ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION
FILED
JUL 24 1915
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 of 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.

INVESTIGATION ON THE COMMISSION'S OWN MOTION

IT IS ORDERED, That the Commission on its own motion, institute an investigation into the rules, practices and regulations of the defendant companies, in the delivery of messages in the towns and cities of the State of Colorado; that, the said defendants be, and are hereby ordered to appear at the Hearing Room of this Commission, in the Capitol Building, in the City and County of Denver, on the 1st day of September, 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 defendants.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is hereby, directed to serve upon the above named defendants a certified copy of this Order, accompanied by a notice directing the said defendantsto appear, at the time and place above specified, to take such part in said

hearing as the said defendants may desire, and make such defense as shall appear necessary to the said defendants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley

W. N. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 24th day of July, 1915.

ORIGINAL

1614

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Case No. 10.

THE PUBLIC UTILITIES COMMISSION
FILED
JUL 24 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 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.

APPEARANCES:

E. E. Whitted, for The Colorado & Southern R. R. Co.

~~H. C.~~ S. H. Babcock, for The Colorado-Midland Railway Co.

Albert Vogel, for The South Canon Coal Co.

Guy Duncan, for The Palisade Coal Co.

In Re - Petition of The Colorado & Southern Railway Company, for a re-hearing of this cause.

O R D E R

On the 14th day of June, 1915, The Colorado & Southern Railway Company, a Corporation, and one of the defendants in this cause, filed with this Commission its certain petition for a re-hearing of this case, in so far asthe order of this Commission made and entered on May 10th 1915, established the following joint through rates, in cents per ton,

for the transportation of slack and lump coal, car loads:

	From South Canon District		From Palisade District	
	Lump	Slack	Lump	Slack
To Denver.....	160	140	185	150

The Commission after giving due notice to the petitioner heard the oral arguments of counsel in support of the petition and against the same, on the ~~Friday~~ 13 day of July 1915. At this time the petitioner presented written statements prepared by the operating coal companies of Southern Colorado in support of the petition of the petitioner, The Colorado & Southern Railway Company.

The argument of counsel for the petitioner was based mainly on three propositions:

NUMBER 1. That the Commission had made a joint through rate on coal from the South Canon and Palisade Districts to Denver over the line of The Colorado Midland Railway Company to Colorado Springs, and thence to Denver over the line of the petitioner, The Atchison, Topeka & Santa Fe Railroad Company, on the basis of the existing rates between the Trinidad and Walsenburg Districts and Denver, over the line of the petitioner, or The Atchison, Topeka & Santa Fe Railroad Company; though the actual mileage from the South Canon District to Denver was shown to be 291 miles, and from the Palisade District to Denver 358 miles; while the actual mileage from the Walsenburg District to Denver on the line of the petitioner was shown to be 185 miles, and the distance from Trinidad to Denver, upon the

line of the petitioner was shown to be 213 miles.

NUMBER 2. That the order of the Commission was based solely on competitive conditions and without regard to the cost of hauling the commodity.

NUMBER 3. That the order of the Commission is discriminatory as against the coal mines of Southern Colorado, as well as the petitioner, The Colorado & Southern Railroad Company.

At a hearing of the above cause, Mr. S. H. Babcock, General Agent for the Receiver of The Colorado Midland Railroad Company, testified in behalf of The Colorado Midland Railway Company, one of the defendants in this cause, and qualified before the Commission as a railroad man of fifty years experience and stated that during that period he had become thoroughly familiar with the basis of rate making and the cost of operating a railroad.

Mr. Babcock requested the Commission to establish the joint through rate on coal from the South Canon District to Denver on the same basis with that of the Walsenburg District to Denver, and the Palisade District to Denver, on the same basis as that of the Trinidad District to Denver.

Mr. Babcock further testified that coal was the principal source of possible tonnage to the Midland Railway Company at this time.

This witness was asked upon examination whether it was the practice of railroads, in an effort to get into competitive markets, to absorb to themselves the differential

of mileage. Answering this question, the witness stated that it was the universal practice of railroads in the country. That the short line made the rate into competitive territory and the longer line was privileged to meet the rate as made by the short line, and it was his opinion if the railroads did not follow this procedure, they would have difficulty in meeting charges or paying dividends. He illustrated his remark with the rate from Hanna, Wyoming, to Denver over the Union Pacific, which was reduced by the Union Pacific Railroad to meet the Trinidad-Denver rate, although the distance from Hanna to Denver was 241 miles as against 213 miles, the distance from Trinidad to Denver.

Mr. Babcock also testified that railroad freight rates are made quite generally through competitive conditions of some character and that very few roads, if any, are free to make rates based on the actual merits of the service and haul.

He further stated that the proposed rate, in his estimation, as a representative of The Midland Railway Company, would greatly increase the tonnage revenue of his company, and that the Railroad he represented stood ready to assume the disabilities of the haul and rate, and that while he realized the proposed rate would not be highly remunerative, or even fairly remunerative to the Midland Railway Company, yet he felt assured of a profit on the haul of the commodity, although the carrier participating in the joint rate be granted a reasonable profit for transporting this commodity from Colorado Springs to Denver.

Mr. Babcock further testified that he had carefully considered the proposed rate from every angle before recommending the same to the Commission, and felt that the future of the Midland Railway Company depended to a great extent upon the favorable action by the Commission, together with the development of the coal ~~regions~~ resources located on the line of the Midland Company.

Mr. H. A. Johnson, General Freight Agent of the petitioner stated that he had occupied the official position of General Freight Agent of the petitioner for a period of sixteen years. Mr. Johnson testified from a carefully prepared statement written by him, as to the coal rates applicable in the State of Colorado; and while the facts contained therein were already known to the Commission, yet his statement was, indeed, significant. The following extracts are quotations from the testimony of Mr. Johnson in this cause:

> "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 in 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."

> "The adjustment of coal rates was an important factor in the development of the coal fields of Southern Colorado. It was first necessary to reach the more important markets on the west of the Missouri River, as well as southern points far distant, such as Fort Worth and Dallas, Texas, etc. This made necessary the establishment of rates to these far distant markets which in and of themselves could not be considered remunerative.

"It will be seen from this that the establishment of rates from Walsenburg, for example, to points in eastern Colorado was controlled by the interstate rates to points beyond and that such rates were fixed without regard to their remuneration."

"When the Denver and Salt Lake Railroad was extended to the coal fields of Routt County, the coal operators, and undoubtedly officials of the road, believed it necessary to make the same rate to Denver as applied from Walsenburg. The coals were very similar in character. Some of the operators who first opened mines in Routt County had been operating mines in Walsenburg district and very naturally demanded Walsenburg rates. The relationship, therefore, between Walsenburg and Routt County rates to Denver was arbitrarily made, and as stated above, without due regard to the necessities of the carrier."

We have here the offer of the Midland Railway Company to give the Coal mines upon its own line of railroad, the privilege of a competitive market and assuming the disabilities of the longer haul. In other words, The Colorado Midland Railway Company, through its representative Mr. Babcock, offers to the participating carriers on the joint through rate as established by the Commission, that part of the joint through rate which will give the participating carriers a fair return for the haul of this commodity from Colorado Springs to Denver, so that The Colorado Midland Railway Company must assume the entire disadvantage of the longer haul. Had the line of the Midland Railway Company extended into the City of Denver, the railroad would without doubt be permitted to meet the Short Line rate without consent of this Commission, unless the Commission should determine that the rate so established would result in a loss to the Midland Railway Company and, therefore, become a burden upon the transportation of other commodities by the railroad and resulting in rates unreasonable for the hauling of those commodities. The Commission is compelled to accept the evidence of Mr. Babcock, that the rate established is remunerative to the Midland Railway Company, even though the said Company assume the disability of the longer haul and allow to the participating carriers a fair return for the transporting of said commodity upon their lines. It is significant that the Atchison, Topeka & Santa Fe Railroad Company, although a participating carrier in the rate, has not petitioned the Commission for a re-hearing of the cause, and while The Colorado & Southern Railway Company, the petitioner, assumes that its division of this through joint rate will not afford it a fair compensation for the hauling of the commodity from Colorado Springs to Denver, such is not the case because no division of the rate has been ordered by the Commission.

In the decision of the Commission in the above cause made and entered on May 10, 1915, the following statement was made:

"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 position of the Commission should be apparent to The Colorado & Southern Railway Company, the petitioner. If it should now appear that the petitioner and The Colorado Midland Railway Company are unable to agree upon a division of the joint through rate established by this Commission, to the end that The Colorado & Southern Railway Company, the petitioner, shall receive a compensatory rate for the haul of this commodity from Colorado Springs to Denver, the petitioner may file its petition for a fair and reasonable division of this joint through rate, at which time the Commission will give due consideration to the claims of The Colorado & Southern Railway Company.

Unless the Commission is ready to take the position that the representative of The Midland Railway Company was mistaken in his assertion that The Midland Railway Company could profitably transport coal from the coal mines located on its line of road for that proportion of the established rate of this Commission, which would leave to the participating carrier a reasonable and fair rate for the hauling of this commodity from Colorado Springs to Denver, it is the duty of this Commission to make the rate requested, and as we do not feel in a position to doubt Mr. Babcock's judgment in this behalf, the petition of the petitioner is denied.

S. S. Kendall

Geo. T. Bradley

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 24th day of July, 1915.

ORIGINAL

PUBLIC UTILITIES COMMISSION
FILED
JUL 24 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, 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,-

CASE NO.10.

O R D E R.

In Re: Petition of the Denver & Salt Lake Railroad Company for a Re-hearing.

WHEREAS, on the 19th day of July, 1915, The Denver & Salt Lake Railroad Company, a Corporation, one of the defendants in the above entitled cause, did file with this Commission its certain petition for a re-hearing of the above cause, in so far as the same affects the joint rates to be charged for shipments of coal from the mines in the Oak Hills District, as fixed or effected by paragraphs 4, 4-b, 4-c and 4-f of the order entered by the Commission in said cause; 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 Denver & Salt Lake Railroad Company, be denied.

The petitioner requests an order of this Commission specifying the respective portions of the said through rates established by this Commission in its order of May 10, 1915. The prayer of the petition is denied for the reason that it

has not been properly brought to the attention of the Commission.

Petitions for a re-hearing of the above cause have been filed by the defendants with this Commission, and have this day been denied. If the participating carriers are unable to agree upon their respective portions of the joint through rates established by this Commission in its order of May 10, 1915, the same may be brought to the attention of this Commission through a proper petition filed with the Commission at a date subsequent to the date of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendrew

Geo. T. Bradley

W. H. Gleason

Commissioners.

Dated at Denver, Colorado,
this 24th day of July, 1915.

ORIGINAL

THE PUBLIC UTILITIES COMMISSION
FILED
JUL 27 1915
OF THE STATE OF COLORADO

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, 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, The Missouri Pacific Railway Company, The Denver & Rio Grande Railroad Company, et al,	CASE NO.10.

AMENDED ORDER.

WHEREAS, on Friday, July 23rd, 1915, the Public Utilities Commission of the State of Colorado, issued its certain order to The Atchison, Topeka & Santa Fe Railway Company, the Missouri Pacific Railway Company, and The Denver & Rio Grande Railroad Company, directing the said defendants in the above cause, to appear at the Hearing Room of the Commission on Saturday, July 24th, 1915, at 10:00 o'clock a.m., to show cause why the Commission should not alter or amend Paragraphs 4-a and 4-e of the order made by this Commission under date of May 10th, 1915, in said Case No. 10; and

WHEREAS, the said defendants received due notice of said hearing, and appeared, and made no objection to the proposed alteration or amendment by the Commission of its said order made and entered in the above cause on May 10th, 1915.

IT IS NOW ORDERED, That Paragraphs 4-a and 4-e of the order made and entered by this Commission in Case No.10 on the 10th day of May, 1915, be altered and amended as follows:-

(4-a) IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company, 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 Railway Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, 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 Railway Company, The Colorado & Southeastern Railroad Company, The Colorado & Southern Railway Company, The Colorado & Wyoming Railway Company, and The Denver & Rio Grande Railroad Company, 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 Railway, over the Trinidad rates as are at present in effect to the points specified in sub-section 4a 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.....	125	125	175	-
Nyburg.....	130	130	175	-
Boone.....	130	130	170	-
Nepesta.....	140	140	165	-
Fowler.....	150	150	150	180
Manzanola....	150	150	150	180
Wietzer.....	155	155	150	180
Rocky Ford...	155	155	150	180
Swink.....	160	160	140	170
La Junta.....	160	160	140	170
Casa.....	165	165	145	175
Las Animas...	180	180	160	190
Caddoa.....	195	195	175	205
Prowers.....	205	205	185	215
Lamar.....	210	210	190	220
Koen.....	215	215	195	225
Granada.....	220	220	200	230
Amity.....	225	225	205	235
Holly.....	230	230	210	240
Shelton.....	160	160	140	170
Cheraw.....	165	165	145	175
Rixey.....	185	185	165	195
McClave.....	205	205	185	215
Big Bend.....	210	210	190	220
Karl.....	215	215	195	225
Bristol.....	220	220	200	230
Delite.....	230	230	210	240

To	From Trinidad District
Hoehnes.....	55
Earl.....	65
Poso.....	70
Tyrone.....	75
Thatcher.....	85

Delhi.....	95
Timpas.....	115
Ormega.....	130

(4e) IT IS FURTHER ORDERED, That The Missouri Pacific Railway Company and The Denver & Rio Grande Railroad Company 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 Railway Company, The Colorado & Southern Railway Company, and The Denver & Rio Grande Railroad Company, 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 Railway Company, The Atchison, Topeka & Santa Fe Railway Company, and The Denver & Rio Grande Railroad Company, 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 Railway Company and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish rates from mines in the Pikeview district which shall be the same as the rates from the Walsenburg district; and the Missouri Pacific Railway Company and The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southeastern Railroad Company, The Colorado & Southern Railway Company, The Colorado & Wyoming Railway Company, and The Denver & Rio Grande Railroad Company, 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	125
Nyburg,.....	340	130
Boone,.....	350	130
Nepesta,.....	355	140
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

The rates as specified in the original order of May 10, 1915, from the Roswell District to points on The Missouri Pacific Railway, in connection with the Chicago, Rock Island & Pacific Railway, (H.U.Mudge and Jacob M.Dickinson, Receivers), will remain as set forth in the original order, and, for convenience, are hereinafter shown; as follows:

To-	From Roswell District
Baxter,.....	115
Nyburg,.....	120
Boone,.....	125
Nepesta,.....	125
Olney Springs,.....	130
Ordway,.....	135
Sugar City,.....	140
Lolita,.....	145
Kilburn,.....	155
Arlington,.....	160
Haswell,.....	175
Milan,.....	180
Galatea,.....	185
Eads,.....	200
Chivington,.....	220
Brandon,.....	230
Sheridan Lake,.....	235
Stuart,.....	245
Towner,.....	255

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

By S. S. Kendall

Geo. T. Bradley

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 27th day of July, 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CASE NO. 10.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO FILED JUL 30 1915

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 DENVER & SALT LAKE RAILROAD COMPANY.

WHEREAS, on the 30th day of July, 1915, the Denver & Salt Lake Railroad Company did file with this Commission its petition for re-hearing on paragraphs "4", "4b", "4c", and "4f" of the Order of this Commission, made and entered in the above entitled cause on the 10th day of May, 1915:

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 Denver & Salt Lake Railroad Company, be denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo. T. Bradley

W. H. Aylsworth

COMMISSIONERS.

Dated at Denver, Colorado,
this 30th day of July, 1915.

ORIGINAL

Case No.22.

The Public Utilities Commission of the State of Colorado,

vs.

The Mountain States Telephone & Telegraph Company.

PUBLIC UTILITIES COMMISSION
FILED
AUG 6 1915
OF THE STATE OF COLORADO

-------Resolution-------

WHEREAS, This Commission having heretofore ordered an investigation into the rates, rules, regulations and practices of The Mountain States Telephone and Telegraph Company within the state of Colorado, and having heretofore made an order directing and requiring the said company to make under the supervision of this Commission an inventory and appraisal of all of its property in the state of Colorado, and this commission being now satisfied that said investigation will require a careful and accurate inspection and study of the system of accounting and all books and financial records of said company;

IT IS THEREFORE ORDERED, That The Mountain States Telephone & Telegraph Company, and its officers and employees, submit for examination to Fred W.Herbert, the accountant of this commission, and his assistants, so far as shall be necessary for ascertaining the financial affairs, operations and condition of the company for and within the state of Colorado, the general books and records of said company, the records of the company covering the charges to fixed capital and property accounts, revenues and expenses, and all other accounts of whatsoever kind or nature, pertaining to the business and affairs of the company generally, and particularly within the state of Colorado; all vouchers, pay rolls and other records pertaining to the expenditures made by the company as a whole, and particularly within the state of Colorado; all ledgers and other records pertaining to the

revenues of the company as a whole, and particularly within the state of Colorado, and to afford to the said Herbert and his assistants free access to all books and records of said company of whatsoever kind or nature, and to make any and all explanations desired or necessary to enable the said Herbert and his assistants to arrive at a full and accurate determination of any question pertaining to the accounts and finances of the said company generally, and particularly within the state of Colorado.

AND BE IT FURTHER ORDERED, That the said Mountain States Telephone and Telegraph Company, its officers and employees, prepare such statements relating to the accounts and financial affairs of said company as may be required by the said Herbert to be used upon the hearings in this matter, and that such statements or other documents relating to the accounts or finances of said company, prepared under the direction of the said Herbert, and such other statements as the company may desire to prepare and offer in the hearings before this Commission, relating to the accounts and finances of said company, shall, as far as may be, conform, as to form, substance and definition, to the system of accounting prescribed by the Interstate Commerce Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 6th day of August, 1915.

S. S. Kendall

Geo. T. Bradley.

M. N. Ayhuntt

Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE CASTLE ROCK MOUNTAIN RAILWAY AND PARK, (a Scenic Incline Railroad owned and operated by Charles F. Quaintance) in its own behalf and in behalf of all other scenic trips out of Denver and all others similarly situated,

Petitioner,

-vs-

THE DENVER TRAMWAY COMPANY, a corporation, THE SEEING DENVER COMPANY, a corporation, THE DENVER OMNIBUS & CAB COMPANY, a corporation, THE DENVER UNION TERMINAL RAILWAY COMPANY, a corporation,

Defendants.

Case No.29.

Submitted July 30, 1915. Decided August 9, 1915.

Appearances:

Messrs. Gerald Hughes and Howard Robertson,
for The Denver Tramway Company, defendant,
Messrs. C. C. Dorsey and E. I. Thayer,
for The Denver Union Terminal Ry. Company, defendant,
Mr. J. N. Kuykendall,
for The Denver Omnibus & Cab Company, defendant,
Mr. Robert E. Harvey, for The Seeing Denver Company, defendant
Mr. Charles F. Quaintance, for Petitioner.

O R D E R

On the 15th day of July, 1915, the Petitioner filed with this Commission a petitioner entitled "Petition in re unfair competition and illegal combination or confederacy in restraint of trade", the said petition being directed against the defendant public utilities, to-wit; The Denver Tramway Company, The Seeing Denver Company, The Denver Omnibus & Cab Company, and The Denver Union Terminal Railway Company.

The Petitioner alleges that it is a scenic incline railroad company, owned and operated by Charles F. Quaintance, and petitions in its behalf, and on behalf of "thirty-six scenic trips out of Denver", and alleges "that the defendants, and each and all of them have formed and are a part of an illegal combination or confederacy in restraint of trade and fair competition for the

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purpose of controlling the tourist business, to the end that no scenic trips, except those operated by defendant, The Seeing Denver Company, shall be taken by tourists"

The Petitioner further complains that the defendant, The Denver Omnibus & Cab Company, has been granted the exclusive privilege of soliciting business from incoming passengers at the Union Depot, the property of The Denver Union Terminal Railway Company, one of the defendants.

The Petitioner further alleges that The Denver Omnibus & Cab Company owns and controls a large amount of the capital stock of the defendant, The Seeing Denver Company, and grants to the said The Seeing Denver Company privileges not open to this complainant and to which said complainant is entitled; and that the defendant, The Denver Tramway Company, permits The Seeing Denver Company to use the tracks of the defendant, The Denver Tramway Company, exclusively, and maintains a discriminatory rate for special cars for the benefit of The Seeing Denver Company; the said rate not being open to this Petitioner, or others similarly situated; and the petitioner prays that this Commission afford a remedy as against the alleged illegal combination in restraint of trade, and that the plaintiff be given the same rights, rates, service, equipment, and privileges by the defendant, The Denver Tramway Company, The Denver Omnibus & Cab Company, and The Denver Union Terminal Railway Company, as are now open to the defendant, The Seeing Denver Company.

On July 25th, 1915, the defendants filed petitions with this Commission for leave to demur to the complaint of the petitioner, and this privilege was granted by the Commission; whereupon, on July 28th, 1915, the defendants demurred to the petition of the petitioner, alleging that this Commission had no jurisdiction as to the subject matter of this action.

On the 30th day of July, 1915, the Commission heard arguments, in support of and against the demurrers filed to the

The petitioner, in its objection to the exclusive right to solicit incoming passengers, granted by The Denver Union Terminal Railway Company to The Denver Omnibus & Cab Company, does not complain as to the adequacy of the service of The Denver Omnibus & Cab Company, nor does the petitioner seek for itself an equal right to solicit passengers at the station of the Union Terminal Railway Company, so that it is unnecessary for us, at this time, to pass on the question as to whether it is within the jurisdiction of this Commission to order The Denver Union Terminal Railway Company to permit other persons and corporations the privilege or soliciting passengers at the station of The Denver Union Terminal Railway Company.

The complaint of petitioner complains of an illegal combination in restraint of trade. The Public Utilities Commission is not a court, but is a creature of the Legislature, with defined powers, and our jurisdiction does not extend to complaints against illegal combinations in restraint of trade. The doors of the Courts of the State of Colorado are open to the plaintiff in the event it has a cause of action in this regard.

The Commission, having carefully considered the petition of the petitioner and the demurrers filed by the several defendants, now orders:

First. That the petition of the petitioner be dismissed as to The Denver Union Terminal Railway Company, The Denver Omnibus & Cab Company, and The Seeing Denver Company, defendants.

Second. That the petitioner amend its complaint within five (5) days from the date of this order, and base its cause of action solely on the alleged discrimination in the rates, practices and service of the defendant, The Denver Tramway Company, in favor of the defendant, The Seeing Denver Company, and that the demurrers of the defendants directed against all other matters contained in the petition of the petitioner be sustained.

IT IS FURTHER ORDERED, that the defendant, The Denver Tramway Company, answer the amended petition of the petitioner

within five (5) days after the same is filed with this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. KENDALL.

(SEAL)

GEO. T BRADLEY,

M. H. AYLESWORTH.
COMMISSIONERS.

Dated at Denver, Colorado,
this 9th day of August, 1915.

ORIGINAL

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,

THE CITY OF FLORENCE,

Intervenor.

Case No.52.

THE PUBLIC UTILITIES COMMISSION
FILED
AUG 9 1915
OF THE STATE OF COLORADO

O R D E R

WHEREAS, on the 1st day of July, 1915, the Commission issued its certain Order, directed to the Complainant and Intervenor in Case No.52, to show cause, within thirty days from the date of said order to show cause, why this Commission should not recognize the dissolution of The Florence & Cripple Creek Railroad Company, the defendant in this cause; and

WHEREAS, the Complainant and Intervenor made no showing to this Commission in accordance with its order of July 1st, 1915; and

WHEREAS, it appears to the Commission that the dissolution of the defendant, The Florence & Cripple Creek Railroad Company, was in accordance with the laws of the State of Colorado.

IT IS ORDERED, That the files in Case No.52 before this Commission be closed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. A. Kendall

Geo. T. Bradley

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 9th day of August, 1915.

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 Denver & Rio Grande Railroad Company, of gongs, signals, or other suitable safety devices, at a point known as the Rogers Mesa Road Crossing, at Mile Post 396.8, and at a point known as the Barrow Mesa Road Crossing, at Mile Post 397.4, said points located on the line of the Denver & Rio Grande Railroad.

Case No.32.

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 gong signals, or other suitable safety devices, by The Denver & Rio Grande Railroad Company, at its railroad crossings located at Mile Post 396.8 and Mile Post 397.4, and known as the Rogers Mesa road crossing and the Barrow Mesa road crossings, and located within the State of Colorado upon the railroad of this defendant; that the said defendant be and it is hereby ordered to appear at the Hearing Room of this Commission, in the State Capitol Building in the City and County of Denver, on the 3rd day of September, 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.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. J. Kendall

Geo T. Bradley

M. N. Ogburn

Commissioners.

Dated at Denver, Colorado,
this 18th day of August, 1915.

ORIGINAL

Make No COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

ERNEST A COLBURN,

Complainant,

vs.

THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY, a corporation,

Defendant.

Case No.21.

THE PUBLIC UTILITIES COMMISSION
FILED
AUG 19 1915
OF THE STATE OF COLORADO

In the Matter of alleged unreasonable rates on ore from points in the Cripple Creek District to the Colburn-Ajax Mill, located in the Cripple Creek District.

Submitted August 17,1915. Decided August 19,1915.

Appearances:- N.Walter Dixon, Esq., for Complainant,
Ralph Hartzell, Esq., for Defendant.

STATEMENT AND ORDER.

On June 1st, 1915, the Complainant herein filed a complaint with the Commission, the principal allegation of which, and, in fact, the only one relevant, in the issues as made up, in this case, was the discriminatory rates charged for hauling ores from the various mines in the Cripple Creek District to the Mill of the Complainant, which is also located in the Cripple Creek District, as compared to the rates charged on the same class of ores to the mills located at Colorado City.

The Defendant made answer thereto admitting that the rates on ores from the Cripple Creek District to the Complainant's Mill were identical with the rates charged to Colorado City on all ores having a greater value than $20.00 per ton, but that the Complainant enjoys a less rate than is maintained to Colorado City on all ores having a value of less than $20.00 a ton; admits that the distance from the mines in the Cripple

Creek District to the mills at Colorado City is greater than to the Mill of complainant. Avers that the Complainant's Mill is situated on one of the highest points in the Cripple Creek District, and, for this reason, as well as sidetrack and storage facilities at Complainant's Mill, heavy grades encountered in reaching Complainant's property, and the general conditions surrounding operation of the railroad property to the plant of Complainant are such that it is possible to deliver only a few cars at a time; that in consequence of these conditions the cost of haulage and delivery is much greater in proportion than the cost of haulage and delivery of freight to other mills farther from the producing mines.

Avers that the system of computing rates in proportion to the value of ores is just and equitable, which system applies to Complainant as well as to the mills at Colorado City, and that the present rate afforded to the Complainant, on ores of $5.00 per ton or less in value, is not sufficiently remunerative to pay the defendant the actual cost of making delivery to the Complainant's mill; further avers that the Complainant has not and cannot be damaged by reason of said rates because of the fact that such rates are paid by the producer, or owner of the mine, and not by Complainant, and prays to have the complaint dismissed.

After due notice to the parties the Commission set the case down for hearing at its Hearing Room in the Capitol Building at Denver, on the 30th day of June, 1915, and testimony was taken; the Complainant being represented by his Attorney, N.Walter Dixon, Esquire, and defendant by its Attorney, Ralph Hartzell, Esquire.

Owing to the fact that the Defendant, The Florence & Cripple Creek Railroad Company, had dissolved its corporate existence after the commencement of this cause, and the property in question being operated by The Cripple Creek & Colorado Springs Railroad Company, the Complainant asked leave to amend his complaint to show The Cripple Creek & Colorado Springs Railroad Company to be the defendant in this case. No objections being made by the parties in interest the request was granted by the Commission.

The taking of testimony having been completed the cause was set down for argument, and, on August 17, 1915, the Attorneys for the interested parties appeared and made oral argument before the Commission. Prior to that time, and subsequent to the taking of testimony, the Commission made a personal inspection of the operating conditions in the Cripple Creek District.

It appears from the record that the Defendant, The Cripple Creek & Colorado Springs Railroad Company, is charging, demanding and collecting the following rates on ore from the Cripple Creek District to points as shown below:-

Rates on Ore, Carloads, in cents per ton, Between Cripple Creek District, and

Valuation to-	Cripple Creek District.	Colorado City.
$5.00 per ton,	.50	-----
20.00 " "	.75	$1.00
25.00 " "	$1.25	1.25
30.00 " "	1.50	1.50
40.00 " "	2.00	2.00
Over $40.00 per ton	2.50	2.50

And that the distance from Cripple Creek District to Colorado City is approximately 45 miles, and the distance from the mines in the District to Complainant's Mill varies from 5½ to 11 miles. While there is considerable difference in the mileage there is also, of necessity, considerable difference

in the method of operation as between cars destined to Complainant's Mill and the mills at Colorado City. Cars destined to Colorado City are assembled at a convenient point and sent out of the District in train lots, while cars destined to Complainant's Mill are handled singly or in small lots, and moved entirely by switching crews.

The evidence, which is corroborated by personal inspection made by the Commission, shows that switching operations in this District are attemded by considerable hazard and heavy expense, occasioned by the mountainous character of the territory, with switch-backs, severe curves, circuitous routes and heavy grades, with the result that a very limited amount of tonnage can be handled with one engine. Mr.Cogan, Superintendent of the Defendant company, submitted a detailed statement showing the average cost of switching freight in the District to be 72 cents per ton. The same witness testified that while he believed the switching service could be performed at a cost slightly less than the cost of transporting a shipment to Colorado City, nevertheless it was more satisfactory and less trouble to perform the road service. He also testified that it was his opinion, based on the cost of the service, that there should be a slight differential between the rates in favor of the mills in the Cripple Creek District.

The Complainant in this case is not attacking the rates to Colorado City; on the contrary he indicated that the Colorado City rates were fair and reasonable, while the defendant maintains that the rates to that point are too low and should be advanced. In view of the fact that the rates to Colorado City were voluntarily established by the defendant, without action on the part of this Commission, the Commission will take the position that the rates to that point

are not so low as to deprive the Defendant of a fair return for the service rendered.

The record in this case discloses the fact that there is little actual difference in the cost of the service rendered by the Defendant company as between shipments from the Cripple Creek District destined to the Complainant's Mill, and shipments from the same District to the mills at Colorado City. However, there is some difference, which is favorable to the contention of the Complainant, and witnesses for the Defendant admit that there should be a differential in the rates in favor of the mills in the District, based on the relative cost of the service performed. The Commission is inclined to this view, and an order will be entered in accordance therewith.

The Commission finds that the rates on ore, as set forth in the Order, are just and reasonable, and all rates now charged by the Defendant, in excess of those set forth in the Order, are unjust and unreasonable.

O R D E R

IT IS HEREBY ORDERED, That the Defendant, The Cripple Creek & Colorado Springs Railroad Company, be and it is hereby ordered to cease and desist from charging, collecting or demanding their present published rates on ore of greater value than $20.00 per ton, from mines in the Cripple Creek District to the mills in said District; and the said Defendant is further ordered to publish, in lieu thereof, rates from the various mines in the Cripple Creek District, to mills in said District, which shall be Twenty-five (25) cents per ton lower than the rates charged, demanded and collected, on the various grades of ore, by the Defendant

carrier from the Cripple Creek District to the mills at Colorado City.

This Order shall become effective on or before September 19, 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

M. N. Gilmore

Commissioners.

Dated at Denver, Colorado,
this 19th day of August, 1915.

ORIGINAL MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO FILED AUG 20 1915

THE GRAND VALLEY FRUIT FREIGHT RATE ASSOCIATION,

Complainant,

vs.

The Denver & Rio Grande Railroad Company,
Geo.W.Vallery, as Receiver of
The Colorado Midland Railway Company,
The Colorado & Southern Railway Company,
The Atchison, Topeka & Santa Fe Railway Company,
The Chicago, Rock Island & Pacific Railway Company,
H.U.Mudge and Jacob M.Dickinson, Receivers,
Union Pacific Railroad Company,
The Cripple Creek & Colorado Springs Railroad Company,
The Florence & Cripple Creek Railroad Company,
The Missouri Pacific Railway Company,
Chicago, Burlington & Quincy Railroad Company,

Defendants.

Case No.18.

Montrose and Delta Counties Freight Rate Association,
Intervenor.

Decided August 20,1915.

Appearances:

For the Grand Valley Fruit Freight Rate Association,
Messrs.Griffith, Watson & Smith,
Montrose and Delta Counties Freight Rate Ass'n,
Messrs.Merle T.Vincent,
C.J.Moynihan,
Mortimer Stone,
The Denver & Rio Grande Railroad Company,
Messrs.E.N.Clark,
J.G.McMurry,
Fred Wild, Jr.,
The Colorado Midland Railway Company,
Messrs.Henry T.Rogers,
George A.H.Fraser,
L.A.Rafert,
The Colorado & Southern Railway Company,
Messrs.E.E.Whitted,
George Williams,
The Atchison, Topeka & Santa Fe Railway Company,
Messrs.Henry T.Rogers,
George A.H.Fraser,
Union Pacific Railroad Company,
Messrs.C.C.Dorsey,
E.I.Thayer,
F.B.Choate,
Chicago, Burlington & Quincy Railroad Company,
Mr.E.E.Whitted.

Complainant and Intervenor herein are voluntary associations composed of residents of Mesa, Delta and Montrose counties, Colorado. The complaint and petition in intervention allege that the rates for the transportation of apples, green fruit and pears from Colorado Western Slope originating points, to Colorado common points, and points beyond to the Colorado state line, are unreasonable and discriminatory; that the minimum carload weight is 20,000 lbs. to Colorado common points, and 24,000 lbs. to points beyond; that to destinations beyond Colorado common points and to the state line, the basis of the alleged discriminatory and unreasonable rates is the lesser of the Grand Valley rates to the Colorado common points, plus the local rates to points of destination, and the Missouri River rate from the Grand Valley; that certain of the defendants have adopted a rule or practice of an additional refrigeration charge on shipments consigned to one point and then reconsigned to another, regardless of whether such fruit is re-iced; that the rates on apples, green fruit and pears from shipping points on the Western slope to Colorado common points, and points beyond to the state line, are unreasonable and discriminatory.

The several defendants, answering the complaint and petition in intervention, deny that the alleged unreasonable rates were, in fact, unreasonable and discriminatory, and, on the 19th day of June, 1915, this cause came on for hearing before the Commission at Grand Junction, Colorado, at which time and place the plaintiff and intervenor presented their case. The hearing was then continued, upon request of the defendants, without objection from the plaintiff or intervenor, until the 7th day of July, 1915, at which time the defendants presented their evidence to the Commission at its Hearing Room in the Capitol Building in the City and County of Denver, Colorado.

Exhaustive briefs were filed by the plaintiff and intervenor and the defendants, all of which have been carefully studied by the Commission. We have studiously examined the record in this cause, including the testimony of the twenty-five witnesses presenting evidence to the Commission, and are confronted with a complicated problem.

The defendant, The Denver & Rio Grande Railroad Company, and the defendant, The Colorado Midland Railway Company, have a blanket rate on apples, green fruit and pears, from all shipping points on the Western Slope, (the term "Western Slope" to include all shipping points on the lines of the defendants in Montrose, Delta and Mesa Counties), to the Colorado common points, and the defendant, The Denver & Rio Grande Railroad Company, has voluntarily included additional points on its line at the common point rate, said rates being 45 cents per hundred pounds on apples, and 60 cents per hundred pounds on green fruit and pears; and, as to the rates on apples, green fruit and pears beyond Colorado common points, with the exceptions noted, the rates are the lesser of the combination over the common point and the rate to the Missouri River. The term "green fruit", when used in this order, shall consist of apricots, berries, cherries, currants, grapes, peaches, plums, pomegranates and prunes.

As the defendant, The Denver & Rio Grande Railroad Company, has arbitrarily blanketed all shipping points on the Western Slope, as well as the Colorado common point destinations, together with the exceptions above noted, we shall not disturb this arbitrary basis. The complainant and intervenor certainly have no cause for complaint in this regard, and, as the defendants do not object, we shall not consider the question of originating common points and common points of destination.

The case of the Complainant and Intervenor was quite thoroughly presented to the Commission through the testimony of Witness Kyle, representing the Montrose and Delta counties Freight Rate Association, the Intervenor, and Witness Silcox, representing the Grand Valley Fruit Freight Rate Association. On behalf of the complainant and intervenor fruit growers of the Western Slope testified as to the actual cost of the production of a box of apples and a box of peaches, and evidently much study and preparation had been given to this question by these witnesses. This testimony developed the cost of the production of a box of apples on the Western Slope to be about 81 cents, and the cost of production of a box of peaches to be about 38 cents. The purpose of this testimony was to demonstrate to the Commission that the cost of production of a box of apples or peaches on the Western Slope was so high that, adding to it the freight rate to Colorado common points and beyond, no profit was left to the grower or shipper. Other witnesses endeavored to prove to this Commission that freight rates, coupled with the cost of production, were so excessive as to permit apples and green fruit from Western and Southern States to enter the competitive field at Denver and points beyond, within the State of Colorado, all to the detriment of the growers and shippers of the Western Slope. Some comparisons were made of rates on fruit from other communities, as well as comparisons of the rates on potatoes, livestock, vegetables and fruit from the Western Slope to Colorado common points and points beyond within the state of Colorado. Witnesses Silcox and Kyle, for the Complainant and Intervenor, requested this Commission to establish an orchard run bulk apple rate, and testified that during certain years the apple crop was exceedingly heavy throughout the country, and, due to the high cost of production on the Western Slope, together with the freight

rates, the grower or shipper was unable to box his apples, and that the said grower should have the privilege of shipping apples in bulk at a low rate, and thus partially overcome the disadvantage of a heavy crop. Particular stress was laid upon the fact that the grower or shipper is unable to ship imperfect apples, such as wormy apples, or those imperfect because of hail or other damage, on a rate less than the present boxed apple rate, and that therefore this tonnage was lost to the defendant companies, and this condition resulted in a total loss at times to the grower or shipper.

The Defendants presented testimony to the Commission defending the present rates on apples, green fruit and pears, and against the proposed bulk apple rate. Evidence was also introduced by the defendants in the form of comparisons of rates on apples, green fruit and pears on other railroads operating under somewhat similar conditions.

Testimony was introduced into the record in regard to the cost of refrigeration and certain advances contemplated by the Defendants. This testimony is irrelevant to the issue and will be considered by the Commission in its order on I.& S.No.3.

Witnesses also testified as to the practice of some of the Defendants in the additional charge for icing, when such freight was destined to one point, and re-consigned to another without actual re-icing.

We have carefully considered the evidence of the witnesses of the Complainant and Intervenor as to the cost of production of a box of apples and a box of peaches upon the Western Slope, and the shipping of the same to a competitive market, and while we have been impressed with the evidence of the high cost of production, together with the over-crowded condition of the market in past years, and have given it due consideration, yet this evidence

does not of itself determine the reasonableness or unreasonableness of the freight rate, as has been admitted in the brief of the complainant and intervenor, in which brief was cited:

> In re: Transportation of wool, hides and pelts,
> 23 ICC, 156,
> Kansas R.R.Commission v. A.T.& S.F.R.R.,
> 22, ICC, 407.

In fact, the great mass of the evidence in this case went to the point that the cost of production on the Western Slope was exceedingly high as compared to the low market price for the fruit so produced, but, nevertheless, we are forced to follow the doctrine stated by the Interstate Commerce Commission:

> "But we feel the real test of the reasonableness or unreasonableness of the freight rate to be the adequacy of the revenue derived by the carrier for the service performed, and this must take precedence over market conditions affecting the commodity transported."
>
> Lindsay Bros. v. Pere Marquette Ry.Co.,
> 25 ICC, 368,
> Ponchatoula Farmers Association v. I.C.R.R.,
> 19 ICC, 513,
> Pulp Association v. C.M.& St.P.Ry.,
> 27 ICC, 94.

We have also given much thought to the question of an orchard run bulk apple rate, and we are forced to the conclusion that the outcome is problematical and uncertain, and the ultimate effect of such a proposed rate would be far more detrimental than helpful to the Western Slope, and to the high grade of fruit now produced in that District. The Witness Silcox, testifying in behalf of the Complainant, stated that the Western Slope needed a rate to take its imperfect apples to the market, that in the event of a hail storm, or, at times, when due to unforeseen conditions, the apples became wormy and unfit for boxing as fancy apples, there should be a low rate to carry this cheaper stuff to a market, and that it would assist the grower of the Western Slope, and would also develop tonnage for the defendant companies; and we are inclined toward that view.

We are of the opinion that a rate somewhat less than the 45 cent apple rate to Colorado common points should be established on apples known as wind-falls, culls, refuse and waste, and that while there is some evidence in the record to the effect that such a rate would be abused, we feel that, with proper policing, the defendant carriers can govern it. It is the idea of this Commission that this rate should be established for imperfect apples and those unfit for boxing, so that the grower may be able to find a market for this stuff, rather than to allow the same to rot upon the ground without profit to himself or to the defendant carriers, and to this end we shall order the establishment of a bulk apple rate until such time as the carriers may make a conclusive showing to this Commission that this rate and practice is not feasible.

