease and desist from charging, demanding, collecting, or receiving its present rates for the transportation of slack, nut, mine run, egg and lump coal, from Beckers Spur, Cardiff, Dell, Gulch, Marion, New Castle, Pocahontas, Rifle, Silt, South Canon, Sunlight Spur, Union Spur and Vulcan to Glenwood Springs.

(2-a.) IT IS FURTHER ORDERED, That The Colorado Midland Railway Co., George W.Vallery, Receiver, be, and it is hereby, ordered to establish and put in force a rate of 60 cents per ton for the transportation of slack, nut, mine run, egg and lump coal, carloads, from Beckers Spur, Cardiff, Dell, Gulch, Marion, New Castle, Pocahontas, Rifle, Silt, South Canon, Sunlight Spur, Union Spur and Vulcan to Glenwood Springs.

(3.) IT IS FURTHER ORDERED, That The Colorado Midland Railway Co., George W.Vallery, Receiver, The Atchison, Topeka & Santa Fe Railway Co., and The Colorado & Southern Railway Co., be, and they are hereby, ordered to cease and desist from charging, demanding, collecting, or receiving their present rates for the transportation of slack and lump coal from mines in the South Canon District and from mines in the Palisade District to Denver.

(3-a.) IT IS FURTHER ORDERED, That The Colorado Midland Railway Co., George W.Vallery, Receiver, The Atchison, Topeka & Santa Fe Railway Co., and The Colorado & Southern Railway Co., be, and they are hereby, ordered to establish and put in force the following joint through rates, in cents per ton, for the transportation of slack and lump coal, carloads:

To	From South Canon District		From Palisade District	
	Lump	Slack	Lump	Slack
Denver.....	160	140	185	150

(4.) IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Ry.Co., Chicago, Burlington & Quincy R.R.Co., The Chicago, Rock Island & Pacific Ry.Co., H.U.Mudge & Jacob M.Dickinson, Receivers, The Colorado & Southeastern R.R.Co., The Colorado & Southern Ry.Co., The Colorado & Wyoming Ry.Co., The Colorado Midland Ry.Co., George W.Vallery, Receiver, The Denver & Rio Grande R.R.Co., The Denver & Salt Lake R.R.Co., The Missouri Pacific Ry.Co., and the Union Pacific R.R.Co., be, and they are hereby, ordered to cease and desist from charging, demanding, collecting, or receiving their present rates for the transportation of lump coal from mines in the Baldwin, Bowie, Canon City, Northern Colorado, Oak Hills, Palisade, Pikeview, Roswell, South Canon, Trinidad and Walsenburg Districts to points of destination as hereinafter specified in sub-sections 4-a, 4-b, 4-c, 4-d, 4-e and 4-f, on The Atchison, Topeka & Santa Fe Ry., the Chicago, Burlington & Quincy R.R., the Chicago, Rock Island & Pacific Ry., the Denver & Rio Grande R.R., the Missouri Pacific Ry., and the Union Pacific R.R.

(4-a.) IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Ry.Co., be, and it is hereby, ordered to establish and put in force the following local rates from the canon City, Pikeview and Trinidad Districts; and The Atchison, Topeka & Santa Fe Ry., Co., The Colorado & Southern RyCo., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the following joint through rates from the Walsenburg District; and The Atchison, Topeka & Santa Fe Ry.Co., The Colorado & Southeastern R.R. Co., The Colorado & Southern RyCo., The Colorado & Wyoming Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to maintain the same differentials from mines in the Trinidad District not located on the Atchison, Topeka & Santa Fe Ry., over the Trinidad rates as are at present in effect to the points specified in sub-section 4-a of this order; all of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination and shall be considered as maxima on all classes of coal:

To	From Canon City District	From Pikeview District	From Trinidad District	From Walsenburg District
Pueblo.....	100	100	-	-
Baxter.....	105	105	175	-
Nyburg.....	105	105	175	-
Boone.....	115	115	170	-
Nepesta.....	125	125	165	-
Fowler.....	130	130	160	195
Manzanola.....	140	140	150	185
Wietzer.....	140	140	150	185
Rocky Ford.....	150	150	145	180
Swink.....	155	155	140	175
La Junta.....	160	160	135	170
Casa.....	165	165	140	175
Las Animas.....	180	180	155	190
Caddoa.....	195	195	170	205
Prowers.....	205	205	185	215
Lamar.....	210	210	195	220
Koen.....	215	215	210	245
Granada.....	220	220	210	245
Amity.....	225	225	220	255
Holly.....	230	230	230	265
Shelton.....	160	160	145	180
Cheraw.....	165	165	150	185
Rixey.....	185	185	165	200
McClave.....	205	205	185	220
Big Bend.....	210	210	195	230
Karl.....	215	215	200	235
Bristol.....	220	220	210	245
Delite.....	230	230	230	265

To	From Trinidad District.
Hoehnes.....	55
Earl.....	65
Poso.....	70
Tyrone.....	75
Thatcher.....	85
Delhi.....	95
Timpas.....	115
Ormega.....	130.

(4-b.) IT IS FURTHER ORDERED, That the Chicago, Burlington & Quincy R.R.Co., be, and it is hereby, ordered to establish and put in force the following local rates from mines on its line in the Northern Colorado District; and the Chicago, Burlington & Quincy R.R. Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the following joint through rates from mines in the Baldwin and Bowie Districts; and the Chicago, Burlington & Quincy R.R.Co., The Colorado & Southern Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg District; and the Chicago, Burlington & Quincy R.R. Co., The Atchison, Topeka & Santa Fe Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the same rates from mines in the Canon City District as are shown from the Walsenburg District; and the Chicago, Burlington & Quincy R.R.Co., and The Denver & Salt Lake R.R.Co., be, and they are hereby, ordered to establish and put in force the same rates from mines in the Oak Hills District as are shown from the Walsenburg District; and the Chicago, Burlington & Quincy R.R.Co., The Colorado Midland Ry.Co., George W.Vallery, Receiver, The Atchison, Topeka & Santa Fe Ry.Co., and The Colorado & Southern Ry.Co., be, and they are hereby, ordered to establish and put in force rates from mines in the South Canon District which shall be the same as the rates shown from the Walsenburg District, and rates from mines in the Palisade District which shall be 25 cents higher than the rates from the Walsenburg District; and the Chicago, Burlington & Quincy R.R.Co., and The Atchison, Topeka & Santa Fe Ry.Co., be, and they are hereby, ordered to establish and put in force rates from mines in the Pikeview District which shall be the same as rates from the Walsenburg District; and the Chicago, Burlington & Quincy R.R.Co., The Atchison, Topeka & Santa Fe Ry.Co., The Colorado & Southeastern R.R.Co., The Colorado & Southern Ry.Co., The Colorado & Wyoming Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad District which shall be 25 cents higher than the rates from the Walsenburg District; all of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination and shall be considered as maxima on all classes of coal:

To	From Baldwin District	From Bowie District	From Northern Colorado District	From Walsenburg District
Derby.....	285	340	80	190
Barr.....	295	350	90	200
Hudson.....	305	360	105	210
Keenesburg.....	310	370	115	220
Roggen.....	315	380	125	230
Crest.....	320	385	130	235
Wiggins.....	330	395	130	240
Fort Morgan....	330	410	130	250
Lodi.....	345	415	135	260
Brush.....	345	420	135	265
Pinneo.....	355	430	160	270
Xenia.....	365	440	165	275
Akron.....	370	445	170	285

To	From Baldwin District	From Bowie District	From Northern Colorado District	From Walsenburg District
Otis.....	380	460	180	300
Hyde.....	385	465	185	305
Yuma.....	390	470	190	310
Schramm.....	395	475	195	315
Eckley.....	400	485	195	325
Robb.....	405	490	200	325
Wray.....	410	500	210	330
Laird.....	415	500	215	340
Camden.....	355	425	140	270
Hillrose.....	355	425	140	270
Trowel Ranch....	360	430	140	275
Union.....	360	430	140	275
Balzac.....	365	435	140	280
Merino.....	370	440	150	285
Atwood.....	375	450	155	290
Sterling.....	380	455	160	295
Galien.....	390	465	185	305
Fleming.....	395	475	195	315
Haxtun.....	405	490	200	325
Paoli.....	410	495	200	330
Holyoke.....	415	505	200	340
Amherst.....	425	515	220	350
Stein.....	390	465	185	305
Willard.....	390	475	190	310
Stoneham.....	395	485	195	320
Raymer.....	400	490	200	325
Buckingham.....	410	495	210	335
Keota.....	415	505	215	340
Sligo.....	425	515	220	350
Grover.....	425	520	220	350
Hereford.....	425	520	240	350
Ackerman.....	390	465	180	305
Minto.....	390	465	180	305
Padroni.....	400	475	185	320
Winston.....	410	485	190	330
Peetz.....	420	500	195	345.