The average haul from Western Slope producing points on the Denver & Rio Grande Railroad to Denver is 471 miles, and on the Colorado Midland Railway 344 miles. These hauls are made under the most adverse geographical disadvantages, and we are of the opinion that the existing rate of 45 cents per hundred pounds on apples, and 60 cents per hundred pounds on green fruit, from the Western Slope to Colorado common points, and those points arbitrarily named by the defendant, The Denver & Rio Grande Railroad Company, at the common point basis, with the exception of Leadville and Salida, are reasonable rates; and, in fact, we are unable to find any rates on fruit, even though under more favorable conditions, as low as the rates now in effect between the above points. The hauling of fruit by a railroad is surrounded by much hazard. Prompt and quick delivery of the fruit should be made and the service must be highly efficient. We are of the opinion that a lower rate will not give this service to the Western Slope, and therefore feel compelled to allow the present rates to Colorado common points to remain unchanged.

We are now confronted with the existing basis of rate making on apples, green fruit and pears from the Grand Valley to destinations beyond common points within the State of Colorado. The basis of these rates is the lesser of the combination over the common points, and the rate from the Western Slope to the Missouri River. We are of the opinion that these rates are unreasonable.

We find from the evidence that it has been the custom of some shippers on the Western Slope to consign fruit to Pueblo, and re-bill the same as a new shipment in order to obtain the benefits of a jobber's rate. The defendants have taken the view that where this is done they are entitled to an icing charge on the re-shipment, regardless of whether or not any re-icing is actually consummated. The new basis of rates from Pueblo to points beyond will be such that the jobber's rates will not be attractive to the shipper.

It further appears that the minimum loading weight of refrigerator cars from Western Slope to Colorado common points is 20,000 pounds, and to points beyond, within the State of Colorado, is 24,000 pounds on green fruit and 25,000 pounds on apples. The Complainant and Intervenor have raised no objections to these minimums and therefore they will be allowed to stand.

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 hereto 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 services performed.

O R D E R

(1) IT IS ORDERED, That the defendants, The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to cease and desist from charging, demanding, collecting or receiving their present rates for the transportation of apples, pears and green fruit from Western Slope points to Leadville

(1-a) IT IS FURTHER ORDERED, That the defendant, The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force a rate of 35 cents per hundred pounds on apples, 50 cents per hundred pounds on pears with Fifth Class rate as maximum, and 50 cents per hundred pounds on green fruit, for the transportation of such commodities from Western Slope points to Leadville.

(2) IT IS FURTHER ORDERED, That the defendant, The Denver & Rio Grande Railroad Company, be, and it is hereby, ordered to cease and desist from charging, demanding, collecting or receiving its present rates for the transportation of apples, pears and green fruit from Western Slope points to Salida.

(2-a) IT IS FURTHER ORDERED, That the defendant, The Denver & Rio Grande Railroad Company, be, and it is hereby, ordered to establish and put in force a rate of 40 cents per hundred pounds on apples, 55 cents per hundred pounds on pears with Fifth Class rate as maximum, and 55 cents per hundred pounds on green fruit, for the transportation of such commodities from Western Slope points to Salida.

(3) IT IS FURTHER ORDERED, That the defendant The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, be, and it is hereby,ordered to establish and put in force a rate of 30 cents per hundred pounds for the transportation of apples, cull,

wind-fall, refuse and waste, from Western Slope points to Colorado Springs.

(4) IT IS FURTHER ORDERED, That the defendant, The Denver & Rio Grande Railroad Company, be, and it is hereby, ordered to establish and put in force a rate of 30 cents per hundred pounds for the transportation of apples, cull, wind-fall, refuse and waste, from Western Slope points to Denver, Colorado Springs, Pueblo, Trinidad, and points intermediate therewith.

(5) IT IS FURTHER ORDERED, That the defendants The Atchison, Topeka & Santa Fe Railway Company, Chicago, Burlington & Quincy Railroad Company, Chicago, Rock Island & Pacific Railway Company, H.U.Mudge and Jacob M.Dickinson, Receivers, The Colorado & Southern Railway Company, The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, The Cripple Creek and Colorado Springs Railroad Company, The Denver & Rio Grande Railroad Company, The Florence & Cripple Creek Railroad Company, The Missouri Pacific Railway Company, and Union Pacific Railroad Company, be, and they are hereby, ordered to cease and desist from charging, demanding, collecting or receiving their present rates for the transportation of apples, pears and green fruit from Western Slope points to points on the lines of The Atchison, Topeka & Santa Fe Railway Company, Chicago, Burlington & Quincy Railroad Company, The Chicago, Rock Island & Pacific Railway Company, The Cripple Creek & Colorado Springs Railroad Company, The Missouri Pacific Railway Company and Union Pacific Railroad Company.

(5-a) IT IS FURTHER ORDERED, That the defendants, The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, and The Atchison, Topeka & Santa Fe Railway Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points; and The Denver & Rio Grande Railroad Company, and The Atchison, Topeka & Santa Fe

Railway Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears and green fruit and in cents per hundred pounds:

	Apples	Pears	Green Fruit
Devine	50	68	72
Nyburg	50	68	72
Avondale	50	69	73
Boone	50	69	73
Nepesta	50	72	75
Fowler	50	74	75
Manzanola	50	75	75
Wietzer	50	75	75
Rocky Ford	50	75	75
Swink	55	80	80
LaJunta	55	80	80
LasAnimas	55	80	80
Caddoa	55	80	80
Prowers	55	80	80
Lamar	55	80	80
Granada	55	80	80
Amity	55	80	80
Holly	55	80	80
Hartman	55	80	80
Bristol	55	80	80
Wiley	55	80	80
McClave	55	80	80
Rixey	55	80	80
Cheraw	55	80	80

(5-b) IT IS FURTHER ORDERED, That the defendants, The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, The Denver & Rio Grande Railroad Company, and Chicago, Burlington & Quincy Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from the Western Slope points; and The Denver & Rio Grande Railroad Company and Chicago, Burlington & Quincy Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears and green fruit and in cents per hundred pounds:

	Apples	Pears	Green Fruit
Hudson	50	72	75
Keenesburg	50	73	75
Roggen	50	75	75
Crest	50	75	75
Wiggins	55	77	80
Fort Morgan	55	78	80
Brush	55	80	80
Pinneo	55	80	80
Akron	55	80	80
Otis	55	80	80
Yuma	55	80	80
Eckley	55	80	80
Wray	55	80	80
Laird	55	80	80
Hill Rose	55	80	80
Union	55	80	80
Merino	55	80	80
Sterling	55	80	80
Hartun	55	80	80
Holyoke	55	80	80
Amherst	55	80	80
Peetz	55	80	80

(5-e) IT IS FURTHER ORDERED, That the defendants, The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, and The Chicago, Rock Island & Pacific Railway Company, H.U.Mudge and Jacob M.Dickinson, Receivers, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points; and The Denver & Rio Grande Railroad Company, and The Chicago, Rock Island & Pacific Railway Company, H.U.Mudge and Jacob M.Dickinson, Receivers, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears and green fruit, and in cents per hundred pounds.

	Apples	Pears	Green Fruit
Falcon	50	70	71
Peyton	50	72	75
Calhan	50	74	75
Ramah	50	75	75
Simla	50	75	75
Matheson	55	76	80
Limon	55	78	80
Genoa	55	78	80
Bovina	55	80	80
Arriba	55	80	80
Flagler	55	80	80
Seibert	55	80	80
Vona	55	80	80
Stratton	55	80	80
Burlington	55	80	80

(5-d) IT IS FURTHER ORDERED, That the defendants, The Cripple Creek & Colorado Springs Railroad Company, and The Denver & Rio Grande Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates on apples, pears and green fruit, in cents per hundred pounds, from Western Slope points;

	Apples	Pears	Green Fruit
Cripple Creek	70	90	90

(5-e) IT IS FURTHER ORDERED, That the defendants, The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, The Atchison, Topeka & Santa Fe Railway Company, The Colorado & Southern Railway Company, The Denver & Rio Grande Railroad Company, and The Missouri Pacific Railway Company, be and they are hereby ordered to establish and put in force, the following joint through rates from Western Slope points; and The Denver & Rio Grande Railroad Company and The Missouri Pacific Railway Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears and green fruit, and in cents per hundred pounds.

	Apples	Pears	Green Fruit
Vineland	50	68	72
Nyburg	50	68	72
Avondale	50	69	73
Boone	50	69	73
Nepesta	50	72	75
Pultney	50	74	75
Fowler	50	75	75
Olney Springs	50	75	75
Ordway	50	75	75
Sugar City	50	75	75
Arlington	55	80	80
Haswell	55	80	80
Galatea	55	80	80
Eads	55	80	80
Brandon	55	80	80
Sheridan Lake	55	80	80
Towner	55	80	80

(5-f) IT IS FURTHER ORDERED, That the defendants The Colorado Midland Railway Company, Geo.W.Vallery, Receiver, The Atchison, Topeka & Santa Fe Railway Company, The Colorado &

Southern Railway Company, The Denver & Rio Grande Railroad Company and Union Pacific Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points; and The Denver & Rio Grande Railroad Company and Union Pacific Railroad Company, be, and they are hereby, ordered to establish and put in force the following joint through rates from Western Slope points. All of these rates shall be for the transportation of apples, pears and green fruit, and in cents per hundred pounds.

	Apples	Pears	Green Fruit
Kersey	50	75	75
Kuner	55	76	80
Hardin	55	76	80
Masters	55	76	80
Orchard	55	77	80
Weldon	55	78	80
Fort Morgan	55	78	80
Snyder	55	80	80
Cooper	55	80	80
Union	55	80	80
Merino	55	80	80
Atwood	55	80	80
Sterling	55	80	80
Proctor	55	80	80
Iliff	55	80	80
Crook	55	80	80
Red Lion	55	80	80
Sedgwick	55	80	80
Ovid	55	80	80
Julesburg	55	80	80
Sandown	50	65	68
Watkins	50	69	75
Bennett	50	72	75
Strasburg	50	74	75
Byers	50	75	75
Deer Trail	50	75	75
Lowland	55	76	79
Agate	55	76	80
Godfrey	55	76	80
Cedar Point	55	77	80
River Bend	55	77	80
Limon	55	78	80
Bagdad	55	78	80
Hugo	55	80	80
Boyero	55	80	80
Kit Carson	55	80	80
Arena	55	80	80
Cheyenne Wells	55	80	80
Arapahoe	55	80	80
Chemung	55	80	80

(6) 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 September 1st, 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

M. N. Galbreath

Dated at Denver, Colorado,
this 20th day of August, 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 20th day of August, 1915.

INVESTIGATION AND SUSPENSION No.3,
and 1st SUPPLEMENTAL ORDER.

IT APPEARING, That by order dated the 28th day of June, 1915, the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO entered upon a hearing concerning the propriety of the new rates and charges for refrigeration of melons, and the rules, regulations and practices governing the time ffor the placing of refrigerator cars at loading points, stated in schedules contained in tariffs, designated as follows:

Item No.44-A, also refrigeration charge of $30.00 on melons to Colorado points as shown in Item 16-D of supplement No.13 to Colorado Midland Railway 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 Railroad Tariff No.5106-D, Colo. P.U.C.No.377.

IT FURTHER APPEARING, That pending such hearing and decision the Commission ordered that the operation of the schedules contained in tariffs enumerated and dexribed in said order of investigation be suspended, and that the use of the charges, rules and regulations, therein stated, be deferred upon intrastate traffic until the 27th day of August, 1915.

IT FURTHER APPEARING, That such investigation and decision thereon cannot be concluded within the period of suspensiom 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 rates, charges, and regulations therein stated be further deferred upon intrastate traffic until the 26th day of October, 1915, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the Secretary of the Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariffs, a certified copy of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

M. D. Aylesworth

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado,
this 20th day of August, 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 9th day of September, 1915.

INVESTIGATION AND SUSPENSION NO. 4
and 1st and 2nd SUPPLEMENTAL ORDER.

IT APPEARING, That by orders dated the 14th and 22nd of July, 1915, the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO entered upon a hearing concerning the propriety of the new rates and charges for the intrastate transportation of soft coal from Canon City District to points in the Cripple Creek District, stated in schedules contained in tariffs, designated as follows:-

Denver & Rio Grande R.R.Tariff No. 5316-A, Colo.P.U.C.No.378,
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 FURTHER APPEARING, That pending such hearing and decision the Commission ordered that the operation of the schedules contained in the tariffs enumerated and described in said order of investigation be suspended, and that the use of the charges, rules and regulations, therein stated, be deferred upon intrastate traffic until the 12th day of September, 1915.

IT FURTHER APPEARING, That such investigation and decision thereon cannot be concluded 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 rates, charges, and regulations therein stated be further deferred upon intrastate traffic until the 11th day of November, 1915, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the Secretary of the Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariffs, a certified copy of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 9th day of September, 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO,

Complainant,

vs.

THE DENVER AND RIO GRANDE RAILROAD COMPANY,

Defendant.

CASE NO. 32.

Submitted September 17th, 1915. Decided October 2nd, 1915.

Appearances: For the defendant, The Denver and Rio Grande Railroad Company.
E. N. Clark, General Attorney,
J. Russell, General Manager.

STATEMENT AND ORDER.

The Commission having received many informal complaints alleging that the defendant maintained two dangerous railroad crossings at Mile Post 396.8 and Mile Post 397.4, respectively, on its line of railroad, both crossings being located within the State of Colorado, D. S. Hooker, railroad engineer for the Commission, made an inspection of the said railroad crossings on the 31st day of July, 1915; and on the 17th day of August, 1915, filed his written report with this Commission declaring said crossings to be unsafe and inadequate.

On the 18th day of August, 1915, the Commission initiated a complaint against the defendant, The Denver & Rio Grande Railroad Company, and ordered the defendant to appear at the Hearing Room of the Commission in Denver, Colorado, at the hour of 10:00 o'clock a.m.,

on the 10th day of September, 1915, before the Commissioners en banc, to make such showing as might be thought necessary by the said defendant.

The Hon. E. N. Clark, General Attorney for the defendant, The Denver & Rio Grande Railroad Company, appeared for the defendant company and requested a continuance of said hearing for a period of not to exceed sixty (60) days, so that the defendant would be enabled to submit certain plans for the protection of the crossings complained against for the approval of the Commission. The continuance was granted.

On the 17th day of September, 1915, the Hon. J. Russell, General Manager of the defendant railroad company, submitted to the Commission the proposed plans to make safe the dangerous crossings. These plans were thoroughly investigated by the engineer for the Commission, and on the 28th day of September, 1915, the Commission's engineer submitted to the Commission in writing a recommendation for the adoption of the plans as submitted by the defendant railroad.

We have carefully examined the plans, blueprints, and letter of transmittal of the defendant, The Denver & Rio Grande Railroad Company, and have made the same a part of the record in this cause.

We find upon an examination of the report of D. S. Hooker, the Commission's engineer, which has been made a part of the record in this cause, that the said crossings complained of are inadequate and unsafe. We also find that the plans submitted by the General Manager of The Denver & Rio Grande Railroad Company are practical and feasible. The defendant company has agreed to furnish the right of way required in accordance with the plans submitted and will do the grading and relocating of said crossing at its expense.

O R D E R.

IT IS THEREFORE ORDERED, That the defendant, The Denver & Rio Grande Railroad Company, shall install an electric gong at its railroad crossing at Mile Post 396.8 on its line of railroad and generally known as "Lereaux Creek Crossing" within thirty (30) days from the date of this order, and that the electric safety gong shall be of standard make and construction and shall be so installed as to sound a sufficient and continuous warning while the trains of the defendant are within one thousand (1000) feet of said crossing; and the said gong shall be installed under the supervision, and to the satisfaction of the railroa d engineer of this Commission.

The railroad crossing on the line of the defendant located near Mile Post 397.4 and known as the "Barrow Mesa" railroad crossing shall be moved one hundred and sixty (160) feet west, in accordance with the blueprint plans filed by the defendant company with this Commission.

IT IS FURTHER ORDERED, That the said company shall acquire the necessary rights of way, accomplish the necessary grading, and relocating at the expense of the defendant, and under the supervision and to the satisfaction of the railroad engineer of this Commission; and shall be completed within sixty (60) days from the date of this order.

By order of the Commission:

W. H. Lamont

S. S. Kendall

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado, this 2nd day of October, 1915.

ORIGINAL

BEFORE THE

PUBLIC UTILITIES COMMISSION

OF THE

STATE OF COLORADO

THE CASTLE ROCK MOUNTAIN RAILWAY AND PARK, (a Scenic Incline Railroad owned and operated by Charles F. Quaintance), in its own behalf and in behalf of all other scenic trips out of Denver and all others similarly situated,	)	
Petitioner,	)	Case No. 29.
vs.	)	
THE DENVER TRAMWAY COMPANY, a Corporation,	)	
Defendant.	)	

Amended Sept. 2, 1915 Amended Oct. 7, 1915

APPEARANCES -

Messrs. Gerald Hughes and Howard Robertson, for The Denver Tramway Company, Defendant.
Mr. Charles F. Quaintance, for Petitioner.

O R D E R

The complaint of the plaintiff in this cause was originally directed against The Denver Tramway Company, a Corporation; The Seeing Denver Company, a Corporation; The Denver Omnibus & Cab Company, a Corporation; and The Denver Union Terminal Railway Company, a Corporation; and, upon the 9th day of August, 1915, the Commission ordered the said complaint dismissed as to all of the defendants excepting The Denver Tramway Company, the present defendant, and gave its reasons therefor. The plaintiff was directed to amend its complaint within five (5) days from date of

that order and "base its cause of action solely on the alleged discrimination in the rates, practices and service of the defendant, The Denver Tramway Company, in favor of the defendant, The Seeing Denver Company." It was further ordered "that the defendant, The Denver Tramway Company, answer the petition of the petitioner within five (5) days after the same is filed with this Commission."

On the 13th day of August, 1915, the complainant filed its amended complaint with this Commission, alleging that the defendant was discriminating against the plaintiff, in that the said defendant made a different and lower rate for private cars, for a similar service, to The Seeing Denver Company, a Corporation, than to the complainant in this action; that the defendant permitted The Seeing Denver Company to use its cars for the purpose of collecting passengers and soliciting business and advertising along the streets of Denver, and permitted The Seeing Denver Company to stop said chartered cars at hotels along its line of railroad, and denied these privileges to the petitioner; that the defendant, The Denver Tramway Company, permitted its agents to sell tickets for the scenic trips of The Seeing Denver Company, and none other; that the defendant permitted The Seeing Denver Company to hold cars at the foot of Seventeenth Street, in front of the Union Depot, covered with large signs advertising trips, for the purpose of securing tourists directly from trains, which practice is not open to the plaintiff; that the defendant offers to The Seeing Denver Company a private car specially equipped on a basis of a guarantee of $7.50, while the plaintiff must pay to the defendant the sum of $25.00 as a guarantee, for a similar use; that the defendant offers to The Seeing Denver Company a different and better car than is offered to the petitioner; and the petitioner prays that it and all others may be given the same rights, rates, service, equipment and privileges by the defendant, in all respects, as The Seeing Denver Company or any other competitor is given, and that the discrimination in favor of The

Seeing Denver Company be abated; that the defendant corporation be required to serve the whole public alike and give no rights, rates, service, equipment and privileges which are denied to the petitioner and others similarly situated.

On the 25th day of August, 1915, the defendant filed with this Commission a demurrer and answer to the amended complaint of the petitioner, and, among other things, alleged that the Commission had no jurisdiction of the subject matter of this action; that the petitioner is attempting to have the Commission assist it in obtaining business; that the matters complained of in the petitioner's complaint relate wholly and exclusively to the management and operation of the petitioner's business and the management and operation of the business of the defendant, in its private, as distinguished from its character as a public common carrier; that the matters and things complained of do not relate to the transaction of the business of the defendant in its capacity as a common carrier of the public generally, but relate exclusively to the carrying on of the business of the petitioner; that the petitioner is endeavoring to compel the defendant to accord it privileges and rights to which the general public are not entitled, except at the acquiescence of the defendant and then only upon such terms as the defendant may see fit and proper to impose; that the property of the defendant which the petitioner claims he is not entitled to use and enjoy, is of a private character; that the petitioner has filed its complaint for the purpose of regulating and supervising private contracts and arrangements between the defendant and other companies and corporations, which do not involve the rates or service to the traveling public, and that the Commission has no authority to declare a public policy or to supervise or regulate private contracts and arrangements between the defendant and other companies or corporations which do not involve service to the traveling public; that the defendant is operating a street railway within the City and County of Denver, and that the matters complained of are in connection with operation and management

of a street railway in the City and County of Denver, and not as a common carrier of the traveling public generally, and, if subject to regulation, that the power or authority thereof is vested in the local officers of the City and County of Denver. The defendant denies that it allows The Seeing Denver Company to use special cars all day long, or stand them in front of the Union Depot or run them up and down the streets all day long for the purpose of advertising and soliciting business; and denies that it carries on its cars advertising matter of The Seeing Denver Company in the most prominent places, and refuses to do so for the petitioner.

On September 2nd, 1915, at the Hearing Room of the Commission, in the City and County of Denver, this cause came up for hearing, at which time, and prior to the taking of any evidence, the Commission overruled that part of the answer or demurrer of the defendant which alleged that the Commission had no jurisdiction over the person of the defendant.

By constitutional amendment, the City of Denver has been consolidated with a part of the County of Arapahoe and given the title of The City and County of Denver, and is permitted to operate under a charter which was adopted by the vote of the people of the City and County of Denver. By later amendment to the constitution, all cities and towns within the State of Colorado having a population of two thousand inhabitants are given authority to make a charter which shall be the organic law of the city or town, and extend to all local and municipal matters, and the said constitutional amendment gives to the city and town all powers necessary, requisite or proper for the government and control of its municipal matters, including power to legislate upon, provide, regulate, conduct and control the same. Following which provision certain local or municipal

matters are defined, and the amendment then states that

> "It is the intention of this article to grant and confirm to the people of all municipalities coming within its provisions, the full right of self government in both local and municipal matters, and the enumeration herein of certain powers shall not be construed to deny to such cities and towns and to the people thereof, any right or power essential or proper to the full exercise of such right."

This is popularly known as "home rule", and it is the position of this defendant, a public utility located within the City and County of Denver, which City and County operates under a charter, that it is not subject to the jurisdiction of the Public Utilities Commission of the State of Colorado, but is under the control of the local authorities within the City and County of Denver. We can not assent to this proposition. It has been decided a number of times that the regulation of rates and service of a public utility, and rules, regulations and practices pertaining thereto, arises through the police power of the State, and is a matter of state wide importance, and is in no sense a local, municipal or internal matter. If the position of the defendant in this regard was assented to by the Commission, any municipality within the State of Colorado with a population of two thousand inhabitants could regulate the rates and service of the public utilities operating within its boundaries, and the Public Utilities Law of the State of Colorado would become but an emasculated piece of legislation; and we refer the defendant to the case of Portland Railway, Light & Power Co. vs. City of Portland, reported at 210 Fed. Reporter, at Page 667. In this case, a utility operating within the boundaries of the city of Portland, a 'home rule' city operating under a charter, with power to control and to legislate in regard to its local, municipal and internal affairs, filed its schedule of rates with the State Public Service Commission of Oregon, and the City of Portland questioned the jurisdiction of the State Commission over the local utility, and the Honorable Judge Bean, in a very clear and able opinion, had the

following to say:

"Now, the right to regulate rates of public service corporations is a governmental power vested in the state in its sovereign capacity. It may be exercised by the state directly or through a commission appointed by it, or it may delegate such power to a municipality. But I do not understand that a municipality may assume to itself such power without the consent of the state where there is a general law on the subject emanating from the entire state. It is true that under the Oregon system the legal voters of every city or town are given power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the state. But this does not authorize the people of a city to amend its charter so as to confer upon the municipality powers beyond what are purely municipal or inconsistent with a general law of the state constitutionally enacted. Straw v. Harris, 54 Or. 424, 103 Pac. 777, and Kiernan v. Portland, 57 Or. 454, 111 Pac. 379, 112 Pac. 402, 37 L.R.A. (N.S.) 339. It was so held by the Supreme Court of the state in Riggs v. City of Grants Pass, 134 Pac. 776, where a city attempted to amend its charter so as to authorize its council to incur an indebtedness for the building of railroads. The regulation of fares to be charged by public service corporations is not primarily a municipal matter, but is a sovereign right belonging to the state in its sovereign capacity. All authority over the subject must emanate from the state. The effect of the amendment to the charter of the city of Portland is an attempt to ignore the state authority and to assume sovereign rights superior and contrary to the expressed will of the state as manifested in its legislation. If the amendment is valid and takes the public utilities within the city of Portland out of the operation of the Public Utility Act and the jurisdiction of the commission created by it, then every municipality in the state may amend its charter with like effect, and the Public Utility Act will become a useless and emasculated piece of legislation, the will of the entire people as expressed therein be practically ignored, and the people of a part of the state become greater than the whole. The Public Utility Act was not only passed by the Legislature but approved by a majority of the people on a referendum vote. It is therefore the expressed will of the sovereign power of the state concerning a subject over which it has jurisdiction, and it cannot be amended or abrogated by the people of a particular or given locality. The purpose was to provide a uniform system throughout the entire state for the control and regulation of public utilities and fixing the rates to be charged by them, and to create a tribunal for that purpose. It is true the Public Utility Act does recognize the authority of municipalities over public service corporations within its boundaries for certain purposes, but not in the matter of regulating or prescribing rates or fares. That power is vested alone in the Public Service Commission.

Now, Portland, or the people of Portland, are not without remedy if the rate charged by the plaintiff is unreasonable or unjust. They have a full and complete

remedy by application to the tribunal created by the state for the purpose of determining such questions, and which is provided with the necessary machinery and expert assistants to deal with the subject intelligently. I take it therefore that the preliminary injunction should issue; the form thereof and the amount of the bond to be determined hereafter."

The Commission agrees with the above reasoning.

The defendant in this case is an electrical street railway, operating within the City and County of Denver, and between Denver and Golden, a municipality in Jefferson County. The petitioner operates a funicular railroad from the base of Castle Rock Mountain to the top thereof, the said railroad being in the vicinity of Golden. The evidence in this case is to the effect that the defendant company furnishes to The Seeing Denver Company private cars, operating on a schedule satisfactory to the defendant and The Seeing Denver Company, on a guarantee of $7.50, upon the cars of the defendant, operating between Denver and Golden, and a guarantee of $3.50 on each Seeing Denver car operating within the City and County of Denver, on the line of the defendant. A certain amount of street soliciting of passengers is permitted by the defendant company, controlled by a schedule. The plaintiff is offered a rate of $25.00 for a private car from Denver to Golden, in accordance with the rate schedule of the defendant company now on file with this Commission; and it appears that the plaintiff company has chartered about twelve cars from the defendant company, for the summer of 1915, operating between Denver and Golden.

The evidence also shows that employes of the defendant company sell tickets entitling passengers to ride upon cars rented by The Seeing Denver Company from the defendant, and that The Seeing Denver Company pays to the defendant fifty per cent of all revenues received upon cars rented by the defendant to The Seeing Denver Company, over and above the minimum charges of $7.50 and $3.50, respectively.

I

There is a contract between the defendant company and The Seeing Denver Company, entered into on the 12th day of August, 1912, and expiring on the 31st day of October, 1913, with the right and privilege of one year renewals for a period of four years, upon consent of both parties, and a supplemental contract entered into by the said parties on May 1st, 1914, and expiring on October 31st, 1915. The original contract and supplement provide for a certain number of cars to be leased during certain months of each year throughout the life of the contract, and for a certain number of trips each day upon the lines of the defendant, these cars to be operated on a schedule satisfactory to the defendant company. The defendant company equips the cars rented to The Seeing Denver Company, with a conductor and motorman, and the contract provides that these cars shall be under the control of the defendant company during their use by The Seeing Denver Company. It also appears from the evidence that the defendant company has certain cars constructed especially for sight-seeing service, and these cars are different than the ordinary tramway passenger cars.

The position of the defendant in this case is to the effect that the contract entered into by the defendant company with The Seeing Denver Company is a private contract and therefore is not a service furnished by the defendant company to The Seeing Denver Company which is public in its nature, and the defendant then arrives at the deduction that this Commission has no control over the alleged private contract. This theory is presented to the Commission along the line of well recognized court and commission decisions to the effect that a public utility is not subject to regulation in regard to any private business it may conduct, which is not in the nature of public duty. For instance, a public utility may buy its stationery from whom it pleases, rent its offices from any desirable party, and conduct that part of its business as to which the public is not interested according to the policy of its directors and stock holders, and it has been many times stated

that it is not the business of a regulating commission to designate or regulate the policy of any public utility in the conducting of its business. Many authorities have been briefed for the Commission, and the defendant company has endeavored to illustrate its position with a line of cases, holding that a terminal company or a railroad may contract exclusively with a cab company for the purpose of soliciting passengers from the depot of the terminal or railroad company, for the reason that the solicitation of the business of the passenger who has arrived at his destination is not a matter over which regulation should extend, but is in the nature of a private contract, and that the duty of the terminal or railroad company ceases as to that passenger and the public when the passenger arrives at his destination and alights from the train, with the exception, of course, that the cab company must give a service which is just and convenient to the public, and that simply because of the fact of the entering into of an exclusive contract, no discrimination thereby develops as against other cab companies. This reasoning has been followed by the Supreme Court of the State of Colorado, in the case of Union Depot and Railway vs. Meeking, Page 89, Colorado Reports 42; Donovan vs. Pennsylvania Company, 199 U.S.279; J.B.Troy vs. Lehigh Valley Railroad Company, N.Y.Public Utilities Commission Reports, Division 2; Red Line Tourist Agency vs. Southern Pacific Company and Union Transfer Company, Calif. Railroad Commission Reports, Vol. 3, Page 526.

There is also a line of authorities which adopts the opposite view, that when a railroad company assumes to give an exclusive contract to one cab company to solicit business on the property of the railroad company, it unjustly discriminates as against other cab companies, and that when this privilege is given to one, it must be given to all. McConnell vs. Pedigo, 92 Ky. 465, 18 S. W. 15; Palmer Transfer Company vs. Anderson, 131 Ky. 217; Kalamazoo Hack & Bus Company vs. Sootsma, 84 Mich. 194; Wm. Steelman vs. C.& E.I.R.R.Co., Ind. Public Service Commission, April 23rd, 1915.

Our attention has been called to the case of The Northern Pacific Railway Company vs. North Dakota, found in Vol. 236 U. S. Supreme Court Reports, Page 585, and particularly has our attention been called to the following:

> "But, broad as is the power of regulation, the State does not enjoy the freedom of an owner. The fact that the property is devoted to a public use on certain terms does not justify the requirement that it shall be devoted to other public purposes, or to the same use on other terms, or the imposition of restrictions that are not reasonably concerned with the proper conducting of the business according to the undertaking which the carrier has expressly or impliedly assumed. If it has held itself out as a carrier of passengers only, it cannot be compelled to carry freight. As a carrier for hire, it cannot be required to carry persons or goods gratuitously."

As to this view, we agree, but we also agree with the view expressed by the court on Page 595 of this case:

> "The general principles to be applied are not open to controversy. The railroad property is private property devoted to a public use. As a corporation, the owner is subject to the obligations of its charter. As the holder of special franchises, it is subject to the conditions upon which they were granted. Aside from specific requirements of this sort, the common carrier must discharge the obligations which inhere in the nature of its business. It must supply facilities that are reasonably adequate; it must carry upon reasonable terms; and it must serve without unjust discrimination. These duties are properly called public duties, and the State within the limits of its jurisdiction may enforce them. The State may prescribe rules and insure substantial equality of treatment in like cases, and to promote safety, good order and convenience."

The defendant tramway company carries passengers for hire within the City and County of Denver and the Counties of Adams, Arapahoe and Jefferson. On February 3rd, 1915, the defendant filed with this Commission its Passenger Tariff No. 1, and the schedule contains an enumeration of its fares to be charged for transportation, together with its rules and regulations. On Page 21 of this schedule, we find the charges to be made for special cars and trains, and on Page 22 the rates for funeral cars and trains and special cars, and it is under this schedule that the plaintiff's rate of $25.00 for a car from Denver to Golden appears. The schedule of rates provided by the defendant for The Seeing Denver Company has not been filed with this Commission,

but the contract and supplement have been made a part of the record in this case. The defendant has no doubt assumed that the contract between The Seeing Denver Company and the defendant company is a private contract, and therefore has failed to file same with the Commission.

We can not agree with this proposition. The defendant company provides for special and chartered cars and trains in its schedule of rates now on file with this Commission. It is soliciting this class of service. We are unable to distinguish as between the kind of service offered to The Seeing Denver Company and the kind of service offered to the plaintiff. On the one hand, the defendant company rents its equipment to The Seeing Denver Company for sight seeing purposes. On the other hand, it rents its equipment to others for a similar purpose. The defendant company has assumed the burden of furnishing this service in so far as its equipment for said service extends. We realize from the evidence that The Seeing Denver Company rents a certain number of cars on a regular schedule every day during certain months of the year.

The defendant utility generates and buys its electric current and owns certain equipment for sight seeing purposes. While we recognize the principle that the large shipper or consumer should not have an advantage in rate over the smaller consumer on the basis of quantity alone, yet it is our opinion that it is not unjust discrimination to make a difference in rates where the expense or difficulty of performing the service renders such discrimination fair and reasonable.

And it follows that differences may be made proportionate to the cost of service without the making of any illegal discrimination.

The Seeing Denver Company uses a large quantity of service, which, when considered alone, may not justify a different rate, but when considered with the cost of the service and the regularity of same, may result in a different conclusion.

We feel it to be the duty of the defendant company, under the laws of the State of Colorado, ~~for it~~ to file an amended schedule of rates. The defendant company may, if it so desires, provide for a class of service for the use of its equipment for sight seeing purposes at regular intervals and in certain quantities, under fair and just rules and regulations, which may be approved or disapproved by the Commission.

Should it be contended that the order of this Commission in this cause abrogates the terms of the contract between the defendant company and The Seeing Denver Company, the following authorities may be instructive:

Wolverton vs. Mountain States T. & T. Co., 142 Pac. 165;
Louisville & Nashville Railroad Co. vs. Mottley, 219 U.S. 467;
Southern Wire Company vs. St.Louis Bridge & T. Co., 28 Mo. 191;
Colorado Commission case, 54 Colorado 64, 92;
Mo.Pac.Ry.Co. vs. Kans., 216 U.S. 262;
Benwood vs. Public Service Commission, S.Da. 83, S. E. 295, L.R.A. 1915 C., Page 261;
State ex rel Webster vs. Superior Court, 67 Washington 37, 120 Pac. 861.

We do not determine in this case whether the rate offered to the petitioner is a fair and just rate, nor whether the rate offered to The Seeing Denver Company is fair and just.

IT IS THEREFORE ORDERED, That the defendant, The Denver Tramway Company, shall file with the Public Utilities Commission of the State of Colorado, for its approval, on or before December 1st, 1915, a schedule setting forth each and every rate charged by said defendant company, together with rules and regulations pertaining thereto.

AND IT IS FURTHER ORDERED, That the schedule of rates so filed, and the service arising therefrom, shall be offered to the public without discrimination, subject to such rules and regulations as may be approved by the Commission.

This order shall become effective December 1st, 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

M. N. Ayhworth

Geo T. Bradley

S. S. Kendall

Commissioners.

Dated at Denver, Colorado,
this 7th day of October, 1915.

ORIGINAL

B E F O R E

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

THE BRECKENRIDGE CHAMBER OF COMMERCE,
Petitioner,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY,
a Corporation,
Defendant.

CASE NO. 37

Submitted October 19,1915 Decided October 20th, 1915

APPEARANCES:

For The Breckenridge Chamber of Commerce,
Barney L. Whatley, Esq.
For The Colorado & Southern Railway Company,
E.E.Whitted, Esq.

S T A T E M E N T

On September 1st, 1915, the above named petitioner filed its petition with The Public Utilities Commission of the State of Colorado, the principal allegation of which was to the effect that the defendant herein contemplated and intended to abandon the whole or some portion of that part of their narrow gauge line between Denver and Leadville, commonly known as the South Park branch of the defendant's property, and leave the people residing along said line without the necessary facilities and service in the way of railroad transportation; and particularly alleged that the defendant intended to abandon that portion of its line between Como and Breckenridge,

thereby cutting off direct communication over its own line between Breckenridge and other points in Summit County, and the seat of the state government at Denver, which would compel the people desiring to reach Denver and other points east to travel by way of Leadville and the Denver & Rio Grande or Colorado Midland railroads, a distance greatly in excess of the direct route over its own line, and at a much greater delay and expense, and would cause like and similar inconvenience in the matter of receiving and shipping mail, express and freight; and further alleged that it was the intention of the defendant to inaugurate and furnish to the citizens of Summit County a mixed passenger and freight train service between Breckenridge and Leadville, in lieu of a through and exclusive passenger train service between Denver and Leadville, as now enjoyed by the said patrons of that line; and further alleged that the defendant refuses and declines to operate a Sunday passenger train over its line in Summit County, to the great detriment and inconvenience of the citizens of that community; and prayed for an order requiring the defendant to cease and desist from such violation of the Act concerning public utilities, and requiring it to operate the whole of said narrow gauge line of railroad from Denver to Leadville; and requiring it to operate a Sunday passenger train for at least six months in the Summer and Fall seasons; and that it provide through and exclusive passenger and freight service daily; and that it provide suitable and regular freight service for the handling of all kinds of freight and commodities; and for such further and additional relief as the Commission may deem just and proper.

The defendant herein filed its answer to the petition, admitting the mere formal allegations contained in the petition; admitting that it refuses to operate a Sunday passenger train over that portion of its line between Grant and Leadville, and as a

reason therefor, alleges there is not sufficient business to warrant it in so doing, and denies each and every allegation, and for further answer, alleges,

> "That its line of road from Denver to Como is known as its Platte Canon district and its line of road from Como to Leadville as its Leadville district; that the last district was operated during the fiscal year ending June 30, 1915, at a loss of over $75,000, not taking into consideration any return on the capital invested in said property; that the Platte Canon district was operated during the same period at a loss of more than $50,000 a year, not taking into consideration any return on the capital invested; that the said line from Denver to Leadville has for many years not earned its operating expenses and any increase in the train service between Denver and Leadville will necessarily increase the deficit upon said narrow gauge line from Denver to Leadville; that under the most rigid economy and careful management during the last fiscal year in operating the line from Denver to Leadville in accordance with the order of the State Railroad Commission of Colorado, a deficit, as above stated, was the result of the operation of the line and such deficit will occur in any future operation of the property",

and prays to have the petition dismissed.

The issues involved in this case have been before this Commission and its predecessor, the State Railroad Commission, for several years. In Case No. 29, reported in the biennial report of the State Railroad Commission for the years 1911-12, at Pages 39-48, the defendant herein was ordered to re-establish freight and passenger service over Boreas Pass, situated between the towns of Como and Breckenridge, and to furnish certain train facilities between Leadville and Denver. The defendant refused to obey this order, which resulted in the Commission bringing a mandamus action in the district court of Summit County for the enforcement of same. The court sustained the order of the Commission and the railroad company was directed to obey the order of the Commission, whereupon an appeal was taken to the Supreme Court, which tribunal sustained the order of the Commission in every particular, which case is reported at 54 Colorado, 64-96.

In view of the fact that a statutory provision of the old Railroad Commission Act limited the orders of the Commission to a period not to exceed two years, it became necessary for The Breckenridge Chamber of Commerce to file a new action to have the order continued, which they did on September 2nd, 1913. On February 3rd, 1914, the Railroad Commission entered an order, the terms of which were identical with the former order, which became effective on March 6th, 1914, and ran for a period of two years, which case is reported in the Fourth Biennial Report of the State Railroad Commission, 1913-14, at Pages 125-130. On August 12th, 1914, the present Public Utilities Commission Law of this State became effective, and the Railroad Commission Law was automatically repealed. All orders and decisions of the former Railroad Commission, however, were validated and confirmed. It will thus be seen that the last order issued in this case by the former Railroad Commission is still in effect and, by its terms, will not expire until March 6th, 1916. The provision limiting the orders of the Commission to a period not to exceed two years has been eliminated in the present act, and the purpose of the petitioner in bringing this action at this time is to secure a renewal of the order without time limit, before the expiration of the former order.

After due notice to all interested parties, the cause was set down for hearing on October 19th, 1915, at the Hearing Room of the Commission, Capitol Building, Denver, Colorado. Barney L. Whatley, Esq., appeared for the petitioner, and Elmer E. Whitted, Esq., appeared for the defendant. No testimony or evidence was introduced. The parties agreed to settle the cause by a stipulation, and thereupon filed the following stipulation with the Commission:

> "Come now The Breckenridge Chamber of Commerce, by Barney L. Whatley, its attorney, and The Colorado & Southern Railway Company, by E.E.Whitted, its attorney, and for the purpose of settling and disposing of the above entitled cause of action now pending before The Public Utilities Commission of the State of Colorado, hereby stipulate and agree as follows, to-wit:

"FIRST.- That the Public Utilities Commission of the State of Colorado may be and it hereby is authorized and directed to make and enter an order notifying and directing the defendant above named to, on or before the first day of January, 1916, and until the further order of the Commission in the premises, maintain, operate and conduct a through freight service from Denver to Leadville by way of Como and Breckenridge, at least three days each week, and from Leadville to Denver, by way of Breckenridge and Como, at least three days each week; and also that the defendant, The Colorado & Southern Railway Company do, on or before the said date and until the further order of the Commission in the premises, operate and maintain and conduct a through and exclusive passenger train 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 way of Breckenridge and Como.