(4-c.) IT IS FURTHER ORDERED, That The Chicago, Rock Island & Pacific Ry.Co., H.U.Mudge & Jacob M.Dickinson, Receivers, be, and it is hereby, ordered to establish and put in force the following local rates from mines in the Roswell District; and The Chicago, Rock Island & Pacific Ry.Co., H.U.Mudge & Jacob M.Dickinson, Receivers, and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Bowie District; and The Chicago, Rock Island & Pacific Ry.Co., H.U.Mudge & Jacob M.Dickinson, Receivers, The Colorado & Southern Ry. Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg District; and The Chicago, Rock Island & Pacific Ry.Co., H.U.Mudge & Jacob M.Dickinson, Receivers, The Atchison, Topeka & Santa Fe Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force rates from mines in the Canom City District which shall be the same as the rates from the Walsenburg District; and The Chicago, Rock Island & Pacific Ry.Co., H.U.Mudge & Jacob M.Dickinson, Receivers, and The Denver &

Salt Lake R.R.Co., be, and they are hereby, ordered to establish and put in force rates from mines in the Oak Hills District which shall be the same as the rates from the Walsenburg District, but only to points east of Limon; and The Chicago, Rock Island & Pacific Ry. Co., H.U.Mudge & Jacob M.Dickinson, Receivers, and The Colorado Midland Ry.Co., George W.Vallery, Receiver, be, and they are hereby, ordered to establish and put in force rates from mines in the South Canon District which shall be the same as the rates from the Walsenburg District, and rates from mines in the Palisade District which shall be 25 cents higher than the rates from the Walsenburg District; and The Chicago, Rock Island & Pacific Ry.Co., H.U.Mudge & Jacob M. Dickinson, Receivers, The Atchison, Topeka &BSanta Fe Ry.Co., The Colorado & Southeastern R.R.Co., The Colorado & Southern Ry.Co., The Colorado & Wyoming Ry.Co., and The Denver & Rio Grande R.R?Co., be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad District which shall be 25 cents higher than the rates from the Walsenburg District; all of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination and shall be considered as maxima on all classes of coal:

To	From Bowie District	From Walsenburg District	From Roswell District
Roswell.....	350	150	-
Falcon.....	350	150	65
Peyton.....	375	175	80
Calhan.....	395	195	90
Ramah.....	405	205	105
Simla.....	410	210	110
Mattison.....	420	220	120
Resolis.....	430	230	130
Limon.....	-	245	145
Mustang.....	450	250	150
Genoa.....	455	255	155
Bovina.....	460	260	165
Arriba.....	470	270	170
Flagler.....	480	280	185
Seibert.....	495	295	200
Vona.....	505	305	210
Stratton.....	515	315	220
Bethune.....	525	325	230
Burlington.....	535	335	240

(4-d.) IT IS FURTHER ORDERED, That The Denver & Rio Grande R.R.Co., be, and it is hereby, ordered to establish and put in force the following local rate in cents per ton, carloads, for the transportation of lump coal, and which shall be considered as a maximum for all classes of coal:

To	From Pikeview District.
Pueblo.....	100

(4-e.) IT IS FURTHER ORDERED, That The Missouri Pacific Ry. Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Bowie District; and The Missouri Pacific Ry.Co., The Colorado & Southern Ry.Co., and The Denver & Rio Grande R.R?Co., be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg District; and The Missouri Pacific Ry.Co., The Atchison, Topeka & Santa Fe RyCo., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force rates from the Canon City District which

shall be the same as the rates from the Walsenburg District; and The Missouri Pacific Ry.; Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish rates from mines in the Pikeview District which shall be 25 cents less than the rates from the Walsenburg District; and The Missouri Pacific Ry., Co., and The Chicago, Rock Island & Pacific Ry.Co., H.U.Mudge & Jacob M.Dickinson, Receivers, be, and they are hereby, ordered to establish and put in force rates from mines in the Roswell District which shall be 25 cents less than rates from the Walsenburg District; and The Missouri Pacific Ry.Co., and The Atchison, Topeka & Santa Fe Ry.Co., The Colorado & Southeastern R.R.Co., The Colorado & Southern Ry.Co., The Colorado & Wyoming Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad District which shall be 25 cents higher than the rates from the Walsenburg District; all of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of specified destination and shall be considered as maxima on all classes of coal:

To	From Bowie District	From Walsenburg District
Baxter.....	335	140
Nyburg.....	340	145
Boone.....	350	150
Nepesta.....	355	150
Olney Springs...	370	155
Ordway.....	385	160
Sugar City.....	390	165
Lolita.....	395	170
Kilburn.....	405	180
Arlington.....	410	185
Haswell.....	425	200
Milan.....	430	205
Galatea.....	435	210
Eads.....	450	225
Chivington.....	465	245
Brandon.....	475	255
Sheridan Lake...	475	260
Stuart.....	485	270
Towner.....	495	280

(4-f.) IT IS FURTHER ORDERED, That the Union Pacific R.R.Co., be, and it is hereby, ordered to establish and put in force the following local rates from mines on its line in the Northern Colorado District; and the Union Pacific R.R.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Baldwin and Bowie Districts; and the Union Pacific R.R.Co., The Colorado & Southern Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the following joint rates from mines in the Walsenburg District; and the Union Pacific R.R.Co., The Atchison, Topeka & Santa Fe Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force the same rates from mines in the Canon City District as are shown from the Walsenburg District; and the Union Pacific R.R.Co., and The Denver & Salt Lake R.R.Co., be, and they are hereby, ordered to establish and put in force the same rates from mines in the Oak Hills District as are shown from the Walsenburg District; and the Union Pacific R.R.Co., The Colorado Midland Ry.Co. George W.Vallery, Receiver, The Atchison, Topeka & Santa Fe Ry.Co., and The Colorado & Southern Ry.Co., be, and they are hereby, ordered to establish and put in force the same rates from mines in the South Canon District as are shown from the Walsenburg District, and from mines in the

Palisade District which shall be 25 cents higher than the rates from the Walsenburg District; and the Union Pacific R.R.Co., and The Atchison, Topeka & Santa Fe Ry.Co., The Colorado &BSoutheastern R.R. Co., The Colorado & Southern Ry.Co., The Colorado & Wyoming Ry.Co., and The Denver & Rio Grande R.R.Co., be, and they are hereby, ordered to establish and put in force rates from mines in the Trinidad District which shall be 25 cents higher than the rates from the Walsenburg District; all of these rates shall be for the transportation of lump coal in cents per ton, carloads, and shall not be exceeded to an intermediate point of destination located between any two points of destination specified and shall be considered as maxima on all clasdes of coal:

To	From Baldwin District	From Bowie District	From Northern Colorado District	From Walsenburg District
Sandown.....	285	350	80	200
Sable.....	290	355	90	200
Watkins.....	295	365	100	205
Bennett.....	305	370	110	215
Byers.....	315	385	120	225
Deer Trail.....	325	395	125	235
Agate.....	330	405	135	245
Limon.....	350	420	150	265
Lake.....	355	420	150	265
Bagdad.....	360	430	160	270
Hugo.....	360	435	160	275
Clifford.....	365	445	170	285
Boyero.....	370	450	175	290
Areya.....	380	460	180	300
Kit Carson.....	395	475	200	315
Arena.....	400	480	205	320
Cheyenne Wells...	415	500	215	335
Arapahoe.....	425	510	220	345
Chemung.....	425	510	225	350
Kersey.....	325	410	90	235
Kuner.....	325	410	95	235
Hardin.....	325	410	100	240
Masters.....	325	410	105	245
Orchard.....	325	410	110	250
Weldon.....	325	410	120	250
Fort Morgan.....	330	410	130	250
Snyder.....	345	425	135	270
Union.....	360	430	140	275
Balzac.....	365	435	140	280
Merino.....	370	440	150	285
Atwood.....	375	450	155	290
Sterling.....	380	455	160	295
Hayford.....	380	465	160	305
Powell.....	395	480	170	320
Crook.....	405	490	180	330
Sedgwick.....	405	490	190	330
Ovid.....	405	490	195	330
Julesburg.....	425	510	200	350

(5.) IT IS FURTHER ORDERED, That the several defendants as specified in this order shall publish and make effective the rates herein set forth by this order on or before August 1, 1915.

Dated at Denver, Colorado, this tenth day of May, 1915.

S. S. Kendall

Geo T. Bradley

M. H. Aylesworth

Commissioners.

ORIGINAL

MAKE NO COPY

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

INFORMAL COMPLAINT NO. 84.

The Public Utilities Commission of the State of Colorado,

Complainant,

-vs-

The Denver & Inter-Mountain Railroad Company,

Respondent.

CASE NO.19.
I. C. NO. 84.

Decided May 13th, 1915.

STATEMENT AND ORDER.

Complaints having been made to this Commission in regard to the service of the Denver & Inter-Mountain Railroad Company, the subject was called to the attention of the Inspection Department of this Commission, and on April 26th, 1915, Inspector Mauff began the investigation.

On May 12th, the Inspector made his final report to this Commission, which was to the effect that cars were sanitary and conductors courteous.

However, the Inspector found an overcrowded condition on the cars bound for Barnum Junction and Golden and leaving Denver at five and six o'clock p. m. Many women were compelled to stand for a period of over twenty minutes, and the congestion was such that on May 12th, 1915, Inspector Mauff recommended to this Commission:

1st: That one passenger car should leave Denver bound for Golden at 5 p. m., and another at 6 p. m. every day, and that these cars be known as Express Cars, and making no stop until said cars arrive at Barnum Junction, except to accept passengers after these cars leave the Denver station.

2nd: That a passenger car leave the Denver station of the defendant at 4:45 p. m. bound for Barnum, and shall operate on a fifteen minute schedule, the last car operating under this schedule to leave at 6:15 p. m., at such time returning to a thirty minute schedule during remainder of the day.

Hon. William G. Smith, President and General Manager of the Denver & Inter-Mountain Railroad Company, acting in behalf of said defendant, and having agreed to this recommendation, no formal hearing is required.