"SECOND.- That when the order above specified and agreed to shall be made and entered by the said Commission, it shall stand as the disposition of the above entitled case so far as said Commission is concerned, and neither party thereto shall be required to produce any evidence concerning the matters and things at issue in the said cause.

"THIRD.- Provided that the defendant Railway Company may at any time hereafter file its petition herein for a modification of said order whenever, by reason of changed conditions or otherwise, a modification of said order may be just and reasonable."

An order will therefore be entered in accordance with the provisions of the above stipulation.

O R D E R

IT IS THEREFORE 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, 1916, and until the further order of the Commission, maintain, operate and conduct a through freight service from Denver to Leadville by way of Como and Breckenridge at least three days each week, and from Leadville to Denver by way of Breckenridge and Como at least three days each week.

IT IS FURTHER 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, 1916, and until the further order of the Commission, maintain, operate and conduct a through and exclusive passenger train service daily excepting Sunday from Denver to Leadville by way of Como and Breckenridge, and a through and exclusive passenger train service daily excepting Sunday

from Leadville to Denver by way of Breckenridge and Como.

Effective January 1st, 1916, and until the further order of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S S Kendall

Geo I. Bradley

Commissioners

Dated at Denver, Colorado,
October 20th, 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 25th day of October, 1915.

INVESTIGATION AND SUSPENSION NO. 3,
and 1st and 2nd SUPPLEMENTAL ORDER.

IT APPEARING, That by order dated the 28th day of June, 1915, the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO entered upon a hearing concerning the propriety of the new rates and charges for refrigeration of melons, and the rules, regulations and practices governing the time for the placing of refrigerator cars at loading points, stated in schedules contained in tariffs, designated as follows:-

Item No. 44-A, also refrigeration charge of $30.00 on melons to Colorado points as shown in Item 16-D of supplement No. 13 to Colorado Midland Railway 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 Railroad Tariff No. 5106-D, Colo. P. U. C. No. 377.

IT FURTHER APPEARING, That pending such hearing and decision the Commission ordered that the operation of the schedules contained in tariffs enumerated and described in said order of investigation be suspended, and that the use of the charges, rules and regulations, therein stated, be deferred upon intrastate traffic until the 26th day of October, 1915.

IT FURTHER APPEARING, That such investigation and decision thereon cannot be concluded 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 rates, charges, and regulations therein stated be further deferred upon intrastate traffic until the 24th day of January, 1916, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the Secretary of the Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariffs, a certified copy of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall
Geo. T. Bradley
M. N. Arbuckle
Commissioners.

Dated at Denver, Colorado,
this 25th day of October, 1915.

ORIGINAL

MARK No COPY

BEFORE

THE PUBLIC UTILITIES COMMISSION

OF THE

STATE OF COLORADO.

CHARLES W. HAINES,
petitioner,

vs.

THE COLORADO SPRINGS LIGHT, HEAT & POWER CO., a corporation,
defendant.

CASE NO. 36.

Decided Nov. 3, 1915.

APPEARANCES -

Messrs. Charles W. Haines for Petitioner

R. L. Holland for Defendant

O R D E R A N D O P I N I O N

On September 1st, 1915, the petitioner herein filed complaint against the above named defendant and alleged that he is the owner of the lots No. 7 & 8 in block Q, Edwards Addition, of the city of Colorado Springs, said lots having a frontage of 100 feet on Tejon Street and 190 feet on Buena Ventura Street.

That on said ground are two houses. The front one stands back 50 feet from Tejon Street and is occupied by the petitioner. The other stands 160 feet back from Tejon Street facing north on Buena Ventura Street and is occupied by tenants of petitioner. The gas main of the defendant is laid in Tejon Street and the defendant

ran its service pipe from its main pipe in Tejon Street to the petitioner's residence, a distance of 75 feet, but refuses to extend its pipes in Buena Ventura Street to a point opposite the petitioner's rear house, a distance of approximately 214 feet from the main in Tejon Street, unless the petitioner will guarantee that enough gas will be used within three years at current rates to cover the cost of said extension amounting to $69.66.

That the houses stand in a thickly settled part of the city and petitioner is substantially damaged by his inability to supply gas demanded by his tenants and since they change from year to year the petitioner cannot control their use of gas or guarantee the amount they shall use.

That said defendant is in the enjoyment of a valuable franchise to use the city streets and that in return thereof its charter (page 5, sec. 7 appendix to code of Colorado Springs) provides: "That the said company will within reasonable time thereafter lay pipes, distribute and sell gas on any and all streets respectively in the city of Colorado Springs so far as there may be any reasonable demand for such gas on said streets or any of them."

That said defendant may not in addition to their franchise, demand that citizens desiring to use gas shall pay for permanent additions to the company's plant in the city streets and prays for an order to compel the defendant to extend its pipe in Buena Ventura Street to a point opposite petitioner's house.

The defendant made answer thereto admitting all of the relevant facts alleged in the petition and further answering, alleged that the lots in that part of the city in question are platted to face east and west. That the mains of the defendant run north and south in the streets on each side of petitioner's property. That the house in question is built on the rear of petitioner's lots next to the alley and face north, which is approximately one-half of the distance between the mains of the defendant situated in Tejon Street and Cascade Avenue, the next Street west thereof.

That the patrons living between these two streets are served with gas from one or the other of these mains. That they are willing to connect the petitioner's house with the main in Tejon Street for the usual charge of $5.00 as provided for in such cases. That the house in question is the only one on Buena Ventura Street between Tejon Street and Cascade Avenue. That, while there is room for several other houses, there is no immediate prospect of their being built and that it would be unreasonable to expect the defendant to lay the main in question unless the petitioner will guarantee that enough gas will be used in three years to cover the cost of the construction, for the reason that the petitioner's property may become vacant at any time and remain unoccupied indefinitely, in which event the defendant's investment would remain idle and its other customers would therefore be compelled to bear the burden of this unwarranted investment, and alleges that the petitioner's house can be connected up with the company's existing gas mains by joining the connection on to the service pipes supplying petitioner's residence, both houses being located on the same lots and prays to have the case dismissed. After due notice the case was set down for hearing on October 11, 1915 at the Council Chamber at Colorado Springs before Commissioner Kendall. Charles W. Haines, Esq., the petitioner, appeared in his own behalf. R. L. Holland, Esq. appeared for the defendant. The petitioner asked and was granted leave to make a minor amendment to the petition. All the facts alleged in the petition were then admitted by the defendant and the parties agreed to submit the case on the pleadings without taking evidence.

This case, as the Commission understands the situation, is submitted more in the nature of a friendly suit than otherwise and the only question involved is the reasonableness of the guarantee, which the defendant demands of the plaintiff to make this extension.

The question of reasonableness in regard to the extension of service mains must be determined by the peculiar circumstances and facts surrounding each particular case. It is patent to the Commission that no fixed standard or inelastic rule can be established as a precedent to be followed in every case. This position seems to have been taken by practically every regulative body and Commission.having jurisdiction over Public Utilities. The defendant in this case has laid its mains to conform to the manner in which that particular section of the city was plated. That is the lots face east and west and the mains of the defendant are laid in the street, which run north and south. They are thus in a position to make direct connection with every lot in that portion of the city.

The defendant in making answer to this petition set forth the fact that it made a uniform charge of $5.00 to make a connection with its mains irrespective of the location of the building on the lots and counsel for defendant alleged their willingness to make this connection in this manner or to make it by extending the service pipe from the plaintiff's residence, situated on the front of the lots, to the house in question, situated on the rear of the lots.

The rules and regulations of the defendant in reference to extention of lines and mains as shown by schedules on file with this Commission reads as follows: "Extension of lines or mains are made where the gross income earned on such extensions for the first two years equalls or exceeds the cost of the extension. When this income is not assured, guarantees are taken from the consumers served equal to this amount and covering a two year period. Any additional income accruing on this extension is applied on the above guarantees. "

The plaintiff in this case is the only one, who would be benefited by such an extension. It is admitted that no other

necessity exists for its construction. It could not and would not be used for fire protection in the neighborhood and it is extremely problematical that other residences will ever be built on the proposed extension. The length of the extension would be approximately 214 feet and estimated cost would amount to $59.66. The defendant is not asking the plaintiff to pay for the cost of installation but simply asking the plaintiff to assume some of the responsibility by requiring him to guarantee to use sufficient gas in three years, at current rates, to cover this cost.

The Commission is inclined to take the view that the position of the defendant is reasonable and that it will work no hardship on the plaintiff. Neither can we agree with the allegation of the petitioner that such a regulation is in fact compelling citizens to pay for permanent additions to the company's plant in the city streets. An order will therefore be entered dismissing the case.

The Commission feel that the three year minimum is a reasonable regulation in this instance. We note, however, that this does not harmonize with a two year clause as shown by schedules on file with this Commission. Neither does the schedule make any provision for a $5.00 connection charge.

O R D E R

It is hereby ordered that this case be dismissed, and it is further ordered that the defendant, The Colorado Springs Light & Power Company, forthwith file amended schedules with this Commission, showing all connection charges demanded by it and such rules concerning the minimum guarantees as are not now on file with this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. A. Kendall

Geo. I. Bradley

W. H. Unsworth

Dated at Denver, Colo.
this 3rd day of Nov., 1915.

ORIGINAL

MAKE NO COPY

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.	OPINION AND ORDER.

Submitted September 18th, 1915. Decided November 4th, 1915.

APPEARANCES: Messrs. W. J. Lloyd, General Manager,
E. E. McClintock, Supt. 1st Dist.
The Western Union Telegraph Co.
Mr. W. C. Black, Superintendent,
The Postal Telegraph-Cable Co.

OPINION AND ORDER.

This is an action brought by the Commission on its own motion to inquire into the practices of the above named defendants in making delivery charges on messages received for their patrons living outside* of certain zones within the limits of cities and towns within the State of Colorado.

This cause was instituted on the 24th day of July, 1915, at which time the defendants herein were directed to appear before the Commission on the 1st day of September, 1915, and take such part therein and make such showing upon their own behalf as they desired, or as their interests seemed to require.

Subsequently, upon request of interested parties, the hearing was continued until September 3rd, 1915, on which date the cause came on for regular hearing at the Hearing Room of the Commission, State Capitol, Denver, at which time witnesses were examined and testimony

taken.

Mr. W. J. Lloyd, General Manager, and Mr. E. E. McClintock, Supt. 1st District, appeared on behalf of The Western Union Telegraph Company; and Mr. W. C. Black, Superintendent, appeared for The Postal Telegraph-Cable Company.

The record discloses the fact that the rules of both defendant companies in this case, in reference to the delivery of messages within the limits of cities and towns within the State of Colorado, are practically the same, as shown by tariffs on file with this Commission, which were introduced as evidence in this case. These rules, carried in The Western Union Telegraph Company's tariff Colorado P. U. C. No. 1, and The Postal Telegraph-Cable Company's tariff Colorado P. U. C. No. 13, read as follows:

> "Messages will be delivered free within a radius of one half mile from the office in any city or town of less than 5,000 inhabitants, and within a radius of one mile from the office in any city or town of 5,000 or more inhabitants. Beyond these limits only the actual cost of the delivery service will be collected; the manager will, however, see that such cost is as reasonable as possible."

The principal cause for this investigation and hearing was on account of numerous informal complaints filed with the Commission from citizens living in various sections of the city of Denver. While this investigation covered every city and town in the state, no complaints other than those herein mentioned were ever made to the Commission.

The defendants in this case, at the request of the Commission, furnished verified statements showing the amount of business done at several of the most important cities and towns in the state during the month of August, 1915, this being considered a representative month. The statement of the Western Union Company typifies the situation and shows that during that month 45,300 messages were received at Denver, of which 9,234 were intrastate, and 36,066 were interstate. Out of this number of messages delivery charges were assessed on 291 intra and 1,404 interstate messages , which in both cases amounts to something less than four per cent of the whole.

The testimony shows that a large number of intrastate messages

received at the Denver office are handled at the minimum transmittal rate of twenty-five (25¢) cents per message and the defendants allege that it would be unjust to them to be compelled to absorb the cost of delivery out of this small amount of revenue when such messages are destined to patrons living outside of the free delivery limits.

The record discloses the fact that the Western Union Company maintains five (5) sub-stations in various parts of the city of Denver, and all messages are delivered without extra charge to any point within a radius of one mile from each of these sub-stations.

The Postal Company does not maintain sub-stations, but meets the Western Union competition by making deliveries from its main office into the same territory served by the Western Union from its sub-stations.

Evidence was introduced to show that the Western Union Company, in order to facilitate and improve the service, established other sub-stations in other parts of the city, but experience proved that this plan hindered rather than helped the service. The plan was subsequently abandoned and, with the exception of five (5) sub-stations now in use, all business is now transacted through the main office at less expense to the company and better and quicker service to the patrons.

It appears that it is the policy of both companies to use the telephone whenever possible to transmit telegrams to patrons living outside of the free delivery limits, thus affording a quicker service to their patrons and at the same time eliminating the delivery charges. It appears that quite a volume of business is transacted in this way.

Since the commencement of this investigation the Western Union Company, which does about eighty (80%) per cent of the telegraph business in the city of Denver, has filed with the Commission an amendment to its rules, which provides for a uniform delivery charge of ten (10¢) cents for each message where delivered by messenger to any point within the city limits outside of the regular free delivery zone, thus eliminating the excessive delivery charges heretofore made in some instances.

With this amendment to their rules in effect, we can see nothing in the record which would justify making an order in this case. The case will, therefore, be dismissed.

BY ORDER OF THE COMMISSION:

S. S. Kendall

Geo. T. Bradley.

M. N. Edwards

Commissioners.

Dated at Denver, Colorado,
this 4th day of November, 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 4th day of November, 1915.

INVESTIGATION AND SUSPENSION NO. 4
and 1st, 2nd, and 3rd SUPPLEMENTAL ORDERS.

IT APPEARING, That by orders dated the 14th and 22nd of July, 1915, the PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO entered upon a hearing concerning the propriety of the new rates and charges for the intrastate transportation of soft coal from Canon City District to points in the Cripple Creek District, stated in schedules contained in tariffs, designated as follows:-

Denver & Rio Grande R.R. Tariff No. 5316-A, Colo. P.U.C. No. 378.
Atchinson, 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 FURTHER APPEARING, That pending such hearing and decision the Commission ordered that the operation of the schedules contained in the tariffs enumerated and described in said order of investigation be suspended, and that the use of the charges, rules and regulations, therein stated, be deferred upon intrastate traffic until the 11th day of November, 1915.

IT FURTHER APPEARING, That such investigation and decision thereon cannot be concluded 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 rates, charges, and regulations therein stated be further deferred upon intrastate traffic until the 9th day of February, 1916, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the Secretary of the Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariffs, a certified copy of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(S E A L)

S. D. Kendall
Geo T. Bradley
M. W. Aylesworth
Commissioners

DATED at Denver, Colorado,
this 4th day of November, 1915.

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#7

CASE NO. 22. **ORIGINAL**

The Public Utilities Commission of the State of Colorado,

vs.

The Mountain States Telephone & Telegraph Company.

November 8, 1915

RESOLUTION.

WHEREAS, This Commission having heretofore ordered an investigation into the rates, rules, regulations and practices of The Mountain States Telephone and Telegraph Company within the State of Colorado, and having further ordered that the said Company make under the supervision of this Commission an inventory and appraisal of all of its property in the State of Colorado, and it now appearing to this Commission that said investigation must necessarily include an analysis of all matters affecting the rates, rules, regulations and practices of said company;

IT IS THEREFORE ORDERED, That The Mountain States Telephone & Telegraph Company, and its officers and employees, submit for examination to L. G. Gomez, the telephone expert of this Commission, and his assistants, so far as shall be necessary for ascertaining the causes which underlie the operations of the Company with respect to rates, rules, regulations and practices for and within the State of Colorado, thegeneral books and records of said Company and all other books, records, and memoranda of whatsoever kind or nature, pertaining to the business and affairs of the Company generally, and particularly within the State of Colorado; and to afford to the said Gomez and his assistants, free access to all books, records, memoranda, statistics and studies of whatsoever kind or nature, and to make any and all explanations desired by or necessary to enable the said Gomez and his assistants to arrive at a full and complete understanding of all rates, rules, regulations and practices of the said Company generally, particularly, and within the State of Colorado.

AND BE IT FURTHER ORDERED, That said The Mountain States Telephone and Telegraph Company, and its officers and employees, prepare such statements relating to the rates, rules, regulations and practices of said Company as may be required by the said Gomez to be used in the hearings in this matter.

AND BE IT FURTHER ORDERED, That such statements, memoranda, studies, statistics, or other documents, relating to the rates, rules, regulations or practices of the said Company, prepared by or under the direction of the said Gomez, or such other matter of like nature that the said Company may desire to prepare and offer in the hearings before this Commission in this case, shall be prepared and submitted in such form as will permit of a verification of their general accuracy.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo. T. Bradley

M. N. Gilmore

Commissioners.

Dated at Denver, Colorado,
this 8th day of November, 1915.

MAKE NO COPY

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 Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company, of electric gongs, moving signals, flagmen, or other suitable safety devices, at the railroad crossings at South Cherokee Street and West Mexico Avenue, within the City and County of Denver, State of Colorado, located on the lines of The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company.

November 10, 1915

Case No.44.

NOTICE OF HEARING.

To the above:
The Denver & Rio Grande Railroad Company, and
The Atchison, Topeka & Santa Fe Railway Company,

You are hereby notified that on the 9th day of November, 1915, an inspector for this Commission, at the request of the Commission, made an investigation into the adequacy of the safety devices now installed by you at your railroad crossings at a point known as South Cherokee Street and West Mexico Avenue, within the city and county of Denver, State of Colorado; that the said inspector for the Commission, on the 9th day of November, 1915, filed his written report with this Commission alleging that the safety devices installed by you at these railroad crossings are inadequate, to-wit; that the safety device installed by The Atchison, Topeka & Santa Fe Railway Company at its railroad crossing at South Cherokee Street and West Mexico Avenue, within the city and county of Denver, is an electric signal gong, and that the said electric signal gong sounds no alarm when the trains of The Atchison, Topeka & Santa Fe Railway Company approach, pass and recede from the railroad crossing at South Cherokee Street and West Mexico Avenue, and that the said railroad crossing is dangerous and should be properly safe-guarded by some adequate safety device; and that the safety device installed by The Denver & Rio Grande Railroad Company at its railroad crossing at South Cherokee Street and West Mexico Avenue, within the city and county of Denver, State of Colorado, is inadequate, in that the said safety device so installed is an electric

signal gong, which gives an indistinct warning when trains approach, pass and recede from said crossing, and sounds its signal of warning at times when no trains of The Denver & Rio Grande Railroad Company are approaching, passing or receding from said crossing, and that the said railroad crossing of The Denver & Rio Grande Railroad Company, located at South Cherokee Street and West Mexico Avenue, within the city and county of Denver, is dangerous, and should be properly safeguarded by some adequate safety device. And the said Inspector of the Commission recommends the installation of adequqte safety devices at the railroad crossings of The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company, located at South Cherokee Street and West Mexico Avenue, in the city and county of Denver, State of Colorado, 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 of 10 00 o'clock a.m., on the day of November, 1915. You are further notified to appear at such investigation and hearing and take such part therein andmake 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

Secretary.

Dated at Denver, Colorado,
this 10th day of November, 1915.

MAKE NO COPY

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 Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company, of electric gongs, moving signals, flagmen, or other suitable safety devices, at the railroad crossings at South Cherokee Street and West Mexico Avenue, within the City and County of Denver, State of Colorado, located on the lines of The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company.	)	Case No.44.

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 adequate safety devices by The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company, at their respective railroad crossings located on their respective lines of railway at South Cherokee Street and West Mexico Avenue, within the City and County of Denver, State of Colorado; that the said defendants be and they are hereby ordered to appear at the Hearing Room of this Commission, in the State Capitol Building in the City and County of Denver, on the day of November, 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 defendants or either of them.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be and he is hereby directed to serve upon the above named defendants and each of them a certified copy of this order, accompanied by a notice directing the said defendants and each of them to appear, at the time and place above specified, to take such part in said hearing as

the said defendants or either of them may desire, and make such defense as shall appear necessary to the said defendants or either of them.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. A. Kendall

Geo. T. Bradley

M. N. Johnson

Commissioners.

Dated at Denver, Colorado,
this 10th day of November, 1915.

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 Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company, of electric gongs, moving signals, flagmen, or other suitable safety devices, at the railroad crossings at South Cherokee Street and West Mexico Avenue, within the City and County of Denver, State of Colorado, located on the lines of The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company.

November 11, 1915

Case No.44.

Appearances: E.N.Clark, Esq.,
F.R.Rockwell, Esq.,
For The Denver & Rio Grande Railroad Company,

H.T.Rogers, Esq.,
C.H.Bristol, Esq.,
For The Atchison, Topeka & Santa Fe Railway Company.

O R D E R

The above cause having been heard by the Commission on the 11th day of November, 1915, at the hour of 2 00 o'clock p.m., at its Hearing Room in the State Capitol in the City and County of Denver, State of Colorado, and, it appearing to the Commission, from the testimony of the Commission's Inspector, Mr.C.W.Fairchild, as well as from the testimony of Mr.Rockwell, of The Denver & Rio Grande Railroad Company, and Mr.Bristol, of The Atchison, Topeka & Santa Fe Railway Company, that the railroad crossings of the defendant carriers at South Cherokee Street and West Mexico Avenue, within the City and County of Denver, State of Colorado, are not adequately protected for the safety and welfare of the public, and counsel for the defendant carriers having requested additional time in which to prepare and present evidence to the Commission to the end that proper and adequate safety facilities or devices may be placed by the defendants at their respective railroad crossings at South Cherokee Street and West Mexico Avenue, within the City and County of Denver, State of Colorado.

IT IS ORDERED by the Commission that the defendants be granted leave to present to the Commission on Wednesday, November 17, 1915, at 10 00 o'clock a.m., at the Hearing Room of the Commission, in the City and County of Denver, a plan to protect the said railroad crossings by installation of adequate safety facilities and devices at their respective railroad crossings at South Cherokee Street and West Mexico Avenue, within the City and County of Denver, State of Colorado.

IT IS FURTHER ORDERED that the defendant carriers install a flagman or flagmen at said railroad crossings, who shall be on duty at said railroad crossings between the hours of 7 00 o'clock a.m. and 12 00 o'clock midnight each day, and until the further orders of this Commission, and that the said flagman or flagmen be equipped with adequate facilities for the proper protection of the traveling public.

IT IS FURTHER ORDERED that the defendant, The Denver & Rio Grande Railroad Company, immediately install a good and sufficient legal fence from a point baginning on the west side of its railroad track at South Cherokee Street and West Mexico Avenue, in the City and County of Denver, and running in a westerly direction along the south side of West Mexico Avenue, on the right of way of said defendant carrier, for a distance of 25 feet, more or less, to the boundary line of the said right of way of the said The Denver & Rio Grande Railroad Company.

The above order pertaining to Flagman or Flagmen to become effective at the hour of 7 00 o'clock a.m., November 12, 1915, and to remain in force and effect until the further order of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo. I. Bradley.

M. N. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 11th day of November, 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

F.N.COCHEMS,

Plaintiff,

vs.

THE DENVER & RIO GRANDE RAILROAD COMPANY,

Defendant.

Case No.25.

Appearances:

G.K.Hartenstein, Esq., for Complainant,
J.G.McMurry, Esq., for Defendant.

Submitted September 21,1915. Decided November 15,1915.

STATEMENT AND ORDER.

***

On the 29th day of June, 1915, the plaintiff filed with the Commission his verified complaint, in which it is alleged that there is located in the city of Salida, State of Colorado, a hospital known as the "Red Cross Hospital", owned and operated by the plaintiff in this case; and that there is also located in said city of Salida a hospital owned, operated and maintained by The Denver & Rio Grande Employes Relief Association, a corporation organized under the laws of the State of Colorado. It is further alleged that the Relief Association is composed, and its membership consists of the officers and employes of the defendant Railroad Company. It is further alleged that the Relief Association, according to its articles of incorporation, constitution and by-laws, is organized for the purpose of furnishing medical and surgical treatment to its members only; it is further alleged that in violation of the express provision of its articles of incorporation, constitution and by-laws the Relief Association receives into and treats

in its said hospital, persons who are not members of the Association, and solicits business from the public in competition with the complainant's private hospital. Complainant further alleges that the said Relief Association has on its medical staff and in its employ about one hundred physicians and surgeons, located within the State of Colorado, and that the Defendant Railroad Company furnishes free transportation between points within the State of Colorado to the said physicians and surgeons in the employ of the Relief Association; Complainant further alleges that the physicians and surgeons aforesaid are not employes and are not in the service of the Defendant Railroad Company. Complainant further alleges, upon information and belief, that the Defendant has been and is now transporting supplies, for the use of said Relief Association hospital, at Salida, without charge.

It is then alleged in Plaintiff's complaint that the alleged issuing of free transportation, and the transporting of supplies without compensation for the same, is in violation of Section 17, Sub-division A, of the Public Utilities Law, and is a prejudice and disadvantage to the Complainant, and the Complainant prays that the Defendant be prohibited and required to desist from furnishing free passes or free transportation to all physicians and surgeons in the employ of the said The Denver & Rio Grande Employes Relief Association, and that the Defendant be required to cease transporting supplies free for the use of the said Relief Association hospital.

On the 9th day of July, 1915, the Defendant, The Denver & Rio Grande Railroad Company, filed with the Commission its verified answer, in which it admits the furnishing by the said Defendant of free transportation to the physicians and surgeons in the employ of the Relief Association, and alleges that these physicians and surgeons are physicians and surgeons of the Defendant Company. The Defendant admits that it transports provisions

free and at reduced rates to the Hospital of said Relief Association, and alleges that the Association Hospital is operated at a loss; and the Defendant further alleges that it has contributed substantially to the cost of said Hospital and the maintenance and operation thereof, and stands ready at all times to contribute to the expense of such maintenance and operation, and at all times contributes thereto the services of its accounting, financial and other officers, and to such extent the said Association does not alone and of and by itself operate and maintain said Hospital. It is further alleged by the Defendant that it collects funds from its employes, and contributes its own funds, to the end that the Association Hospital may be operated and maintained. The Defendant denies that the said Association solicits and receives business from the public in competition with Complainant's hospital, but admits that it receives at said Hospital persons who are not members of said Association; and prays that the said complaint be dismissed.

The above cause was heard at 10 00 o'clock a.m., August 16,1915, at the Hearing Room of the Commission, in the State Capitol Building in the city and county of Denver. The Plaintiff was the only witness who testified in this case. Two exhibits were introduced by the Plaintiff, the first of which was a certified copy of the Articles of Incorporation of The Denver & Rio Grande Employes Relief Association, and the second being a copy of the Constitution and By-laws and the Rules and Regulations of the Relief Association. One exhibit was introduced by the Defendant, which was a copy of a letter written by the General Attorney for the Defendant Company to the Public Utilities Commission of the State of Colorado, presenting the views of the Defendant Company in regard to free transportation and the maintenance and operation of said Relief Association Hospital.

The Public Utilities Commission of the State of Colorado is not a court. It is a creature of the Legislature with its jurisdiction extending only to defined powers, and acts quasi-judicially as to the determination of facts when said facts are relevant to the defined powers as set forth in the Public Utilities Law. We are of the opinion that only two relevant questions have been presented to the Commission for decision. First: Under the Colorado laws pertaining to Public Utilities may the Defendant Railroad issue free or reduced rate transportation to physicians and surgeons employed by the Relief Association? Second: Under the Colorado laws pertaining to Public Utilities may the Defendant Company transport provisions and other freight at a free or reduced rate to the hospital of the Relief Association.

On the 6th day of January, A.D.1888, The Denver & Rio Grande Railroad Company Employes Relief Association filed its Articles of Incorporation with the Secretary of State of the State of Colorado. The Articles of Incorporation, a copy of which was introduced in evidence in the above cause, show that the corporation was not organized for pecuniary profit, and was-

> "formed for the purpose of creating a fund by the payment of monthly dues by the members thereof, to be used in buying, leasing or renting lands on which to build hospitals, the building, leasing or renting of hospitals, the furnishing and equipping of the same, the employment of surgeons and physicians, nurses and attendants, the purchase of medical and hospital stores, the purchase of burial lots in cemeteries or other places, and in short the procuring by purchase, lease, gift or otherwise of all such real property or personal property as may be necessary, and the employment of every proper and desirable agency in the treatment of all such injuries and diseases of its members, as it may see fit to undertake, and to provide for their burial, and the relief of their families when they die, in such manner as may be provided in the constitution and by-laws of the Association."

From an examination of Plaintiff's Exhibit No.2, which is a copy of the Constitution and By-laws, and Rules and Regulations of The Denver & Rio Grande Railroad Company Employes Relief Association it is developed that: The employes of the Defendant

Company"create a fund for the maintenance and operation of the Association Hospital, as well as to pay the funeral expenses of deceased members, and, in addition thereto, relief to the family in case of the death of a member as may be hereafter provided." The members of the Association are required to pay monthly dues to the treasurer of the Association of fifty cents per month for each employe; provided, that employes that work only a fractional part of any month shall be required to pay dues which are prescribed by the Constitution of the Relief Association, and are less than fifty cents a month. These amounts are deducted monthly upon the pay roll of each employe.

Under the Rules and Regulations of the Relief Association it becomes necessary for any person, desiring admittance to said Association Hospital for treatment and medicines, as provided in the Constitution, to show that he is a contributing employe of The Denver & Rio Grande Railroad Company, and, after such showing, the contributing employe is entitled to treatment and medicines without additional charge.

The Commission has carefully examined the exhibit of the Defendant Company, which is addressed to the Commission and written by the General Attorney for the Defendant Company, in explanation of the position of the Defendant in this cause, and which sets forth that the hospital of the Relief Association is an eleemosynary institution, operated at a loss, and that surgeons and physicians of the Relief Association are permitted to bring to the Relief Association Hospital private patients, and, as a result, the said physicians and surgeons receive less compensation from the Relief Association for services performed by them for the Relief Association.

From the Articles of Incorporation, and its Constitution and By-laws, and from the evidence in this case, we have arrived at the conclusion that the Hospital of the Relief Association is a

charitable institution; and the receiving and treating by said Association of persons who are not contributing members of the Association does not take the hospital of the Relief Association from "charitable institutions" as set forth in the Public Utilities Law of the State of Colorado when said hospital is maintained at a loss or the compensation does not exceed what is required for the successful maintenance of the institution.

Bishop & Chapter vs.Treasurer, 37 Colo.,378, (387).

As we construe the Public Utilities Law of the State of Colorado common carriers may transport provisions and freight, without charge, to and from charitable institutions, between points in the State of Colorado, when said shipments are made in accordance with the rules and regulations of the Commission, and we are therefore compelled to arrive at the conclusion that the Commission is without jurisdiction to prohibit the free transportation of freight by a common carrier, operating within the State of Colorado, to and from charitable institutions, when the points of origin and destination are within the State of Colorado and the shipments are made in accordance with the rules of the Commission.

We are of the opinion that physicians and surgeons employed by the Relief Association, who do not devote their entire time to the work of the Relief Association, are not entitled, under the laws of the State of Colorado, to free or reduced rate transportation.

Section 17 of the Laws of the State of Colorado pertaining to Public Utilities, Sub-division A, provides that no public utility, subject to the provisions of this Act, shall directly or indirectly issue, give or tender any free service, ticket, frank, free pass or other gratuity of free or reduced rate transportation for passage between points within this State, and enumerates certain exceptions to this rule, one of said exceptions being "except to its (the public utility's) employes and their families, its officers, agents, surgeons, physicians and attorneys at law". If the contention of

the Defendant Company be true, that the physicians and surgeons complained of receive free or reduced rate transportation due to the fact that the said physicians and surgeons are physicians and surgeons of the Defendant Company within the meaning of the Act, then the Commission is without power to prohibit the issuance of said free or reduced rate transportation by the said Defendant company.

IT IS THEREFORE ORDERED:

1. That the petition of the Plaintiff be dismissed as to the complaint against free transportation of freight to and from the Hospital of The Denver & Rio Grande Railroad Company Employes Relief Association, when the point of origin and the point of destination are within the State of Colorado.

2. That the petition of the Plaintiff be sustained as to the complaint against free or reduced rate transportation to physicians and surgeons of The Denver & Rio Grande Railroad Company Employes Relief Association, who do not devote their entire time to the work of the Association.

3. That nothing herein shall prohibit the Defendant Company from issuing free transportation to its physicians and surgeons when the issuing of such transportation comes within the meaning of the statutes of Colorado in such cases provided.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

Geo T. Bradley

M. V. Aylsworth

Commissioners.

Dated at Denver, Colorado,
this 16th day of November, 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 26th day of November, 1915.

INVESTIGATION AND SUSPENSION DOCKET NO.2
and 1st, 2nd and 3d SUPPLEMENTAL ORDERS.

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. Potect'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 7th day of December, 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 indefinitely 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 be further deferred upon intrastate traffic until the 15th day of April, 1916, 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 E A L .)

Dated at Denver, Colorado,
this 26th day of November, 1915.

Commissioners.

make no copy

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 construction of a telephone line from Genoa, Colorado, to Burlington, Colorado, and the installation of telephone service, by The Mountain States Telephone & Telegraph Company from Genoa, Colorado, east to Burlington, Colorado; the said telephone line to be strung through and to serve with adequate telephone service the following towns or cities located east of Genoa and west of Burlington, to-wit: Bovina, Arriba, Flagler, Seibert, Vona and Stratton.

November 26, 1915

P. U. C. I. C.
NO. 183.

CASE NO. 45.

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 ordering you, The Mountain States Telephone & Telegraph Company, to extend your telephone line from Genoa, Colorado, to Burlington, Colorado; and the installation of telephone service by you in the following named towns or cities located between Genoa, Colorado, and Burlington, Colorado, to-wit: Bovina, Arriba, Flagler, Seibert, Vona and Stratton; that you, The Mountain States Telephone & Telegraph Company, are hereby ordered to appear at the Hearing Room of this Commission, in the State Capitol Building in the City and County of Denver, State of Colorado, on the 13th day of December, 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 you.

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

S. S. Kendall

Geo. L. Bradley

M. W. Aylsworth

Commissioners.

Dated at Denver, Colorado,
this 26th day of November, 1915.

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 construction of a telephone line from Genoa, Colorado, to Burlington, Colorado, and the installation of telephone service, by The Mountain States Telephone & Telegraph Company from Genoa, Colorado, east to Burlington, Colorado; the said telephone line to be strung through and to serve with adequate telephone service the following towns or cities located east of Genoa and west of Burlington, to-wit: Bovina, Arriba, Flagler, Seibert, Vona and Stratton.

P. U. C. I. C. NO. 183.

CASE NO. 45.

NOTICE OF HEARING.

To the above:

The Mountain States Telephone and Telegraph Company, a corporation.

You are hereby notified that on the 9th day of October, 1915, the Commission received a petition signed by fifty (50) citizens of Flagler, Colorado, praying for an order of this Commission to compel you, the said The Mountain States Telephone & Telegraph Company, to extend your telephone line from Genoa, Colorado, east to Burlington, Colorado, and that on the 21st day of November, 1915, an inspector for this Commission, at the request of the Commission, made an investigation into the necessity and feasibility of extending your telephone line and service from Genoa, Colorado, east to Burlington, Colorado; and on the 23rd day of November, 1915, the said inspector filed his written report with 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 of 10:00 o'clock a.m., on the 13th day of December, 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 George F. Corley
Secretary.

Dated at Denver, Colorado,
this 26th day of November, 1915.

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 erecting a suitable station building, and installing and maintaining an agent in charge thereof, at the railroad siding on the railroad line of The Denver & Rio Grande Railroad Company, located in Saguache County, State of Colorado, and known as Hot Springs.

November 26, 1915

P.U.C. I.C. NO. 179.

CASE NO. 46.

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 erection of a suitable station building, and the installation and maintenance of an agent, by you, the said The Denver & Rio Grande Railroad Company, at a siding located on your line of railroad in Saguache County, within the State of Colorado, and known as Hot Springs; that you, The Denver & Rio Grande Railroad Company, are hereby ordered to appear at the Hearing Room of this Commission, in the Capitol Building in the City and County of Denver, State of Colorado, on the 20th day of December, 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 you.

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

S. S. Kendall

Geo T. Bradley

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 26th day of November, 1915.

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 erecting a suitable station building, and installing and maintaining an agent in charge thereof, at the railroad siding on the railroad line of The Denver & Rio Grande Railroad Company, located in Saguache County, State of Colorado, and known as Hot Springs.	P.U.C. I.C. NO. 179. CASE NO. 46.

NOTICE OF HEARING.

To the above:
The Denver & Rio Grande Railroad Company,
a corporation.

You are hereby notified that on the 10th day of November, 1915, a Committee, representing the Commercial Association of Saguache, Colorado, filed with this Commission a written petition, praying that this Commission order you, the said The Denver & Rio Grande Railroad Company, to erect a suitable station building and to install and maintain an agent in charge of said station and building, at the siding on your line of railroad in the County of Saguache, within the State of Colorado, known as Hot Springs; and that on the 17th and 18th days of November, 1915, an inspector for this Commission, at the request of the Commission, made an investigation into the necessity and feasibility of the proposed station building, and agent in charge thereof, at the siding on your line of railroad located in Saguache County, State of Colorado, known as Hot Springs; and on the 20th day of November, 1915, the said inspector filed his written report with 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 of 10:00 o'clock a. m., on the 20th day of December, 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 George F. Adley
Secretary.

Dated at Denver, Colorado,
this 26th day of November, 1915.

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 Colorado & Southern Railway Company of an electric gong, audible and visible signal, flagman, or other suitable safety device, at the railroad crossing at 12th Street, in the City of Boulder, State of Colorado, located on the lines of The Colorado & Southern Railway Company.

November 30, 1915

Case No.47.

NOTICE OF HEARING.

To the above:-
The Colorado & Southern Railway Company.

You are hereby notified that on the 24th day of November, 1915, an Inspector for this Commission, at the request of the Commission, made an investigation into the adequacy of the safety device now installed by you at your railroad crossing at a point know as 12th Street, within the City of Boulder, State of Colorado; that the said Inspector for the Commission, on the 26th day of November,1915, filed his written report with this Commission, alleging that the safety device installed by you at said railroad crossing is inadequate, to-wit; that the said safety device installed by you at said railroad crossing is an electric signal gong, and that said electric signal gong frequently sounds no alarm when trains of the Colorado & Southern Railway approach, pass and recede from the said crossing, and sounds its signal of warning when no trains of the Colorado & Southern Railway are approaching, passing or receding from said railroad crossing; that the said railroad crossing is dangerous and should be properly safe-guarded by some adequate safety device. And the said Inspector of the Commission recommends the installation of an adequate safety device at the railroad crossing of The Colorado & Southern Railway Company, located at 12th Street, in the City of Boulder, State of Colorado, 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 of 10 00 o'clock a.m., on the 6th day of December, 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 George F. Alby
Secretary.

Dated at Denver, Colorado,
this 30th day of November, 1915.

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 Colorado & Southern Railway Company of an electric gong, audible and visible signal, flagman, or other suitable safety device, at the railroad crossing at 12th Street, in the City of Boulder, State of Colorado, located on the lines of The Colorado & Southern Railway Company.

Case No.47.

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 an adequate safety device by The Colorado & Southern Railway Company, at its railroad crossing located on its line of railway at 12th Street, in the City of Boulder, State of Colorado; that the said defendant be and it is hereby ordered to appear at the Hearing Room of this Commission, in the State Capitol Building in the City and County of Denver, on the 6th day of December, 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.to

AND IT IS FURTHER ORDERED that the Secretary of this Commission be and he is hereby directed to serve upon the said 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 it may desire, and make such defense as shall appear necessary to the said defendant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. A. Mendacci

Geo. T. Bradley

Mott. Gilmore

Commissioners.

Dated at Denver, Colorado,
this 30th day of November, 1915.

MAKE NO COPY

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 Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company, of electric gongs, moving signals, flagmen, or other suitable safety devices, at the railroad crossings at South Cherokee Street and West Mexico Avenue, within the City and County of Denver, State of Colorado, located on the lines of The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company.

December 1, 1915

Case No.44.

In re: The installation of electric gongs, moving signals, flagmen, or other suitable safety devices, at the railroad crossings at Florida and Iowa Avenues, within the City and County of Denver, State of Colorado, located on the lines of the Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company.

Case No.44. Sub.No.1.

Appearances:

Mr.F.R.Rockwell, for
The Denver & Rio Grande Railroad Company,
Mr.J.E.McMahon, for
The Atchison,Topeka&Santa Fe Railway Company.

O R D E R

Pursuant to order of the Commission, in the above entitled cause, bearing date of November 11, 1915, representatives of The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company appeared before the Commission on the 1st day of December, 1915, at the hour of 10 00 o'clock a.m. at its Hearing Room in the State Capitol Building in the City and County of Denver, State of Colorado, and presented sketches, blue prints and specifications of proposed visible and audible automatic crossing signals to be installed at the railroad crossings of said railroad companies at West Mexico, Florida and Iowa Avenues in the City and County of Denver. The sketches and specifications submitted by The Atchison, Topeka & Santa Fe Railway Company

are of the signal known as the "Atchison, Topeka & Santa Fe system Standard D.C.Automatic Flagman", and the sketches and specifications submitted by The Denver & Rio Grande Railroad Company are of the signal known as the "Magnetic Signal" of The Protective Signal Manufacturing Company of Denver, Colorado. The sketches, plans and specifications were tentatively approved by the Commission subject to final approval upon thorough test having been made of the signals after installation.

IT IS ORDERED by the Commission that the said signals, as shown in the sketches, plans and specifications submitted, are to be installed within sixty (60) days from the date hereof.

IT IS FURTHER ORDERED that The Denver & Rio Grande Railroad Company install the signals proposed by it on the west side of its tracks at each of the above named crossings, and that The Atchison, Topeka & Santa Fe Railway Company install its proposed signals on the east side of its tracks at each of said crossings.

IT IS FURTHER ORDERED that, pending installation and approval of the said signals at the above mentioned crossings, the West Mexico Avenue crossing of The Atchison, Topeka & Santa Fe Railway Company and The Denver & Rio Grande Railroad Company, is to be protected by a flagman in accordance with the order of this Commission bearing date of November 11,1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

M. N. Arbuckle

Commissioners.

Dated at Denver, Colorado,
this 1st day of December,1915.

MAKE NO COPY

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 Colorado and Southern Railway Company of an electric gong, audible and visible signal, flagman, or other suitable safety device at the railroad crossing at 12th Street, in the City of Boulder, State of Colorado, located on the lines of the Colorado and Southern Railway Company.

December 6, 1915

CASE NO. 47.

APPEARANCES: Mr. H. E. Rennick, Superintendent,
For The Colorado & Southern Railway Co.,
Mr. E. H. Fitzpatrick, Street Commissioner,
For the City of Boulder.

O R D E R.

The above case having been heard by the Commission on the 6th day of December, 1915, at the hour of 10 o'clock a. m., at its Hearing Room in the State Capitol, in the City and County of Denver, State of Colorado, and it appearing to the Commission from the testimony of the Commission's inspector, Mr. C. W. Fairchild, as well as from the testimony of Mr. E. H. Fitzpatrick, Street Commissioner of the City of Boulder, that the railroad crossing of the defendant carrier at 12th and Marine Streets, within the City of Boulder, is not adequately protected for the safety and welfare of the public, on account of the obstructions of buildings and trees on the north side of the track and the hill on the south side forming an obstruction from that approach:

IT IS ORDERED by the Commission that the defendant carrier be granted leave to present to the Commission on Tuesday, December 14th, 1915, at 2:00 o'clock p. m., at the Hearing Room of the Commission, Capitol Building, City and County of Denver, State of Colorado, a plan, in addition to the gong already installed, to protect the said railroad crossing by the installation of an adequate safety facility or device, known as the audible and visible, or "wig wag" signal.

IT IS FURTHER ORDERED that, pending submitting of the plan of signal as above mentioned, Order No. 27, issued by Superintendent

Rennick of the Colorado & Southern Railway Company, that:

"Northbound D. & I. trains must come to full stop before crossing 12th and Marine Streets, at the foot of College Hill, in Boulder.

Southbound D. & I. trains and all steam trains in both directions must reduce speed to four (4) miles per hour over this crossing, and all trains must sound warning whistle--two long and two short--100 feet from the crossing before passing over, and all motor and engine bells must be ringing"

be strictly enforced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

M. N. Cunningham

Commissioners.

Dated at Denver, Colorado,
this 6th day of December, 1915.

ORIGINAL

MAKE NO COPY

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 Colorado and Southern Railway Company of an electric gong, audible and visible signal, flagman, or other suitable safety device at the railroad crossing at 12th Street, in the City of Boulder, State of Colorado, located on the lines of the Colorado and Southern Railway Company.

December 14, 1915

CASE NO. 47.

APPEARANCES: Mr. E. S. Koller, General Manager, For The Colorado & Southern Railway Company.
Mr. A. F. Brooks, Attorney, For The Colorado & Southern Railway Company.
Mr. W. H. Edmunds, Electrical Engineer, of The Denver & Interurban Railroad Company.
Mr. E. H. Fitzpatrick, Street Commissioner, For the City of Boulder.

O R D E R.

Pursuant to order of the Commission, in the above entitled cause, bearing date of December 6th, 1915, representatives of The Colorado & Southern Railway Company appeared before the Commission on the 14th day of December, 1915, at the hour of 2:00 o'clock p. m. at its Hearing Room in the State Capitol Building in the City and County of Denver, State of Colorado, and presented sketches, blue prints and specifications of a proposed visible and audible automatic crossing signal to be installed at the railroad crossing of said railroad company at 12th and Marine Streets, in the City of Boulder, State of Colorado. The sketches and specifications submitted by the said Colorado and Southern Railway Company are of the signal known as the "Magnetic Signal" of The Protective Signal Manufacturing Company of Denver, Colorado. The sketches, plans and specifications were tentatively approved by the Commission, subject to final approval upon thorough test having been made of the signal after installation.

IT IS ORDERED by the Commission that the said signal, as shown in the sketches, plans and specifications submitted, is to be installed within sixty (60) days from the date hereof.

IT IS FURTHER ORDERED that, pending the installation of this signal, and pending the further orders of the Commission, that:

Northbound D. & I. trains must come to full stop before crossing 12th and Marine Streets, at the foot of College Hill, in Boulder.

Southbound D. & I. trains and all steam trains in both directions must reduce speed to four (4) miles per hour over this crossing, and all trains must sound warning whistle 100 feet from the crossing before passing over, and all motor and engine bells must be ringing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley.

M. N. Ayhuerth

Commissioners.

Dated at Denver, Colorado,
this 14th day of December, 1915.

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 each and every rate or charge, and into the adequacy of the service, and the rules and regulations and practices of The Colorado Springs Light, Heat & Power Company, a Corporation,

December 15, 1915

Case No.24

Appearances:
R.L.Holland, Esq., for The Colorado Springs Light, Heat and Power Company,
J.L.Bennett, Esq. City Attorney, City of Colorado Springs, Colorado.

Submitted October 14, 1915 Decided December 15, 1915

STATEMENT AND ORDER

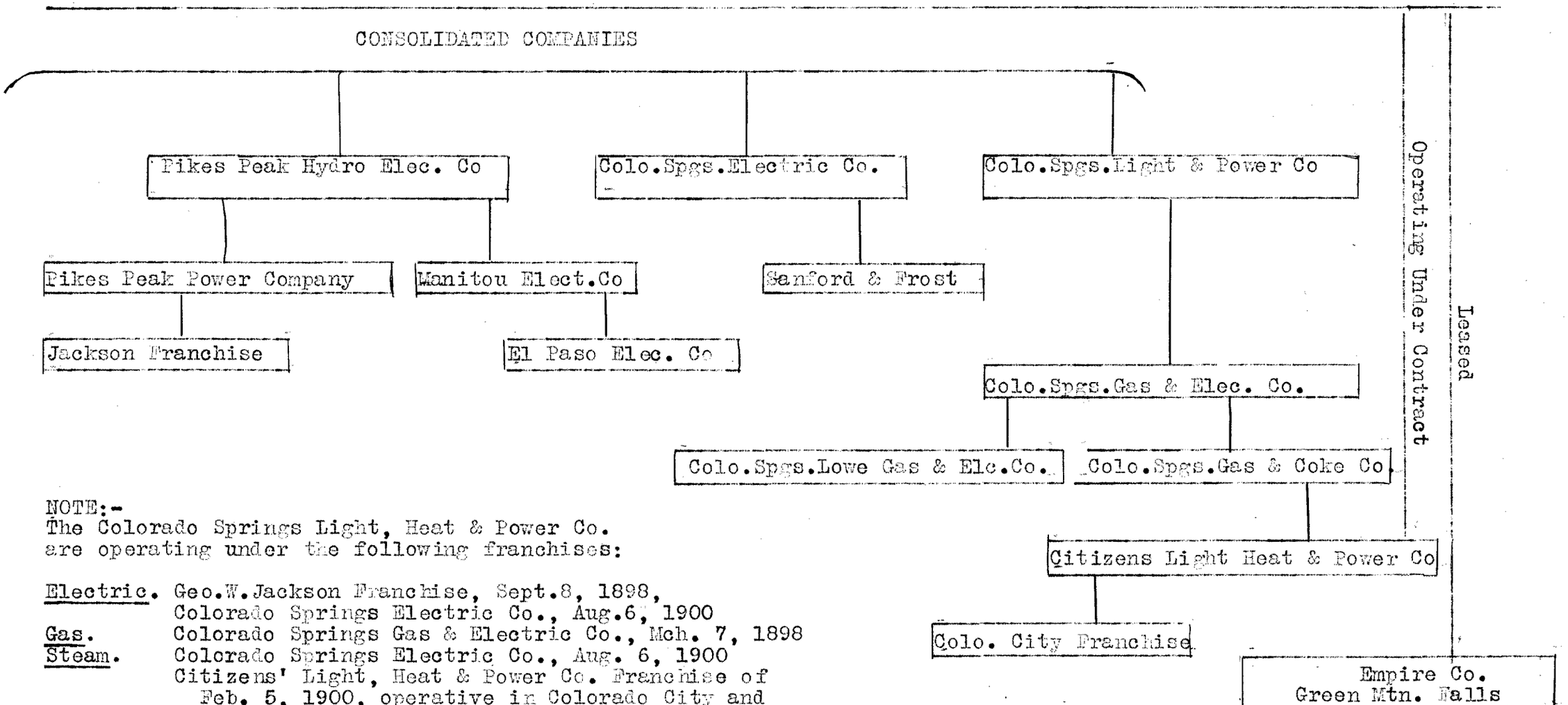
Numerous informal complaints against the rates, and the rules, regulations and practices of The Colorado Springs Light, Heat & Power Company having been filed with this Commission, together with a resolution adopted by the City Council of Colorado Springs requesting this Commission to hold an investigation into the rates, service, and rules, regulations and practices of The Colorado Springs Light, Heat & Power Company, hereinafter called the "Defendant Company", the Public Utilities Commission, on the 17th day of June, 1915, after six weeks preliminary investigation by its Engineering Staff, ordered an investigation into the rates, service, rules, regulations and practices of the Defendant Company, and notified said Company and the City of Colorado Springs of the hearing of the above cause at the hour of 2:00 o'clock p.m., on the 3rd day of August, 1915, at the City Hall, Colorado Springs, Colorado.

On the 3rd day of August, 1915, the hearing and investigation convened at Colorado Springs, and the Commission heard the reports of its engineering and statistical staff, as well as the

evidence of many other witnesses on behalf of the Defendant utility corporation and the City of Colorado Springs. The Engineering Staff of the Commission introduced into the evidence its report on the valuation of the properties of the Defendant Company. The Commission's statistician introduced into the evidence his report, in which was embodied a complete history of the Defendant Company, as well as an abstract of the accounts and the distribution of the expenses as between electric, gas and steam properties of the Defendant Company.

An adjournment was then taken until the 31st day of August, 1915, at which time the said investigation was continued at the Hearing Room of the Commission in Denver, the Engineer for the Defendant Company giving the Commission his opinion as to the values of the properties of the Defendant Company.

COLORADO SPRINGS LIGHT, HEAT AND POWER CO



NOTE:-
The Colorado Springs Light, Heat & Power Co. are operating under the following franchises:

Electric. Geo.W.Jackson Franchise, Sept.8, 1898,
Colorado Springs Electric Co., Aug.6, 1900
Gas. Colorado Springs Gas & Electric Co., Mch. 7, 1898
Steam. Colorado Springs Electric Co., Aug. 6, 1900
Citizens' Light, Heat & Power Co. Franchise of Feb. 5, 1900, operative in Colorado City and part of Colorado Springs.
W.A.Bell Franchise, operative in Manitou, date Feb. 7, 1887

The Colorado Springs Light, Heat & Power Company, the present operating company, was incorporated on June 21, 1910, and formed on that date a consolidation of the three following companies:- The Pike's Peak Hydro-Electric Company, which operated the hydro plant; The Colorado Springs Electric Company, which operated the lighting system for Colorado Springs and environs, and also the steam plant for Colorado Springs only; The Colorado Springs Light & Power Company, which operated the gas plant.

The Colorado Springs Light, Heat & Power Company represents a capitalization of $2,000,000.00, divided into $1,000,000.00 preferred stock, 6 per cent, non-accumulative, and $1,000,000.00 common stock, and an authorized issue of $3,500,000.00 of 5 per cent bonds. Of the bond issue $1,300,000.00 was reserved and placed in trust to retire the underlying bonds of the consolidated companies, viz; $1,000,000.00 5%, due 1920, of The Colorado Springs Electric Company, and $300,000.00 5%, due 1919, of The Colorado Springs Light & Power Company.

The plant investment of the three companies forming the consolidation showed a book value on June 25, 1910, as follows:

The Colorado Springs Light & Power Company, (Gas),	$ 766,485.24
The Colorado Springs Electric Company, (Electricity and Steam),	2,505,008.26
The Pike's Peak Hydro-Electric Company, (Hydro)	1,389,474.75
Total -----	$4,660,968.25

The book value of the Defendant Company on December 31, 1914, was as follows:

Gas.....	$ 849,775.24
Electric	3,888,615.20
Steam	140,000.00
Total ------	$4,878,390.44

On December 3, 1914, the Departments of the Defendant Company had the following number of consumers:

Gas	3755
Electricity	7061
Steam	87
Miles of gas mains ..	56 miles.

The Defendant Company sells electricity for domestic, commercial and power purposes, gas for cooking, illuminating and heating purposes, and steam for heating purposes.

Electrical Property.

The Colorado Springs Light, Heat & Power Company retails and wholesales electric energy for domestic, commercial and power purposes within the cities and towns of Colorado Springs, Colorado City, Manitou and suburbs, serving communities consisting of about 50,000 people. The City of Colorado Springs has a population of about 30,000 people in the winter season, and about 40,000 people in the summer season, and the town of Manitou is primarily a summer resort, with a population fluctuating between 1000 people in the winter season and 4500 people in the summer season; consequently many business houses and hotels are closed during the winter, considerably lessening the revenues of the Defendant Company during this period of the year. Colorado Springs and Colorado City are contiguous, and Manitou is located about three miles west of Colorado City.

Valuation.

The Engineering Staff of the Commission, prior to the hearing at Colorado Springs, made a complete appraisal of the properties of The Colorado Springs Light, Heat & Power Company. In this valuation both the cost new and the depreciated present value of the property were estimated and tabulated. Actual prices, so far as practicable and reasonable, are taken from the Company's books, and cover the property of the Defendant Company in use and useful for electric, gas making and steam heating purposes.

Electric Department of
The Colorado Springs Light, Heat & Power Company

Classification:	Cost New:	Present Value:
A - Land	$11,825.00	$11,825.00
B - Buildings	263,102.00	244,255.00
C - Station Equipment	443,648.00	338,757.00
D - Distribution	496,559.00	383,626.00
E - General Equipment	22,244.00	18,311.00
F - Stores and Supplies	24,940.00	24,940.00
G - Non-Operating property	15,200.00	11,966.00
H - Working Capital	45,000.00	45,000.00
Total: -----	$1,322,518.00	$1,078,680.00

Hydro-Electric Plant:

Classification:	Cost New:	Present Value:
A - Land	$ 3,575.00	$ 3,575.00
B - Buildings	30,065.00	29,469.00
C - Pipe Lines, reservoirs, flumes, etc.	161,610.00	119,369. 00
D - Station Equipment	64,780.00	48,551.00
E - General Equipment	None	
F - Tools and Implements	1,826.00	1,457.00
G - Value of Water Power	---	---
Total: ------	$261,856.00	$202,421.00

Totals:		
Electric Department,	$1,322,518.00	$1,078,680.00
Hydro-Electric Plant,	261,856.00	202,421.00
Grand Total -	$1,584,374.00	$1,281,101.00

Statement of Overhead Expenses,
Electric and Hydro-Electric Property.

	Classification of Property				
	Land	Mains, Services & Meters	B'ldgs.	Plant Equip-ment	General Equip-ment
Inventory Omissions	0	2	1	1½	½
Engineering	1	3	5	5	0
General Supervision	0	3	3	3	1
Interest during construction	7	2½	3	3	0
Insurance	0	½	1	1	½
Legal Expenses	2	1	½	½	0
General Contingencies	0	2	1	1	0
	10	14	14½	15	2

The above summary statements of the electrical and hydro-properties, and the statement of overhead charges, were prepared by F.J.Rankin, Electrical Engineer for the Commission. The above statements of valuation include the overhead charges. Mr. Rankin

also included in the above summaries of the valuation of the electric and hydro properties of this Defendant Company ten per cent as contractors' profit on the particular items which must necessarily include work done under contract.

On the 31st day of August, 1915, the Defendant Company, through its Engineer, P.B.Rice, made the following additional claims, which were either not considered by Mr. Rankin or not allowed by him in his valuations of the property of the Defendant Company.

Claimed by Mr. Rice:

Property owned by Defendant Company not included in Engineer's appraisal:

	Cost of reproduction	Depreciated Value
1040 dead electric services @ $10.00	$10,400.00	$ 8,008.00
Transformers, omitted,	7,875.00	6,142.50
Sub-stations apparatus on customers' premises, omitted by Mr.Rankin	5,637.00	4,509.00
	$23,912.00	$18,660.10
Deduct Woodmens' Home line, included in Rankin report through error, said line not being the property of Defendant Company,	5,894.45	5,157.64
	$18,017.55	$13,502.46
Rights of way	12,000.00	12,000.00
Preliminary organization expense item, not included in Mr. Rankin's overhead charges, for the entire properties,	125,000.00	125,000.00
Option on Empire Land & Water Company,	130,000.00	130,000.00
Value of Water power derived by the Company through the hydro plant at Manitou	200,000.00	200,000.00
Going concern value for the entire properties	400,000.00	400,000.00

Mr. Rice testified that he had made a careful examination of the report of the Commission's Engineer, and the properties valued therein had been, in his opinion, fairly appraised.

The summary valuation of the electric property of the Defendant Company prepared by Mr. Rankin is $1,078,680.00. At the

hearing before the Commission on August 31st, 1915, Mr. Rankin testified that, in his opinion, $10,000.00 should be added to this total for rights of way, and that the sum of $13,502.00, which is the present value of certain items unintentionally omitted by him in his original report to the Commission, should also be added to his summary of valuation of the electric property.

The summary of valuation of the hydro electric property of this Defendant Company, as prepared by Mr. Rankin, as $202,421.00, and should also be added to the summary of valuation of electric property as prepared by him, which makes a combined total of $1,304,603.00.

Under the sub-head of "non-operating property" in the above summary of valuation, we find an item of $11,966.00, which represents the present value of a 500 K.W. vertical steam turbine. Mr. Rankin testified that in his opinion this turbine was not in use or useful, and therefore should be deducted from his summary of valuations, making a grand total of $1,292,638.00, which includes the sum of $45,000.00 as working capital, and excludes any allowance for preliminary organization and development expense, Empire Land & Water Company option, water power and going value.

Going Value.

The proper amount to be allowed for "going value" is very difficult to determine and is not susceptible of measurement in dollars and cents. That there is a difference between a plant with a developed business and one without it, and that there is an added value on this account to be taken into consideration in making a valuation for rate making purposes seems to be generally conceded. Early deficits from operation have in many cases been taken as a measure of the proper amount to be allowed for this item, and this theory seems to be in accord with a decision rendered by the New York Count of Appeals by Justice Miller, who states:

"I define going value for rate purposes, as involved in this case, to be the amount equal to the deficiency of net earnings below a fair return on the actual investment due solely to the time and expenditures reasonably necessary and proper to the development of the business and property to its present stage, and not comprised in the valuation of the physical property."

We believe that such an amount as indicated by early deficits is only an indication, and not a measure of the amount to be allowed, for the reason that this theory, if strictly followed, places a premium on properties poorly conceived and managed and does not properly reward good management. In many cases, and in this one in particular, it is impossible to learn from the records what the early deficits from operation have been.

We have considered this property as a going concern, and therefore have made such allowance for this item as we deem just.

Depreciation

There was little controversy at the hearings in this case over the annual rates of depreciation. The Commission's Engineer, after applying various rates of depreciation to the different items of depreciable property, found the composite depreciation of the electric property to be 4.25% of the cost new of its depreciable property; the composite depreciation of the Hydro property to be 2.8% of the cost new of its depreciable property; and the composite depreciation of the Gas property to be 3% of the cost new of its depreciable property.

The above are the rates to be used in providing for depreciation on a straight line basis. The amounts to be set aside annually, are as follows:

Gas	$20,000.00
Hydro	6,300.00
Electric	52,000.00

We have used for this case, without approving or disapproving, the straight line method of providing for depreciation. While the sum to be set aside annually under what is known as the

sinking fund method, is a relatively smaller operating charge than the amount required under the straight line method, the rate of return when using the sinking fund method, must be based on cost of reproduction, and not on depreciated value. We have used the straight line method of providing for depreciation, and have based the rate of return on the depreciated, or present value.

Thus, while the allowance to be made for depreciation in computing a fair rate schedule, is smaller under the sinking fund method, the rate of return is based on a higher valuation, so far as the public is concerned.

It should be noted, however, that the straight line method reflects most closely the practical conditions under which utility properties are generally managed.

Working Capital

Working capital should be an amount sufficient to take care of the operating expenses of the company until the revenue from operation is sufficient for that purpose, and should include in addition stores and supplies, merchandise for sale, coal in storage and coal for immediate use, and a general cash balance for which the customer is not directly responsible. Stores and supplies, merchandise, and coal in storage, were included as part of the inventory in this case so that no allowance should be made for these items. The Commission's Engineer placed the allowance to be made for working capital at $45,000.00. We believe that under the conditions this is excessive, and find $30,000.00 a sufficient amount for this purpose.

Operating Revenues and Expenses

Mr.F.W.Herbert, statistician for the Commission, introduced into evidence the comparative summary of the net earnings of the electric and hydro-electric properties from June 30, 1910 to June 30, 1915, and the same are here shown:

Comparative summary of net earnings, Electric property.
June 30, 1910, to June 30, 1915.

	1915 6 mos.	1914	1913	1912	1911	1910 6 mos.
Income	$209635.23	421894.74	416122.18	422251.43	426057.13	229424.85
Expenses	99605.36	199674.05	188177.57	178602.47	184370.95	101227.81
Net Earnings -	110029.87	222220.69	227944.61	243648.96	241868.18	128197.04

We have averaged the net earnings for the years 1911, 1912, 1913 and 1914, and have arrived at an average net return of $233,875.00, and, deducting from this amount the sum of $52,000.00, the annual depreciation reserve, we find the average net return, less depreciation, to be $181,875.00.

Following is a detailed table of the operating revenues and expenses of the electric properties of the Defendant Company as found on the books of the corporation, and as introduced into evidence by Mr. Herbert, but which includes a deduction made by Mr. Herbert for an erroneous charge made on the electric expenses properly chargeable to steam expenses:

Operating Revenues:	6 mos. 1915	1914	1913
Municipal St.Ltg.Arc,	10,945.38	21,634.00	21,473.80
" " " Inc.	4,448.12	10,846.15	10,075.65
Com'l Flat rate Ltg.	2,215.40	5,676.42	5,980.37
" Metered Ltg.	105,776.11	216,146.51	215,794.59
" " Power	83,528.13	164,189.79	162,247.51
Total Sales	206,913.74	418,492.87	415,571.92
Break Down service		196.66	
Other Misc.Elec.Revenue	83.30	499.80	499.80
Forfeited Discounts	942.51	1,285.17	1,364.22
Total, -	207,939.55	420,474.50	417,435.94
Less allowances and rebates	300.01	1,144.72	2,346.23
" Corrections of overchgs.	301.08	609.93	715.01
Total gross Revenue, Electric Sales,	207,338.46	418,719.85	414,374.70
Misc.Revenue, Mdse.jobbing, Rentals, etc,	2,296.77	3,174.89	1,747.48
Total Revenue, -	209,635.23	421,894.74	416,122.18

Operating Expenses: Generating-Steam-	6 mos.1915	1914	1913
Fuel	15,340.77	28,750.42	36,750.81
" Handling expense	476.52	954.70	1,377.38
Boiler Labor	3,599.90	6,982.19	8,847.04
Engine Labor	1,938.18	3,943.30	4,911.04
Electric Labor	1,332.15	2,607.52	2,616.31
Water for Power	949.85	1,808.78	2,497.17
Lubricants	215.82	406.89	556.53
Production Supplies	43.06	171.31	87.72
Station Expense	326.03	1,098.73	1,127.27
Repairs Furnaces and Boilers	415.35	1,255.80	1,153.15
" Boiler Apparatus	4.31	296.24	35.87
" Steam access	237.79	674.06	588.67
" Recip. engines	383.04	682.11	1,657.45
" Steam Turbines	104.91	322.38	95.89
" Other Sta.Eng.Equip.	100.64	169.27	200.35
" Power Pl.Bldgs.	179.19	683.03	80.53
Current for condenser motor	2,367.60	3,941.91	5,237.80
Repairs Elec.Generators	36.60	95.71	19.43
" Acces.Elec.Equip.	74.63	539.32	172.11
" Station Tools and Imp.	4.27	22.92	40.13
" Misc.Sta.Equip.		30.97	3.04
Station Superintendence & care	702.32	1,530.28	1,858.70
Total Cost.Gen.	28,832.93	56,957.84	69,908.31
Sub.A	22,798.03	40,445.51	41,356.92
Elec.Others Sources, Hydro	4,858.37	8,981.67	9,949.45
Green Mtn.Falls Dist.	87.50	403.75	349.14
	56,576.83	106,788.77	121,563.82
Transmission Expense			
Trans.Pole and Fixture Repairs	396.65	1,834.59	1,272.30
Overhead Trans.System	223.04	1,101.50	724.83
Sub.Station Bld.Repairs		5.00	60.01
" " Equip. "	106.55	72.07	58.98
" " Labor	396.44	808.07	875.08
" " Supplies and Exp.	94.39	265.97	205.02
	1,217.07	4,087.20	3,196.22
Distribution Expense			
Dist.Pole and Fixture Repairs	1,259.55	2,511.18	2,359.42
Overhead Dist. "	615.84	1,418.43	1,283.94
Electric service "	443.96	795.86	585.70
Electric meter "	469.87	947.89	850.53
Transformer "	132.03	1,140.23	819.25
Electric Meter Operations	1,516.82	3,124.24	2,529.29
Setting and Removing Meters	582.52	1,551.77	1,440.93
" " " Transformers	386.16	649.84	916.28
	5,406.75	12,139.44	10,785.34
Utilization Expense			
Municipal St.Arc Labor	832.29	1,689.03	2,405.70
" " " Repairs	675.32	1,689.10	1,806.98
" " " Supplies	279.66	685.62	871.34
" " Incan.Renewals	309.20	407.14	318.96
" " " Repairs	54.51	28.29	30.07
Commercial Arc Labor	181.36	377.51	354.22
" " Repairs	34.51	41.51	61.57
" " Supplies	28.18	43.83	69.66
" Incan.Renewals	85.13	197.24	337.88
Inspection Consumer's Premises	528.41	94.37	287.30
Repairs " Installations	709.25	1,320.42	1,443.06
	3,717.82	6,574.06	7,986.74

	6 mos.1915	1914	1913
Generating Steam-Sub A			
Fuel for Steam	14,133.16	23,305.45	25,135.73
" Handling Expense	853.36	1,590.89	1,700.76
Boiler Labor	2,753.05	5,353.15	5,182.56
Engine Labor	1,532.24	3,063.11	3,100.99
Electric Labor	383.16	766.66	749.74
Water for Power	768.43	1,134.30	877.95
Lubricants	107.31	194.53	206.61
Production Supplies	23.18	74.27	46.77
Station Expense	742.52	1,717.37	1,683.19
Repairs Furnaces and Boilers	586.26	1,298.55	909.82
Repairs Boiler Apparatus	7.01	216.07	13.78
" Steam Access.	118.38	106,28	207.79
" Recip.Engines	6.35	26.70	79.40
" Steam Turbines	52.32	11.42	1.61
" Other Sta. Engines	7.25		
" Power Pl.Bldgs.	120.21	519.96	641.41
" Elec.Generators		317.71	10.76
" Access.Elec.Eq.	228.34	254.22	94.24
" Sta.Tools and Imp.	152.48	8.80	230.74
" Misc.Sta.Eq.			34.68
Station Superintendence & Care	223.02	486.07	469.91
	22,798.03	40,445.51	41,356.92
Generating - Water Power.			
Engine Labor	1,104.63	2,187.06	2,009.92
Electric "	1,431.96	2,815.01	2,925.51
Lubricants	60.00	48.00	68.80
Production Supplies	12.95		.40
Station Expense	242.58	561.14	467.40
Care Takers	913.50	1,818.84	1,801.40
Repairs, Dams, Canals & Pipe Lines	442.30	607.62	1,998.83
Repairs, Turbines & Water Wheels	12.54	137.30	22.85
" Power Pl.Bldgs.	38.56	109.04	11.60
" Elec.Generators	8.00	32.07	3.00
" Access.Elec.Eq.	289.41	100.28	29.96
" Sta.Tools and Imp.	2.50	24.69	9.50
" Mis.Sta.Eq.		18.71	4.63
Station Superintendence & Care	299.54	521.91	595.65
	4,858.37	8,981.67	9,949.45
Green Mtn.Falls Dist.			
Engine Labor	37.50	150.00	150.00
Electric "	37.50	150.00	150.00
Station Expense		.88	4.63
Repairs Dams, Canals & Pipelines	.50	42.87	15.49
Superintendence & Care	12.00	60.00	60.00
	87.50	403.75	349.14
Commercial Expense			
Accounting	902.94	1,711.36	1,789.01
Collecting	880.33	1,722.29	1,726.77
Meter Reading	1,590.46	3,049.16	3,375.09
Total Commercial Expense	3,373.73	6,482.81	6,890.87

Promotion Expense	6 mos.1915	1914	1913
Promotion Management	531.04	1,580.10	1,484.75
Demonstration & Other Promotion Expense	1,099.30	2,996.28	2,636.85
Advertising	191.02	1,056.69	731.31
Canvasing and Soliciting	782.47	2,405.05	1,057.49
	2,603.83	8,038.12	5,910.40
General and Misc.Expense			
Salaries of General Officers	3,589.85	7,719.20	7,326.04
" " Office Clerks	1,239.62	2,836.11	3,216.14
Incidental Expense	169.46	235.48	365.39
General Office Supplies	405.84	748.53	796.37
Rent	1,532.50	2,879.67	2,614.32
General Stationery & Printing	551.62	1,343.51	1,771.08
Miscellaneous General Expense	1,876.60	3,975.30	4,132.11
Insurance	1,933.35	3,931.84	4,175.66
General Law Expense	2,031.00	5,933.20	2,947.26
Law Exp. in connection with damages	210.00		
Accidents and Damages	210.00	1,200.00	1,800.00
Elect.Franchise Req.	152.22	301.80	386.90
Store Expense	727.59	1,354.75	1,351.37
Uncollectible Bills	415.18	827.28	1,169.05
Taxes	24,042.62	46,883.44	23,374.18
Management, Auditing & Traveling	4,662.81	8,810.08	8,885.44
	43,750.26	88,980.19	64,311.31
Grand Total	116,646.29	233,090.59	220,644.70
Less Dupl.Elec.Charges	3,332.24	5,463.05	6,985.52
Total Expense	113,314.05	227,627.54	213,659.18
Interest on Consumers' Dep.	102.18	166.51	202.57
	113,416.23	227,794.05	213,861.75
Amount for steam charged in error	13,810.87	28,120.00	25,684.18
	99,605.36	199,674.05	188,177.57

Preliminary Organization and Development Expense

Mr. Rice testified that some allowance should be made for making a preliminary study of the proposition, the feasibility of the construction of the property, investigation of the market and of the character of the surrounding country, the cost of coal available, water powers, etc. According to Mr. Rice this expense should also include the item of organization, cost of printing prospectus, promoters' returns, cost of printing necessary bond and stock forms, and traveling expenses. According to his testimony it should also include the cost of financing, which should include the expense of stock salesmen, underwriting expense, bond commission, traveling expenses of bond and stock salesmen, and also expenses in connection with the obtaining of franchises. He further testified that 5 per cent of the cost of reproduction of the

property, or $125,000.00 would, in his opinion, be the proper allowance for the above items.

Mr. Rankin stated that he had not included in his valuation any allowance to cover the items mentioned, but in his letter of transmittal of his report called attention to the fact that some allowance should be made for this purpose. He further testified that considerable preliminary expense must have been incurred in connection with the electric and hydro electric property for making a preliminary study and investigation of the undertaking.

We have given careful study to the preliminary organization and development in connection with the electric and hydro properties, and have arrived at the conclusion, in view of the facts and conditions surrounding these properties, that the proper sum to be allowed for this purpose is $79,125.00.

WATER POWER

The defendant corporation manufactures its electric energy through a steam generating plant located at Colorado Springs and a hydro plant located at Manitou.

We have arrived at the conclusion that the hydro plant is auxiliary to the steam plant at Colorado Springs, due to the fact that the steam generating plant is sufficiently large to carry the entire load of the Colorado Springs Light, Heat & Power Company, and also, taking into consideration the fact that the city of Colorado Springs is the owner of the water power derived by the defendant corporation through its hydro plant at Manitou, and that the said city of Colorado Springs has, in addition, the complete control of the use of said water power of the defendant corporation, and from the evidence introduced pertaining to this situation, we are convinced that the value of this water power to the defendant corporation consists of break-down service, and the decrease in the coal consumed at the steam generating plant of the defendant corporation.

The report of the engineer of the Commission in this case discloses the fact that the saving in coal effected by the use of the hydro plant is entirely offset by maintenance, operating expenses, and interest and depreciation on this plant, and that the water power used for this purpose is of no value, inasmuch as no saving is made by its use.

The defendant corporation has an option on an alleged water-right which is known in this case as "The Empire Land & Water Company Option". The statistician of the Commission testified that the item of $7,800 appears on the books of the defendant company as an annual payment to the owner of said water power, as an interest payment on said option. The defendant company requests that we permit the item of $7,800 to be carried in its operating expenses, or in lieu thereof, an allowance of $130,000 be made by us for this item in our valuation of the electric and hydro properties of the defendant. Mr. Rice, the engineer for the defendant company, testified that in his opinion, the item of $7,800 is a legitimate operating expense for the purpose of rate making, and that $130,000 is the value of the Empire Land & Water Company water-right.

We do not agree with Mr. Rice. This alleged water-right is not in use or useful. Mr. Rice was cross-examined by the Commission and the Honorable J. L. Bennett, city attorney of Colorado Springs, and the results obtained from the cross-examination, and the testimony of the Commission's engineer, convince us that The Empire Land & Water Company water-right is not used or useful, can never be used, and is without value to the defendant company.

We have therefore disallowed the item of $7,800, taken from the operating expenses of the defendant corporation, as well as the item of $130,000 claimed by the defendant company as the value of the alleged water-right.

FAIR VALUE OF THE ELECTRIC PROPERTY.

After considering all of the evidence and testimony in the case bearing upon the value of the plant, and the cost to reproduce, the original costs, the investment, the present value, including preliminary and development costs, engineering and supervision, interest, insurance, organization and legal expense during construction, contingencies, working capital, and all other elements of value, (tangible and intangible), and taking into consideration that the plant is in successful operation and a "going concern", the Commission finds the fair value of the electric and hydro property of The Colorado Springs Light, Heat & Power Company, for the purposes of determining reasonable and just rates in this case, to be $1,481,762.00. We therefore find that The Colorado Springs Light, Heat & Power Company is earning 12.27 per cent per annum on the fair and reasonable value of its electric and hydro properties.

Present Rates.

We are of the opinion that the rates and charges for electricity, sold by this Defendant corporation, now in effect, and filed with the Commission, areexcessive and unreasonable.

Present schedule of electric rates and charges of defendant company.
Rules and Regulations

1. The Company will place upon the premises at its own expense meter or meters, which shall be and remain its property. All wiring shall be done at the expense of the customer subject to the approval of the Company, but the Company assumes no responsibility with reference thereto.

2. The customer is strictly forbidden to interfere with the meters and other appliances of the Company. In case of defective service, notice in writing should be served on the Company immediately.

3. It is expressly stipulated by the Company and agreed to by the customer, that the Company shall not be liable for damages caused by interruption to the supply of current or by defective wiring.

4. Customers are not permitted to use the current for any purpose or in any place other than as provided for in this contract, without first having received the written consent of the Company.

5. The inspectors, agents and employes of the Company are strictly forbidden to demand or accept any personal compensation for services rendered.

6. The Company is hereby given the right to enter upon the premises of the customer at all reasonable times for the purpose of inspecting, repairing or replacing all appliances used in connection with its current, and removing the same on the termination of this contract or the discontinuance of the service.

7. If the seal of the Company's meter is broken, or if the meter from any cause does not properly register, the customer shall be liable for an average bill.

8. The Company reserves the right to discontinue its service without notice in case the customer is in arrears or fails to comply with these rules or regulations.

9. Neither party shall be held liable for any failure or delay in performing any of the things undertaken by it in this agreement, in case such failure or delay is caused by strikes, the act of God, or unavoidable accidents or contingencies beyond its control and in no manner due to any fault, neglect or omission on its part.

10. No promises, agreements or representations of any canvasser or employe of the Company shall be binding upon the Company unless the same shall have been incorporated in this contract in writing, before the same is signed and approved.

11. No other power or lighting service shall be introduced while this contract remains in force without previous notice to the Company in writing; and its consent in writing thereto obtained.

No person should be permitted to inspect or remove any of the Company's appliances, unless he can show the identification card of The Colorado Springs Light, Heat & Power Company, which is supplied to every employe.

If meter is disconnected for non-payment of bill, a charge of $1.00 will be made to cover the cost of re-connection.

Bills are due on either the tenth or twenty-fifth of each month at the office of the Company. On all bills rendered on or about the first of each month a discount of one cent per K.W. of electricity will be allowed for payment on or before the tenth of same month. On all bills rendered on or about the fifteenth of each month a discount of one cent per I.W. of electricity will be allowed for payment on or before the twenty-fifth of each month. After the discount periods the gross rate of 11 cents will be charged for electricity.

Deposits: A deposit sufficient to cover two months' estimated bill is required of non-property owners, or consumers whose credit has not been established. Interest at the rate of 5% per annum is paid on such deposits.

Connection charge: A Connection charge of $2.00 per meter is made for installations connected for a period of three months or less.

Extensions of lines or mains: Extensions of lines or mains are made when the gross income earned on such extensions for the first two years equals or exceeds the cost of the extension. When this income is not assured guarantees are taken from the consumers served equal to this amount, and covering a two year period. Any additional income accruing on this extension is applied on the above guarantees.

Lighting:

Residence Lighting: Eleven(11¢) cents per kilowatt hour, less 1¢ per kilowatt discount if paid on or before the expiration of the discount period, making the rate 10¢ net. Minimum guarantee per month $1.15.

Commercial Lighting: Schedule of rates following: Minimum guarantee $3.00 per K.W.connected. This rates applies to stores, barber shops, cafes, etc. Schedule as follows:

'For an average use of 60 hours per month of the lamps connected, at eleven cents per kilowatt hour and for any current in excess of said average use of 60 hours per month of the lamps connected, at six (6¢) per kilowatt hour.'

'A discount of one (1¢) per kilowatt hour will be allowed on all current consumed on the eleven (11¢) rate and a discount of ten (10%) per cent on all current consumed on the six cent (6¢) rate, if payment is made on or before the discount date of the month succeeding that in which the current is consumed.

Eleven (11¢) cents, less forty-five (45%) per cent discount: This rate is given to commercial customers where lights are used in the day time, all night, etc., such as picture theatres, cafes, etc. Minimum guarantee $3.00 per K.W.connected.

Commercial Signs: Metered, eleven (11¢) cents, less forty-five (45%) per cent discount, with a minimum guarantee equal to flat rate basis.

As per lighting schedule: With a minimum guarantee of $3.00 per K.W.connected.

Flat Rate: Sign, Window and Display lighting. Rate is connected load x 5 hours per day x 30 days x 6¢ = Flat Rate per month; 10% discount. Signs controlled by Company, burning from dusk to 11 P.M. Free renewals for all carbon lamps and tungsten lamps in 25 watt sizes and above.

Picture Shows and Theatres: Special decorative lighting for exterior of theatres and picture shows, operating from dusk to 11 P.M. Three (3¢) cents per K.W.H.

Clubs: When Club Rooms are kept open every evening: Six and one half (6½) cents per KWH, with a discount of one-half (1/2¢) cent per K.W.H. for prompt payment. Minimum guarantee of $3.00 per KW connected.

Officers and Directors: Officers and directors of the company

and stockholders holding one hundred (100) or more shares of stock, three (3¢) cents per K.W.H. No minimum guarantee.
Employes of Company: Regular rate, without any minimum guarantee.
Camp Stratton, (Near Cheyenne Canon)
Residence Lighting
Sixteen (16¢) cents per kilowatt hour, less 20% discount. Minimum guarantee $1.50 per month. This addition owned by Broadmoor Land Company, who leases lots for Summer Cottages. Right of way granted by Broadmoor Land Company for distribution lines, in consideration of the same rates being charged for electric current as are charged by Broadmoor Land Company, whose system adjoins.

City of Colorado Springs,
Municipal

Fire Stations, Lighting: Rate of two (2¢) cents net.
Ornamental Lighting, Streets: Three (3¢) cents net. City operates and maintains system. Three years contract.
Arcs: 7½ amperes Series A.C., $66.00 per year, all night contract coincident with Franchise.
Flat: 80 c.p.tungsten, $2.50 per month; 150 Watt tungsten, $3.75 per month. No contract. Maintained by the Company. All night schedule.
Police, Alley Lamps:
Flat: (32 c.p.carbon) $2.50 per month. No contract. Maintained by the Company. All night schedule.
City Hall:
Lighting: Furnished free. (Franchise provision).