O R D E R.

IT IS ORDERED: 1st: On May 22nd, 1915, and every day thereafter, until otherwise ordered by this Commission, one passenger car shall leave the Denver & Inter-Mountain Railroad Company's depot in Denver at 5 o'clock p. m., and another at 6 o'clock p. m., both cars bound for Golden, and the same shall be designated as Express Cars, making no stops until they arrive at Barnum Junction, except to take on passengers after the said cars have left the Denver station.

2nd: On or before May 22nd, 1915, and every day thereafter, until otherwise ordered by this Commission, a passenger car shall leave the depot of the Denver & Inter-Mountain Railroad Company in Denver bound for Barnum at 4:45 p. m., 5:00 p. m., 5:15 p. m., 5:30 p. m., 5:45 p. m., 6:00 p. m., and 6:15 p. m., and shall operate thereafter on a thirty minute schedule during remainder of the day.

BY ORDER OF THE COMMISSION:

Geo I. Bradley.

M. N. Alexander

Commissioners.

Dated at Denver, Colorado, this 13th day of May, 1915.

ORIGINAL

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO, Complainant,	
vs.	CASE No.17.
THE DENVER & INTERURBAN RAILROAD COMPANY, Respondent.	

In the Matter of an Investigation and Hearing, on motion of the Commission, as to the service, and rules, regulations and practices affecting the same, as is now in effect, between all stations, on The Denver & Interurban Railroad Company.

Submitted April 30, 1915. Decided May 28, 1915.

E.E.Whitted, for respondent,
Chas.O'Conner, for Boulder Commercial Club, Intervenor.

STATEMENT AND ORDER.

Many informal complaints having been filed with the Commission in regard to the service, and the rules and regulations surrounding the same, of The Denver & Interurban Railroad Company, between Denver and Boulder and intermediate points, the Commission caused investigations to be made through its Inspection Department, and, subsequently, on the 23rd day of April, 1915, began the above case on its own motion, and on April 29, 1915, at the Hearing Room of the Commission at the State Capitol in the City and County of Denver, evidence was introduced by the defendant and the Boulder Commercial Club and the Commission.

The defendant is an electric interurban railroad operating between Denver and Boulder and engaged in carrying passengers for hire, and does not carry baggage or express.

The investigation went to the entire question of the efficiency of the service, and the evidence developed the following issues, viz;

1. Allegations were made that the service was congested, in that at certain periods of the day the capacity of the cars of the defendant carrier was overtaxed and that passengers were compelled to stand.

2. That the cars of the defendant carrier were not sanitary.

3. That the defendant carrier did not carry baggage or express.

4. The defendant contended that it should not be compelled to stop its cars at Fifteenth, Sixteenth, Seventeenth and Eighteenth Streets in the City of Denver after leaving the Interurban Central Loop.

1. CONGESTION.

The Commission is of the opinion that the question of congestion has been partially decided by the defendant, in that subsequent to the first investigation of the Commission, made in January 1915, the defendant greatly improved its service in this regard upon the recommendation of this Commission. However, there is evidence before this Commission that at certain periods of the day the capacity of the cars of the defendant is overtaxed, causing passengers to remain standing for some length of time. The defendant is not a local tramway, but is, in fact, an interurban railroad with a running schedule of about one hour between its starting point at Denver and its destination at Boulder, and that

passengers should not be compelled to stand, even during the congested periods, on a journey of this length. We are of the opinion that a trailer car should be placed at the Central Interurban Loop in Denver and that the defendant should attach the said trailer when the seating capacity of the original car is filled, and at such other times as the conductor, in his discretion and from his experience, has reason to expect a congested condition of travel upon that trip. We believe that a trailer car should be placed at Broomfield station, which is about half way between Boulder and Denver, and that the defendant should attach the said trailer car to the car operating between Denver and Boulder, running north, when the seating capacity of the original car is filled upon the said car arriving at, or leaving Broomfield, and at such other times as the conductor, in his discretion or from his experience, has reason to expect a condition of congested travel upon the said trip. That each car between Boulder and Denver, and running south, should have attached thereto a trailer car at the station of Broomfield, should the seating capacity of the original car be entirely filled upon arriving at, or departing from Broomfield station, or at such other times as the conductor, in his discretion and from his experience, has reason to expect a condition of congested traffic. We believe that this will, to a large extent, solve the problem of congested traffic upon the lines of the defendant.

2. SANITATION OF CARS.

It appears from the evidence that the cars of the defendant are in operation between the hours of 6:20 a.m. and

12:50 a.m. each and every day of the year, and that passengers are loaded and unloaded on each of said cars hourly every day. We further find that the said cars are cleaned by the defendant once each day. It also appears from the evidence that the cars of the defendant have installed thereon smoking compartments, and, while signs adorn the walls of said cars informing the passengers that expectorating upon the floors will not be tolerated, there seem to be no receptacles in which to expectorate.

We are of the opinion that cuspidors should be installed in the smoking compartments of each and every car operated by the defendant between Denver and Boulder.

We feel that, due to the peculiar traffic conditions of an interurban railroad of this character, the cars should be cleaned twice each day, and are of the opinion that each car of the defendant in operation between Denver and Boulder should be cleaned by the defendant during the afternoon of each and every day at the Central Interurban Loop in Denver.

3. BAGGAGE AND EXPRESS.

It has been suggested by certain complainants, who have testified in the above case before this Commission, that express service should be installed by the defendant. It so happens that a steam railroad operates between all stations through which the said defendant operates, and therefore we shall not order express service at this time.

A representative of The Colorado & Southern Railway Company testified before this Commission in the above case to the effect that an arrangement could be made between the said The Denver & Interurban Railroad Company and The Colorado & Southern Railway Company so that a purchaser of a ticket upon

the lines of the defendant could, by paying a small sum in addition, check his baggage upon the Colorado & Southern Railway, and we are of the opinion that this will be very convenient for passengers traveling upon the lines of the said defendant carrier, and we shall make an order to this effect, rather than to order the defendant to go to the additional expense of accepting baggage upon its cars and installing the additional equipment and help required for such service.

4. ACCEPTING PASSENGERS AFTER LEAVING THE DENVER INTERURBAN LOOP.

The Commission finds from the evidence that many suburban shoppers travel upon the cars of the defendant carrier and are greatly inconvenienced because of being compelled to board the defendant carrier's cars at its Central Loop. We are of the opinion that the out-bound cars of the defendant should stop and take on passengers at Sixteenth and Seventeenth Streets in the City of Denver.

IT IS THEREFORE ORDERED:-

1. CONGESTION.

That one trailer car shall be placed at the Central Interurban Loop of this defendant in the City of Denver, and one trailer car shall be placed by this defendant at Broomfield station on defendant's line; these trailers to be in place at said Central Loop and Broomfield station except when in use under the following conditions:

(a) The original car leaving the Denver Central Loop of the defendant shall have attached thereto a trailer car when the seating capacity of the original car is filled, and

at such other times as the conductor in charge, in his discretion and from his experience, has reason to anticipate a congested condition of travel upon that trip.

(b) The trailer car placed at Broomfield station shall be attached to the original car of said defendant operating between Denver and Boulder, and running north, in the event the seating capacity of the original car is filled, or at such other times as the conductor in charge, in his discretion and from his experience, has reason to anticipate a congested condition of travel upon that trip.

(c) The original car of the defendant operating between Boulder and Denver, and running south, shall have attached thereto a trailer car at Broomfield station in the event the seating capacity of the car is filled after passengers are taken on at Broomfield, and at such other times as the conductor in charge, in his discretion and from his experience, has reason to anticipate a congested condition of travel upon that trip.

2. SANITATION OF CARS.

(a) That the car or cars due at the Central Interurban Loop in Denver at 1:50 p.m., 2:50 p.m. and 3:50 p.m., being trains numbered 312, 314 and 316, respectively, shall be thoroughly cleaned by the defendant carrier upon arrival each and every day, and under the supervision of the Inspection Department of the Commission, prior to passengers boarding said cars for outbound trips.

(b) That suitable cuspidors shall be installed in the smoking compartments of all cars operated by the defendant.

(c) Nothing herein contained shall permit the defendant to change or modify its sanitary rules and regulations now in force and effect.

3. BAGGAGE AND EXPRESS.

That the defendant company shall contract with The Colorado & Southern Railway Company in accordance with the agreement between said defendant company and The Colorado & Southern Railway Company, as testified to before this Commission at the hearing of the above cause, to the end that any person purchasing a ticket upon the defendant's lines at Boulder or Denver, and paying twenty-five (25) cents in addition at the station of The Colorado & Southern Railway Company in Boulder or Denver, shall have the privilege of having baggage carried upon the Colorado & Southern Railway, in accordance with its baggage rules and regulations, when same is destined to Boulder or Denver.

4. ACCEPTING PASSENGERS AFTER LEAVING DENVER INTERURBAN LOOP.

That all trains of the defendant carrier shall stop and accept passengers at Sixteenth and Seventeenth Streets in the City of Denver.

5. This order shall become effective on the 1st day of June, 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Geo. L. Bradley.

M. N. Ayleworth

Commissioners.

Dated at Denver, Colorado,
this 28th day of May, 1915.