Power

The customer agrees to pay the fixed charge of 50¢ per H.P. per month plus the amount of current as shown by meter measurements for the month as follows:

7.0 cents per KWH for the first 25 KW hrs. or $1.75 for the first 25 KW hrs., and
6.0 cents per KWH for the additional KW hrs. above 25 to 50, or $3.25 for the first 50 KW hrs., and
5.4 cents per KWH for each additional KW hrs. above 50 to 100 or $5.95 for the first 100 KW hrs., and
5.1 cents per KWH for each additional KW hrs. above 100 to 300 or $16.15 for the first 300 KW hrs. , and
3.7 cents per KWH for each additional KW hrs. above 300 to 500 or $23.55 for the first 500 KW hrs., and
3.0 cents per KWH for each additional KW hrs. above 500 to 750 or $31.05 for the first 750 KW hrs., and
2.8 cents per KWH for each additional KW hrs. above 750 to 1500 or $52.05 for the first 1500 KW hrs., and
2.6 cents per KWH for each additional KW hrs. above 1500 to 2500 or $78.05 for the first 2500 KW hrs., and
1.8 cents per KWH for each additional KW hrs., above 2500 to 3500 or $96.05 for the first 3500 KW hrs., and
1.1 cents per KWH for each additional KW hrs., above 3500 to 5000 or $112.55 for the first 5000 KW hrs., and
0.9 cents per KWH for each additional KW hrs., above 5000 to 15000 or $202.55 for the first 15000 KW hrs., and
0.85 cents per KWH for each additional KW hrs. above 15000 to 50000 or $500.05 for the first 50000 KW hrs., and
).8 cents per KWH for each additional KW hrs. above 50000 to 100000 or $900.05 for the first 100000 KW hrs., and
0.77 cents per KWH for each additional KW hrs. above 100000

It is hereby understood that said fixed charges are based on the connected load at the date of the execution of this contract and that should the connected load be increased or decreased at any time during the life of this contract, the fixed charges will be increased or decreased accordingly.

the fixed charge is subject to 10% discount in accordance with Paragraph 5 of this contract.

The rates as per meter are net.

Fixed charge fifty (50¢) cents per H.P. per month.

Minimum guarantee One ($1.00) dollar per H.P. per month. In no case less than $2.00 per month per consumer.

Individual Drive: For machine and wood working shops having a connected load of 50 H.P. and above, where individual motor drive is used, fixed charge and minimum guarantee is based on (50%) fifty per cent of the horse power connected.

Special Classifications:

Regular Rates:

Rectifier Rates:

Automobile Charging:

Eleven (11¢) cents per KWH, less 45% discount. Minimum guarantee $5.00 per month. (30 Amper rectifier).

Cooking and Heating:

Home Laundries: Eleven (11¢) per KWH, less 54% discount. Minimum guarantee $1.50 per month for the first H.P.connected and $1.00 per month per H.P. over that.

Refrigeration Rate: (Off-peak rate)

Three (3¢) cents net per K.W.H. Minimum guarantee $1.00 per month per H.P. connected. Consumer agrees not to use power during the following hours:

January.....1 - 31	5:00 to 10:00	P.M.
February ...1 - 15	5:15 to 10:00	"
February ...16- 29	5:30 to 10:00	"
March .....1 - 15	6:00 to 10:00	"
March 16- 31	6:15 to 10:00	"
April .....1 - 15	6:30 to 10:00	"
April 16- 30	6:45 to 10:00	"
May .....1 - 15	7:00 to 10:00	"
May 16- 31	7:15 to 10:00	"
June .....1 - 30	7:30 to 10:00	"
July .....1 - 31	7:30 to 10:00	"
August .....1 - 15	7:00 to 10:00	"
August 16- 31	6:30 to 10:00	"
September ..1 - 15	6:15 to 10:00	"
September ..16- 30	5:45 to 10:00	"
October ....1 - 15	5:30 to 10:00	"
October 16- 31	5:15 to 10:00	"
November ...1 - 30	5:00 to 10:00	"
December ...1 - 31	5:00 to 10:00	"

Irrigation Rates:

$1.00 per H.P.fixed charge - 10% discount
1.00 per H.P. minimum guarantee.
.03 Net per KW for the first 2000 KW
.02-3/4 Net per K.W. for the next 2000 KW.
.02½ Net per K.W. for the next 5000 K.W.
.02¼ Net per K.W. for the next 5000 "
.02 Net for the next 14,000 K.W. or over.

Electric Garages - Battery Charging,

Light and Power

Regular power rate Schedule; lighting included on account of long hours consumption.

Dry Goods and Department Stores:

Light and Power

Five (5¢) cents net per K.W.H. Minimum guarantee $500.00 per annum. 5 years contract.

Laundries: Using Electric Irons:

Four (4¢) cents net per kilowatt hour for lighting and power. Minimum guarantee three($3.00) Dollars per month per kilowatt connected.

Emergency or "Break-Down" service:
Eleven (11¢) cents per kilowatt hour, less one (1¢) cent per kilowatt hour for prompt payment. Minimum guarantee One ($1.00) Dollar per month per horse power connected or its equivalent, and in no case less than one and 15/100 ($1.15) Dollars per month net for lighting and two ($2.00) Dollars per month net for power.

The Electrical Department of the defendant corporation has in effect many special rates and privileges, which are partially due to circumstances not within the control of the Defendant, but resulting, nevertheless, in an illegal discrimination favoring numerous consumers. These special and discriminatory rates must be discontinued at once.

It has also come to the attention of the Commission that one G.A.Taff is furnished with electricity by the Defendant Company without a charge being made therefor; this service having been provided for in a contract entered into between the Defendant corporation and Mr. Taff at the time that the said Taff sold certain properties to this Defendant corporation. We are of the opinion that this is, in effect, an illegal discrimination, and the Defendant corporation is hereby instructed to collect from the said G.A.Taff, in moneys, for all electric energy furnished to him by the said Defendant corporation from and after the date of this order, in accordance with the schedule of rates and charges as hereinafter specified.

Officers, directors, stockholders and employes of the Defendant corporation must be shown no favoritism as to rates and charges, and rules and regulations surrounding the same, and the Defendant corporation is instructed to collect from each officer, director, stockholder and employe, in moneys, for all electric energy furnished to them and each of them by the said defendant corporation from and after the date of this order, in accordance with the schedule of rates and charges as hereinafter specified.

New Rates:

Under our instructions the Electrical Engineer of the Commission has prepared the following schedule of rates and charges, the revenues from which will yield a return in excess of 7½ per cent per annum upon the present value of the electric and hydro properties of the Defendant corporation as found by this Commission.

IT IS THEREFORE ORDERED, That the rates and charges, which are to be hereafter observed and enforced by The Colorado Springs Light, Heat & Power Company, shall be as follows:

GENERAL POWER SERVICE.

Rate:

6.66 cents per K.W.H. for the first 30 hours average monthly use of the maximum demand.
3 cents per K.W.H. for the next 60 hours average monthly use of the maximum demand.
1 Cent per K.W.H. for all current consumed in excess of 90 hours average monthly use of the maximum demand.

Determination of Maximum Demand:

The maximum demand shall be computed as 90 per cent of the full load rating of motor or motors, but no maximum demand shall be figured as less than 500 watts. For installations in excess of 15 horse-power where individual drive is used, the maximum demand shall be figured as 50 per cent of the full load rating of the motors and other energy consuming devices.

Prompt Payment Discount:

A discount of 10% on the consumption billed at the 6.66 cent rate will be allowed on monthly bills paid on or before 10 days after their respective dates.

Minimum Charge:

The Consumer agrees to pay the company a minimum monthly charge of $1.50 for the first two horse-power or less, and 75 cents for each additional horse-power or fraction thereof, For installations in excess of 15 H.P. using individual drive the minimum monthly charge will be based on 50% of the connected load in horse-power.

Terms and Conditions:

The Consumer agrees to be responsible for service rendered until 15 days after notice in writing is mailed or delivered to the company's office of the withdrawal of the application for service.

The Consumer agrees not to use the current for any purpose other than as provided in his application, nor to change the size or number of motors without first giving notice to the company of his intention to do so.

The Consumer agrees that no other electric service shall be introduced or used in connection with the equipment supplied hereunder, without obtaining the written consent of the company.

In case the Consumer fails to comply with the terms of this schedule, or the rules of the Company, the Company may, on 15 days written notice, discontinue its service and remove its property.

DIRECT CURRENT POWER SERVICE

Rate:

7¢ per K.W.H. for the first 30 hours average monthly use of the maximum demand.

Rate: (Continued)

3¢ per K.W.H. for the next 60 hours average monthly use of the maximum demand.

1¢ per K.W.H. for all current consumed in excess of 90 hours average monthly use of the maximum demand.

The maximum demand shall be determined in the same manner as for general power service.

A discount of 10% on the consumption billed at the 7 cent rate will be allowed on monthly bills paid on or before 10 days after their respective dates.

The minimum charge for this class of service shall be determined in the same manner as for general power service.

The terms and conditions for this class of service shall be the same as for general power service.

The Company reserves the right to discontinue direct current service, at any time, upon the approval and consent of the State Public Utilities Commission of Colorado.

COMMERCIAL LIGHTING SERVICE

Rate:

9¢ per K.W.H. for the first 30 hours average use per month of the maximum demand.
4¢ per K.W.H. for the next 60 hours average use per month of the maximum demand.
2¢ per K.W.H. for all current consumed in excess of 90 hours average monthly use of the maximum demand.

Determination of Maximum Demand:

The Total installation is to be determined by an actual inspection upon the premises, but no maximum demand is to be figured as less than 500 watts.
The maximum demand shall be figured as 70 per cent of the total installation, not including irons, fans, and small utility motors not exceeding one-fourth horse-power in size

Prompt Payment Discount:

A discount of 1 cent per K.W.H. on the consumption billed at 9 cents will be allowed on all monthly bills paid on or before 10 days after their respective dates.

Minimum Charge:

The Consumer agrees to pay the company a minimum charge of not less than $1.00 per month per K.W.connected.

Terms and Conditions:

The Consumer agrees to be responsible for service rendered until 15 days after notice in writing is mailed or delivered to the company's office of the withdrawal of the application for service.

Terms and Conditions: (Continued)

The Consumer agrees not to use the current for any purpose other than as provided in this application, not to change the size or number of lamps or devices without first having obtained the written consent of the company.

The Consumer agrees that no other electric service shall be introduced or used in connection with the equipment supplied hereunder, without previous written consent of the company.

In case the consumer fails to comply with the terms of the application or the rules of the company, the company may, on fifteen days' written notice, terminate this agreement, discontinue its service and remove its property.

RESIDENCE LIGHTING.

Rate:

10¢ per K.W.H. for all current consumed during the month.

Prompt Payment Discount:

A discount of 15 per cent on all current used will be allowed on all bills paid on or before 10 days from their respective dates.

Minimum Charge:

The Consumer agrees to pay the company a minimum charge of not less than $1.00 per month per meter connected.

Terms and Conditions:

The Consumer agrees to be responsible for service rendered until three days after written notice is mailed or delivered to the company's office of the withdrawal of the application for service.

The Consumer agrees not to use the current for any purpose other than as provided in this application, nor to change the size or number of lamps or devices without first having obtained the written consent of the company.

The Consumer agrees that no other electrical service shall be introduced in connection with the equipment supplied hereunder, without previous written consent of the company.

In case the Consumer fails to comply with the terms of the application or the rules of the company, the company may, on 15 days' written notice, terminate this agreement, discontinue its service and remove its property.

SIGN AND DISPLAY LIGHTING.

Rate:

90¢ per month per 100 watts connected, burning from dusk to 11:00 P.M.
$1.40 per month per 100 watts connected, burning all night.

Prompt Payment Discount:

A discount of 10% will be allowed on all bills paid on or before 10 days from their respective dates.

Terms and Conditions:

The Consumer agrees to be responsible for service rendered until 15 days after notice in writing has been mailed or delivered to the company's office of the withdrawal of the application for service.

The Consumer agrees not to use the current for any purpose other than as provided in his application, nor to change the size or number of lamps without first obtaining the consent of the company.

EMERGENCY OR BREAK-DOWN SERVICE.

Rate:

6 cents per K.W.H. for all energy consumed.

Minimum Charge:

The Consumer agrees to pay a minimum monthly bill of $1.00 per month per K.W. of maximum demand contracted for in addition to the above amount for all energy used.

Prompt Payment Discount:

A discount of 10% on the portion of the bill rendered at 6¢ per K.W.H. will be allowed on monthly bills paid on or before 10 days from their respective dates.

Terms of Contract:

One year, and thereafter until 15 days after the receipt by the company of written notice from the consumer to discontinue the service.

Terms and Conditions:

The Company may at any time install special apparatus to limit the demand of the consumer to the maximum demand contracted for.

REFRIGERATION AND OFF PEAK.

Power Service.

Rate:

3¢ per K.W.H. net, minimum guarantee $.75 per month per horse-power connected. Consumer agrees not to use power during the following hours:

January	1 - 31	5:00 to 10:00	P.M.
February	1 - 15	5:15 to 10:00	"
February	15- 29	5:30 to 10:00	"
March	1 - 15	6:00 to 10:00	"
March	16- 31	6:15 to 10:00	"
April	1 - 15	6:30 to 10:00	"
April	16- 30	6:45 to 10:00	"
May	1 - 15	7:00 to 10:00	"
May	16- 31	7:15 to 10:00	"

Rate: (Continued)

June	1 - 30	7:30 to 10:00	P.M.
July	1 - 31	7:30 to 10:00	P.M.
August	1 - 15	7:00 to 10:00	"
August	16 - 31	6:30 to 10:00	"
September	1 - 15	6:15 to 10:00	"
September	16 - 30	5:45 to 10:00	"
October	1 - 15	5:30 to 10:00	"
October	16 - 31	5:15 to 10:00	"
November	1 - 30	5:00 to 10:00	"
December	1 - 31	5:00 to 10:00	"

Terms and Conditions:

Same as for regular power service.

IRRIGATION SERVICE.

Rate:

$1.00 per month per H.P. fixed charge, plus
3¢ per K.W.H. for the first 2000 K.W.H.
2½¢ per " " " next 5000 "
2¢ " " " all energy used in excess of above amount.

Prompt Payment Discount:

The fixed charge is subject to a discount of 10% if bills are paid on or before 10 days after their respective dates.

MUNICIPAL STREET LIGHTING.

Rate: All night schedule:

7.5 ampere series A.C.arcs	$66.00	per year
80 C.p. " mazdas	24.00	" "
Police alley lamps, 80 c.p.	24.00	" "
150 watt series mazdas	45.00	" "

80 c.p. series mazdas, burning from dusk to midnight during the summer season ..... $2.00 per month for the season.
Ornamental street lighting, 3 cents net per K.W.H.

Terms and Conditions:

The company will, except in the case of ornamental street lighting, furnish all lamps, wires, and other equipment required in rendering municipal street lighting service, and will maintain and operate the same.

Bills are to be paid in equal monthly instalments at the end of each month.

LARGE HOTELS

Light and Power

Rate:

2.1¢ per K.W.H. for the first 4500 K.W.H. consumed per month
1.75¢ per " for all energy consumed in excess of the above amount.

Terms and Conditions:

Terms and Conditions: (Continued)

Available to all hotels having a monthly consumption in excess of 4500 K.W.H.

High rate portion of bill subject to a discount of .1¢ per K.W.H. for prompt payment.

Optional Hotel Rate:

Large light and power schedule.

LARGE LIGHT AND POWER SERVICE.

Rate:

$2.25 per K.W. per month for installations having a maximum demand of 30 K.W. or more; plus an

Energy Charge of:

1 cent per K.W.H. for all energy used.

Determination of Maximum Demand:

The consumers maximum demand is to be determined by a maximum demand meter to be read monthly.

Minimum Charge:

The Consumer must guarantee a maximum demand of 30 K.W. and agree to pay a minimum maximum demand charge of $60.00 per month.

Prompt Payment Discount:

A discount of 25 cents per kilowatt from the demand charge will be allowed on monthly bills paid on or before 10 days after their respective dates.

ALTERNATING CURRENT, UNTRANSFORMED.

Rate:

$1.25 per month per K.W. of maximum demand, plus an

Energy Charge of:

.5¢ per K.W.H. for all energy used.

Minimum Charge

The Consumer must guarantee a minimum maximum demand of 1000 K.W. and a minimum demand charge of $1250 per month.

Terms of Contract:

Five years, and thereafter until 30 days after the receipt by the company of a written notice from the consumer to discontinue the service.

REDUCTION MILLS.

Rate:

95/100 cents net per K.W.H. for all current consumed for light and power.

Minimum Charge:

None. Available only to consumer who will guarantee an annual load factor of 80% or higher.

Terms of Contract:

Five years, and thereafter until 30 days after receipt of written notice by the company from the consumer to discontinue the service.

MUNICIPAL LIGHTING.

Rates and charges, and practices surrounding the same, pertaining to municipal lighting are tentatively approved, subject to further investigation and revision in the discretion of the Commission.

CHANGES IN RULES AND REGULATIONS.

A connection charge of $2.50 per month per meter to be made for all installations connected for a period of four months or less. Officials and employes of the company to pay regular rates. All rates to be equally applicable to Colorado Springs, Manitou, and suburbs.

A special discount from these schedules may, at the discretion of the company, be allowed to quasi-public institutions doing charity work.

The Commission finds that the rates and charges set forth in the above schedule are reasonable and just, and that the rates and charges heretofore charged by the Defendant corporation, insofar as they are not in accordance with the above schedule, are unreasonable and unjust.

It Is Ordered that the above schedule of rates and charges shall become effective on the 1st day of January, 1916, and shall apply to all service furnished after said date.

Gas Property:

The Colorado Springs Light, Heat & Power Company manufactures and sells gas for illuminating, cooking and heating purposes, within the City of Colorado Springs and Colorado City.

Appraisal of the Gas Property by the Engineering Staff of the Commission.

Classification:	Cost New	Present Value
A - Land	$ 12,838.00	$ 12,838.00
B - Buildings	21,272.00	13,669.00
C - Plant Equipment	142,359.00	114,044.00
D-- Distribution	532,127.00	436,359.00
E - General Equipment	36,216.00	34,007.00
F - Non-operating property	1,085.00	666.00
G - Working Capital	22,500.00	22,500.00
	$768,397.00	$634,083.00

Statement of Overhead Charges
Gas Property

Items :	Classification of Property				
	Land	Mains, Services & Meters	Bldgs.	Plant Equip-ment	General Equip-ment
Inventory Omissions	0	2	1	1½	½
Engineering	1	3	5	5	0
General Supervision	0	3	3	3	1
Interest during Construction	-	2½	3	3	0
Insurance	0	½	1	1	½
Legal Expenses	2	1	½	½	0
General Contingencies	0	2	1	1	0
	10	14	14½	15	2

The above summary statements of the gas properties of the Defendant corporation, and the statement of overhead charges, were prepared by F.J.Rankin, Electrical Engineer

for the Commission. The statement of valuation includes the overhead charges. Mr. Rankin also included in the summaries of valuation of the gas properties of this Defendant Company 10 per cent contractors' profit on the particular items which must necessarily include such profits. The summary valuation of the Gas property prepared by him amounts to $634,083.00. Under the sub-head of non-operating property in the above summary we find an item of $666.00, which represents the present value of one Roots' exhauster, one 4 h.p. vertical engine, and one governor. Mr. Rankin testified that in his opinion these items were not in use or useful, and therefore should be deducted from his summary of valuations, making a total of $633,417.00, which includes the sum of $22,500.00 as working capital, and excludes any allowance for preliminary organization and development expense, and going value.

Working Capital

The Commission will make an allowance for working capital in accordance with the reasoning heretofore expressed in this order, but are of the opinion that the sum of $22,500.00, as allowed by the Commission's Engineer on the gas properties, is excessive, and find the correct amount to be $15,000.00.

Preliminary Organization and Development Expense

We have given careful thought and study to the item of preliminary organization and development expense pertaining to the gas property of the Defendant corporation, and have arrived at the conclusion that the sum of $20,000.00 should be allowed.

Going Value

We have considered this property as a "Going Concern" in accordance with the reasoning heretofore expressed in this opinion, and therefore have made such allowance for this item as we deem just.

Depreciation:

The amount of annual depreciation to be set aside upon the gas property of the Defendant Company is $20,000.00, and is arrived at in accordance with the reasoning heretofore set forth in this opinion under the head of "Depreciation".

Operating Revenues and Expenses

Mr. Herbert, statistician for the Commission, introduced into evidence the comparative summary of the net earnings of the gas property from June 30, 1910, to June 30, 1915, and the same are here shown:

Comparative summary of net earnings, gas property June 30, 1910, to June 30, 1915.

	6 mos. 1915	1914	1913	1912	1911	1910
Income	$40643.06	94460.93	97545.92	97542.89	93740.73	48872.84
Expenses	35587.05	72649.25	62563.40	67857.61	67260.60	34876.92
Net Earnings	5056.01	21811.68	34982.52	29685.28	26480.13	13995.92

We have averaged the net earnings for the years 1911, 1912, 1913 and 1914, and have arrived at an average net return of $28,239.90, and, deducting from this amount the sum of $20,000.00, the annual depreciation reserve, we find the average net return, less depreciation, to be $8,239.09.

Following is a detailed statement of the operating revenues and expenses of the gas property of the defendant company as found on the books of the corporation, and as introduced into evidence by Mr. Herbert.

Income: - Gas Department:

	1915 6 mos.	1914	1913
Commercial Metered Lighting		$5,368.80	$9,434.40
" Heat	$36,489.24	81,944.98	81,350.37
Prepaid Gas	2,055.20	4,629.00	4,786.30
Total Sales	38,544.44	91,942.78	95,571.07
Meter Chgs.Min,Bills	1,168.55	1,969.95	1,940.00
Forfeited Discounts	341.45	583.67	674.24
	40,054.44	94,496.40	98,185.31
Less allowances and rebates	184.00	244.75	578.11
" correction of overchgs.	28.05	238.44	180.78
	212.05	483.19	758.89
Total Gross revenue Gas Sales	39,842.39	94,013.21	97,426.42
Misc.Revenue - jobbing and applicances,	800.67	447.72	119.50

Expense - Gas

	6 mos. 1915	1914	1913
Coal carbonized	$13,234.07	$27,209.73	$27,272.79
Coal, Handling Expense	153.03	1,109.99	647.13
Bench Fuel	3,716.48	7,708.99	5,514.71
Total cost materials	17,103.58	36,028.71	33,434.63
Coke returned	8,865.19	21,727.47	16,187.24
Tar returned	531.88	2,109.10	2,607.84
Ammonia returned	324.00	240.50	614.35
Carbon returned		52.00	58.50
Total Residuals returned	9,721.07	24,129.07	19,467.93
Net cost new materials	7,382.51	11,899.64	13,966.70
Retort House Labor	5,403.62	10,370.95	10,974.48
Repairs, benches and retorts	600.00	2,010.00	2,160.00
" work tools	135.33	217.12	202.35
Mis.works expense	610.85	637.61	737.74
Total cost expense	6,749.80	13,235.68	14,074.57
Total cost Gen.	14,132.31	25,135.32	28.041.87
Generating Water Gas:			
Steam-Labor	54.10	121.24	5.50
Generator Fuel	283.13	1,384.55	415.78
Water Gas Oil	696.78	2,858.51	1,125.54
Total cost materials	1,034.01	4,364.30	1,546.82
Net cost materials	1,034.01	4,364.30	1,546.82
Generator House Labor	163.27	509.29	274.10
Repairs W.G.sets and acces.		190.00	120.00
Miscellaneous	8.20	15.57	1.02
Total cost expense	171.47	714.86	395.12
Total cost Gen.	1,205.48	5,079.16	1,941.94
Mixed Gas -	15,337.79	30,214.48	29,983.21
Works - superintendence	596.38	785.02	574.01
Misc.Labor at works	843.32	1,590.27	1,659.71
Purifier Labor	379.66	344.53	340.15
Boiler House Labor	551.64	1,188.12	1,077.81
Boiler Fuel	213.80	351.00	661.91
Purification Supplies	136.08	244.14	219.68
Repairs purification app.	19.67	318.54	67.09
Repairs works and station struc.	164.33	146.83	185.95
Repairs furnaces, boilers & acces.	303.65	237.80	331.58
Repairs steam engines	10.30	100.69	117.12
Repairs misc.power pl.equip.	23.12	107.74	13.44
Repairs Misc.Equip.	555.94	376.11	458.50
Repairs Holders	107.67	259.37	21.74
Water	252.75	477.85	512.80
Total purification and storage -	4,158.31	6,528.01	6,241.49
Total cost gas delivered	19,496.10	36,742.49	36,224.70

Distribution Expense:

	6 mos. 1915	1914	1913
Dist.superintendence	502.00	992.14	829.51
" supplies and expense	86.22	182.73	194.73
Work on consumers' premises	459.66	813.25	1,064.54
Setting and removing meters	613.32	1,400.21	1,508.37
Repairs of Gas mains	391.91	1,011.09	1,446.38
" " Services	38.47	315.32	134.59
" " Meters	783.78	1,650.36	1,270.30
" " Dist.tools	168.10	372.70	386.97
Gas main expense	78.93	289.45	193.76
Service	77.88	197.49	263.57
Transmission pumping		201.02	60.00
Total distribution expense	3,200.27	7,425.76	7,352.72
Commercial Expense:			
Commercial accounting	164.08	365.48	394.89
" collecting	159.50	366.60	373.45
Meter reading	288.75	648.45	744.08
Total Commercial Expense	612.33	1,380.53	1,512.42
Promotion Expense			
Promotion management	393.10	342.58	325.33
Demonstration and other promotion expense	163.74	628.41	590.47
Advertising	67.23	209.18	152.87
Canvassing and soliciting	946.60	545.03	237.44
Total promotion expense	1,570.67	1,725.20	1,306.11
General and Misc.Expense:			
Salaries General officers	655.25	1,693.35	1,633.97
" " office clerks	226.15	600.63	707.97
General office supplies	73.03	159.17	178.99
Rent	280.00	608.86	584.96
Incidental expense	32.75	52.28	88.81
Gen'l Stat'y and printing	99.98	287.38	380.93
Misc.general expense	343.83	832.25	913.17
Insurance	473.62	985.20	977.02
General Law expense	369.00	1,266.80	652.74
Law exp.connection with damages	90.00		
Accidents and damages	90.00	600.00	600.00
Gas franchise requirements	16.92	33.46	22.99
Store expense	132.87	290.29	295.61
Uncollectible bills	208.74	358.95	479.83
Taxes	6,860.45	15,389.96	6,255.34
Management, aud. and trav.	787.05	1,898.68	1,952.71
Total Gen. and Misc.Expense	10,739.64	25,057.26	15,725.04
Total cost gas,	35,619.01	72,331.24	62,120.99
Less duplicate gas charges	251.91	529.62	499.00
	35,367.10	71,801.62	61,621.99
Loss Appliances and Add.	219.95	847.63	941.41
Total Cost	35,587.05	72,649.25	62,563.40

Fair Value of the Gas property.

After considering all of the evidence and testimony in the case hearing on the value of the plant, and the cost to reproduce, the original costs, the investment, the present value, including preliminary and development costs, engineering and supervision, interest, insurance, organization and legal expenses during

construction, contingencies, working capital, and all other elements of value, (tangible and intangible), and taking into consideration that the plant is in successful operating and is a "going concern", the Commission finds the fair value of the gas property of The Colorado Springs Light, Heat & Power Company, for the purposes of determining reasonable and just rates in this case, to be $710,917.00. We therefore find that The Colorado Springs Light, Heat & Power Company is earning 1.16 per cent per annum on the fair and reasonable value of its gas property.

Present schedule of gas rates of the defendant company

Fuel and illuminating: Regular:

$1.10 per 1000 cubic feet, les 10¢ discount per 1000 cubic feet, provided bills are paid on or before the expiration of the discount period. Minimum guarantee 50 cents per month per meter.

Commercial Gas:

First	10,000	Cubic feet	@ $1.00	per M	Net
Next	10,000	" "	.95	" "	"
"	20,000	" "	.90	" "	"
"	30,000	" "	.85	" "	"
"	30,000	" "	.80	" "	"
"	30,000	" "			
	and over		.75	" "	"

Officers and directors:

Officers and directors of the Company and stockholders holding 100 or more shares of stock, 75 cents per thousand cubic feet. No minimum guarantee.

Employes of the Company:

Regular rates without any minimum guarantee.

Special Rates:

Antlers Hotel: 80 cents per thousand cubic feet.

The Commission has devoted much time to the question of fair and reasonable rates and charges for gas to be sold by the Defendant corporation to consumers in Colorado Springs and Colorado City. We have found the present fair value of the gas property of The Colorado Springs Light, Heat & Power Company to be $710,917.00, with an average annual return, less depreciation, of $8,239.09, which results in a 1.16 per cent rate of return per annum on the fair and reasonable value of this gas property.

The present schedule of rates and charges for the same of gas by the Defendant corporation shows that this defendant is receiving $1.00 per 1000 cubic feet of gas, net, with a minimum

guarantee of fifty cents per month per meter, which appears to be not unduly high, and, in fact, a fair average rate for gas sold by other utilities in cities somewhat similar to Colorado Springs in size and location. After a thorough investigation we have been forced to come to the conclusion that the Defendant company manufactures gas at about the average cost, and we have been unable to arrive at a satisfactory conclusion for the low return on the present fair value of the gas properties of the Defendant company. It is ascertainable from the evidence that the representatives of the Defendant corporation were aware at the beginning of this hearing that the gas property of The Colorado Springs Light, Heat & Power Company was not earning a reasonable return upon the present fair value of the property, and with this knowledge the representatives of the Defendant Company did not request, or even intimate, that the Commission should permit the Defendant corporation to increase the rates and charges as shown in the present gas schedule of the corporation. In the event we should permit an increase in the charges and rates for gas sold by the Defendant corporation it would be solely for the purpose of increasing the revenues of this Company, and we are not at all convinced that these revenues would be increased by an increase in the rates and charges, but, on the other hand, are of the opinion that an increase in the rates and charges would result in decreased earnings.

While the public utility is entitled to earn a reasonable return upon the present fair value of these properties, the consuming public is required to pay only the reasonable value for the service or commodity furnished. We shall entertain a complaint from the corporation in the form of a request for an increase in its rates and charges covering the sale of gas, accompanied by evidence sufficient to justify this Commission in ordering an increase in such rates and charges.

IT IS THEREFORE ORDERED, That the present schedule of rates and charges covering the sale of gas by The Colorado Springs Light, Heat & Power Company, and now on file with this Commission, be approved; provided, that officers, directors, stockholders and employes of the Defendant corporation must be shown no favoritism as to rates and charges, and rules and regulations surrounding the same, and the Defendant corporation is instructed to collect from such officers, directors, stockholders and employes, in moneys, for gas furnished to them and each of them by the said Defendant corporation, from and after the date of this order, in accordance with the schedule of rates and charges as is now open to the gas consuming public served by this Defendant corporation.

It is further provided that the special rate favoring the Antlers Hotel shall be discontinued. However, the Defendant corporation may revise its schedule to include rates and charges for hotels.

This order shall become effective on the 1st day of January, 1916, and shall apply to all service furnished after said date.

Steam Property:

We find that the present fair value of the property of the Defendant corporation in use and useful in the sale of steam heat is $122,774.00. We further find that there is an annual deficit, which includes $8,000.00 annual depreciation reserve, in the sum of $13,912.00.

The laws of Colorado pertaining to public utilities and the regulation thereof by the Public Utilities Commission of the State of Colorado enumerate by name all public utilities which shall be under the jurisdiction of this Commission, and we have come to the conclusion that we are without jurisdiction in the regulation of the sale of steam.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(S E A L)

S.S.Kendall,
Geo.T.Bradley,
M.H.Aylesworth,

Commissioners.

Dated at Denver, Colorado,
this 15th day of December, 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, into the feasibility and necessity of the construction of a telephone line from Genoa, Colorado, to Burlington, Colorado, and the installation of telephone service, by The Mountain States Telephone & Telegraph Company from Genoa, Colorado, to Burlington, Colorado; the said telephone line to be strung through and to serve with adequate telephone service the following towns or cities located east of Genoa and west of Burlington, to-wit; Bovina, Arriba, Flagler, Seibert, Vona and Stratton.) Case No.45.

Submitted December 13th,1915. Decided December 18,1915.

Appearances:

For The Mountain States Telephone & Telegraph Company,
Milton Smith, Esq.,
Mr.W.F.Brown,
Mr.W.F.Cozad, and
Mr.C.L.Titus,

For the Intervenors,
Mr.C.S.Hamilton, of Arriba, Colo.,
Mr.A.L.Anderson, of Burlington, Colo.,
Mr.L.Q.Pugh, of Stratton, Colo.,
Mr.J.Brown, of " "
Mr.C.V.Morgan, of " "
Mr.David Aken, of Vona, Colo.,
Mr.Ira Fuller, of " "
Mr.W.A.Borland, of Flagler, Colo.,
Mr.W.H.Phipps, of " "
Louis Vogt., Esq.,of Burlington, Colo.

On the 1st day of October, 1915, an informal written petition was filed with the Commission, signed by citizens of Flagler, Colorado., praying that this Commission order the Mountain States Telephone & Telegraph Company to extend its lines of telephone from Genoa, Colorado, east to Burlington, Colorado. One of the Inspectors for the Commission was instructed to investigate into the merits of the petition filed with this Commission by the citizens of Flagler, and, on November 24,1915, Inspector C.W.Fairchild filed his written report with us. In accordance with the recommendations therein contained the Public Utilities Commission of the State of Colorado, on the 26th day of November, 1915, ordered The Mountain

States Telephone & Telegraph Company to appear at the Hearing Room of the Commission, in the City and County of Denver, on the 13th day of December, 1915, at the hour of 10 00 o'clock a.m., and make such showing as it might desire or its interest might require in answer to the order of the Commission.

The above cause came on for hearing before the Commission on the 13th day of December, 1915, at the hour of 10 00 o'clock a.m., in its Hearing Room in the State Capitol Building in the City and County of Denver, Colorado, and evidence was presented to the Commission by citizens of the communities affected and by representatives of the Defendant corporation.

The Defendant corporation - The Mountain States Telephone and Telegraph Company - to a large extent enjoys a natural monopoly within the boundaries of the State of Colorado. The cities and towns and communities known as Bovina, Arriba, Flagler, Seibert, Vona, Stratton and Burlington, are now served by privately owned or mutual telephone exchanges, and enjoy no toll service. The evidence in this cause convinces us that these communities are prosperous and will show a steady increase in population in future years. Many witnesses testified that the inhabitants of the petitioning towns and cities are unable to transact business in Denver, Colorado Springs, Pueblo, and other trade centers within the State of Colorado, due, partially, to inadequate telephone service; and that a large proportion of this business, that properly belongs to the trade centers of this State, is directed east and out of the State. We are therefore of the opinion that the proposed extensions of telephone lines of the Defendant corporation will be of mutual benefit to the petitioning communities and the trade centers of Colorado.

The Defendant corporation introduced testimony to the effect that the proposed extensions of telephone lines

would be expensive, and the investment would not immediately earn a fair return for the Defendant corporation.

We are of the opinion that this is not the test, and that the Defendant corporation, having the advantages of a natural monopoly within the boundaries of this State, should make every effort to serve all communities within the State, and, in this way, make its service of greater value to its present subscribers and to the State of Colorado at large.

After a careful examination of the record in this case we find that the Commission is justified, from the evidence, in ordering the Defendant corporation, The Mountain States Telephone & Telegraph Company, to extend its telephone lines, and to adequately serve the petitioning communities at fair and reasonable charges, with equitable rules, regulations and practices surrounding the same.

IT IS THEREFORE ORDERED That the Defendant, The Mountain States Telephone & Telegraph Company, with all due dispatch, and under the supervision of this Commission, extend its telephone lines from Genoa, Colorado, east to Burlington, Colorado, and that the said telephone lines be strung through and serve with adequate telephone service, at reasonable and just rates, the town of Burlington, Colorado, and the following cities and towns or communities located east of Genoa and west of Burlington; to-wit, Bovina, Arriba, Flagler, Seibert, Vona and Stratton, Colorado.

IT IS FURTHER ORDERED That the Defendant corporation file with this Commission, subject to its approval, the rates and charges, and the rules, regulations and practices surrounding the same, which shall apply to the cities and towns and communities known as Burlington, Bovina, Arriba, Flagler, Seibert, Vona and Stratton, Colorado.

Dated at Denver, Colorado, this 18th day of December, 1915.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

D. D. Kendall

Geo. L. Bradley

W. N. Aylesworth

Commissioners.

ORIGINAL

BEFORE THE

PUBLIC UTILITIES COMMISSION

OF THE

STATE OF COLORADO.

- - - -

GREELEY GAS & FUEL COMPANY,

Complainant,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY, et al.,

Defendants.

CASE NO. 26.

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Submitted August 12, 1915. Decided December 20, 1915.

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A p p e a r a n c e s:

For the Complainant:
C.S. Darrow, Esquire,
Charles Tew, Esquire,
E.B. Wilkinson, Esquire,

For The Colorado & Southern Railway Company,
A.S. Brooks, Esquire,

For The Denver & Rio Grande Railroad Company,
Fred Wild, Esquire,
J.G. MacMurry, Esquire,

For Union Pacific Railroad Company,
C.C. Dorsey, Esquire,
J.Q. Dier, Esquire.

- - - -

S T A T E M E N T

On June 30, 1915, the above named Complainant filed its petition with the Commission and alleged:

That the Complainant, The Greeley Gas & Fuel Company, is engaged in the business of supplying gas for heating and lighting purposes in the city of Greeley, state of Colorado, and

in the manufacture of said gas, large quantities of coal from the Trinidad district, State of Colorado, are used, on which the Complainant is compelled to pay the Defendant railroad companies two and a half dollars ($2.50) per ton for the hauling and delivering of said coal to the plant of the Complainant, situated in the city of Greeley, State of Colorado.

That the said rate is exorbitant, excessive, discriminative and unfair, and the Complainant prays for an order to compel the Defendants herein to deliver said coal from said district to the plant of the Complainant in the city of Greeley, at a rate not to exceed $1.25 per ton.

To this petition, the Defendants filed separate answers, which, in form and substance, were practically identical. They admit that the published rate on coal, other than Pea and Slack, in carload lots, from the Trinidad district, to Greeley, is $2.50 per ton, and on Pea and Slack coal, $2.10 per ton. Deny that said rates are excessive, exorbitant, discriminatory or unfair. Deny that a rate of $1.25 per ton on coal from the Trinidad district to Greeley would be a reasonable rate, and pray to have the complaint dismissed.

On these issues, and after due notice, the cause came on for regular hearing before the Commission in its Hearing Room, Capitol Building, Denver, Colorado, at 10 00 A.M., August 12, 1915, at which time the Complainant asked and was granted leave to amend its petition to embrace reparation on all shipments made during the period including the two years immediately preceding the filing of this petition.

It appears that the Complainant uses about two hundred tons of coal per month for the purpose of manufacturing gas in the city of Greeley, all of which is transported from the Trinidad district. It appears that coal from this district is of the coking nature and is the only coal in the State which is available

to the Complainant for the manufacture of gas. For this reason the Complainant cannot use other and cheaper coal mined at points near Greeley and transported at much cheaper rates.

The basis of the complaint, as outlined at the hearing, is that the present charge is unreasonable in and of itself; also that it is discriminatory in comparison with the rate to Denver and to other points in the state.

To substantiate this view, comparison was made with other rates on coal, as well as rates on other commodities; the particular attention of the Commission being directed to the allegation that coal from the Trinidad district is being hauled through Greeley to Cheyenne, Wyoming, which is fifty-six miles further, at the same rate as applies to Greeley.

All coal from the Trinidad district to Greeley moves either via The Denver & Rio Grande and Colorado & Southern, or Atchison, Topeka & Santa Fe, to Denver, thence, via Union Pacific or Colorado & Southern, to Greeley; the Colorado & Southern being the only line operating into both places.

The average distance from the Trinidad district to Denver, is two hundred and thirteen miles, and from the Trinidad district to Greeley via Union Pacific, two hundred and sixty-five miles, and via the Colorado & Southern, three hundred and twelve miles; and from Trinidad to Cheyenne via the Colorado & Southern, the distance is three hundred and thirty-three miles.

It is thus seen that the distance to Cheyenne via the Colorado & Southern is but twenty-one miles further than from the Trinidad district to Greeley via the same line, and so far as that line is concerned, Greeley is not an intermediate point with Cheyenne. If this traffic was handled to Cheyenne over the line of the Union Pacific it would necessitate a haul of fifty-six miles beyond Greeley, but the evidence disclosed the

fact that the Union Pacific has never joined with other carriers in establishing a joint rate on coal from this district to Cheyenne. The only Trinidad to Cheyenne rate that has ever applied through Greeley, applied via the Colorado & Southern Railway direct, which operated between Denver and Cheyenne under a joint trackage agreement with the Union Pacific.

On November 6, 1911, the Colorado & Southern Railway Company opened its own line from Wellington to Cheyenne, and traffic then ceased to move through Greeley. The Cheyenne rate has not applied through Greeley since that date.

The following statement shows the various rates which the interested carriers have applied to this traffic since 1909, as shown by tariffs on file with this Commission:

TRINIDAD TO GREELEY:

	In Cents per Ton. LUMP
Via C&S Ry direct:	
Nov. 13, 1909	295
Oct. 3, 1910	275
Oct. 1, 1913	250
Via C&S Ry-Denver-UPRR:	
Nov. 13, 1909	No.Rates in Effect
June 20, 1910	295
Oct. 3, 1910	275
Dec. 20, 1913	250
Via D&RG RR-Denver-UPRR:	
Nov. 13, 1909	.No Rates in Effect
Mar. 27, 1911	275
Dec. 20, 1913	250
Mar. 30, 1914	250

TRINIDAD TO CHEYENNE:

Via C&S Ry direct:	
Nov. 23, 1909	225
Dec. 15, 1911	275
Oct. 1 , 1913	250
Via C&SRy-Denver-UPRR.	No rates
Via D&RGRR-Denver-UPRR.	No rates.

It will be observed from this that a rate of $2.50 per ton applies on coal from the Trinidad district to Greeley either via The Colorado & Southern line direct, or jointly with the Union Pacific; also that the same rate applies to Cheyenne via The Colorado & Southern line only. It will also be observed that the haul to Greeley via the Union Pacific line is forty-seven miles shorter than via The Colorado & Southern line.

The Complainant insists that so long as two routes are available, the shorter one should be used in determining the rate to be applied.

This Commission has always adhered to the belief that where two or more lines compete for business, that due consideration should be given to each line as the facts in each particular case will warrant.

Garwood vs. C&S Ry Co. 1 P.U.C. 55, 59.
Commercial Club of Greeley vs. C&S Ry. Co. et al., 1 P.U.C. 117.

This position is well fortified by many decisions of the Interstate Commerce Commission.

Spokane Case, 15 I.C.C. 376
Newport Mining Co. vs. C& N.W. Ry Co. 33 I.C.C. 645

It is to be remembered that the rails of The Colorado & Southern Railway Company, one of the defendants in this case, reach both the point of production and the point of consumption involved in this case, and it is therefore in a position to haul the entire tonnage over its own rails, if it so desires. It is at liberty, under certain limited restrictions, to withdraw its concurrence in the present joint rate with the Union Pacific, at any time.

It has been generally recognized that the originating carrier has the right to secure as long a haul as possible, and the shipper has no cause to complain, so long as the rates and services are fair and reasonable, and shipments handled with

reasonable dispatch.

In the case of Columbia G.N. Co. vs. O.W. & R.N. Co., 35 I.C.C. 42, the Commission said:

> "Originating lines generally, are entitled to the longest haul they can perform, where the transportation can be performed upon equal terms, with reasonable dispatch, and without undue discrimination."

Again, in Suffern Grain Co. vs. Ills. Central R.R. Co. 27 I.C.C. 192, the Commission upheld this principle.

The rates on coal from the Walsenburg district to Denver are the basis upon which practically all coal rates in Eastern Colorado are based, particularly when moving through the Denver Gateway, and rates from other coal-producing sections take a fixed arbitrary, either above or below the rates from that point to Denver.

Case No.10, Commission vs. The Atchison, Topeka & Santa Fe Railway Co., et al., decided May 10, 1915.

The rate from Walsenburg to Denver on Lump coal in car lots is $1.60 per ton, and the rate from Trinidad to Denver takes a rate of twenty-five cents higher, making the rate from Trinidad to Denver, $1.85 per ton.

In the case of the Greeley Commercial Club vs. The Colorado & Southern and the Union Pacific Companies, 1 P.U.C. 117, the Commission held that a rate of ninety cents per ton on Lump coal from the northern fields to Greeley was a reasonable rate, the northern fields being approximately twenty-five miles north of Denver and intermediate with Greeley. Assuming this rate applied from Denver, the sum of the two locals from Trinidad to Greeley would be $2.75 per ton as against the present through rate of $2.50 per ton.

As an argument to build up and justify as to what the Complainant considers a fair rate to Greeley, it attacks the rates

to Colorado Springs as compared to the rate to Denver, the distance to Denver being seventy-five miles greater, and the rate ten cents per ton higher, and from this situation, arrives at the conclusion that the added rate of sixty-five cents from Denver to Greeley, a distance of fifty-two miles, is unreasonable.

The Defendants argue that the city of Denver is a large market, and highly competitive; that at that place the coal from southern Colorado comes in direct competition with coal from other parts of the state, as well as from mines in Wyoming, and for this reason, they are compelled to put into effect a rate upon which southern Colorado coal can meet this competition.

However, the Commission is not called upon at this time, to determine a reasonable ratio in the rates as between Colorado Springs and Denver; neither would the Commission allow the Complainant to go into the question of divisions between The Colorado & Southern and Union Pacific Companies, for the reason that it was not relevant in determining the reasonableness of the through rate, in and of itself.

The Commission does not feel that the Complainant is being discriminated against on account of the fact that one of the defendants, The Colorado & Southern Railway Company has in effect the same rate to Cheyenne, Wyoming, as in effect to Greeley. The difference in mileage is not great, and is in the nature of a blanket rate, which system this Commission, as well as The Interstate Commerce Commission, and practically every other commission in the United States, have approved in many instances. Neither does the Commission believe that it is to the best interest of the shippers in this state, to depress "intra-state" rates to fully harmonize with "inter-state" rates, which ~~such~~ rates have been established for the purpose of extending the markets of shippers in this state.

~~states~~.

It may be noted here that on May 18, 1912, the Complainant herein filed an informal complaint with the State Railroad Commission, the predecessor of the Public Utilities Commission, wherein it asked for a rate of $2.35 on Lump coal from the Trinidad district to Greeley, and in the present case, a petition for a rate of $1.25, and in the brief submitted by Complainant in this case, the request is made for a rate of $1.75 per ton. The brief also sets forth for comparative purposes, a table of figures extracted from the tariffs of Defendants, showing rates on various commodities within the state; also a statement, showing earnings per ton, per mile, on several railroads in other parts of the United States, both of which have been of little value to the Commission in arriving at a correct conclusion.

Comparisons were also made and submitted to the Commission, showing rates on coal between various places within the state, particular emphasis being placed upon the rates from South Canon and Palisade, to Denver, as fixed by the Commission in Case No. 10, and the rates from points in Routt County, on the Denver & Salt Lake Road to Denver and Greeley.

The Commission does not deem these rates to be a fair comparison. The rates from South Canon and Palisade to Denver were ordered into effect principally because the Colorado-Midland Road, the principal carrier involved in that case, desired those rates in order to build up its business. The effect is admitted to be problematical and uncertain. Neither are the rates from the mines in Routt County to Denver and Greeley to be taken as a fair comparison. While they are in a sense, voluntary rates, the Denver & Salt Lake Railroad Company has always contended that it was compelled to put in its present rates in order to allow shippers in that territory to compete for business in the Denver market.

The Commission has heretofore held, and does so in this case, that rates cannot be computed solely upon the per ton per mile basis.

There are many other elements to be taken into consideration in fixing rates in most cases. The Commission feels, however, that the per ton per mile basis would be valuable in this case, to use for comparative purposes only. As stated above, the Walsenburg-Denver rate is a basis used in computing practically all rates in eastern Colorado, including the rate involved in this case. On this basis, the Trinidad rate to Denver is $1.85 per ton, or at the rate of .0087 per ton per mile. Applying this rate to the mileage to Greeley via the Union Pacific, produces a rate of $2.30 per ton, and applied to the mileage to Greeley via The Colorado & Southern line, produces a rate of $2.71 per ton. The average distance to Greeley via both lines is two hundred and eighty-eight miles, and at the rate of .0087 per ton per mile, produces a rate of $2.47 per ton, or practically the same rate as is now in effect.

The Commission adheres to the general proposition that the rate per ton per mile should decrease as the distance increases. This is particularly true of long hauls. In the present case, the Colorado & Southern is receiving .0087 per ton per mile on coal from the Trinidad district to Denver, and .008 per ton per mile on coal from Trinidad to Greeley, when transported over its own rails.

The Commission feels that it is of vital importance to establish a uniform and equitable ratio on coal rates between the different points of production and consumption, and gave this question considerable attention in Case No. 10. While the rates to Greeley were not specifically considered in that case, an examination discloses the fact that the rate in question in

this case, is almost on an exact parity with the rates to other points as fixed by the Commission in that case.

The Annual Report filed with the Commission by the Union Pacific and The Colorado & Southern Companies, for the years 1914-1915, show that their average receipts per ton per mile, are as follows:

STATE

	U. P.
1914 - -	.00996
1915 - -	.01276

ENTIRE LINE

	C & S	U. P.
1914 - -	.01037	.00942
1915 - -	.01043	.00945

It will thus be seen that the return to the carriers on the present rate is considerably less than the general average for both carriers.

For the above and foregoing reasons, the Commission does not feel that it can consistently order a reduction in the rate which is involved in this case. The complaint will therefore be dismissed.

S. S. Kendall

Geo T. Bradley

M. N. Ayleworth

Commissioners.

Dated at Denver, Colorado, this 20th day of December, 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, into the Adequacy of Passenger Train Service within the State of Colorado, on the lines of The Great Western Rail-Way Company, a Corporation.

CASE NO. 40.

Submitted October 4, 1915. Decided December 22, 1915.

* * * *

Appearances:

C. W. Waterman, Esquire,
Caldwell Martin, Esquire,
E. R. Griffin, Esquire,

for The Great Western Railway Company.

* * * *

STATEMENT AND ORDER.

On the 3rd day of December, 1914, the Johnstown Commercial Club filed an informal complaint with this Commission, wherein it was alleged that the passenger service afforded the patrons of The Great Western Railway Company, was insufficient, and inadequate, particularly on that portion of its line between Johnstown, Colorado, and Milliken, Colorado.

The Commission extended an invitation to the representatives of the Johnstown Commercial Club and The Great Western Railway Company to confer with the Commission as to all matters contained in the informal complaint of the petitioners.

This conference was held on the 12th day of March, 1915, and the result was a written stipulation entered into be-

tween the Commission and the Defendant, wherein it was agreed that the Commission should treat this informal petition as a formal complaint, and the following Order was entered:

"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 1, 1915, unless sooner revoked by the Commission.

S.S. KENDALL,
GEO.T. BRADLEY,
M.H. AYLESWORTH,
Commissioners.

(S E A L)

Dated at Denver, Colorado, this 1st day of April, 1915."

The defendant carrier, subsequent to September 1, 1915, and after giving notice to the Commission as required by General Order No. 4, published and filed with the Commission, in accordance with the laws of the State of Colorado, a different schedule of Passenger Train Service, than was ordered in the Commission's Order in Case No. 16.

Many informal complaints as to the inadequacy and unreasonableness of this service, as provided for by the new schedule, were filed with the Commission; and on the 30th day of September, 1915, the Commission gave notice to the defendant carrier to appear at the Hearing Room of the Commission in the Capitol Building, in the City and County of Denver, on the 4th day of October, 1915, at the hour of 2:00 p.m., to take such part in the hearing of the above cause as the interest of the said defendant seemed to require.

On the 4th day of October, 1915, at the hour of 2:00 p.m., at the Hearing Room of the Commission, the Defendant carrier introduced testimony in defense of the present schedule of Passenger Train Service. C.W. Fairchild, an inspector for the Commission, appeared and testified for the Commission.

The Great Western Railway Company is owned by The Great Western Sugar Company, and is operated, primarily, for the purpose of handling its own traffic, to-wit: sugar beets from beet dumps in northern Colorado, to the sugar factories of The Great Western Sugar Company; and sugar from the said factories to be delivered to connecting carriers for hauling to markets.

The railroad line of the said Defendant carrier consists of fifty-seven miles of main line, which extends from Longmont, Colorado, to Eaton, Colorado, with Johnstown as an intermediate point, and with branches extending therefrom to Loveland, Welty and Milliken.

The Defendant carrier is a common carrier, engaging in the transportation of freight and passengers, traversing a part of the State of Colorado renowned for its agricultural resources,

The Defendant has in the past operated mixed trains for passenger and freight service, which resulted in irregular and inadequate passenger service.

During the hearing of the above cause, the Commission suggested that the Defendant ascertain the cost of a gasoline motor-car, to be purchased by the Defendant and operated exclusively for passenger and express service. This recommendation of the Commission was accepted by the Defendant, and the Commission was requested to continue this cause until a report could be made by Defendant carrier to the Commission as to the cost of a gasoline motor-car, together with an estimate of operating expenses and operating revenues which would accompany the instal-

lation

lation of the suggested motor-car passenger and express service.

On the 21st day of December, 1915, the Commission received a communication from E.R. Griffin, Vice-president and General Manager of The Great Western Railway Company, informing it that the Defendant carrier had arranged for the purchase of a gasoline motor passenger and express car, which was to be shipped immediately to the Defendant carrier, and that upon the receipt of said car, the Defendant corporation would install adequate passenger and express service on its line of railroad to be operated on a regular schedule to be filed with and approved by the Public Utilities Commission of the State of Colorado. Mr. Griffin informed the Commission that the motor-car schedule would be so arranged as to permit passengers from Johnstown to be transported from Johnstown to Denver and return, in one day, and that a reasonable one-way fare and round trip-fare would be made by the Defendant carrier between Johnstown and Denver.

IT IS THEREFORE ORDERED, THAT Case No. 40, entitled -

"In the Matter of an Investigation and Hearing, on Motion of the Commission, into the Adequacy of Passenger Train Service within the State of Colorado, on the lines of The Great Western Railway Company, a Corporation" -

be dismissed, said Order of Dismissal to take effect on the date of the installation of adequate motor-car passenger and express service on the lines of the Defendant carrier, PROVIDED, that the rates and charges of said passenger and express service, together with the schedule of said service, shall be filed with the Commission and subject to its approval.

(S E A L)

S. A. Lindsay

Geo. T. Bradley

M. N. Aylsworth

Commissioners.

Dated at Denver, Colorado,
this 22nd day of December, 1915.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

- - - - -

December 29, 1915

In the Matter of an Investigation and Hearing, on Motion of the Commission, into the reasonableness of each and every rate or charge, and into the adequacy of the service, and the rules, regulations and practices of The Colorado Springs Light, Heat & Power Company, a corporation.	)))))	CASE NO. 24.

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MODIFICATION OF ORDER

WHEREAS, on the 29th day of December, 1915, The Colorado Springs Light, Heat & Power Company, the defendant in the above cause, filed its written application to extend the time of the effective date of the order of this Commission in said cause, entered on the 15th day of December, 1915, to become effective January 1st, 1916, and to apply to all service furnished after said last mentioned date; and

WHEREAS, said written application is verified by R.L. Holland, Esq., Vice-president of said defendant, The Colorado Springs Light, Heat & Power Company, and is supported by affidavits of Mr. J.S. Dostal, General Manager, and J.W. Ryter, Auditor, of said defendant corporation; and

WHEREAS, the application and affidavits in support of same allege that the order of this Commission in Case No. 24 establishes a schedule of rates for certain classes of service supplied by the Defendant, which, in order to compute customers' bills thereunder, necessitates the accurate ascertainment of the connected load of each individual customer, and that the records of the defendant corporation do not contain this necessary information; that the employes of the defendant corporation are unable to obtain the necessary data and information by January 1st, 1916, the effective date of said order; and

WHEREAS, it is alleged in said application that the defendant corporation has not had sufficient time, since the entering of the order of this Commission in the above cause, to fully advise itself as to all of the provisions and schedules in said order contained, or to apply the same to its business, in order to determine with a reasonable degree of certainty the effect thereof, and therefore will not be able satisfactorily to determine, prior to the date on which said order becomes effective, whether or not it desires to file an application with this Commission for a rehearing in this case, and is therefore unable to specifically set forth the ground or grounds on which it considers said decision and order to be unlawful, if it should finally determine the same or any part thereof to be unlawful, as is required by the laws of the State of Colorado; and

WHEREAS, the Commission has read the application and affidavits in support of the same, and is fully advised in the premises,

IT IS THEREFORE ORDERED, That the order of the Commission in Case No. 24, made and entered on December 15, 1915, to become effective on the 1st day of January, 1916, and to apply to all service furnished after said date, be modified to the extent that the effective date of said order shall be February 1st, 1916, and shall apply to all service furnished after said date.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S.S. KENDALL,

(S E A L)

GEO. T. BRADLEY,

M.H. AYLESWORTH,

Commissioners.

Dated at Denver, Colorado,
this 29th day of December,
1 9 1 5.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Primos Mining & Milling Company,
Complainant,

vs.

The Colorado Power Company,
Defendant,

Case No.27.

Appearances:

H.E.Rowland, Esq., for the Complainant,
Wm.V.Hodges, Esq., and
L.G.Williams, Esq., for the Defendant.

Submitted October 21,1915. Decided December 30,1915.

STATEMENT AND ORDER.

On the 21st day of October, 1915, the Complainant and the Defendant, by written stipulation, presented to the Commission certain propositions to be decided, and both the Complainant and the Defendant agreed upon all facts presented, and recognized the jurisdiction of this Commission as to the propositions submitted, reserving to the Complainant and the Defendant, respectively, all rights of appeal or writ of error or review to the courts, from any decision of the Commission in this case, in the manner provided by law respecting decisions, judgments or findings of the Commission.

From an examination of the stipulation and agreement of facts, together with Exhibits "A", "B" and "C", we have presented to us for decision the question of the reasonableness of a rule or regulation of the Defendant company as provided for in a contract made between the Complainant and Defendant on the 10th day of December, 1914,- the said rule or regulation being made a part of said contract.

It appears that the Complainant objected to attaching its signature to the contract offered by the Defendant Company, giving as its reason that the rule and regulation complained of was unjust, unfair and inequitable, and that the signatures of the plaintiff and the defendant were attached to said contract with the understanding that the reasonableness of this rule or regulation of the Defendant company should be presented to this Commission for determination.

The Defendant company is engaged in the business of the production and sale of electric energy for lighting and power purposes, and is a corporation existing under the laws of the State of Colorado and operating within this State; that the Complainant is a corporation existing under the laws of the State of Colorado, and is engaged in mining tungsten ores, and concentrating the same, and in its mining and milling operations has for many years purchased from the Defendant company electricity for power purposes for its mines and its mill, all located in Boulder county, Colorado. It is admitted that no electric power is available to the Complainant except that furnished and sold by the Defendant company, and that the Complainant owns a large tract of land, consisting of approximately 1600 acres, in the county of Boulder, State of Colorado, and upon this land are situate the mines and the mill above mentioned.

It further appears from the contract that the Defendant agrees to supply the Complainant with electric power at a potential of approximately 440 volts, not exceeding 80 h.p. (80 electrical horse power), at any one time, and we therefore arrive at the conclusion that the Complainant requires 440 volts of electric current for its own use for power purposes.

The written stipulation and agreement of facts presented to this Commission informs us that the Defendant company conveys the said electric energy to the mill and mines of the Complainant

company by high tension transmission lines, the said high tension transmission lines carrying approximately 13,000 volts of electricity. All of these transmission lines of the Defendant corporation are strung across the lands owned by this Complainant and serve other consumers of electric energy at points beyond the lands owned by the Complainant.

The high tension lines were constructed by the Defendant company, are maintained by it, and, under the terms of the contract the Complainant grants a right of way for these high tension transmission lines across the lands owned by the Complainant and permits the Defendant to inspect, repair and maintain the high tension lines at all times, and the said high tension transmission lines are at all times under the control of the defendant corporation. The electric energy used by the Complainant is delivered from the high tension lines of the Defendant company to the Complainant at transformer houses, and there conveyed to the mill and mines of the Complainant by the use of low tension lines.

The machinery and electrical appliances in the transformer houses belong to the Defendant corporation, and the wires leading from the transformers, or the low tension lines to the mill and mines of the Complainant, belong to the Complainant.

The rule and regulation of the Defendant corporation complained of by the Complainant as unreasonable is as follows:

> "9. The User shall indemnify the Company from all demands and expenses for injury or damage to person or property upon or about the property of the User, except injury or damage to the Company's employes and not caused by the act or negligence of the Company."

The evident intention of this clause was that the user should indemnify the Company from all expenses and demands for injury or damage to person or property, which resulted from the fact that the high tension lines were located upon the lands owned by the Complainant, when the said injuries or damages were not sustained by the Company's employes, and were not caused by the act or negligence of the Company. This rule, as it stands, appears to be

quite ambiguous as to its real meaning, and we are compelled to arrive at the intention of the parties thereto as expressed in the stipulation and agreed facts presented to us.

Elaborate briefs have been filed with us by the Defendant and Complainant, and many authorities have been cited by the Complainant to illustrate that the Supreme Court of the State of Colorado has decided that a Company owning and operating high tension transmission lines, conveying electric current, must exercise the highest skill, the most consummate care and caution, and the utmost diligence and foresight in the operation and control thereof. In the decision of this cause we are not interested as to the rules of law announced by courts of this State and other States as to the liability of this Defendant company for damage or injury sustained by the negligence of the Defendant company in the control and operation of its high tension transmission lines, or for damage and injury resulting through the use of said high tension lines by said Defendant company. The question before us for decision is whether or not the rule or regulation contained in the contract presented to us is reasonable and equitable, and we have arrived at the conclusion that it is both unreasonable and inequitable.

The Defendant company, in its brief filed with this Commission, quotes a rule somewhat similar to the one in question, which was approved by a Public Service Commission of another State, and also calls our attention to rules of other electric public utilities operating within the State of Colorado. This Commission has not determined upon a uniform system of rules and regulations applying to electric public utilities operating within this State, and therefore each question pertaining to rules and regulations presented to the Commission, and the determination thereof by us, shall apply only to the particular case presented.

IT IS THEREFORE ORDERED that Clause 9 of the rules and regulations of the defendant corporation, which has been attached to and made a part of the contract entered into between the parties to this cause, and which reads as follows:

> "9. The User shall indemnify the Company from all demands and expenses for injury or damage to person or property upon or about the property of the User, except injury or damage to the Company's employes and not caused by the act or negligence of the Company."

is unreasonable, and therefore stands disapproved by this Commission.

IT IS FURTHER ORDERED that Clause No.9 of the rules and regulations of the Defendant Company, which has been attached to and made a part of the above mentioned contract entered into between the parties to this cause, shall be of no force and effect, and shall be stricken from said original contract,and copies thereof, by the Defendant corporation, and that the Defendant corporation, after complying with the order of this Commission, shall file with us a copy of said revised contract.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley

W. N. Aylesworth

Commissioners.

Dated at Denver,Colorado,
the 30th day of December,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.

The Denver & Rio Grande Railroad Company,

Defendant,

Case No.46.

The Commercial Club of Saguache, Colorado,
Intervenor.

In the Matter of an Investigation and Hearing, on motion of the Commission, into the feasibility and necessity of erecting a suitable station building and installing and maintaining an agent in charge thereof at the Railroad Siding on the Railroad Line of The Denver & Rio Grande Railroad Company located in Saguache County, State of Colorado, and known as Hot Springs.

Submitted January 17,1916. Decided February 2,1916.

Appearances: Hon.Frank H.Means,
Mr.W.C.Briggs,
R.Dunshee,
For Saguache Chamber of Commerce,
Intervenor,

Messrs.E.N.Clark and J.G.McMurry,
Mr.F.R.Rockwell,
For the Defendant Railroad.

STATEMENT AND ORDER.

On the 10th day of November, 1915, there were filed with this Commission two informal petitions requesting the Commission to order The Denver & Rio Grande Railroad Company to build a suitable depot at the railroad siding of The Denver & Rio Grande Railroad Company known as Hot Springs, Colorado, the post office name of said community being designated as "Mineral

Hot Springs"; and that the said The Denver & Rio Grande Railroad Company maintain a general agency station at said Hot Springs siding; one of the petitions bearing the signatures of prominent businessmen and county officials of Saguache and vicinity, and the other bearing the signatures of Frank H.Means, W.C.Briggs and R.Dunshee, representing the Commercial Club of Saguache, and many citizens of Mineral Hot Springs and Mirage, Colorado.

On the 17th day of November, 1915, an inspector, representing the Commission, visited Saguache and other towns in the vicinity of Saguache, for the purpose of reporting to the Commission relative to the informal complaints filed by the petitioners. On the 20th day of November, 1915, the Inspector filed his written report, and in accordance with the recommendations stated therein the Commission decided to investigate into the feasibility and necessity of the erection of a suitable station building and the installation and maintenance of an agency station at Hot Springs siding by the Defendant Railroad, and ordered The Denver & Rio Grande Railroad Company to appear at the Hearing Room of the Commission in the capitol building in the City and County of Denver, State of Colorado, on the 20th day of December, 1915, at the hour of 10 00 o'clock a.m., before the Commission en banc, to make such defense to this cause as might be thought necessary by the Defendant Company.

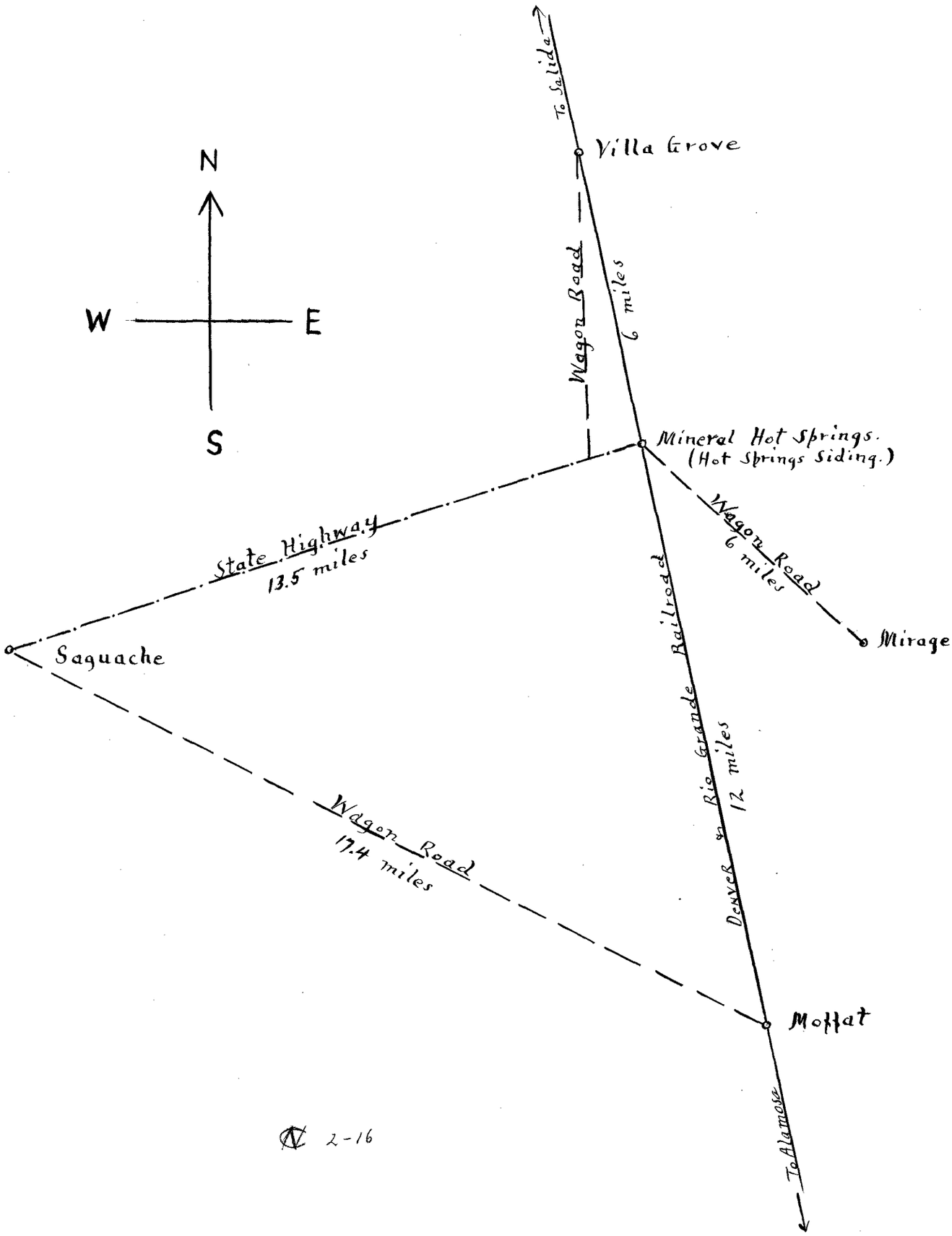
The above cause was heard on the 20th day of December, 1915, at the Hearing Room of the Commission; Messrs.E.N.Clark and J.G.McMurry, and Mr.F.R.Rockwell appeared for the Denver & Rio Grande Railroad Company, and Hon.Frank H.Means asked that he be permitted by the Commission to intervene in said hearing on behalf of the citizens of Saguache and the Commercial Club of Saguache, Colorado.

Witnesses testified in behalf of The Denver & Rio Grande Railroad Company, the Commercial Club of Saguache, and the Public Utilities Commission of the State of Colorado. At the conclusion of the hearing, and at the request of the Defendant, The Commission granted the said Defendant fifteen days in which to file a verified exhibit in the form of a written statement containing data as to freight tonnage received and delivered at Villa Grove and Moffat stations originating at or destined to Saguache, and the revenues accruing therefrom; and the Intervenor was granted seven days after receipt of said exhibit to file an answer to the exhibit of the Defendant Railroad Company.

On the 4th day of January, 1916, the Defendant, The Denver & Rio Grande Railroad Company, attempted to file with this Commission as a part of this case a petition praying that the station at Villa Grove be ordered discontinued. The Defendant was not permitted to file this petition, and on January 17,1916, filed a verified exhibit containing certain information desired by the Commission, and the Intervenor was granted ten days from the receipt of such verified exhibit of the Defendant Company in which to file an exhibit in the form of written affidavits in answer thereto.

It appears from the evidence introduced at the hearing of this cause that the town of Saguache has a population of about 1400 people, and is the county seat and trade center of Saguache county; is noted for its hay crops and stock industry, and is well equipped with an adequate high school, as well as a grade school building just completed at a cost of $25,000.00. A modern court house has just been completed, and a modern hotel building is being constructed at a cost of $21,000.00. Two banks and many substantial residences have been completed, and during the last ten years the town of Saguache has increased one hundred and fifty per cent in population.

Saguache is not located on any line of railroad, and lies 13.5 miles west of Hot Springs siding, located on the line of the Defendant Railroad; ~~18.5~~ 19.5 miles south and west of Villa Grove station, on the line of the Defendant Railroad; 17.4 miles north and west of Moffat station, located on the line of the Defendant Railroad. Villa Grove station is located 6 miles north of Hot Springs siding, and Moffat station is located 12 miles south of Hot Springs siding. A small settlement known as Mirage is located 6 miles south and east from Hot Springs siding.


N
W
E
S
To Salida
Villa Grove
Wagon Road
6 miles
Mineral Hot Springs.
(Hot Springs Siding.)
State Highway
13.5 miles
Wagon Road
6 miles
Mirage
Saguache
Denver & Rio Grande Railroad
12 miles
Wagon Road
17.4 miles
Moffat
To Alamosa
2-16

The population of Villa Grove station and vicinity is about 200 people. Moffat station has a population of about 300 people, and the communities of Hot Springs and Mirage have a population of about 250 people.

The towns of Saguache and Hot Springs siding are connected by wagon road. This road is a part of the State system of highways, and is partially maintained with funds from the treasury of the State of Colorado. The wagon road from Saguache to Moffat station is quite rough, and the condition of the soil is such as to make this road undesirable for the hauling of freight and passengers between Saguache and Moffat stations. Saguache and Villa Grove stations are connected by a highway running south from Villa Grove to Hot Springs siding, at that point connecting with the State highway which connects Saguache with Hot Springs siding. From Villa Grove station to Hot Springs siding climatic conditions are such that the road is maintained with difficulty. During the winter season it is impossible at times to haul freight by team and wagon from Villa Grove to the State highway at Hot Springs siding, and the character of the soil of the Saguache-Moffat station highway is adobe and pulverizes easily, and is unsatisfactory for permanent road construction.

Freight may be hauled by team and wagon from Saguache to Hot Springs siding, and the return trip completed within a period of ten hours, but the hauling of freight by team and wagon from Saguache to Villa Grove station and return, or from Saguache to Moffat station and return, requires two days time. The merchants and farmers located in Saguache and vicinity pay a charge of twenty-five (25) cents a hundred in less than carload lots for the hauling of freight between Saguache and Moffat station, or Saguache and Villa Grove station, but due to better road conditions existing between Saguache and Hot Springs siding the charge is twelve and one-half (12½) cents a hundred for less than carload

lots between said points.

Mirage settlement, located 6 miles south and east of Hot Springs siding, connected with Hot Springs siding by wagon road, is a growing and prosperous community.

The Defendant Railroad, in its exhibit filed with this Commission, admits that 55.3% of the revenue of the total business handled through Villa Grove station is destined to Saguache, and 38.4% in revenue of the total business handled through Moffat station is destined to Saguache; 1.7% in revenue of the total outbound business handled through Villa Grove station originates at Saguache, and 33.7% in revenue of the total outbound business through Moffat station originates at Saguache; but it is impossible for us to inform ourselves, from the exhibit of the Defendant company, as to revenues and tonnage handled through Villa Grove and Moffat stations and destined to and from the vicinity of Saguache. From the evidence introduced we are of the opinion that practically all of the merchants, farmers and other shippers in the town of Saguache and vicinity have expressed a desire that a suitable station building be erected by the Defendant carrier at Hot Springs siding, and that an agent be installed at said station. In fact, there have been many requests of this nature made to the Railroad Company during past years.

The Defendant Railroad, on the 4th day of January, 1916, filed with this Commission a petition requesting an order permitting the Defendant to withdraw its agent from Villa Grove station in the event the Commission should in this case order the erection of a station building at Hot Springs siding by the Defendant Railroad, and the maintenance of an agency therein, and an attempt was made to file said petition as part of Defendant's case in this cause.

We are of the opinion that this petition was not relevant to the issues in this cause, and refused to allow the Defendant

Railroad to file the same.

The Defendant takes the position that its branch of railroad operated between Salida and Alamosa does not at this time pay operating expenses, and that any order of this Commission resulting in an increase in the expenses of this branch of railroad would amount to confiscation. The Defendant has not attempted to introduce evidence that would bear out this statement, and the presentation of conclusive evidence that a branch of railroad operated as a part of the system of the Defendant Railroad is being operated at a loss, would not justify this Commission in the refusal of a station and agent at a point located on the line of railroad of the Defendant in the event that it should appear to us that the convenience and needs of the public demanded these expenditures.

> " The consideration for the franchise, rights and privileges granted the Railroad company by a state is of resulting benefits to the public, and the acceptance by the company, generally speaking, imposes upon it the obligation to operate when constructed the railroad as it was incorporated to construct, and of doing it in the manner and for the purpose contemplated in its charter. - - - The law imposes upon it the duty to furnish adequate facilities to the public upon its entire system, not a part; and it cannot be excused from performing its full duty merely because by ceasing to operate a part of its system, the net returns would be increased; so that it cannot be said under the evidence that requiring the plaintiff in error to perform its duty to the public by furnishing an adequate service over its line between Denver and Leadville, although a pecuniary loss is entailed, is unreasonable or deprives it of any constitutional right, either Federal or state.
>
> In brief, under the facts of the case at bar, an order requiring a railroad company in the possession and enjoyment of its charter powers and privileges, to furnish a necessary service, does not, even though a compliance with the order entails a loss, deprive it of its property without due process of law, or compel it to devote its properties and revenues to a public use without just compensation, for the obvious reason that such an order merely requires it to discharge its legal obligations. Of course, that a service ordered will entail a loss is a circumstance to consider in determining the reasonableness of the order, but a common carrier cannot successfully complain that a loss will thus be occasioned when it appears that the ordered service requires nothing more than necessary transportation facilities.
>
> Colo.&Sou.Ry.v.State R.R.Comm.,Colo.Rep.54,p.64-94,
> Atl.Coast LineR.R.Co.v.N.C.Corp.Comm.,206 U.S., 1.

After having given serious consideration to all the evidence introduced in this case, we are of the opinion that the Defendant Railroad should erect at Hot Springs Siding, Colorado, a suitable railroad station building, install an agent therein, and establish an agency station, until the further order of this Commission. The plans for the station at Hot Springs Siding shall be submitted to the Commission for approval.

The Defendant Railroad has signified its intention of filing a petition with this Commission praying for an order permitting the abandonment of its agency at Villa Grove station. Time alone will demonstrate the necessity and usefulness of the stations at Villa Grove, Moffat and Mineral Hot Springs.

The Defendant Railroad is at liberty to file a petition requesting an order of this Commission permitting the abandonment of one of these agency stations, and the said petition will receive our serious consideration if the evidence proves to us that two stations will reasonably serve the needs of the public.

IT IS THEREFORE ORDERED, That the Defendant, The Denver & Rio Grande Railroad Company, shall, within ninety (90) days from the date of this order, erect a suitable station building, install an agent therein, and maintain an agency station, at a point known as Hot Springs Siding, or Mineral Hot Springs, Saguache county, Colorado, on its line of railroad.

IT IS FURTHER ORDERED, That the architectural plans for and a plat~~s~~ indicating the station building,/~~including~~ the site thereof, shall be submitted to the Commission for approval prior to the construction of said station building.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. A. Kendall

Geo. T. Bradley

M. Hay Smith

Commissioners.

Dated at Denver, Colorado,
the 2nd day of February, 1916.

At a General Session of the Public Utilities Commission of the State of Colorado, held at its office in Denver, Colorado, on the 5th day of February, 1916.

INVESTIGATION AND SUSPENSION NO.4, and 1st, 2nd, 3rd and 4th SUPPLEMENTAL ORDERS.

IT APPEARING, That by orders dated the 14th and 22nd of July, 1915, THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO entered upon a hearing concerning the propriety of the new rates and charges for the intrastate transportation of soft coal from Canon City District to points in the Cripple Creek District, stated in schedules contained in tariffs, designated as follows:-

Denver & Rio Grande R.R.Tariff No.5316-A, Colo.P.U.C. No.378,
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 FURTHER APPEARING, That pending such hearing and decision the Commission ordered that the operation of the schedules contained in the tariffs enumerated and described in said order of investigation be suspended, and that the use of the charges, rules and regulations, therein stated, be deferred upon intrastate traffic until the 9th day of February, 1916,

IT FURTHER APPEARING, That such investigation and decision thereon cannot be concluded 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 rates, charges, and regulations therein stated be further deferred upon intrastate traffic until the 24th day of May, 1916, unlessotherwise ordered by the Commission.

IT IS FURTHER ORDERED, That the Secretary of the Commission be, and he is hereby, directed to serve upon the carriers parties to the above named tariffs, a certified copy of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 5th day of February, 1916.

Commissioners.

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO.

CASES 33 - 34 - 35 -- CONSOLIDATED.

The Denver and Salt Lake Railroad Company,
Petitioner,
vs. CASE NO. 33.
Chicago, Burlington and Quincy Railroad Company,
Defendant.

The Denver and Salt Lake Railroad Company,
Petitioner,
vs. CASE NO. 34.
The Chicago, Rock Island and Pacific Railway Company, - J. M. Dickinson, Receiver,
Defendant.

The Denver and Salt Lake Railroad Company,
Petitioner,
vs. CASE NO. 35.
Union Pacific Railroad Company,
Defendant.

Submitted November 17, 1915. Decided February 10, 1916.

Appearances.

Tyson S. Dines, Esq.,
Tyson S. Dines, Jr., Esq.,
A. L. Vogl, Esq.,

For the Petitioner.

E. E. Whitted, Esq.,
T. M. Stewart, Jr. Esq.,

For Chicago, Burlington and Quincy Railroad Company.

Wm. V. Hodges, Esq.,
D. Edgar Wilson, Esq.,

For The Chicago, Rock Island & Pacific Railway Company.

C. C. Dorsey, Esq.,
J. Q. Dier, Esq.,

For Union Pacific Railroad Company.

OPINION AND ORDERS.

On May 10, 1915, the Commission announced its decision in Case No.10, to become effective on August 1, 1915; wherein certain reductions were made in the local, joint and proportionate rates on Lump Coal from the various points of production in the State to all points in eastern Colorado.

Among the rates adjusted in that case were those from the Oak Hills district on the line of the petitioner herein, to all local points on the lines of the various defendants herein.

The Commission, in that case, did not undertake to divide the through rates, but left that question to the carriers themselves. It appears that the petitioner in this action was not satisfied with the divisions as tendered to it by the defendants, and on August 18, 1915, filed its petition in Cases Nos. 33 and 34, and on August 23, 1915, filed its petition in Case No. 35; wherein it alleged and complained that it could not secure a fair and equitable division of the through rates on coal, all kinds, transported from the Oak Hills district on its line of railroad, to points on the lines of the respective defendants herein, all within the State of Colorado; and prayed to have the Commission fix by order, just and equitable divisions.

The defendants herein each filed separate answers, wherein they allege that they had offered to pro-rate with the petitioner, the reductions occasioned by the Commission's order in Case No.10, using the old basis of divisions as factors; that any other basis of division would be unfair and unjust to them, and prayed to have the petition dismissed;

The issues thus made up came on for regular hearing on September 20, before the Commission en banc, at its Hearing Room in the Capitol Building, Denver, Colorado, at which time the Commission announced that, as a matter of convenience, all three cases would be consolidated for the purpose of hearing. No objection being offered, thus was accordingly done.