ORIGINAL

THE PUBLIC UTILITIES COMMISSION
FILED
JUN 4 1915
OF THE STATE OF COLORADO

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of an Investigation and Hearing, on motion of the Commission, into the reasonableness of the rates and charges of The Mountain States Telephone & Telegraph Company within the State of Colorado, and into the service of The Mountain States Telephone & Telegraph Company within the State of Colorado, and the rules, regulations and practices affecting the same.	CASE No. 22.

NOTICE OF HEARING.

TO THE ABOVE NAMED,
THE MOUNTAIN STATES TELEPHONE & TELEGRAPH COMPANY:

You are hereby notified that numerous complaints have been made to this Commission as to your rates, charges, and service, and the rules, regulations and practices affecting the same, and that this Commission has decided to investigate the same upon its own motion.

You are further notified that such investigation and hearing will convene at the Hearing Room of the Commission, in the Capitol Building in the City and County of Denver, at the hour of 10:00 o'clock a.m., on the 3rd day of January, A.D.1916. You are formally cited to appear at such investigation and hearing, and take such part therein and make such showing upon your own behalf as you may desire or your interests seem to require.

You are further notified that attached hereto is a certified copy of this Commission's order instituting the above investigation and hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

By John W. Tilmitham
Secretary.

Dated at Denver, Colorado,
this 4th day of June, A.D.1915.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CASE NO.22.

In the Matter of an Investigation and Hearing,)
on motion of the Commission, into the reasonable-)
ness of the rates and charges of The Mountain)
States Telephone & Telegraph Company within the)
State of Colorado, and into the service of The)
Mountain States Telephone & Telegraph Company)
within the State of Colorado, and the rules,)
regulations and practices affecting the same.)

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS HEREBY ORDERED that the Commission, on its own motion, institute an investigation into each and every rate or charge made by the above named defendant in each and every city, town or village, and in every locality and community within the State of Colorado, and into the service, and rules, regulations and practices of the defendant company now in effect within the State of Colorado; that the said defendant be and is hereby ordered to appear at the hearing room of this Commission, in the Capitol Building in the City and County of Denver, on the 3rd day of January, A.D.1916, at the hour of 10:00 o'clock a.m., before the Commissioners en banc, to make such defense of its rates, charges, service, and rules, regulations and practices affecting the same, as may be thought necessary by the said defendant.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be and he is hereby directed to serve upon the above named defendant a certified copy of this order, accompanied by a notice directing the said defendant to appear, at the time and place above specified, to take such part in said hearing as the said defendant may desire, and make such defense as shall appear necessary to the said defendant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Geo. L. Bradley

M. N. Aylsworth

Commissioners.

Dated at Denver, Colorado,
this 4th day of June,
A.D.1915.

SHERIDAN S. KENDALL
GEORGE T. BRADLEY
M. H. AYLESWORTH
} COMMISSIONERS

ORIGINAL

SHERIDAN S. KENDALL
CHAIRMAN
JOHN W. FLINT
SECRETARY

THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF COLORADO
CAPITOL BUILDING
DENVER

FILE NO. _____

ADDRESS ALL COMMUNICATIONS TO THE COMMISSION

RESOLUTION.

WHEREAS, this Commission did on June 4th, 1915 order an investigation and hearing into the reasonableness of the rates and charges of the Mountain States Telephone & Telegraph Company within the State of Colorado, and into the service of said company within the State of Colorado, and the rules, regulations, and practices affecting the same, and

WHEREAS, Mr. F. J. Rankin, electrical engineer of this Commission, acting under instructions, has submitted to this Commission his recommendations as to the preliminary steps necessary to making a complete inventory of all property, physical and non-physical, claimed by said Mountain States Telephone & Telegraph Company to be used or useful for the service of the public in the public utility service rendered by said company, together with his recommendations as to the date of such valuation, and blank forms to be used by said Mountain States Telephone & Telegraph Company in reporting certain information to this Commission,

THEREFORE BE IT RESOLVED, that the said recommendations and blank forms, which are attached hereto and made a part of this resolution, are hereby adopted by this Commission, and the Mountain States Telephone & Telegraph Company is hereby ordered to forthwith, and with all possible dispatch, comply with said recommendations and to furnish all necessary information, in detail, as called for in said blank forms.

Dated at Denver, Colorado,
this 15th day of July, 1915.

ORIGINAL

THE PUBLIC UTILITIES COMMISSION
FILED
JUN 11 1915
OF THE STATE OF COLORADO

At a General Session of the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO, held at its office in Denver, Colorado, on the 11th day of June, 1915.

INVESTIGATION AND SUSPENSION DOCKET NO.2.

IT APPEARING, that there has been filed with the Public Utilities Commission of the State of Colorado, tariffs containing schedules stating rules and charges, to become effective June 15th, 1915, designated as follows:

Item 200 (Rule 20), of Supplement No.5 to Western Classification No.53, R.C.Fyfe's Colo.P.U.C.No.2, and

Item 85-B of Supplement No.13 to Trans-Missouri Rules Circular No.1-F, W.A.Poteet's Colo.P.U.C.No.1,

IT IS ORDERED, that the Commission enter upon a hearing to be held at the office of the Commission in Denver, Colorado, at 10:00 a.m., Monday, July 12th, 1915, concerning the propriety of the increases and the lawfulness of the schedules contained in said tariffs.

IT FURTHER APPEARING, that said tariffs make certain changes and increases in the rules and charges for the intrastate transportation of articles too large to be loaded through side doors of box cars, and the rights and interests of the public appearing to be injuriously affected thereby, and it being the opinion of the Commission that the effective date of the schedules above specified, contained in said tariffs, should be postponed pending said hearing and decision thereon.

IT IS FURTHER ORDERED, that the operation of the schedules above specified, contained in said tariffs, be suspended, and that the use of the rates, charges, regulations and practices therein be deferred upon intrastate traffic until the tenth day of August, 1915, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, that the Secretary of this Commission be, and he is hereby, directed to serve upon the carriers parties to, and the agents issuers of, the above named tariffs, a certified copy of this order, accompanied by a notice directing said carriers and agents to appear before this Commission at the time and place above specified.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Geo. L. Bradley,

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 11th day of June, 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE CITY OF FLORENCE, in the County of Fremont and State of Colorado,

Petitioner and Complainant,

vs.

THE ARKANSAS VALLEY ELECTRIC COMPANY, a corporation, and THE ARKANSAS VALLEY RAILWAY, LIGHT & POWER COMPANY, a corporation,

Defendants,

CASE No.15.

Submitted May 18, 1915. Decided June 12, 1915.

Appearances--

Geo.H.Wilkes, Esq., for the Complainant,
J.W.Stearns, for the defendant The Arkansas Valley Electric Company,
Messrs.Devine & Preston, for the defendant The Arkansas Valley Railway, Light & Power Company.

STATEMENT AND ORDER.

On March 25, 1915, the City of Florence, complainant, filed its duly verified petition with this Commission, alleging, among other things, that the two defendants had entered into an agreement under which The Arkansas Valley Railway, Light & Power Company, hereinafter called the "Generating Company", had contracted to furnish electric energy for a period of years to The Arkansas Valley Electric Company, which Company now furnishes electric energy to the City of Florence and vicinity, and is hereinafter called the"Distributing Company", and that the Generating Company, one of the defendants, had refused to offer for sale electric energy to the City of Florence in the event the said City

of Florence, complainant herein, should construct a municipal lighting plant; and that the defendant Distributing Company has in force and effect excessive and unreasonable rates for electric current for lighting and domestic uses as well as for power purposes; that the Generating Company has in force and effect an excessive charge for electric current sold to the Distributing Company.

Upon April 14, 1915, the Distributing Company filed its verified answer to said complaint and on the same day the Generating Company filed its verified answer to said petition and complaint. The defendant Distributing Company, in its answer, denies the allegations set forth in the petition of complainant and alleges that the charges now in force and effect are reasonable. The defendant Generating Company denies that it has refused to sell electric energy to the City of Florence and alleges that the City of Florence is not in position to enter into a contract with said defendant for the wholesaling of electric energy, and that its present charges for electric energy to the defendant Distributing Company are reasonable.

Due notice having been given the above cause convened in the City of Florence in the County of Fremont, State of Colorado, at the City Hall, on May 17th, 1915, with Commissioners Bradley and Aylesworth presiding. The Commission at this time ruled that until such time as the City of Florence, through a vote of its people, would be in a position to contract for the purchase of electric energy for a municipally owned electric light plant it would not consider the allegations set forth in the complainant's petition in regard to the alleged discriminatory contract between the defendants, and that for the purposes of this hearing it would assume that the present charge for electric current of the Generating Company to the

Distributing Company, to-wit; 2½ cents per KWH for light and power purposes was a reasonable charge.

Hon.Geo.H.Wilkes, Attorney for the City of Florence, then made his opening statement, requesting that the petition of the complainant be amended to include an investigation into the service of the Distributing Company to the City of Florence and its people, and, no objection being made by the defendants to this request, the Commission permitted the amendment to the petition. The City Attorney then stated that the case of the complainant would be made up of the following issues, viz; First, Adequacy of service; second, the reasonableness of the domestic, commercial and power rates for electric current to the residents of Florence.

It having appeared that the complainant has, a short time prior to this hearing, entered into an agreement with the Distributing Company for the furnishing of electric energy by the said defendant to the City of Florence for municipal lighting for a period of five years, and as there seemed to be no objections to the terms of this contract, the Commission will not disturb the same.

The schedule of the Distributing Company, containing the rates now in force and effect, and on file with this Commission, is as follows:

LIGHTING RATES.