While these cases were consolidated for the purpose of hearing, the Commission, nevertheless, has given due consid-

eration to the evidence in each particular case, separate and apart from the others. The only material difference in the facts in each case appears to be the manner in which the petitioner makes deliveries to the several defendants herein, in the City of Denver, the point of interchange.

The Chicago, Burlington & Quincy Railroad Company is the only one of the defendants with which the petitioner has a direct connection.

All traffic moving from the line of the petitioner to the rails of the Union Pacific Railroad Company, is handled by The Northwestern Terminal Company, a subsidiary company of the petitioner, and traffic moving from the line of the petitioner to the rails of The Chicago, Rock Island & Pacific Railway Company, is handled by an intermediate, independent road, which road does not participate in the through rate, but makes a charge of 20¢ per ton for performing the switching service, which charge is assessed to and paid by the petitioner out of its proportion of the through rate.

As stated in Case No.10, practically all Colorado produced coal that is used in the eastern part of the State, is shipped from ten different coal-producing groups, one of which is the Oak Hills district on the line of the petitioner, and all freight rates from those districts to Denver, or through that gateway, take a fixed arbitrary, either above or below the rates applying from the Walsenburg district through that gateway. In other words, the Walsenburg-Denver rate is used as a basis by all sections, on shipments of coal into and through the City of Denver.

The Commission in that case did not disturb these arbitraries or the blanketing system at the originating points as established by the carriers.

The Walsenburg district is one of the oldest coal-producing sections in the State. It is located approximately one hundred and eighty-five miles south of Denver, and the present rates of $1.60 per ton on Lump and $1.40 per ton on other classes of coal from Walsenburg to Denver, have been in effect

for many years.

The Oak Hills district is of more recent development. The operators in that district first began making shipments about the year 1909, and the petitioner, or its predecessor, The Denver, Northwestern & Pacific Railway Company, notwithstanding the fact that the distance from that district to Denver was considerably greater, and operating conditions more difficult, voluntarily put into effect the same rate from that district to Denver as applied from Walsenburg to Denver, to-wit: $1.60 per ton on Lump and $1.40 on other classes of coal, which rates have been in effect ever since.

These local rates were not disturbed by the Commission in Case No.10, although they were used as factors in building up the through rates through the Denver gateway. Under these rates the petitioner has developed a substantial tonnage; subsequently it applied to the defendants herein to join with it in establishing through rates from the Oak Hills district to points on their respective lines.

In this matter the petitioner was successful, and through routes and joint rates were established. The through rates from Walsenburg were applied to shipments from the Oak Hills district, and divisions were made on the same basis as existed between the defendants herein and the lines operating south of Denver on coal from the Walsenburg district.

The petitioner now claims, however, that those divisions as agreed to, were never satisfactory to it,and were only accepted because it could do no better. It also admits that the through rates as fixed by the Commission in Case No. 10 are reasonable, but that the basis of divisions heretofore used is wrong. The principal witness for the petitioner also stated that while its local rate from Oak Hills to Denver is not highly remunerative, he would not favor increasing it, on account of competitive conditions.

The Commission, in Case No.10, not only made a reduction of the through rates, but also wiped out the system of

blanketing rates at destination. This of course necessitated a change in the divisions between the carriers. The petitioner now asks that all former divisions be also wiped out, and that new divisions be established on an entirely new basis, which would give it a greater return than it received before any reduction was made.

The defendants insist that the reductions made by the Commission should be pro-rated between the interested carriers, using the old basis of divisions as factors.

This is the first case of its kind ever filed with the Commission, and the conclusions reached in this case will establish a precedent for other cases of a similar nature. It is to be noted that precedents are lacking in this case, owing to the fact that the Interstate Commerce Commission has made few orders in division cases, and has established few principles applicable in cases of this kind. Such as are applicable, however, will be referred to in this opinion.

The question of divisions is of interest only to the carriers. Primarily, the public has no interest except in the through rate, in and of itself. Ordinarily it is, in the first instance, a matter of bargaining between the carriers, each one securing for itself all that it is in position to demand, which necessarily varies as conditions and circumstances are different in each case.

In the case of Wichita Board of Trade vs. A.T. & S.F. Ry. Co., 25 I.C.C., 625, the Interstate Commerce Commission said:

> "Divisions between carriers are a matter of bargaining between them, and only in case they cannot agree is this Commission warranted in attempting to fix them".

Again, in the case of People's Fuel & Supply Company vs. The Grand Trunk Western Ry. Co., et al., 30 I.C.C., 657, the Commission said:

> "The division of a joint rate between carriers is a matter of agreement between the participating carriers in the first instance. The law prescribes no basis upon which our findings shall rest, when, in the event of the contingencies provided for in the act, the duty of fixing the divisions falls upon us."

The negotiations for joint rates and divisions are usually initiated by the originating carrier, and are sought for the purpose of broadening the market for commodities produced on the line of the initial carrier, thereby increasing its tonnage and revenues. This is especially true when a commodity upon which it is seeking joint rates with other carriers, comes into direct competition with the same commodity produced on the line of the other carrier.

> "The establishing of joint through rates, generally speaking, tends to expand markets and facilitate trade."

Blakely Southern R.R.Co., vs. Atlantic Coast Line Railroad Co., et al., 26 I.C.C., 344.

The evidence disclosed the fact that this is true in the present case, as the product of the Oak Hills district is marketed not only in eastern Colorado but also as far east as Missouri River points.

The petitioner in this case predicates its contention principally on the service rendered by it as compared to the service rendered by the defendants, and to substantiate its cause of action, cites the following facts:

First- That the average distance from the Oak Hills district to Denver is two hundred and twelve miles.

Second- That the nature of the business transacted by it is such that it is compelled to haul all equipment empty from Denver to the Oak Hills district, to be hauled back to Denver under load.

Third- That the topography of the country through which its line runs, is almost entirely mountainous, with sharp curves, excessive grades and high altitudes, all of which materially increase the cost of operation.

Fourth- That it has no terminals of its own in the City of Denver and consequently is compelled to pay an intermediate switching charge on through business out of its proportion of the revenues derived from a through haul.

It was admitted by the parties in this case, and is fully recognized by the Commission, that the operating conditions on the line of the petitioner, are more difficult and expensive than obtain on the prairie lines, but the Commission cannot agree with petitioner that such conditions are controlling factors in an action of this kind. There are other elements to be considered, which are more important and entitled to more consideration.

If the Commission were to allow the petitioner a larger proportion of divisions, solely on this ground, it would, in effect, mean that the prairie lines would be assessed to help pay the operating expenses of the petitioner. The disability of the petitioner in this respect is of no concern to the defendants, and it is doubtful if the Commission could directly or indirectly force them to assume any part of that burden.

In Case No.10, the Commission, on request of The Colorado Midland Railway Company, ordered that Company, in connection with other lines at Colorado Springs, to establish the Walsenburg basis of rates on coal moving from South Canon to Denver. Although the distance is one hundred and six miles further and over heavy grades and mountain passes, The Colorado Midland Railway Company, notwithstanding this fact, agreed to assume and bear the burden of its own disability. Under no other circumstance would the Commission have been justified in entering such an order.

The petitioner herein introduced exhibits to show what proportion of the through rates would accrue to it if the divisions were made on a mileage pro-rate, also if made on a basis of its local rate to Denver, and then reduced those figures to cents per ton per mile to demonstrate and prove the inequalities of the divisions.

The petitioner also cited in its brief, to substantiate the mileage pro-rate theory of divisions, the case of E. P. Stacey & Sons vs. Oregon Short Line Railroad Co., 20 I.C.C. 136, wherein the Commission said

> "The question of divisions of these rates is of course now left to the defendants to agree upon * * *. A mileage pro-rate of divisions would divide the earnings according to the services actually performed by each carrier."

We agree with the Interstate Commerce Commission in the above statement. It is, however, of no assistance to the Commission in this case. In that case, the Commission made no effort to divide through rates, and the above quotation is merely a statement of fact. If the question of divisions had been before the Commission, no doubt many other circumstances and conditions would have been considered, other than the actual service performed by the interested carriers.

In the case of Pulp & Paper Mfrs. Traf. Ass'n vs. Chicago, Milwaukee & St. Paul Ry.Co., et al, reported in 27 I.C.C., 83, the complainant proposed that the distance rates fixed by the Wisconsin Commission for the transportation of pulp wood within the State of Wisconsin be applied as parts of through rates to the transportation of pulp wood from all Minnesota points to Wisconsin mills by giving each participating carrier the full distance rate for its haul.

This, the Interstate Commerce Commission declined to do, but, nevertheless, considered the rates valuable for comparative purposes only.

Neither can this Commission agree that the amount of revenue per ton per mile is a fair and equitable basis of divisions, and the mere fact that there may be a wide range in cents per ton per mile, as accruing to each line, is not a controlling factor and should not be considered as conclusive that the divisions are unreasonable.

In the case of Board of Trade of Winston-Salem, N.C., vs. Norfolk & Western Ry. Co., 26 I.C.C., 146, the Commission said:

> "It is obvious that in many instances, if not generally, these comparisons of total rates with divisions, are of little value, as there are many considerations concerning which the public is not interested, which carriers in making arrangements between themselves may take into account in fixing joint rates and divisions. For instance, one road in a through line, may be so situated with respect to the movement of a particular kind of traffic, by reason

> of its location with reference to the point of supply and demand, or otherwise, that it is in a position to command a much more liberal allowance from its connections than it would be with respect to other kinds of traffic. On the other hand, another road may be under the necessity of accepting abnormally low divisions in order to participate in the traffic. It follows that there may be wide variations in per-ton-mile earnings by the carriers composing through lines. Should the Commission undertake to measure the local or individual rates of a carrier by its divisions of through rates it would inevitably lead to a continuous process of hammering down local rates or the withdrawal by carriers from such through routes and rates as yield only a small profit."

The facts in this case, as disclosed by the record, show that there are extensive coal fields on the lines of the respective defendants. This is particularly true of the Union Pacific and Chicago, Burlington & Quincy Railroad Companies, and by virtue of through routes and joint rates being established, coal from the Oak Hills and Walsenburg districts comes into direct competition with coal mined locally on the lines of the defendants.

The joint rates on coal from the Walsenburg district to points on the lines of the defendants, have been in effect for many years, and as far as this Commission has been advised, the divisions of the same have been entirely satisfactory to all concerned.

The Commission feels that a condition which has been in effect for so many years, and which is so closely associated with the present case,should have some weight and be given careful consideration.

In I & S Docket No.299, Rates on Lumber and Other Forest Products from Points in Arkansas and Other States to Points in Iowa, Minnesota and Other States, - reported in 31 I.C.C., 673, the Commission said:

> "In establishing equitable divisions it is necessary to have regard for all the surrounding circumstances and conditions. It is therefore important to consider the conduct of other lines in like situations."

It is to be remembered that the petitioner herein voluntarily established the Walsenburg basis of rates to Denver,

as well as the through rates involved in this case, although it contends that the divisions of the same are not equitable. It now asks to have the local rates to Denver applied as its proportion of the through rates.

This proposition carries with it the contention that it should be allowed the same proportion on all shipments, regardless of the distance, for the reason that it performs the same service in each case.

It is a general principle that the proportion of a through rate shall be somewhat lower than the local rate. There are many reasons why this should be so, and the Commission can see no reason why that principle should not be followed in this case.

In the case of Southwestern Shippers Traffic Ass'n, vs. Atchison, Topeka & Santa Fe Ry. Co., et al., 24 I.C.C., 570, the Commission said:

> "* * * * * They should be required to accept as their division of the through rate, a reasonable sum, which may well be substantially less than their just local charges."

In I & S Docket 247, Reported in 28 I.C.C., 269, the Commission said:

> "It is generally true that a carrier may reasonably accept less than its local rate as its division of a joint rate."

It is immaterial to the defendants herein, whether they receive coal from the Oak Hills district or the Walsenburg district, as long as the rates and divisions are the same. In both cases, it is supplanting coal which is produced on their own lines, which fact is entitled to receive consideration.

Chamber of Commerce of the City of Milwaukee, vs. Chicago, Rock Island & Pacific Ry. Co., et al., 15 I.C.C., 460;

> "While it has the right, as we have endeavored to explain, to demand no more than a reasonable rate for the transportation of coarse grains to Milwaukee, the fact that the Rock Island system reaches other primary grain markets may fairly be said to give it certain equities in the adjustment of the divisions of any through rates that it may establish under our order with a connecting line."

The division sheets used by the carriers were not submitted to the Commission at the hearing. The Commission, however, issued an order subsequent to the hearing, requiring all parties of interest to furnish them, which was done, and they are now before the Commission for consideration.

As stated above, the defendants herein have heretofore offered to pro-rate with the petitioner, the reduction in rates as occasioned by the order in Case No. 10, using the old basis as factors. The Commission has analyzed these figures, based on the new rates, and finds that they are not disproportionate with the rates on coal from the local fields on the respective lines of the defendants to the various points as shown on the division sheets.

For illustration:- The local rates from the northern coal fields to nineteen stations east of Denver on the Kansas division of the Union Pacific Company range from 80¢ to $2.25 per ton, or an average of $1.563 per ton. The proportions accruing to the Union Pacific Company to the same stations on coal from the Oak Hills district range from 50¢ to $2.10 per ton, or an average of $1.419 per ton.

From the northern coal fields to nineteen stations on the Julesburg branch east of La Salle, the rates range from 90¢ to $2.00 per ton, an average of $1.434 per ton. The proportion of the through rate accruing to the Union Pacific on coal from the Oak Hills district, ranges from 99¢ to $2.03 per ton, or an average of $1.465 per ton.

The proportion accruing to the line of the petitioner on coal destined to the first group of stations ranges from $1.152 to $150 per ton, or an average of $1.286 per ton, or 80% of its local rate, and its proportion of the last group ranges from $1.25 to $1.525 per ton, or an average of $1.358 per ton, or 85% of its local rate, thus making a general average to all points on the Union Pacific covered by the Commission's order in Case No.10, of 83% of its local rate to Denver.

The local rates per ton from the northern coal fields to forty-nine stations on the Chicago, Burlington & Quincy

Railroad range from 80¢ to $2.40 per ton, or an average of $1.34 per ton. The proportion accruing to the Chicago, Burlington & Quincy Company on coal from the Oak Hills district ranges from 40¢ to $2.18 per ton, or an average of $1.608.

The proportions accruing to the petitioner on coal destined to the same stations, range from $1.241 to $1.50 per ton, or an average of $1.346 per ton, or 84% of its local rate to Denver.

So far as the Union Pacific and the Chicago, Burlington & Quincy are concerned, there is nothing in the record to indicate to the Commission that the old basis of divisions was unreasonable or unfair, and the Commission is not convinced that the pro-rating of the reduction, using the old basis of division as factors, would be unfair.

The Commission finds, however, a different condition in reference to the defendant, The Chicago, Rock Island and Pacific Railway Company. The Commission agrees with the petitioner that The Chicago, Rock Island and Pacific Company's contention that it should be allowed a greater proportion of the divisions on account of its Pueblo connection, is not well-founded. That Company operates into Denver, and the mere fact that it also operates into Pueblo, and by virtue of that fact can get a more liberal division on Walsenburg coal, has no bearing whatever on coal moving through the Denver gateway.

It might be well to here state that the Commission did not order joint rates between the petitioner herein and The Chicago, Rock Island and Pacific Company, to points on the Rock Island line between Colorado Springs and Limon; and coal from the Oak Hills district, therefore, does not come into competition with coal from the Walsenburg district at those points.

The Commission believes that the divisions on coal moving from the Oak Hills district to local points on The Chicago, Rock Island and Pacific, east of Limon, should be on a parity with divisions made with other lines at Denver.

From the record before us, it would be impossible

for the Commission to establish a similar amount on all shipments as the petitioner's proportion of through rates, with any certainty of not doing injustice to one or more of the parties to the case. In order to do so intelligently, it would be necessary to be fully advised as to the volume of business moving to each station, which information is not before us.

We are not unmindful, however, of the recent decision of the Interstate Commerce Commission in re. coal rates from Oak Hills, Colorado - I & S Docket No.344, 35 I.C.C. 456, decided July 10, 1915 - wherein that Commission allowed a fixed amount to the petitioner in this case as its proportion of the through rates on coal from the Oak Hills district to interstate points located on the line of the Chicago, Rock Island and Pacific Railway Company, one of the defendants herein. That case, however, was quite different from this one, on account of the fact that the rates in question were blanket rates covering large areas, and the division of rates to one point was applicable to many points.

The Commission is inclined to the view that the duty and expense, including intermediate switching incident to the delivery of coal to the defendants, rest with the petitioner. The fact that it has no terminals in the City of Denver is its own disability, and there is no reason why the defendants herein should bear any part of it. The petitioner must either acquire its own terminals or expect to pay some other carrier for the use of its terminals.

People's Fuel & Supply Co. vs. Grand Trunk Western Ry. Co., 27 I.C.C., 24.

> "If it cannot afford to pay for the terminal service which other * * * * * carriers provide, it will doubtless have to retire from competitive traffic."

This same principle was upheld by the Interstate Commerce Commission in the case of Waverly Oil Works Company, vs. Pennsylvania Railroad Company, 28 I.C.C., 621.

Counsel for the petitioner has made reference to a recent decision of the Interstate Commerce Commission in the

case of Sloss-Sheffield Steel & Iron Company, et al;, vs. Louisville & Nashville Railroad Company,et al.,35 I.C.C.,460.

The Commission, however, does not believe that case has any particular bearing on this question. In the case above referred to, the disabilities rested equally on the carriers, both north and south of the Ohio River, which we think is quite different from the case under consideration.

From the above and foregoing, the Commission believes that the through rates on coal from the Oak Hills district on the line of the petitioner to points on the lines of the Union Pacific and Chicago, Burlington & Quincy Companies, within the State of Colorado, should be pro-rated between them, using the old basis of divisions as factors.

We do not believe that the present proportion of the through rate accruing to the petitioner on coal from the Oak Hills district to points on the line of The Chicago, Rock Island & Pacific, east of Limon, Colorado, is sufficient.

Orders will therefore be entered in accordance with these conclusions.

ORDER IN CASE NO.33.

IT IS HEREBY ORDERED, That the joint rates on Lump coal from the Oak Hills district, on the line of The Denver and Salt Lake Railroad Company, to points on the line of the Chicago, Burlington and Quincy Railroad Company, as fixed by the Commission in its order in Case No. 10, decided May 10, 1915, effective August 1, 1915, be proportioned and divided by said carriers on the basis as set forth as follows, to-wit:

FROM OAK HILLS DISTRICT TO	IN CENTS PER TON OF 2000 POUNDS THROUGH RATE	DIVISIONS D&SLRR	CB&QRR
Derby	190	150.0	40.0
Barr	200	130.3	69.7
Hudson	210	126.0	84.0
Keenesburg	220	126.0	94.0
Roggen	230	127.9	102.1
Crest	235	126.0	109.0
Wiggins	240	124.1	115.9
Fort Morgan	250	125.0	125.0
Lodi	260	130.0	130.0
Brush	265	132.5	132.5
Pinneo	270	126.6	143.4
Xenia	275	126.9	148.1
Akron	285	129.6	155.4
Otis	300	132.0	168.0
Hyde	305	134.6	170.4
Yuma	310	136.8	173.2
Schramm	315	139.0	176.0
Eckley	325	143.4	181.6
Robb	325	143.4	181.6
Wray	330	145.5	184.5
Laird	340	149.9	190.1
Camden	270	135.0	135.0
Hillrose	270	135.0	135.0
Trowel Ranch	275	137.5	137.5
Union	275	137.5	137.5
Balzac	280	135.9	144.1
Merino	285	135.3	149.7
Atwood	290	131.1	158.9
Sterling	295	131.8	163.2
Galien	305	134.4	170.6
Fleming	315	135.6	179.4
Haxtun	325	138.6	186.4
Paoli	330	138.6	191.4
Holyoke	340	139.7	200.3
Amherst	350	136.2	213.8
Stein	305	131.6	173.4
Willard	310	133.7	176.3
Stoneham	320	136.9	183.1
Raymer	325	136.8	188.2
Buckingham	335	126.7	208.3
Keota	340	128.2	211.8
Sligo	350	132.0	218.0
Grover	350	132.0	218.0
Hereford	350	132.0	218.0
Ackerman	305	135.5	169.5
Minto	305	135.5	169.5
Padroni	320	140.0	180.0
Winston	330	142.0	188.0
Peetz	345	147.0	198.0

IT IS FURTHER ORDERED, That the joint rates on other classes of coal, as published by the above named carriers, between points as set forth above, be proportioned and divided on a basis of the percentage which each carrier's part bears to the total of the rates as set forth above, effective as of August 1, 1915.

DATED AT DENVER, COLORADO, this 10th day of February, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. KENDALL,

(S E A L)

GEO. T. BRADLEY,

M. H. AYLESWORTH,
Commissioners.

ORDER IN CASE NO.34.

IT IS HEREBY ORDERED, That the joint rates on Lump coal from the Oak Hills district, on the line of The Denver and Salt Lake Railroad Company, to points on the line of The Chicago, Rock Island and Pacific Railway Company, as fixed by the Commission in its order in Case No. 10, decided May 10, 1915, effective August 1, 1915, be proportioned and divided by said carriers on the basis as set forth as follows, to-wit:

FROM OAK HILLS DISTRICT TO	IN CENTS PER TON OF 2000 POUNDS. THROUGH RATE	DIVISIONS D&SLRR	CRI&PRY.
Mustang	250	128.1	121.9
Genoa	255	126.6	128.4
Bovina	260	130.6	129.4
Arriba	270	136.1	133.9
Flagler	280	129.9	150.1
Seibert	295	134.5	160.5
Vona	305	137.4	167.6
Stratton	315	138.3	176.7
Bethune	325	141.6	183.4
Burlington	335	138.8	196.2

IT IS FURTHER ORDERED, That the joint rates on other classes of coal, as published by the above named carriers, between points as set forth above, be proportioned and divided on a basis of the percentage which each carrier's part bears to the total of the rates as set forth above, effective as of August 1, 1915.

DATED AT DENVER, COLORADO, this 10th day of February, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. KENDALL,

(S E A L)

GEO. T. BRADLEY,

M. H. AYLESWORTH,
Commissioners.

ORDER IN CASE NO.35

IT IS HEREBY ORDERED, That the joint rates on Lump coal from the Oak Hills district, on the line of The Denver and Salt Lake Railroad Company, to points on the line of Union Pacific Railroad Company, as fixed by the Commission in its order in Case No.10, decided May 10, 1915, effective August 1, 1915, be proportioned and divided by said carriers on the basis as set forth as follows, to-wit:

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

GREELEY GAS & FUEL COMPANY, Complainant,	)	February 21, 1916
vs.	)	Case No.26.
THE COLORADO & SOUTHERN RAILWAY COMPANY, et al, Defendants.	)	

SUPPLEMENTAL ORDER.

WHEREAS, on the 20th day of December, 1915, the Commission issued its order dismissing the complaint of the Greeley Gas & Fuel Company, the Complainant in the above cause; and

WHEREAS, on the 19th day of February, 1916, the Complainant, by its counsel, petitioned this Commission for time in which said Complainant may file with the Commission its application for rehearing of this cause; and

WHEREAS, no opportunity was given the Complainant in which to file its application for a rehearing of this cause by the Commission.

IT IS NOW ORDERED that the Complainant, the Greeley Gas & fuel Company, may, if it desires, file an application for rehearing in the above cause prior to the 15th day of March, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,

W. H. Aylsworth

Geo. L. Bradley

S. S. Kendall
Commissioners.

Dated at Denver, Colorado,
this 21st day of February, 1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

- - -

February 21, 1916

THE DENVER AND SALT LAKE RAILROAD COMPANY, Petitioner, vs. CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, Defendant.	CASE NO. 33.
THE DENVER AND SALT LAKE RAILROAD COMPANY, Petitioner, vs. THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY, J.M. Dickinson, Receiver, Defendant.	CASE NO. 34.
THE DENVER AND SALT LAKE RAILROAD COMPANY, Petitioners, vs. UNION PACIFIC RAILROAD COMPANY, Defendant.	CASE NO. 35.

SUPPLEMENTAL ORDER.

WHEREAS, The Chicago, Rock Island & Pacific Railway Company, J. M. Dickinson, Receiver, the Defendant in Case No. 34, filed its written petition with this Commission on the 21st day of February, 1916, requesting time within which to file its petition for rehearing of this cause; and

WHEREAS, The Denver & Salt Lake Railroad Company, the Complainant in Cases Nos. 33, 34 and 35, on the 19th day of February, 1916, filed its petition requesting time within which to file a petition for rehearing in the above causes,

decided by the Commission on February 10, 1916; and

WHEREAS, The Commission made the effective dates of its orders of February 10,1916, as of August 1, 1915, and set forth no time in which the parties could file their applications for rehearing if they so desired;

IT IS HEREBY ORDERED, That The Chicago, Rock Island & Pacific Railway Company, J. M. Dickinson, Receiver, the Defendant in Case No. 34, and The Denver and Salt Lake Railroad Company, the Complainant in Cases Nos. 33, 34 and 35, be granted until the 15th day of March, 1916, in which to file with this Commission their applications for rehearing in said causes.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(S E A L)

M. H. Aylesworth,
Geo. T. Bradley,
S. S. Kendall,

Commissioners.

Dated at Denver, Colorado,
this 21st day of February,
1 9 1 6.

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 each and every rate or charge, and into the adequacy of the service, and the rules, regulations and practices of The Colorado Springs Light, Heat & Power Company, a corporation.

CASE NO. 24.

Appearances:
R. L. Holland, Esq., for The Colorado Springs Light, Heat & Power Company.
J. L. Bennett, Esq., City Attorney, City of Colorado Springs, Colorado.

Submitted January 31, 1916. Decided March 1, 1916.

REHEARING DENIED AND ORDER AMENDED.

The above cause was the result of a resolution adopted by the City Council of Colorado Springs requesting this Commission to hold an investigation into the rates, service, rules, regulations and practices of The Colorado Springs Light, Heat & Power Company, which was followed by a six weeks preliminary investigation by the engineering staff of the Commission, and which resulted in an order by this Commission, issued on the 17th day of June, 1915, inaugurating an investigation into the rates, service, rules, regulations and practices of the Respondent, accompanied by a notice to the said Respondent and the City of Colorado Springs that the above cause would be heard on the 3rd day of August, 1915, at 2:00 o'clock p.m., at the City Hall, Colorado Springs, Colorado.

On the 3rd day of August, 1915, the hearing was convened at Colorado Springs, and the Commission received the reports of its engineering and statistical staff, as well as the evidence of many witnesses on behalf of the Respondent utility corporation

and the Commission. The engineering staff of the Commission introduced in evidence its report on the valuation of the properties of the Company. The Commission's statistician introduced into the evidence his report, in which was embodied a complete history of the Respondent company, as well as an abstract of the accounts and the distribution of the expense as between its electric, gas and steam properties. An adjournment was then taken until the 31st day of August, 1915, at which time the Engineer for the Company presented to the Commission opinion evidence as to the values of the properties, and other witnesses testified in behalf of both the Company and the Commission.

On the 15th day of December, 1915, the Commission rendered its written statement and order in this cause.

For the purpose of making rates the Commission segregated the electric and hydro, gas and steam properties of the Respondent Company, and determined the present fair value of the electric and hydro properties of the Respondent to be $1,481,762.00, and, by averaging the net earnings of these properties for the years 1911, 1912, 1913 and 1914, arrived at an average net return of $233,875.00, and deducted from this amount the sum of $52,000.00 as an annual depreciation reserve, leaving an average net return, less depreciation, of $181,875.00 per annum. The Commission therefore concluded that the Respondent company was earning 12.27 per cent per annum on $1,481,762.00, which was held to be an excessive earning, and attempted to readjust the schedule of electric rates and charges of the Respondent company to the end that a proper depreciation reserve should be set aside annually and still permit the Respondent company to earn a net revenue in excess of 7½ per cent per annum on $1,481,762.00. All discriminatory rates and charges were abolished by the Commission.

The present fair value of the gas property of the Respondent was found to be $710,917.00, upon which it was earning 1.16 per cent per annum, exclusive of the annual depreciation reserve, which rate of return was held not to be excessive. The present schedule of rates and charges covering the sale of gas

by the Respondent company was temporarily approved by the Commission.

The present fair value of the property of the Respondent company in use and useful in the sale of steam heat was found to be $122,774.00; also that the Company sustains a loss in the operation of its steam property in the sum of $13,912.00 annually, said amount including $8,000.00 annual depreciation reserve. The schedule of rates and charges of the Respondent covering the sale of steam was not adjusted for the reason that the Commission has been advised by the Attorney General of the State of Colorado that it is without jurisdiction to make reasonable rates and charges for the sale of steam heat.

It was further ordered by the Commission that its order in the above cause should be in force and effect upon the 1st day of January, 1916, and should apply to all service furnished after said date.

On the 29th day of December, 1915, the Respondent in the above cause filed its written application to extend the time of the effective date of the order of this Commission until the 1st day of February, 1916. The application of the Respondent, and affidavits in support of the same, allege, in substance, that the order of the Commission established a schedule of rates for certain classes of service supplied by the Respondent, which, in order to compute customers' bills thereunder, necessitated the accurate ascertainment of the connected load of each individual consumer, and that the employes of the Company could not obtain the necessary data and information by January 1, 1916, the effective date of the order, and that the Respondent had not had sufficient time, since the entering of the above order, to fully advise itself as to the provisions and schedules in the order contained, or to apply the same to its business in order to determine with a reasonable degree of certainty the effect thereof, and would therefore be unable to satisfactorily determine whether or not it desired to file an application with the Commission for a rehearing in this case prior to the effective date of the order, and could not specifically set forth the ground or grounds

on which it considered the decision and order to be unlawful, if it should finally consider the same or any part thereof to be unlawful, as is required by the laws of the State of Colorado.

After an examination of the said petition and affidavits in support thereof, the Commission modified its order in the above cause, extending the time of the effective date of the order to February 1, 1916.

On the 31st day of January, 1916, the Respondent company, through its attorney, Rush L. Holland, Esq., filed with this Commission its application for a rehearing of the above cause, setting forth thirty-five reasons in support of the application. The application for rehearing, accompanied by an elaborate brief in support of the allegations in said application, has received careful and serious consideration at the hands of this Commission. Many of the allegations contained therein, if true, would entitle the Respondent to an immediate rehearing of the above cause, with resulting changes in present fair value, and of the schedules of rates and charges covering the sale of electricity as ordered by the Commission on December,15, 1915.

For the purposes of this order, the objections of the Respondent to the order of this Commission in the above cause, contained in the application for rehearing, were considered as follows:

(1) That the order of the Commission fails to recognize the contractual rights and obligations of the Respondent company, both as to contracts with individuals and franchises held by the company from municipalities.

(2) That the Commission had erroneously segregated and separately valued and considered the Respondent's electric, gas and steam heat plants, properties and business, whereas the plants, properties and business of the Company should have been considered and valued as a whole and rates established which would give to the Company a fair return on its entire investment.

(3) That the valuations fixed in the order of the Commission are confiscatory; deny to the Respondent a reasonable or fair return on the property employed in the business; and that the

schedules of rates and charges for electricity and gas ordered by this Commission are unfair and unreasonable.

(4) That the order of the Commission denies to the Company the right to a fair return on its investment in its electric plants and property, by deducting therefrom a sum in excess of $300,000.00 for accrued depreciation, whereas the Company is entitled to a fair return on reproduction cost of physical property, which is maintained so as to render service 100% efficient, without deducting therefrom so-called accrued depreciation, and that the order of the Commission is based solely on the theory of reproduction cost less theoretical depreciation, and that the Commission in its order disregarded and failed to consider the undisputed evidence of the Statistician of the Commission, Fred W. Herbert, in regard to the book value of the company .

(5) That the Commission has not made adequate or sufficient allowance for working capital and overhead expenditures, and has made no allowance for surplus and contingencies.

(6) That the order of the Commission penalized economical and efficient management.

(7) That the Commission declined to take jurisdiction as to steam heat, whereas under the law it has jurisdiction over a utility furnishing this commodity, and should have exercised it.

(8) That the order of the Commission prescribes rates which are inadequate, uncommercial, impracticable, discriminatory, inconsistent and non-inducive.

(9) That sufficient time was not allowed the Respondent company in which to prepare and file a complete inventory and appraisement of its property.

CONTRACTS -- FRANCHISES WITH MUNICIPALITIES.

It is here contended that the Commission's order in the above cause expressly abrogates contracts with individuals and municipalities. The duties of this Commission are clearly expressed in the laws of the State of Colorado pertaining to public utilities, and it became our duty, after the hearing of the

above cause, to order the Respondent company to install just and reasonable charges and rates, and to do away with all alleged discrimination in its rates and charges, rules, regulations, practices and contracts. One of the fundamental reasons for State and Federal regulation of public utilities is to prevent and prohibit illegal discrimination as between patrons. It is certainly true that the utility must serve all its patrons of the same class and conditions of service at the same rates, and accord to each the same consideration. In the order of the Commission in the above cause, rendered on the 15th day of December, 1915, the Respondent was ordered to eliminate illegal, discriminatory rates, charges and contracts, and was specifically directed to show no favoritism to its officers, directors, stockholders and employes as to rates and charges, and rules and regulations surrounding the same. The Commission also ordered the Respondent to collect from one G.A. Taff, in moneys, for all electrical energy furnished to him by the said Respondent corporation from and after the date of the order, in accordance with the schedule of rates and charges as specified by the Commission, and to desist from the practice of furnishing electricity to the said G.A. Taff, in accordance with the terms of an old contract, without a charge being made therefor.

In view of the numerous sections of the Utilities Act expressly mentioning contracts as being within the purview of the jurisdiction of the Commission, and in view of numerous cases upholding the authority of the State to regulate and abrogate contracts which purport to cover rate regulation, it must be held that although counsel is here urging that the contracts in question are inviolable contracts under the Federal and State constitutions, no argument is presented that the contracts in question are not subject to regulation by this Commission. In every case of this character it is to be presumed that the contracts are within the scope of the right of regulation unless the contrary clearly appears. The general view of the subject matter here is forecast by Mr. Justice Scott in the recent case of Wolverton v. Mountain States T & T. Co., 142 Pac., 165:

> "And it is now held that even in case of such contracts with public utilities for specific rates and for definite periods of time, these are subject to legislative acts of regulation." Citing Louisville & Nashville R.R.Co., v. Mottley, 219 U.S., 467; Southern Wire Company v. St. Louis Bridge & T. Co., 28 Mo. App., 191.

And likewise by the quotation made in Colorado, etc., Co. v. Railroad Commission, 54 Colo., 64, at p. 92, from the decision of the Supreme Court of the United States in Mo. Pac. Ry. Co., v. Kansas, 216 U.S., 262, as follows:

> "Unquestionably the railroad property is protected by the constitutional guarantees that these rights are not abridged by their being subjected to reasonable government power of regulation."

It is contended by the Respondent company that this Commission has failed to recognize the contractual rights and obligations of the Company, both as to contracts with individuals and franchises held by the Company from municipalities. Careful reconsideration of the evidence and of the order fails to show lack of recognition of any legal rights acquired by this Respondent through franchise contracts with municipalities. No franchises were introduced in the evidence in this case, but, having received copies of these franchise contracts or ordinances, the Commission finds that no definite rates and charges for electricity are set forth, with the exception of a maximum rate on municipal street lighting, which would not, in any way, be material in the determination of this cause as the rates and charges for municipal lighting were not altered by this Commission. In this connection it should be remembered that this Commission has taken the position heretofore that it is its duty to make reasonable and just rates, regardless of whether certain defined rates and charges are set forth in a franchise contract or ordinance between the municipality on the one hand and the public utility on the other. The fact that a contract is involved in no respect alters the right of the Commission to revise rates, unless the Constitution, or the Legislature of the State, expressly delegated to the municipality the power to contract, inviolably, for rates for the period covered by the franchise granted.

We quote from the decision in Benwood v. Public Service Commission, 83 S.E., 295 (Va.).

> "Through the grant and acceptance of the franchise wherein certain rates were fixed, created a contract between the water company and the city of Benwood, the rates thereby fixed are nevertheless cognizable for revision by the Public Service Commission, under the broad powers delegated thereto, unless prior to the delegation of those powers the Legislature expressly delegated power to the City of Benwood which authorized the city to contract inviolably for the rates mentioned in the franchise for the period stated therein. Rate making is a legislative act. It is inherent in and belongs primarily to the Legislature. The rate making power is a power of Government, - a police power of the State. The city of Benwood at the time of the making of the franchise, had no rate making power that could bind the State, if the Legislature of the Sovereign State had not, theretofore delegated the same to the city. And if such delegation or grant of rate making power was made to the city prior to the delegation of general and state wide powers in the same particular by the Legislature to the Public Service Commission, the language relied upon as evidence of such delegation or grant to the city must be clear and express. The presumption is against exclusive delegation of the Legislature's sovereign rate making power to a municipality. Unless there has been such delegation, by clear and express terms, the power is reserved in the State, which can exercise it at such times and to such extent as may be found advisable.

In the case of State ex rel, Webstern v. Superior Court, 67 Wash., 37; 120 Pac., 861, at page 866, it is said:

> "Where the State is a party and it appears there has been no express grant or waiver of its constitutional right to fix rates so as to give an ordinance the force of a contract binding upon the state (granting that under our constitution this could be done), it cannot be held either as a matter of law or policy that a franchise such as the one now under consideration is a contract binding upon the state of Washington, and for several reasons. The power to fix rates being a right reserved by the people of the State, cannot, in the light of the constitution, be held to be an incident to the right to frame a freeholder's charter."

Also, in the case of Milwaukee E.R.& L. Company v. Railroad Commission (Wis.), 238 U.S., 174, (59 L.Ed.,1254), decided 1915, where, under the provisions of the Wisconsin Revised Statutes 1911, Sec. 1862, empowering a municipality to grant the use of the streets to street railway companies "upon such terms as the proper authorities shall determine",

in which the Wisconsin Supreme Court held that this statutory provision did not authorize a municipality to make a contract which would prevent the future exercise of the authority of the state to fix rates by legislative action, was followed by the Federal Supreme Court, in which case it was held that the exercise by a state of its lawful power to fix street railway rates, notwithstanding a municipal rate ordinance, does not deprive the street railway company of its property without due process of law; and the court states:

> "On the hearing in the court of first instance, it was held that there was no contract made providing for the passage and acceptance of the ordinance which we have quoted, and the complaint was accordingly dismissed. , Upon appeal to the Superior Court of Wisconsin, that judgment was confirmed (142 N.W., 491). The case was heard before six judges of that court. Three held that the statute upon which the plaintiff relied as conferring authority upon a municipal corporation to make the contract in question, did not authorize the making of a contract which would prevent the future exercise of the authority of the state to regulate the rates by legislative action. The fourth judge expressed no view upon this phase of the case, holding specifically that, under the Wisconsin Constitution, there was no power to delegate to municipal corporations an authority to make irrepealable contracts respecting rates.
> * * * * * *
>
> In the view we take of the case, it is unnecessary to pass upon the question of whether the ordinance had the effect to make a contract binding between the city and the company until subsequent legislative action by the state, or to decide whether the granting of the rights and privileges as to fares, was, under the Wisconsin Constitution, revocable at the will of the Legislature. * * * *
>
> The fixing of rates which may be charged by public service corporations of the character here involved, is a legislative function of the state, and, while the right to make contracts which shall prevent the state during a given period from exercising this important power has been recognized and approved by judicial decisions, it has been uniformly held in this court that the renunciation of a sovereign right of this character must be evidenced by terms so clear and unequivocal as to permit of no doubt as to their proper construction. This proposition has been so frequently declared by decisions of this court as to render unnecessary any reference to the many cases in which the doctrine has been affirmed. * * * * * *
>
> In view of the weight which this court gives in deciding questions involving the construction of legislative acts to decisions of the highest courts of the states in cases of alleged contracts, and our own inability to say that this statute unequivocally grants to the municipal authorities the power to deprive the legislature of the right to exercise in the future an acknowledge function of great public importance, we reach the conclusion that the judgment of the Supreme Court of Wisconsin in this case should be affirmed."

It also is evident to the Commission that a clear prohibition is contained in the Constitution of the State of Colorado upon the right of a municipality to contract inviolably for rates and charges of public utilities operating within the State of Colorado. Sec. 3, Art.XV, of the Constitution provides:

> "The General Assembly shall have the power to alter, revoke or annul any charter of a corporation now existing and revocable at the adoption of this constitution, or any that may hereafter be created, whenever in their opinion it may be injurious to the citizens of the State, in such manner, however, that no injustice shall be done to the incorporators."

And Sec. 8 of the same Article provides:

> "The police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well being of the State."

SEGREGATION OF HYDRO AND ELECTRIC, GAS AND STEAM PROPERTIES.

In its application for a rehearing of this cause the Respondent contends that its hydro and electric properties, gas properties, and steam properties, should not be segregated for rate making purposes, but this Commission is of the opinion that unless the gas property of the Respondent is segregated from the hydro and electric properties the patrons of the hydro and electric properties naturally will be compelled to maintain the gas plant of the Respondent, an arrangement for which there is no apparent authority in law.