General, for residences and commercial lighting,
13¢ up to 50 KWH,
12¢ from 50 to 150 KWH,
11¢ from 150 to 250 KWH,
10¢ from 250 to 350 KWH,
9¢ over 350 KWH,
Ten per cent discount for payment of bill by the 10th of the month succeeding service,
Minimum - $1.50 net.
Meter deposit - $10.00 for commercial houses,
5.00 for residences.
Carbon renewals free.

Sign Rates:

Less than 300 watts-12¢ per 5-watt lamp to midnight,
300 watts and over -10¢ per 5-watt lamp to midnight,
Customers own signs,
Free renewals.

Municipal:

$2.00 per month for 80 c.p.Mazda light,
$6.00 per arc, burning all night.
Incandescent lights for City Hall and Library included.

POWER RATES.

General:

10¢ for less than 150 KWH,
9¢ for 150 to 250 KWH,
8¢ for 250 to 500 KWH,
7¢ for 500 to 750 KWH,
6¢ for 750 to 1000 KWH,
5½¢ for 1000 KWH and over,
Minimum $1.00 per H.P.
Above rates to apply to moving picture machines.

It appears from the evidence introduced by the complainant that many citizens of the City of Florence are dissatisfued with the lighting rates now in force and effect, and for that reason the City Council had two electrical engineers report on the feasibility and cost of construction of a municipally owned electric lighting plant, and the cost of development of electric energy by such a plant.

The defendant Distributing Company introduced citizens of Florence who testified that there was no dissatisfaction with the charges for electric energy now in force and effect in the City of Florence, and defended its present schedule as a reasonable one through the testimony of Mr.Stearns, its Manager, Mr. F.C.E.Wessel, its local Superintendent, Mr.J.J.Cooper, an employe of the Company, and Mr.Raber, General Manager of the Generating Company.

At the conclusion of the presentation of evidence by the complainant and defendants, the Commission called Mr.F.W.Herbert, statistician and accountant for the Commission, who

presented in evidence the book valuation of the Distributing Company and the prices paid by it for electric energy furnished wholesale by the Generating Company; the fixed charges of the Distributing Company as shown by its books, and the operating expenses and revenues of the Distributing Company. Mr.F.J.Rankin, electrical engineer for the Commission, then testified as to the present value of the property of the Distributing Company in use and useful for the purpose of furnishing electric energy to the City of Florence and the residents thereof.

Mr.Rankin also apportioned the operating expenses of the Distributing Company in the City of Florence to municipal lighting, and domestic and commercial lighting. He also gave the Commission the benefit of his judgment and experience by apportioning the present value of the property of the Distributing Company as to municipal lighting and domestic lighting.

The following table illustrates the cost of reproduction and the present value of the property of the Distributing Company, in use and useful to the City of Florence and its residents, as found by Mr.Rankin, together with the operating expenses and revenues of the Distributing Company, as taken from its books and apportioned by him.

	Cost New	Present Value.
Buildings,.....	$ 2800.00	$ 1300.00
Distribution system, general.	11867.67	9019.45
Distribution, street lighting.	4600.41	4600.41
High tension transmission.....	215.90	153.73
Sub-station equipment.....	4887.40	3567.80
Connections to consumers.....	2376.15	1862.89
Consumers meters.....	2890.45	2066.66
Office furniture.....	300.00	222.20
Tools and implements.....	386.45	193.22
Stores and supplies.....	1374.33	1374.33
Land.....	700.00	700.00
Working capital.....	1500.00	1500.00
Total.....	$33898.76	$26560.69

Mr.Rankin estimated that the cost of reproduction of the above equipment in use for domestic purposes was $27062.65; the cost of reproduction of street lighting equipment $5730.94; and the cost new of that part of the above equipment used for handling a small power load outside the City limits was $1105.17. He found the present value of the above,for the three different classes of service mentioned, as follows: Domestic, $20225.20, Street lighting, $5517.61; Outside power, $817.18.

Operating Expenses as taken from the Company's books:

Current:	Domestic	$3016.90
	Municipal	1080.00
	Union Mill	293.65
	United Oil	1377.00
	Total Current	$5767.55
General:	Management and Engineering	1500.00
	Denver office	500.00
	Florence office	800.00
	Automobile expense	100.00
	Labor	2000.00
	Collections	100.00
	Lamp renewals	100.00
	Lamp renewals, municipal	145.20
	Taxes and insurance	640.00
	Maintenance	[illegible]
	Grand Total,	[illegible]

Annual depreciation.....$ [illegible]

Revenue from all customers served:

Domestic	$10760.38
Municipal	2976.00
Union Mill	623.05
United Oil	1837.20
Profit on merchandise	202.69
Total revenue,	$16399.32

Division of Operating Expenses:

	Domestic	Municipal	Outside Power
Current	3016.90	1080.00	1670.65
Management & Engrg.	1200.00	300.00	
Denver office	400.00	100.00	
Florence office	700.00	100.00	
Automobile	50.00	50.00	
Labor	1800. 00	200.00	
Collections	100.00		
Lamp renewals	100.00	145.20	
Taxes and insurance	500.00	140.00	
Depreciation	1041.43	217.00	40.85
Maintenance	723.15	156.75	24.00
Total	$ 9631.48	$ 2488.95	$ 1735.50

Valuation:

We agree with the valuations of our Engineer with two exceptions; the first being the valuation of $700.00 placed upon the lands of the Company by him, and as to this value we must conclude, according to the weight of the testimony introduced before the Commission by reliable and well-informed citizens of Florence, that the value of said land shall not exceed $200.00; and as to our second exception, we shall reduce the working capital of the Distributing Company to the sum of $1000.00 rather than $1500.00 as estimated by Mr.Rankin. There was some conflicting testimony as to the present value of the sub-station building of the Distributing Company at Florence, but we feel that a value of $1300.00 is not excessive. We are unable to take the view that the present market value of this building is the value for rate making purposes. We are quite confident that the Distributing Company would be unable to erect a suitable sub-station for a sum less than $1300.00, and as the present structure serves the purpose we shall not disturb that valuation.

Operating Expenses:

We are further of the opinion that the operating expenses, as taken from the books of the Distributing Company by Mr.Herbert, statistician for the Commission, should be increased to the extent that three per cent of the present value of the property of the Distributing Company should be added as a fixed charge for maintenance and repairs, as allowed by Mr.Rankin.

Mr.Rankin has apportioned the operating expenses of the Distributing Company, as taken from its books, to power, domestic and commercial lighting, and municipal lighting. We are of the opinion that this apportionment is approximately correct. We agree with Mr.Stearns, the General Manager of the Distributing Company, that a general office expense should be allowed by the

Commission in this case. It appears from the evidence that The Mountain Electric Company manages four electric properties, one of which is the Distributing Company in Florence, and that a general office is maintained in the City of Denver for this purpose. We are of the opinion, however, that the general office expense, which exceeds $7200.00 annually for the four properties, is excessive for rate making purposes, and that the apportionment made on the books of the Company, charging the Florence property, the larger property of the four, with approximately $2400.00 per annum, is also excessive, and we have reduced the same to an amount which is fair and equitable to Florence and its people.

Mr.Rankin also testified at the hearing of the above cause that the ordinary 16 c.p.carbon filament lamp consumes about one hundred per cent more electric energy than a tungsten lamp giving approximately the same amount of light, and we are therefore of the opinion that the Distributing Company should keep on sale at its office tungsten lamps of all sizes in general use, and to sell the same to its customers at the market price, and in every way possible to encourage the use of these lamps.

We are of the opinion that the minimum rate of $1.50 for domestic and commercial use is unreasonable, and that a minimum of $1.00, net, per month, is reasonable.

We are of the opinion that the service of the Distributing Company is adequate, with one exception which was ordered corrected by the Commission at the hearing of this cause.

We are also of the opinion that the recommended schedule of rates, as hereinafter set forth, for domestic and commercial consumption, will give a fair return to the Distributing Company upon the present value of its property in use and useful for service within the City of Florence, and are of the opinion, from a

careful examination of the reports of the electrical engineers retained by the City of Florence that the said city could not, in accordance with the figures presented by these engineers, construct a municipally owned electric light plant and give ~~any~~ more efficient service than is now rendered by the Distributing Company, and could not offer lower charges than have been made by this Commission in this cause.

Under the new schedule of rates, as made by the Commission, the charge to the resident consumer for electric energy will not exceed 10.8 cents per KWH, which charge we believe to be fair and equitable to the Distributing Company and the people of Florence.

After a careful examination of the record in this cause we are of the opinion that the following schedule of rates is reasonable, and insofar as the present rates are changed by the order of this Commission the rates heretofore in force and effect are unreasonable:-

LIGHTING RATES.

General, for Domestic and Commercial Lighting:
12¢ up to 40 KWH,
10¢ from 40 to 140 KWH,
8¢ from 140 to 640 KWH,
5¢ per KWH for all in excess of the above,
$1.00 minimum, net,
Ten per cent discount if paid within 10 days after due,
Free carbon renewals.
Meter deposits: $5.00 for residence lighting,
$10.00 for commercial lighting.

Municipal: Present schedule approved.

Power: 7¢ per KWH for the first 60 hrs.use of maximum demand,
5½¢ " " " " next 120 " " " " "
4¢ " " for all current consumed in excess of above.
Ten per cent discount if paid within 10 days after due.
Minimum bill $1.00 per H.P.connected.

Sign and window lighting:
$1.00 per month for 100 watts connected,
Flat rate, no meter,
Consumer to furnish lamps,
No discount,
Minimum bill 50¢ per month.

O R D E R

IT IS THEREFORE ORDERED that The Arkansas Valley Electric Company, a corporation, shall adopt and file with the Commission the following schedule of rates for the City of Florence, Colorado,

SCHEDULE OF RATES

General, for Domestic and Commercial Lighting:
12¢ up to 40 KWH,
10¢ from 40 to 140 KWH,
8¢ from 140 to 640 KWH,
5¢ per KWH for all in excess of the above,
$1.00 minimum, net,
Ten per cent discount if paid within 10 days after due,
Free carbon renewals,
Meter deposits, $5.00 for residence lighting,
$10.00 for commercial lighting.

Municipal: Present schedule approved.

Power: 7¢ per KWH for the first 60 hrs.use of maximum demand,
5¢ " " " " next 120 " " " " "
4¢ " " for all current consumed in excess of above.
Ten per cent discount if paid within 10 days after due.
Minimum bill $1.00 per H.P.connected.

Sign and window lighting:
$1.00 per month for 100 watts connected,
Consumer to furnish lamps,
No discount,
Minimum bill 50¢ per month.

This order shall become effective on July 1st, 1915, and these charges shall be made for the month of July, 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated this 12th day of
June, 1915, at Denver, Colorado.

Geo I. Bradley

M. H. Aylesworth

Commissioners.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of an Investigation and Hearing, on motion of the Commission, into the feasibility and necessity of the installation by the Chicago, Burlington & Quincy Railroad Company of a gong signal or other suitable safety device at Yuma, Colorado.

I.C.No.90
Case No.23

THE PUBLIC UTILITIES COMMISSION
FILED
JUN 14 1915
OF THE STATE OF COLORADO

NOTICE OF HEARING

TO THE ABOVE,
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,

You are hereby notified that numerous complaints have been made to this Commission as to the absence of adequate safety devices at your railroad crossing at Weld Avenue, in the town of Yuma and within the State of Colorado; that the Inspection Department of the Commission reported, under date of May 13th, 1915, that the above named railroad crossing is unsafe, and recommends the installation by you of a safety gong or other adequate safety devices under the supervision of this Commission; and that this Commission has decided to investigate the same upon its own motion.

You are further notified that such investigation and hearing will convene at the Hearing Room of the Commission, in the Capitol Building in the City and County of Denver, State of Colorado, at the hour 10:00 o'clock a.m., on the 28th day of June, 1915. You are further notified to appear at such investigation and hearing and take such part therein and make such showing upon your own behalf as you may desire or your interests seem to require.

You are further notified that attached hereto is a certified copy of this Commission's order instituting the above investigation and hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

By John W. Shuttuck
Secretary.

Dated at Denver, Colorado,
this 14th day of June, 1915.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Informal Complaint No.90
Case No.23

In the Matter of an Investigation and Hearing, on motion of the Commission, into the feasibility and necessity of the installation by the Chicago, Burlington & Quincy Railroad Company of a gong signal or other suitable safety device at Yuma, Colorado.

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS ORDERED, That the Commission, on its own motion, institute an investigation into the feasibility and necessity of the installation of a gong signal or other suitable safety device by the defendant, Chicago, Burlington & Quincy Railroad Company, at its railroad crossing at Weld Avenue, in the town of Yuma, in the State of Colorado; that the said defendant be and is hereby ordered to appear at the Hearing Room of this Commission, in the Capitol Building in the City and County of Denver, on the 28th day of June, 1915, at the hour of 10:00 o'clock a.m., before the Commissioners en banc, to make such defense to the above cause as may be thought necessary by the said defendant.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be and he is hereby directed to serve upon the above named defendant a certified copy of this order, accompanied by a notice directing the said defendant to appear, at the time and place above specified, to take such part in said hearing as the said defendant may desire, and make such defense as shall appear necessary to the said defendant.

Dated at Denver, Colorado, this 14th day of June 1915

THE PUBLIC UTILITIES COMMISSION

Geo T. Bradley.

M. H. Aylesworth

ORIGINAL

9

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

CASE NO. 10.

IN THE MATTER OF AN INVESTIGATION AND HEARING, ON MOTION OF THE COMMISSION, AS TO THE REASONABLENESS OF THE LOCAL, JOINT OR PROPORTIONAL RATES ON COAL (ALL CLASSES), BETWEEN NORTHERN COLORADO POINTS, LEYDEN, WALSENBURG, TRINIDAD, OAK HILLS, CANON CITY, SOUTH CANON, BOWIE, BALDWIN, PIKEVIEW, STARKVILLE, AND ROSWELL, AND THE COLORADO-KANSAS AND COLORADO-NEBRASKA STATE LINES, AND ALL POINTS INTERMEDIATE THEREWITH, ALL WITHIN THE STATE OF COLORADO, AS CHARGED BY THE FOLLOWING NAMED COMMON CARRIERS:

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, et al.

O R D E R.

PETITION FOR LEAVE TO INTERVENE IN THE ABOVE ENTITLED CAUSE.

The Public Utilities Commission of the State of Colorado this 24th day of June, 1915, denied the petition of the petitioners for leave to intervene in the above entitled cause, for the reasons that petitioners were not original parties to the above entitled cause and did not intervene upon the day set for hearing of the said cause; and for the further reason that an order has been entered by the Commission in the above entitled cause to become effective August 1st, 1915, and was made prior to June 19th, 1915, date of the filing of the petitioner's petition with this Commission.

BY ORDER OF THE COMMISSION:

Geo. L. Bradley

M. N. Arbuckle

COMMISSIONERS.

Dated at Denver, Colorado, this 24th day of June, 1915.

ORIGINAL

At a General Session of the
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,
held at its office in Denver,
Colorado, on the 28th day of
June, 1915.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO
FILED
JUN 28 1915

INVESTIGATION AND SUSPENSION DOCKET NO.3

IT APPEARING, that there has been filed with the Public Utilities Commission of the State of Colorado, tariffs containing schedules stating refrigeration rules and charges, to become effective July 5th, 1915, designated as follows:

Item No.44-A, also refrigeration charge of $30.00 on melons to Colorado points as shown in Item 164-D, of Supplement No.13 to Colorado Midland Ry.Tariff No.2350-C, Colo.P.U.C.No.165.

Item No.40, also refrigeration charge of $30.00 on melons to Colorado points as shown in Item 110, of Denver & Rio Grande R.R.Tariff No.5106-D, Colo.P.U.C.No.377.

IT IS ORDERED, that the Commission enter upon a hearing to be held at the office of the Commission in Denver, Colorado, at 10:00 o'clock a.m., Wednesday, July 7th, 1915, concerning the propriety of the increases and the lawfulness of the schedules contained in said tariffs.

IT FURTHER APPEARING, that the said tariffs make certain changes and increases in the refrigeration rules and charges for the intrastate transportation of deciduous fruits, melons, etc., and the rights and interests of the public appearing to be injuriously effected thereby, and it being the opinion of the Commission that the effective date of the schedules above specified, contained in said tariffs, should be postponed pending said hearing and decision thereon.

IT IS FURTHER ORDERED, that the operation of the schedules above specified, contained in said tariffs, be suspended, and that the use of the rates, charges, regulations and practices therein be deferred upon intrastate traffic until the twenty-seventh day of August, 1915, unless otherwise ordered by the Commission.

IT IS further ordered, that the Secretary of this Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariffs, a certified copy of this order, accompanied by a notice directing said carriers to appear before this Commission at the time and place above specified.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley

M. N. Arbuckle

Commissioners.

Dated at Denver, Colorado,
this 28th day of June, 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

vs.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, a corporation,

Defendant.

CASE No.23.

Submitted June 28, 1915. Decided June 28,1915.

Appearances: For the defendant, Chicago, Burlington & Quincy R.R.Co. - U.G.Hobson, Trainmaster.

STATEMENT AND ORDER

On May 11, 1915, the Commission received a complaint from the Town of Yuma, within the State of Colorado, alleging that the defendant maintained a dangerous railroad crossing at Weld Avenue in said Town. On May 12, 1915, Inspector Fairchild, acting for the Commission, investigated the complaint of the Town of Yuma, and on May 13, 1915, reported the railroad crossing to be dangerous and unsafe. It then became necessary for the Commission to initiate a complaint against the defendant,Chicago, Burlington & Quincy Railroad Company, upon its own motion, ordering the defendant to appear at the Hearing Room of the Commission in Denver, Colorado, at 10 00 o'clock a.m.on the 28th day of June, 1915, before the Commissioners en banc to make such defense to the above cause as might be thought necessary by the said defendant.

The report of Inspector Fairchild was introduced into the record, and Trainmaster Hobson testified for the defendant, stating that the defendant was ready to install at its railroad crossing on Weld Avenue in the Town of Yuma a

suitable electric gong safety signal.

The Commission finds from the evidence that the railroad crossing of the defendant at Weld Avenue, within the Town of Yuma, Colorado, is unsafe.

O R D E R

IT IS THEREFORE ORDERED, That the Chicago, Burlington & Quincy Railroad Company, a corporation, shall install an electric gong at its railroad crossing at Weld Avenue, within the Town of Yuma, State of Colorado, within thirty (30) days from the date hereof, and that the electric safety gong shall be so installed so as to sound a sufficient and continuous warning while the trains of the defendant are within one thousand (1000) feet of said crossing.

By order of the Commission:

S. S. Kendall

Geo. T. Bradley

M. N. Galbreath

Commissioners.

Dated at Denver, Colorado, this 28th day of June, 1915.

ORIGINAL

THE PUBLIC UTILITIES COMMISSION
FILED
JUN 28 1915
OF THE STATE OF COLORADO

At a General Session of the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO, held at its office in Denver, Colorado, on the 28th day of June, 1915.

INVESTIGATION AND SUSPENSION DOCKET NO.2

The Interstate Commerce Commission having announced a re-opening of Case No.5239 (33-I.C.C.-378) "minimum charge for articles too large to be loaded through side doors of box cars", in which case a decision was handed down on March 8, 1915, it has been thought advisable by the Public Utilities Commission of the State of Colorado to indefinitely postpone the hearing in connection with I.and S.Docket No. 2, pending final decision by the Interstate Commerce Commission.

The hearing set for July 12, 1915, therefore, will be indefinitely postponed; the suspension will remain in effect, and in case a decision is not reached by the expiration of the suspension the schedules will be further suspended.

Dated at Denver, Colorado, this 28th day of June, 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

M. N. Grunts

Commissioners.

7-1-15

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

CASE No. 52.

THE CITY OF CANON CITY,

Petitioner and Complainant,

- vs -

THE FLORENCE AND CRIPPLE CREEK RAILROAD COMPANY and THE CANON CITY AND CRIPPLE CREEK RAILROAD COMPANY,

Defendants,

THE CITY OF FLORENCE,

Intervenor.

ORDER TO SHOW CAUSE

WHEREAS, the State Railroad Commission of Colorado, on April 4th, 1914, in Case No. 52, the City of Canon City, in the County of Fremont, and State of Colorado, Complainant, against The Florence and Cripple Creek Railroad Company, and The Canon City and Cripple Creek Railroad Company, Defendants, did enter an order in the above cause to become effective July 6th, 1914, and to continue for two (2) years thereafter, as follows:

"It is Ordered that the defendant The Canon City & Cripple Creek Railroad Company be, and it is hereby, notified and directed to, on or before the 6th day of July, 1914, and during a period of two years thereafter, maintain, operate, and conduct, either by its own operation or through a lessee, or otherwise, a through combination freight and passenger train service from Canon City, Colorado, to Ora Junta, Colorado, at least once each day each week, except Sunday, and from Ora Junta to Canon City at least once each day each week, except Sunday.

And that it publish, on or before the 6th day of July, 1914, its freight and passenger tariffs.

It is Also Ordered that said defendant fix its time schedule so as to connect with the train of The Florence & Cripple Creek Railroad at Ora Junta, and that they receive and transport shipments to and from all stations between Canon City, Colorado, and Ora Junta, Colorado.

It is Ordered, further, that the defendant, The Florence & Cripple Creek Railroad Company be, and it is hereby, notified and directed to, on or before the 6th day of July, 1914, repair its line of railroad in such manner as will place it in a safe operating condition, and during a period of two years thereafter maintain, operate, and conduct a through combination freight and passenger train service from Ora Junta, Colorado, to Cripple Creek, Colorado, at least once each day each week, except Sunday, and from Cripple Creek to Ora Junta at least once each day each week, except Sunday.

And that it publish, on or before the 6th day of July, 1914, its freight and passenger tariffs, and that they receive and transport shipments to and from all stations between Ora Junta and Cripple Creek.

It is Further Ordered that said defendant fix its time schedules so as to connect with the train of the Canon City & Cripple Creek Railroad at Ora Junta.

And should defendant The Florence & Cripple Creek Railroad Company operate its trains by lease over the line of the Canon City & Cripple Creek Railroad, then it shall publish through freight and passenger schedules from Canon City, Colorado, to Cripple Creek, Colorado.

Effective the 6th day of July, 1914, and for two years thereafter.

By order of the Commission,

(Signed) AARON P. ANDERSON,
SHERIDAN S. KENDALL,
GEO. T. BRADLEY,
Commissioners.

(SEAL)

Dated at Denver, Colorado, this 4th day of April, 1914."

The effective date of the above order having been suspended by the Public Utilities Commission of the State of Colorado, successor to the State Railroad Commission of the State of Colorado, to become effective July 1st, 1915;

AND, WHEREAS, on the 11th day of May, 1915, The Florence & Cripple Creek Railroad Company filed with this Commission a certified copy of the transcript of the Certificate of Dissolution of The Florence & Cripple Creek Railroad Company, as filed in the office of the Honorable John E. Ramer, Secretary of State, of the State of Colorado, on the 10th day of May, 1915, at 2:48 o'clock, P. M;

AND, WHEREAS, it appears to this Commission that the dissolution of said defendant Company was made in accordance with the Laws of the State of Colorado;

AND, WHEREAS, the said defendant Company, did, on May 11th, 1915, file with this Commission, a Petition, through its Trustees in Dissolution, namely, H. M. Blackmer, K. C. Schuyler, C. M. MacNeill and C. C. Hamlin, to set aside the order of the State Railroad Commission of Colorado, effective July 1st, 1915, and alleging in its petition among other things that the defendant, The Florence & Cripple Creek Railroad Company, did, on the 27th day of April, 1915, dissolve and surrender its Charter and cease to do business, in the manner and form provided by the Laws of the State of Colorado;

AND, WHEREAS, this Commission did give due notice to the complainant, the City of Canon City, and intervenor, the City of Florence, that the said Petition to set aside the order of this Commission would be heard by the Commission

on Monday, the 24th day of May, 1915, at 10:00 o'clock, A. M. in the Hearing Room of the Commission, at the Capitol Building, in the City of Denver, and State of Colorado;

AND, WHEREAS, on Monday, the 24th day of May, 1915, at 10:00 o'clock, A. M. the petitioner appeared through its Attorneys Ralph Hartzell and Schuyler & Schuyler, and, whereas, the complainant and the intervenor made no appearance on this day, or any other day subsequent to the notice served by the Commission upon the complainant and intervenor;

AND, WHEREAS, it appears to this Commission that the defendant, The Florence & Cripple Creek Railroad Company has duly dissolved and surrendered its Charter and has ceased to do business, pursuant to, and in the manner and form provided by the Laws of the State of Colorado, and it further appearing to the Commission that there is no legal procedure open to this Commission to enforce its order effective July 1st, 1915, in the above cause, you, the complainant, the City of Canon City, and you, the intervenor, the City of Florence, are, by this order to show cause, given thirty (30) days in which to appear before the Commission and show why the said Commission should not recognize the dissolution of the defendant Company, and close the files of this Commission in Case No. 52.

S. S. Vendaal

Geo. I. Bradley

W. H. Aylesworth

Dated at Denver, Colorado,
this 1st day of July, 1915.

ORIGINAL

At a General Session of the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO, held at its office in Denver, Colorado, on the 14th day of July, 1915.

INVESTIGATION AND SUSPENSION DOCKET No.4.

IT APPEARING, That there has been filed with the Public Utilities Commission of the State of Colorado, tariff containing schedule stating rates and charges to become effective July 26th, 1915, designated as follows:

Item No.17 of Denver & Rio Grande R.R. Tariff No. 5316-A, Colo.P.U.C.No.378,

IT IS ORDERED, That the Commission enter upon a hearing to be held at the office of the Commission in Denver, Colorado, at 10:00 o'clock a.m., Monday, July 26th, 1915, concerning the propriety of the increases and the lawfulness of the schedule contained in said tariff.

IT FURTHER APPEARING, That the said tariff makes certain changes and increases in the rates and charges for the intrastate transportation of soft coal from Canon City, Chandler, Coal Creek and Fremont to Cripple Creek District points, and the rights and interests of the public appearing to be injuriously affected thereby, and it being the opinion of the Commission that the effective date of the schedule above specified, contained in said tariff, should be postponed pending said hearing and decision thereon,

IT IS FURTHER ORDERED, That the operation of the schedule above specified, contained in said tariff, be suspended, and that the use of the rates and charges therein be deferred upon intrastate traffic until the 12th day of September, 1915, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That a copy of this order be filed with said schedule in the office of the Public Utilities Commission of the State of Colorado, and that the secretary of this Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariff, a certified copy of this order, accompanied by a notice directing said carriers to appear before this Commission at the time and place above specified.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. D. Kendall

Geo T. Bradley

M. N. Arbuckle

Commissioners.

Dated at Denver, Colorado,
this 14th day of July, 1915.

ORIGINAL

At a General Session of the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO, held at its office in Denver, Colorado, on the 14th day of July, 1915.

INVESTIGATION AND SUSPENSION DOCKET NO.2, and

1st and 2nd SUPPLEMENTAL ORDER.

IT APPEARING, That by order dated the 11th day of June, 1915, the Public Utilities Commission of the State of Colorado entered upon a hearing concerning the propriety of the new rules and charges, stated in schedules contained in tariffs, enumerated and described in said order of investigation as follows:

Item 200 (Rule 20), of Supplement No.5 to Western Classification No.53, R.C.Fyfe's Colo.P.U.C.No.2, and
Item 85-B of Supplement No.13 to Trans-Missouri Rules Circular No.1-F, W.A.Poteet's Colo.P.U.C.No.1,

IT FURTHER APPEARING, That pending such hearing and decision the Commission ordered that the operation of schedules contained in tariffs enumerated and described in said order of investigation be suspended and that the use of the rules and charges, therein stated, be deferred upon intrastate traffic until the 10th day of August, 1915, and

IT FURTHER APPEARING, That the Interstate Commerce Commission having announced a further consideration of the decision in Case No. 5239, it was thought advisable to indefinately postpone hearing before the Public Utilities Commission of the State of Colorado, and

IT FURTHER APPEARING, That a decision in the reconsideration of the matters and things involved in Case No.5239 by the Interstate Commerce Commission will probably not be issued within the period of suspension above stated,

IT IS ORDERED, That the operation of the schedules contained in the tariffs enumerated and described in said order of investigation be further suspended, and that the use of the rules and charges therein stated be further deferred upon intrastate traffic until the 7th day of December, 1915, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That a copy of this order be filed with said schedules in the office of the Public Utilities Commission of the State of Colorado and that copies hereof be forthwith served upon the respondents to this proceeding and upon the agents named in the aforesaid order of investigation.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo. T. Bradley

M. N. Alumni

Commissioners.

Dated at Denver, Colorado,
this 14th day of July, 1915.

ORIGINAL

At a General Session of the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO, held at its office in Denver, Colorado, on the 22nd day of July, 1915.

INVESTIGATION AND SUSPENSION DOCKET NO.4
and 1st SUPPLEMENTAL ORDER.

IT APPEARING, That there has been filed with the Public Utilities Commission of the State of Colorado, tariffs containing schedules stating rates and charges to become effective July 26th, 1915, designated as follows:

Denver & Rio Grande R.R.Tariff No.5316-A, Colo.P.U.C.No.378, and to become effective August 5th, 1915, designated as follows:

Atchison, Topeka & Santa Fe Ry. Tariff 8571-D, Colo.P.U.C. No.647,

Supplement 2 to Colorado Midland Ry. Tariff 1862-C, Colo. P.U.C.No.14,

IT IS ORDERED, That the Commission enter upon a hearing to be held at the office of the Commission in Denver, Colorado, at 10 00 o'clock a.m., Friday, August 20th, 1915, concerning the propriety of the increases and the lawfulness of the schedules contained in said tariffs.

IT FURTHER APPEARING, That the said tariffs make certain changes and increases in the rates and charges for the intrastate transportation of soft coal from Canon City District to points in the Cripple Creek District, and the rights and interests of the public appearing to be injuriously affected thereby, and it being the opinion of the Commission that the effective date of the schedules above specified, contained in said tariffs, should be postponed pending said hearing and decision thereon,

IT IS FURTHER ORDERED, That the operation of the schedules above specified, contained in said tariffs, be suspended, and that the use of the rates and charges therein be deferred upon intrastate traffic until the 12th day of September, 1915, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That a copy of this order be filed with said schedules in the office of the Public Utilities Commission of the State of Colorado, and that the secretary of this Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariffs, a certified copy of this order, accompanied by a notice directing said carriers to appear before this Commission at the time and place above specified.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo T. Bradley.

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 22nd day of July, 1915.

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1 ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Case No. 10.

In the Matter of an Investigation and Hearing, on Motion of the Commission, as to the reasonableness of the Local, Joint, or Proportional Rates on Coal (All Classes), between Northern Colorado Points, Leyden, Walsenburg, Trinidad, Oak Hills, Canon City, South Canon, Bowie, Baldwin, Pikeview, Starkville, and Roswell, and the Colorado-Kansas and Colorado-Nebraska State Lines, and All Points Intermediate Therewith, all Within the State of Colorado, as Charged by the Following Named Common Carriers:

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, et. al.

O R D E R

PETITION FOR RE-HEARING

THE HUERFANO COAL COMPANY,)

WHEREAS, on the 19th day of July, 1915, The Huerfano Coal Company, one of the intervenors in the above cause, filed with this Commission its petition for a re-hearing of the above cause, in so far as the order made by this Commission in the above cause, made a rate of 60¢ per ton for transporting coal from Ludlow, Colorado, to Trinidad, Colorado.

AND, the Commission having given due consideration to the allegations set forth in said petition;

IT IS ORDERED, by this Commission that the

On the date above set forth the Commission will announce the proposed amendment to its order in the above cause, made on May 10th, 1915, and will give you an opportunity to be heard and present evidence resisting the proposed amendment, if you so desire.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo T. Bradley

M. N. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 23rd day of July, 1915.

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16

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Case No. 10.

In the Matter of an Investigation and Hearing, on Motion of the Commission, as to the reasonableness of the Local, Joint, or Proportional Rates on Coal (All Classes), between Northern Colorado Points, Leyden, Walsenburg, Trinidad, Oak Hills, Canon City, South Canon, Bowie, Baldwin, Pikeview, Starkville, and Roswell, and the Colorado-Kansas and Colorado-Nebraska State Lines, and All Points Intermediate Therewith, all Within the State of Colorado, as Charged by the Following Named Common Carriers:

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, et. al.

O R D E R

PETITION FOR RE-HEARING

THE UNION PACIFIC RAILROAD COMPANY.

WHEREAS, on the 13th day of July, 1915, The Union Pacific Railroad Company, a Corporation, and one of the defendants in the above cause, did file with this Commission its petition for a re-hearing of the above cause, in so far as the orderof this Commission made on May 10th, 1915, established joint and through rates on Coal from the South Canon and Palisade Coal Mining districts:

AND, the Commission having given due consideration to the allegations set forth in said petition;

IT IS ORDERED by this Commission that the

petition of the petitioner, The Union Pacific Railroad Company, be denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Dated at Denver, Colorado,
this 23rd day of July, 1915.

Commissioners.

petition of the petitioner, The Huerfano Coal Company, be denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo T. Bradley

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 23rd day of July, 1915.

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ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Case No. 10.

In the Matter of an Investigation and Hearing, on Motion of the Commission, as to the Reasonableness of the Local, Joint, or Proportional Rates on Coal (All Classes), between Northern Colorado Points, Leyden, Walsenburg, Trinidad, Oak Hills, Canon City, South Canon, Bowie, Baldwin, Pikeview, Starkville, and Roswell, and the Colorado-Kansas and Colorado-Nebraska State Lines, and All Points Intermediate Therewith, all Within the State of Colorado, as Charged by the Following Named Common Carriers:

THE ATCHISON, TOPEKA & SANTA FE
RAILWAY COMPANY, et. al.

ORDER TO SHOW CAUSE

TO THE MISSOURI PACIFIC RAILWAY COMPANY,
and
THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY.
THE DENVER AND RIO GRANDE RAILROAD COMPANY.

You will please take notice that on Saturday, July 24th, 1915, at 10:00 o'clock A. M., at the Hearing Room of the Commission, at the State Capitol Building, within the City and County of Denver, the Commission will give you an opportunity to show cause why this Commission should not alter or amend parts 4-A and 4-E of the order made by this Commission in Case No. 10, on May 10, 1915.

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ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Case No. 10.

In the Matter of an Investigation and Hearing, on Motion of the Commission, asto the reasonableness of the Local, Joint, or Proportional Rates on Coal (All Classes), between Northern Colorado Points, Leyden, Walsenburg, Trinidad, Oak Hills, Canon City, South Canon, Bowie, Baldwin, Pikeview, Starkville, and Roswell, and the Colorado-Kansas and Colorado-Nebraska State Lines, and All Points Intermediate Therewith, all Within the State of Colorado, as Charged by the Following Named Common Carriers:

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, et. al.

O R D E R

PETITION FOR RE-HEARING

THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY.

WHEREAS, on the 19th day of July, 1915, The Chicago, Rock Island & Pacific Railway Company by and through its Receivers, R. U. Mudge and Jacob M. Dickinson, did file with this Commission its petition for a re-hearing of Case No. 10, decided by this Commission on the 10th day of May, 1915, as to that part of said decision and order which establishes local and joint through rates on coal to the various points of destination in the State of Colorado on the Line of the

Chicago, Rock Island and Pacific Railway Company;

AND, the Commission having given due consideration to the allegations set forth in said petition;

IT IS ORDERED, by this Commission that the petition of the petitioner, The Chicago, Rock Island & Pacific Railway Company, be denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo. T. Bradley

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 23rd day of July, 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Case No. 30.

In the matter of an investigation and Hearing on motion of the Commission, into the rules, regulations and practices of the delivery of messages by The Western Union Telegraph Company and The Postal Telegraph-Cable Company, within the corporate limits of every town and city within the State of Colorado.

NOTICE OF HEARING

TO THE ABOVE,
THE WESTERN UNION TELEGRAPH COMPANY, a Corporation,
and
THE POSTAL TELEGRAPH-CABLE COMPANY, a Corporation:

You are hereby notified that numerous complaints have been made to this Commission as to your rules, regulations and practices in the delivery of messages within the towns and cities of the State of Colorado; and, that this Commission has decided to investigate same upon its own motion.

You are further notified that such investigation and hearing will convene at the Hearing Room of the Commission, in the Capitol Building, in the City and County of Denver, State of Colorado, at the hour 10:00 o'clock, A. M. on the 1st day of September, 1915. You are further notified to appear at such investigation and hearing and take such part therein and make such showing upon your own behalf as you may desire or your interests seem to require.

You are further notified that attached hereto is a certified copy of this Commission's order instituting the above investigation and hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

By John W. Thurtham
Secretary.

Dated at Denver, Colorado,
this 24th day of July, 1915.