The gas property of this Respondent is physically separate and distinct from the Company's hydro and electric properties, and this Commission is unable to find authority for the proposition that, for rate-making purposes, gas and electric properties owned by one company should be valued as one property and the rate of return based upon the earnings of the entire property. In fact, counsel for Respondent frankly admits that this theory is without precendent.

It is also earnestly contended by the Respondent that steam heat is really a by-product of the Company's manufacture

of electricity, and that the steam heating and the steam and hydro-electric properties should be valued as one for rate-making purposes. This view cannot be accepted. While it is true that it is somewhat difficult to physcially segregate certain parts of the Respondent's steam heating property from its electric generating plant, this condition exists only as to a small portion of the two properties. Should this theory be accepted, however, and, for purposes of rate making, the steam heating and hydro and electric properties of the Respondent be considered as one property for the purpose of arriving at a present fair value upon which to base a reasonable rate of return, it is apparent from the schedule of rates hereinafter set forth that the Respondent would still be earning a rate of return of from 7½ to 8 per cent upon the values of these two properties combined as one.

VALUATION.

It is here contended that the order of this Commission and the valuations and schedules of rates and charges contained therein deprive the Respondent of its property without due process of law, in violation of the Constitutions of the State of Colorado and of the United States; and that the order of the Commission is in violation of the laws of Colorado pertaining to public utilities, in that the rates and charges set forth therein are unjust and unreasonable.

These contentions have received serious consideration and study at the hands of the Commission. While it has become almost a matter of course for a public utility applying for a rehearing of a case before a Public Utilities Commission, or appealing from an order of a Commission, to allege confiscation of private property for public use, this allegation is certainly of serious import and should be given due heed by every regulatory body. State regulation of public utilities through Public Utilities Commissions is in its infancy. At the inception of State regulation it was charged by many utilities that the regulatory bodies, in their endeavors to

regulate the rates, charges and practices, and the rules and regulations surrounding the same, and the service of public utilities, would be over-zealous in their activities and would endeavor to manage the public utility in its operations, and, in their desire to curry public favor, would require the utility to earn such a low rate of return as to result in the confiscation of its property rather than the fair regulation of rates and service. Countercharges were made that the Public Utilities Commissions would look only to the interests of the utility, and would not give due regard to the interests of the consuming public, which necessarily must be dependent upon the regulating body as to the kind of service rendered by the utility and the proper rate and charge therefor.

The public utility is not subject to the general law of competition, and its position is entirely different from that of a private concern. The service furnished by a public utility should be continuous, uninterrupted and adequate, and should be supplied at the lowest reasonable cost. Certainly it is true that this Commission, after arriving at the present fair value of the properties of public utilities, should permit these utilities to earn a fair rate of return upon that present fair value, which should be in excess of a proper annual depreciation reserve to be set aside by the utilities under the direction of the Commission, if the rates thus made are not in excess of the value of the service.

In the present case this Commission endeavored to determine the present fair value of the properties of the Respondent company, in use or useful in the sale of electricity, gas and steam heat. The investigations of the engineering and statistical department of this Commission, together with the hearing of the cause and the final determination of the same by the Commizzion, consumed about six months' time. The sums of money allowed by this Commission as the present fair values of electric and hydro properties of the Respondent, the gas properties of the Respondent, and the steam heating properties

of the Respondent, have been carefully rechecked by this Commission, which is of the opinion that the sum of $1,481,762.00 is the present fair value of its electric and hydro property in use and useful in the sale of electricity for rate making purposes; that $710,917.00 is the present fair value of the gas properties of the Respondent in use and useful in the sale of gas for rate making purposes; and that $122,774.00 is the present fair value of the properties of the Respondent in use and useful in the sale of steam heat.

The Respondent corporation, since the date of the order of this Commission in the above cause, has employed a corps of rate experts, valuation engineers, and assistants, to examine the order and the schedule of rates and charges therein set forth, and their findings and theories are elaborately set forth in the application for rehearing filed on behalf of the Respondent by counsel.

On the 31st day of August, 1915, the Respondent company called witnesses who testified in its behalf before the Commission, among whom was Mr. P.B.Rice, Consulting Engineer for The United Gas & Electric Engineering Corporation, the holding company of The Colorado Springs Light, Heat & Power Company, who presented facts and theories on behalf of the Respondent. Engineer Rice testified that he had checked the appraisal of Mr. Fred J. Rankin, the Commission's Electrical Engineer, and found it approximately correct, with the exception of certain properties unintentionally omitted, and which were at this time presented in evidence by Mr. Rice with valuations fixed by him on the basis of cost of reproduction less accrued depreciation. These omitted items of property were added by the Commission to the appraisal of its engineer and constituted a part of the valuations upon which the Commission based the schedule of rates and charges for the Respondent company.

On the 3rd day of August, 1915, Engineer Rankin presented his report to the Commission, in which was contained the inventory of the physical properties of the Respondent.

together with the cost to reproduce, less depreciation, for the purpose of arriving at the present fair value of the said properties. The Respondent corporation manufactures its electrical energy through a steam generating plant located at Colorado Springs and an hydro plant located at Manitou, and in the hearing of the above cause before the Commission, the Respondent earnestly contended that the water power, owned by the City of Colorado Springs and used by this Respondent through its hydro plant at Manitou, should be given a present fair value of $200,000.00 by the Commission in fixing the fair value of the hydro and electric properties of the Respondent. Mr. Rankin also testified that he had not included in his valuation an alleged water right, known in this case as the "Empire Land and Water Company option", which, according to the prayer of the respondent in its application for a rehearing, should receive a value of $130,000.00 at the hands of this Commission. In the Commission's order of December 15, 1915, in the above cause, the position was taken that the hydro plant is auxiliary to the steam plant at Colorado Springs, due to the fact that the steam generating plant is sufficiently large to carry the entire load of The Colorado Springs Light, Heat & Power Company. The Commission also took into consideration the fact that the City of Colorado Springs is the owner of the water power derived by the Respondent through its hydro plant at Manitou, and that the City of Colorado Springs had, in addition, the complete control of the use of the water power so used by the Respondent corporation. The evidence introduced pertaining to this situation, therefore, convinced the Commission that the value of the water power and the physical property of the hydro plant to the Respondent corporatien consisted in break-down service and the decrease in coal consumed at the steam generating plant of the company. The report of the Commission's Engineer in this case includes the sum of $202,421.00 as the present fair value of the physical property of the Respondent's hydro plant, but does not include any value for the water power now used in its operations, for the reason that a careful study of the conditions

surrounding the operation of the hydro plant discloses the fact that the saving in coal effected by its use is entirely offset by maintenance, operating expenses, interest and depreciation on this plant, and the water power used for this purpose is of no value inasmuch as no saving is made by its use.

Convincing evidence also was introduced that the Empire Land & Water Right option was not used or useful, and could never be used by the Respondent, and was therefore without value to the Respondent company, and the Commission so decided. This position is now affirmed.

On the 3rd day of August, 1915, Engineer Rankin testified that he had made no allowance for development costs and going value, believing that these were matters which should be decided by the Commission.

In arriving at the sum of $1,481,762.00 as the present fair value of the hydro and electric properties of this Respondent there was included the sum of $79,125.00 to cover the preliminary organization and development of the electric and hydro properties, which, according to Witness Rice, included the items of organization, printing prospectus, promoters' returns, cost of printing necessary stock and bond forms, traveling expenses, cost of financing, (including expenses of stock salesmen, underwriting expense, bond commission, traveling expenses of bond and stock salesmen), and also expense in connection with obtaining of franchises. The cost of establishing and maintaining the business, otherwise known as "going value", was given consideration by the Commission and an allowance made therefor. Had the sum of $200,000.00 for the Colorado Springs water power, and $130,000.00 for the Empire Land and Water right option, together with the sum of $400,000.00 for going value, been included, the valuations fixed by the Commission and by the Respondent's witness Rice, would have been in harmony. One of the great underlying dangers of state regulation, in the opinion of theCommission, is the attitude of public utility corporations in favoring large intangible values for the purpose of presenting a large paper valuation of public utilities property.

In the order of December 15, 1915, the Respondent company was instructed to set aside an annual depreciation reserve of $52,000.00 on its hydro and electric properties. The Respondent now argues that $50,000.00 is sufficient as an annual depreciation reserve on its hydro and electric properties. This view will be accepted and the order of December 15, 1915, modified to that extent.

In determining upon the sum of $710,917.00 as a present fair value of the gas property of the Respondent for the purpose of rate making the Commission finds that the valuation, with the exception of the amount allowed for going value, is in harmony with the valuation fixed by the Respondent's witness Rice; and the same is true of the sum of $122,774.00, the present fair value of the steam heating property of the Respondent as fixed by the Commission.

At this point the Commission calls attention to the testimony of Witness Rice, for the Respondent, in regard to the report of the Commission's engineer, Rankin, including his appraisal and valuations, which included the cost of reproduction less depreciation, and which was one of the tests of present fair value used by this Commission in its order of December 15, 1915. The quotation is from page 112 of the Commission's record in this cause:

Mr. Holland: State whether or not you were requested to make an investigation as to the plants, properties and values of this Company for this hearing?
Mr. Rice: I was instructed to examine the report of the Commission's Engineer and to check its values, and, if necessary, prepare an independent valuation.
Mr. Holland: When did you enter upon that work?
Mr. Rice: I arrived in Colorado Springs two weeks ago yesterday.
Mr. Holland: Had you done any work on it prior to that time?
Mr. Rice: Only in the examination of some plans and list of property and reports on file in the New York office of the United Gas & Electric Engineering Corporation.
Mr. Holland: State whether or not you have made an examination of the physical property of this Company?
Mr. Rice: I have.
Mr. Holland: State whether or not you have arrived at a determination in your own mind as to the fair value of that property, all things being considered?
Mr. Rice: I have.
Mr. Holland: State whether or not you have examined carefully the report of Mr. Rankin, Engineer of this Commission, which report was presented in evidence as Commission Exh.No.2?

Mr. Rice: I have been through the report carefully, both to determine its accuracy as covering a complete inventory, and also as to its prices.

Mr. Holland: I will ask you to state whether or not, after having gone over this report, and over the physical property of the company, you, as an engineer, have reached a determination or conclusion as to the fairness or unfairness of the values stated in that report?

Mr. Rice: I find the report to be very fair in its unit prices, and to be approximately correct as to quantities and items, and feel that the report is a very excellent one from both the standpoint of the consumers and the owners of the property.

Mr. Holland: Are there any valuations placed in that report which you desire to change, as representing your own estimate of the value of the company's physical property?

Mr. Rice: I found an item covering a transmission line to one of the company's customers, namely, Woodmens' Home, which had been erroneously included in information furnished Mr. Rankin, and included in his report. As this line is the property of the Woodmens' Home it should be eliminated from the report. I have estimated the value of this line and checked the estimated against the actual cost, which I find to be $5894.45, the cost to reproduce, and present value $5157.64, which should be deducted from the total value in Mr. Rankin's report.

Mr. Holland: So that the net deduction would be $5158.00?

Mr. Rice: Yes, sir.

Mr. Holland: In arriving at that you applied depreciation?

Mr. Rice: Yes, sir.

Mr. Holland: State whether or not you applied the same depreciation which was applied by Mr. Rankin in preparing his report?

Mr. Rice: The same depreciation."

The sum of $710,917.00, found to be the present fair value of the gas property of the Respondent, includes $20,000.00 for preliminary organization and development expense, $15,000.00 as working capital, and an allowance for going value.

In arriving at the income and expenses of the hydro and electric and gas properties of this Respondent the net returns for the years 1911, 1912, 1913,and 1914 were averaged, and, deducting the annual depreciation reserve to be set aside by the Respondent for the hydro and electric properties and the gas properties and making the change in the depreciation reserve for the hydro and electric properties as suggested by the Respondent in its application for rehearing, it is found that the Respondent company has been receiving a net return in excess of 12 per cent, exclusive of the annual depreciation reserve, on its hydro and electric properties, and a net return of 1.16 per cent, exclusive of the annual depreciation reserve, on its gas properties.

It appears that it is not the desire of the Respondent

corporation to increase its rates and charges for gas, in effect prior to the order of this Commission, for the reason that it is not convinced that an increase in its gas rates and charges would reflect an increase in gas revenue. While the public utility is entitled to earn a reasonable return upon the present fair value of these properties, this return, as heretofore stated, is contingent upon the proposition that the consuming public be required to pay only the reasonable value for the commodity or service furnished. This Commission at all times is ready to entertain an application for an increase in the rates and charges covering the sale of gas by the Respondent.

The argument is also presented by the Respondent that the schedule of rates and charges for electricity, as prescribed by the Commission in its order of December 15, 1915, is unfair and unreasonable in that it does not give to the Company a fair return, in addition to the annual depreciation reserve, upon the present fair value of its hydro and electric properties. The Commission is of the opinion that the schedule of rates and charges for electricity as set forth in its order of December 15, 1915, will produce revenue which will give to the Respondent a fair return upon the present fair value of the hydro and electric properties, but the Commission is also of the opinion that the position of the Respondent, that the schedule established by the order is unreasonable in some respects and should be readjusted, is well taken, and shall at this time readjust the schedule of rates and charges for electricity, which said schedule shall be in effect for a period of one year from March 1, 1916, and until modified or amended by an order of this Commission, and that on February 28, 1917, or within ten days thereafter, the Respondent shall present its books to the Commission for further examination. If it is then found that the rate of return is excessive, the schedule of rates shall be further reduced; and if, on the other hand, it is shown to the Commission that the Respondent is not obtaining a fair rate of return upon the present fair value of its hydro and electric properties the schedule of

rates and charges as set forth in this order shall be increased sufficiently to produce a fair return.

REPRODUCTION LESS DEPRECIATION
-BOOK VALUE.-

It is here contended by the Respondent in its application for rehearing that this Commission should have found the fair value of the hydro and electric properties of the Company to be a sum of money which would represent the cost of reproducing these properties now without deducting depreciation therefrom; and at the same time it is alleged that the Commission arrived at the present fair value of the hydro and electric properties solely on the theory of reproduction cost, less theoretical depreciation, and that the Commission failed to consider the evidence of its statistician, Mr. Fred W. Herbert, in regard to the book value of the Company.

The reproduction theory, in arriving at the value in a rate making case, is only one of many tests in computing the present fair value of the property.

The original order entered December 15, 1915, stated:

> "FAIR VALUE OF ELECTRIC PROPERTY.
> "After considering all of the evidence and testimony in the case bearing upon the value of the plant, and the cost to reproduce, the original costs, the investment, the present value, including preliminary and development costs, engineering and supervision, interest, insurance, organization and legal expense during construction, contingencies, working capital, and all other elements of value (tangible and intangible), and taking into consideration that the plant is in successful operation and a 'going conern', the Commission finds the fair value of the electric and hydro property of The Colorado Springs Light, Heat & Power Company, for the purpose of determining reasonable and just rates in this case, to be $1,481,762.00. We therefore find that The Colorado Springs Light, Heat & Power Company is earning 12.27 per cent per annum on the fair and reasonable value of its electric and hydro properties."

In the case of City of Belleville v. St. Claire County Gas & Electric Company, No. 2237 B, before the State Public Utilities Commission of Illinois, decided November 24, 1915, it is stated by the Commission:

> "It was argued by the Respondent that the reproduction-cost-now (undepreciated) is a proper and equitable value to be considered for rate-making purposes. The reasons advanced are, (1) that reproduction cost is the amount of money which would necessarily be expended by a utility in duplicating its plant, and (2) that, from a consumer's point of view, a well-operated utility is delivering 100% service and is hence in 100% condition, irrespective of actual deterioration of the physical plant. If there is justifiable ground for such an argument, it must be based upon real reason, and not upon a mere desire of the owners of a property to maintain its paper integrity. The advocates of the theory would hardly admit that any need of actually duplicating the property will ever arise, or, if such need were to arise, that the property would be duplicated in the same identical manner, despite modern efficiency and economy and despite scientific development in the art. The fact must be faced squarely that property does depreciate in value with age, with use, with changes in the art, and with increases in load. A very vital element in the value of equipment lies in the fact that it probably has ahead of it certain years of effectiveness in the operation for which it was intended. As this period of potential operation is increased or decreased, the value of the equipment as a portion of an operating property is correspondingly enhanced or diminished."

This Commission is familiar with the decision of the Idaho Supreme Court in Murray v. Public Utilities Commission, 150 Pac. 47, and with the theory there announced that there should be no theoretical accrued depreciation deducted from the reproduction cost of the physical property, but the court there states that actual depreciation should be deducted. Just what method an Engineer may use in arriving at the actual depreciated value of an electric property without considering theoretical depreciation is somewhat beyond our scope of vision. There has been much criticism of the theory of reproduction-cost-less depreciation as the sole test for determining the present fair value of a public utility. This Commission is unable to settle upon any one test which shall be the sole basis of arriving at a sum of money upon which the utility shall be permitted to earn a fair rate of return. That the theory of reproduction-less depreciation is today one of the important tests is quite certain; in fact the principal engineer for the Respondent took the reproduction-less depreciа-

tion theory as the correct test in arriving at the present fair value of the properties of the Respondent in this case. Following is a quotation from his testimony, found on page 142 of the record in this cause:

> Mr. Bennett: Mr. Rice, as I understood it, you testified that the total valuation, in your judgment, should be $2,902.210.00. I wish you would state of what that item consists, how you make that up - taking the totals.
> Mr. Rice: I understand you want the segregation of the totals making up that amount.
> Mr. Bennett: Yes, sir.
> Mr. Rice: To begin with, the depreciated value of the property, as shown in the Rankin report, is $2,023,708.00. Eliminate Woodmen's line, $5,158. Add for omitted property $18,660.00. Rights of way $10,000; preliminary organization expense $125,000. Value Empire property $130,000. Value of hydro-electric $200,000. Going value $400,000."

Reproduction-less depreciation was one of the important tests adopted by this Commission in its order in this case and there was no difficulty in finding high authority to sustain its position.

> "The values testified to by him (a witness called on behalf of the Company) were adopted by the master in the great majority of cases. The witness' valuation of the tangible property was somewhat reduced by the master, but the reductions were not based upon the theory of depreciation, but upon a difference of opinion as to the reproduction cost.
> The cost of reproduction is not always a fair measure of the present value of a plant which has been in use for many years. The items composing the plant depreciate in value from year to year in a varying degree. Some pieces of property, like real estate for instance, depreciate not at all, and sometimes, on the other hand, appreciate in value. But the reservoirs, the mains, the service pipes, structures upon real estate, standpipes, pumps, boilers, meters, tools and appliances of every kind begin to depreciate with more or less rapidity from the moment of their first use. It is not easy to fix at any given time the amount of depreciation of a plant whose component parts are of different ages, with different expections of life. But it is clear that some substantial allowance for depreciation ought to have been made in this case."
> Knoxville v. Knoxville W. Co; 212 U.S., 378 (53 L.Ed.)

Mr. Justice Hughes, in delivering the opinion of the Court in the case of Simpson v. Shepard, 230 U.S.Sup.Ct., (57 L.Ed.), 1564, said:

> "The master allowed the cost of reproduction new without deduction for depreciation. It was not denied that there was depreciation in fact. As the master said, 'everything on or above the roadbed depreciates from wear and weather stress. The life of a tie is from eight to ten years only. Structures become antiquated, inadequate, and more or less di-

> lapidated. Ballast requires renewal, tools and machinery wear out, cars, locomotives, and equitment, as time goes on, are worn out or discarded for newer types.' * * * * It was said that -"a large part of the depreciation is taken care of by constand repairs, renewals, additions and replacements, a sufficient sum being annually set aside and devoted to this purpose, so that this, with the application of the roadbed and adaptation to the needs of the country and of the public served, together with working capital -- fully offsets all depreciation and renders the physical properties of the road not less valuable than their reproduction new'. And in a further statement upon the point, the 'knowledge derived from experience' and 'readines to serve' were mentioned as additional offsets. We cannot approve this disposition of the matter of depreciation. * * * * It is also to be noted that the depreciation in question is not that which has been overcome by repairs and replacements, but it is the actual existing depreciation in the plant as compared with the new one. It would seem to be inevitable that in many parts of the plant there should be such depreciation, as, for example, in old structures and equipment remaining on hand. And when an estimate of value is made on the basis of reproduction new the extent of existing depreciation should be shown and deducted. * * * * And when particular physical items are estimated as worth as so much now, if in fact they be depreciated, this amount should be found and allowed for. If this is not done the physical valuation is manifestly incomplete."

It is also contended that the Commission disregarded the evidence of its Statistician in regard to the book value of the Company. The Statistician testified that on June 30, 1910, the book value of the property taken over by the consolidation of the three companies forming the Respondent company was $4,666,968.25, and on June 30, 1915, the book value of the Respondent Company's property was $4,887,183.77. He also testified that approximately $1,000,000.00 of this amount was quite apparent, from the records, as being intangible values or watered stock. As the property of the previous companies was acquired through bonds and stocks and the retirement of some underlying bonds, the discount upon which, and the value of which stock, is not shown, but carried at par value on the book accounts, the book value might be further reduced. A further estimate of deduction from book value should be made for property purchased from the previous companies, which has since been abandoned and not used or useful in the operation of the Respondent company, and there was no evidence to show any depreciation deductions on the purchased property. It was only after a careful and diligent search that Statistician

Herbert was able to obtain information as to values from old records of the company prior to June 30, 1910, and it has been impossible to determine, from the incomplete records found, what amount of the remaining book value of the property purchased was properly chargeable to construction cost rather than to operating expenses. From the records of book value gathered by Mr. Herbert, it is impossible to ascertain whether other expenditures constituting a part of the balance of the tangible book value in this cause would be merely a guess and of very little account.

In the case of Simpson vs. Shepard, supra, at page 1564, Mr. Justice Hughes says:

> "It is clear in ascertaining the present value we are not limited to the consideration of the amount of the actual investment. If that has been reckless or improvident, losses may be sustained which the community does not underwrite."

It is clear from the records of the Company, disclosed to Mr. Herbert, that the Commission was unable to ascertain with any degree of certainty what proportion of this alleged book value should be considered in arriving at the present fair value of the properties of the Respondent Company.

WORKING CAPITAL, OVERHEAD EXPENDITURES SURPLUS AND CONTINGENCIES.

Careful attention has been given to the criticism of the Respondent to allowances made for Working Capital and Overhead Expenditures, and such a slight difference in the ultimate results is found that it is deemed unnecessary to discuss these objections. The Commission's allowance for Working Capital and Overhead Expenditure appear to be approximately correct.

It is now claimed by the Respondent that this Commission should include in its findings an allowance of 2 per cent upon the present fair value of these properties to be set aside annually to protect the Respondent against extraordinary accidents of the future. This theory is not acceptable to the Commission. The same contention was made in the case of City of Belleville v. St. Claire County Gas & Electric Company, supra, in which the

following statement was made by the Commission:

> "In view of certain facts in the case, viz: (1) that losses sustained in accidents of the nature just described may be guarded against by a suitable insurance, (2) that the respondent is now paying into the fund of its parent holding company an annual percentage which is supposed to cover casualties of the dependent companies, (3) that, during the years covered by the Commission's investigation, these casualties have occured and have been met by emergency expendutures which seem to have found ultimate distribution in the respondent's operating accounts, and (4) that it seems unadvisable for a regulatory body to make advance allowance for remotely possible accidents -- The Commission finds it difficult to concede an allowance of 2 per cent to cover possible calamities of the future. The stockholders' risk of maintaining an electric utility property against exceptional and unusual accidents of the nature just described is one of the items which generally entitle the entrepreneur to a greater rate of return than is represented by a nominal interest such as accrues from an investment in "gilt edge" bonds."

MANAGEMENT.

The Respondent pays into the treasury of the holding company 2 per cent of its gross sales to cover general supervision expense. In the opinion of this Commission a regulatory body would indeed be unwise in prohibiting this operating company from paying annually into the treasury of a holding company, a sum of money equalling 2 per cent of the gross sales to cover general supervision expense. This Commission is acting in a dual capacity in the regulation of rates of public utilities; it must protect the public in the charges for the service, as well as in the adequacy of the service, and at the same time it must protect the utility and its stockholders. Losses due to poor management must be borne by stockholders, as this is the penalty of inefficiency; therefore, the importance of discouraging poor management and encouraging good management is fully realized. The management of the Respondent in many respects has been excellent, a considerable reduction in the cost of operation having resulted under the local management of Mr. J.F. Dostal.

Mr. Dostal has made showing to this Commission that the pay roll of the Respondent has been decreased about 18 per cent since 1911, while, at the same time, the wage schedule has been

increased in many departments. In the year 1911 a superintendent and an engineer for the Manitou Division were dispensed with, thus saving $250.00 a month without impairing the service. In the year 1911 two men were trimming arc lamps, while today one man does this work by the use of a bicycle. Where formerly, in the testing of electric meters, it was found necessary to use a horse and wagon to carry the instruments and necessary apparatus, lighter and more compact sets of equipment have been purchased, and the meterman now carriers his equipment on a bicycle , thus being enabled to do twice as much work as formerly. In the outlying districts a horse and buggy was formerly used by the meter readers, whose work consumed from three to five days each month; now this work is done in two days by the use of a motorcycle. In many other ways economics have been effected and improvements made in the several departments of the Company.

It is and shall be the position of this Commission to condemn wasteful cost in operation of public utilities, to the extent that excessive cost of operation will not be countenanced in rate cases, and at the same time, efficient management will be encouraged in every manner possible. In this case, in the schedule of rates set forth in our order of December 15, 1915, as well as the amended schedule made a part of this order, due consideration has been given to the effect of the economical management of the Respondent company. The showing of the gas and steam departments of the Respondent are unsatisfactory, and the Commission is at a loss to account for the showing on the gas property. It appears that the Respondent would be in much better position had it refused to enter the field of manufacturing steam heat.

JURISDICTION OF COMMISSION.

The Attorney General of the State of Colorado has advised this body that corporations not specifically designated as public utilities in the Public Utilities Law of the State of Colorado, with the exception of those persons or corporations heretofore by law declared to be public utilities, are not sub-

ject to regulation under the powers given this Commission in the Colorado laws pertaining to public utilities.

Steam heating appears to have been withheld from the jurisdiction of the Commission, and for this reason, it is without power to adjust the rates of the steam heating department of the Respondent.

COMMISSION'S SCHEDULE OF RATES.

The Respondent, in its application for a rehearing of this cause, sets forth an elaborate statement in regard to the rate schedule for the sale of electricity adopted in the order of December 15, 1915. This Commission is convinced that there is merit in these contentions of the Respondent, and, although the Commission endeavored to follow the original plan of rate schedule of the Respondent, at this time the order made on December 15, 1915, will be modified by the substitution of a new schedule of reasonable rates and charges for the sale of electricity, as prepared by the Engineering Department of this Commission.

PREPARATION OF RESPONDENT FOR HEARING.

Respondent objects to the time extended to it by the Commission for the compilation of data necessary for its information and intelligence prior to the rendering of a fair and just decision. It is the opinion of the Commission that the Respondent had sufficient time in which to prepare its case, and no reason can be seen for granting a rehearing because of this objection.

The order in this case entered by the Commission on December 15, 1915, and the modified ordered entered December 29, 1915, will be modified to the extent that the Respondent's schedule of rates for the sale of electricity and the rules and regulations surrounding the same shall be amended to comply with the schedule of reasonable rates and charges for electricity and the rules and regulations surrounding the same, as hereinafter set forth, and that the order of this Commission

shall be in force and effect for a period of one year beginning March 1, 1916, and until modified or amended by an order of this Commission; provided, that on February 28, 1917, or within ten days thereafter, the Respondent shall again appear before the Commission and make a sufficient showing of its operating expenses and earnings for the year ending February 28, 1917, together with such additional evidence as it may desire to introduce to the end that the Commission may further adjust its schedules of rates and charges for gas and electricity in accordance with the showing then made by the Respondent and the witnesses for the Commission, if such adjustment is deemed necessary or advisable.

O R D E R

IT IS THEREFORE ORDERED, That the application for a rehearing of this cause is hereby denied.

IT IS FURTHER ORDERED, That the order of this Commission in this cause, entered December 15, 1915, and the modified order, entered December 29, 1915, shall be modified and amended to the extent hereinafter set forth:

(1) The Respondent shall set aside annually a depreciation reserve to be expended in accordance with the rules and regulations of this Commission in the following sums:

Hydro and electric property	$50,000.00
Gas property	20,000.00

(3) The order of this Commission in this cause, entered December 15, 1915, and the modified order, entered December 29, 1915, as here modified and amended, shall be in force and effect for a period of one year beginning March 1, 1916, or until modified or amended by an order of this Commission; Providied, that on February 28, 1917, or within ten days thereafter, the Respondent may again appear before the Commission at its Hearing Room in the City and County of Denver, State of Colorado, and there make a sufficient showing of its operating expenses and earnings for the year ending February 28, 1917, together with such additional evidence as it may de-

sire to introduce, to the end that this Commission may further adjust its schedule of rates and charges for gas and electricity in accordance with the showing then made by the Respondent and the witnesses for the Commission, if such adjustment is deemed necessary or advisable.

(3) The Respondent shall adopt the following schedule of reasonable rates and charges for the sale of electricity, together with the rules and regulations surrounding the same, which shall be in force and effect for a period of one year beginning March 1, 1916, or until modified or amended by an order of this Commission:

Schedule A:

MUNICIPAL STREET LIGHTING

Rate, All Night Schedule-

7.5 ampere series A.C. arcs	$66.00 per year
80 c.p. series Mazdas	24.00 per year
Police alley lamps, 80 c.p.	24.00 per year
150 watt series Mazdas	45.00 per year

80 c.p. series Mazdas, burning from dusk to midnight during the summer season, $2.00 per month for the season.

Ornamental street lighting, 3 cents net per kilowatt hour.

Terms and Conditions: The company will, except in the case of ornamental street lighting, furnish all lamps, wires, and other equipment required in rendering municipal street lighting service, and will maintain and operate the same.

Bills are to be paid in equal monthly installments at the end of each month. Existing rates tentatively approved, subject to further investigation at the discretion of the Commission.

Schedule B:

COMMERCIAL LIGHTING SERVICE

Available to all Commercial Lighting Users.

Rate: 8½ cents net, or 9½ cents gross, per kilowatt hour, for the first 60 hours' average use per month of the maximum demand.

5 cents net, per kilowatt hour, for the next 60 hours' average use per month, of the maximum demand.

3 cents net, per kilowatt hour, for all current consumed in excess of 120 hours' average monthly use of the maximum demand.

Determination of Maximum Demand:

The total installation is to be determined by an actual inspection upon the premises, but no maximum demand is

to be figured as less than 500 watts.

The maximum demand shall be figured as 90% of the total installation. Heating devices, fans and small utility motors not exceeding 1/4 horse-power in size, shall not be included in determining maximum demand; provided, that in case of laundries, tailor shops, etc., making a large use of these utility devices, same shall be included in determining the maximum demand.

Prompt Payment Discount:
Bills will be rendered at the gross rate for the first 60 hours' use, and discounted to the net rate if paid within the 10 day discount period, as indicated on the bill.

Guarantee:
The consumer must guarantee a minimum monthly charge of $1.50 net per kilowatt connected, and, in no event, less than $1.50.

Schedule C:

LARGE LIGHT AND POWER SERVICE.

Available to all consumers using the company's standard service for light and power.

Rate - Demand Charge:
$4.00 net or $4.50 gross per kilowatt, for the first 10 kilowatts of maximum demand each month.

$3.00 net per kilowatt for the next 15 kilowatts of maximum demand each month.

$2.00 net per kilowatt for the next 25 kilowatts of maximum demand each month.

$1.00 net per kilowatt of maximum demand in excess of the first 50 kilowatts of maximum demand each month.

Energy Charge:
9/10 cent per kilowatt hour.

Determination of Demand:
The demand to be considered and paid for hereunder shall be the highest 15 minute Peak previously recorded by demand meter, or as indicated by a suitable indicating instrument, but in no event, less than the guaranteed demand of 10 kilowatts.
The company may, at its option, in lieu of a demand meter or a tested demand, base the demand hereunder on 75% of the total installation in motors and lighting equipment. In the case of extraordinary or abnormal demands, the company may, at its option, not consider such abnormal demands.

Power Factor:
The consumer shall at all times take and use power in such a manner that the power factor shall be as near 100% as possible, but when the actual power factor is 80%, or less, the demand to be charged and paid for shall be obtained by multiplying the demand at the time of measurement by 80, and dividing this product by the actual power factor.

Prompt Payment Discount:
Bills will be rendered at the gross rate for the first 10 kilowatts of maximum demand and discounted to the net rate if paid within the 10 day discount period as indicated on bill.

Guarantee:
The monthly guarantee shall be equivalent to a minimum monthly demand of not less than 40% of the total connected load, and in no event less than the guaranteed 10 kilowatts of the demand charge as above.

Direct Current:
If direct current is furnished hereunder, the energy charge shall be 1-1/10 cents per kilowatt hour net.

Schedule D:

RESIDENCE LIGHTING SERVICE.

Available to all Residence Lighting Consumers.

Rate: 8½ cents net, or 9½ cents gross, per kilowatt hour, for all current consumed during the month.

Prompt Payment Discount:
Bills will be rendered at the gross rate and discounted to the net rate if paid within the 10 day discount period as indicated on the bill.

Guarantee:
The consumer guarantees a minimum monthly bill of $1.00 net or $1.10 gross.

Schedule E:

GENERAL POWER SERVICE-ALTERNATING CURRENT.

Available to all Alternating Current power consumers:

Rate: 6.66 cents per kilowatt hour for the first 30 kilowatt hours consumed per month per horse power of demand.

3 cents per kilowatt hour for the next 60 kilowatt hours used per month per horse power of demand.

1 cent per kilowatt hour for all current consumed in excess of the above amount.

Determination of Maximum Demand:
The horse power demand will be considered as the manufacturer's rating of the motors as indicated in horse power on the name plate of each motor. For installations consisting of more than two motors, the horse power demand shall be considered as 75% of the horse power installed; Provided, that no demand shall be considered as being less than 2 horse power.

Prompt Payment Discount:
A discount of 10% or 66/100 of 1 cent per kilowatt hour on the consumption billed at the 6.66 cent rate will be allowed on monthly bills if paid within the 10 day discount period as indicated on same.

Guarantee:
The consumer guarantees a minimum monthly charge of 75 cents net, or $1.00 gross, per horse power or fraction thereof, connected. In no event will an installation be considered as less than two horse power. The mimimum bill will be rendered in gross and discounted to the net amount if paid within the discount period. For installations consisting of more than two motors the minimum bill shall be based on 75% of the connected horse power.

Schedule E-1:

DIRECT CURRENT POWER SERVICE.

Rate: 7 cents per kilowatt hour for the first 30 kilowatt hours used per month per horse power of demand.

3 cents per kilowatt hour for the next 60 hours used per month per horse power of demand.

1 cent per kilowatt hour for all current consumed in excess of the above amount.

The horse power demand shall be determined in the same manner as for General Power Service.

A discount of 10% on the consumption billed at the 7 cent rate will be allowed on monthly bills paid within the discount period.

The minimum charge for this class of service shall be determined in the same manner as for General Power Service.

The Company reserves the right to discontinue direct current service at any time upon the approval and consent of The Public Utilities Commission of the State of Colorado.

Schedule E-2:

OFF PEAK POWER SERVICE.

Available to Refrigerating consumers, and to General Power Consumers who will install and maintain a Time Switch approved by the Company, to control the use of the service.

The rates applicable to this class of service shall be the same as the regular power rates, except that a discount of 30% shall be allowed on the first 30 kilowatt hours used per month per horse power of demand.

The other charges, minimum bill, and all other terms and conditions shall be the same for this class of service as for General Power Service.

Schedule F:

SIGN AND DISPLAY LIGHTING

Rate: 80 cents per month per 100 watts connected, burning from dusk to 11:00 p.m.
$1.30 per month per 100 watts connected, burning all night.

Prompt Payment Discount:
A discount of 10% will be allowed on all bills paid within the 10 day discount period as indicated on same.

Guarantee:
The minimum monthly bill for this class of service shall be $1.00 net.

The Company will give free renewals of all carbon lamps, and tungsten lamps in 25 watt sizes and above.

Schedule G:

MILL POWER.

Rate: $1.25 per month per kilowatt of maximum demand, plus an

Energy Charge, of: 5/10 cent per kilowatt hour for all energy used.

Minimum Charge:
The consumer must guarantee a minimum "maximum demand" charge of $1,250.00 per month.

Terms of Contract:
Five years, and thereafter until 30 days after the receipt by the Company of a written notice from the consumer to discontinue the service.

Schedule H:

REDUCTION MILLS.

Rate: 95/100 cents net per kilowatt hour for all current consumed for light and power:

Minimum Charge: None. Available only to consumers who will guarantee an annual load factor of 80% or higher.

Terms of Contract:
Five years, and thereafter until 30 days after receipt of written notice by the Company from the consumer to discontinue the service.

Schedule I;

LARGE HOTELS - LIGHT AND POWER SERVICE

Rate: 2-1/10 cents per kilowatt hour for the first 4,500 kilowatt hours consumer per month.

1-3/4 cents per kilowatt hour for all energy consumed in excess of the above amount.

Terms and Conditions:
Available to all hotels having a monthly consumption in excess of 4,500 kilowatt hours.

High rate portion of bill subject to a discount of 1/10 cent per kilowatt hour for prompt payment.

CHANGES IN RULES AND REGULATIONS.

A connection charge of $3.00 per meter to be made for all installations connected for a period of four months or less. Officials and employes of the Company to pay regular rates. All rates to be equally applicable to Colorado Springs, Manitou and suburbs.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(S E A L)

S. S. KENDALL,
GEO. T. BRADLEY,
M.H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado,
this 29th day of February,
1 9 1 6.

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 class and commodity rates, as charge by The Denver & Rio Grande Railroad Company, between points in the San Luis Valley; also between points in the San Luis Valley and points on the Denver & Rio Grande Railroad in the State of Colorado where the transportation is wholly within the State of Colorado.	)	March 4, 1916 CASE NO.49.

NOTICE OF HEARING.

To the above,
THE DENVER & RIO GRANDE RAILROAD COMPANY:

You are hereby notified that numerous complaints have been made to this Commission as to the unreasonableness of the rates and charges, and rules, regulations and practices connected therewith, as set forth above, and that on February 1st, 1916, the Board of County Commissioners of Alamosa County, and on February 10th, 1916, the Board of County Commissioners of Costilla County, by resolutions, requested this Commission to investigate into the reasonableness of the local class and commodity rates, and the rules, regulations and practices in connection therewith, between points in the San Luis Valley, and also between points in the San Luis Valley and points on the Denver & Rio Grande Railroad in the State of Colorado.

You are further notified that such investigation and hearing will convene in the office of the Commission, in the Capitol Building in the City and County of Denver, in the State of Colorado, at the hour of 10 o'clock a.m., on the 2d day of May, 1916. 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.

Dated at Denver, Colorado, By

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 class and commodity rates, as charged by The Denver & Rio Grande Railroad Company, between points in the San Luis Valley; also between points in the San Luis Valley and points on the Denver & Rio Grande Railroad in the State of Colorado where the transportation is wholly within the State of Colorado.	)	March 4, 1916 CASE NO. 49.

INVESTIGATION ON MOTION OF THE COMMISSION.

IT IS HEREBY ORDERED, That the Commission, on its own motion, institute an investigation as to the reasonableness of the local class and commodity rates, and the rules, regulations and practices in connection therewith, between points in the San Luis Valley, designated as Creede, Antonito, La Veta and Villa Grove and all points intermediate therewith; also between points in the San Luis Valley and points on the Denver & Rio Grande Railroad in the State of Colorado where the transportation is wholly within the State of Colorado, as are now in effect and being charged and collected by The Denver & Rio Grande Railroad Company, as shown by tariffs on file with the Commission; that the 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 2d day of May, A.D. 1916, at the hour of 10 o'clock a.m., before the Commissioners en banc, to make such showing in 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 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, to take such part in said hearing as the said defendant may desire, and make such showing as shall appear necessary to the 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 4th day of March, 1916.

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 removing the telephone exchange of The Mountain States Telephone & Telegraph Company at Pierce, Colorado, to Ault, Colorado, thereby affecting a consolidation of the two exchanges of The Mountain States Telephone & Telegraph Company; said investigation to cover all issues pertaining to the removal of said Pierce exchange.

March 8, 1916

Case No. 50

NOTICE OF HEARING.

To the above:
The Mountain States Telephone & Telegraph Company,
a corporation.

You are hereby notified that on the 8th day of March, 1916, the Commission received a petition signed by citizens of Ault, Colorado, and farmers residing within the boundaries of what is known as the "Pierce Telephone District" of The Mountain States Telephone & Telegraph Company, praying for an order of this Commission ordering you, the said The Mountain States Telephone & Telegraph Company, to remove your telephone exchange at Pierce, Colorado, to Ault, Colorado, thereby consolidating the Pierce and Ault telephone exchanges, so that certain prospective subscribers may receive your telephone service and to the end that the existing telephone service in the territory of Pierce and Ault may become adequate; that, on the 8th day of March, 1916, the Commission received a petition signed by the Pierce Commercial Club, objecting to the removal of your telephone exchange at Pierce, Colorado, to Ault, Colorado, and requesting this Commission to investigate fully the needs of the communities affected and the merits of the petition heretofore filed with the Commission by the citizens of Ault and farmers residing in the "Pierce Telephone District"; that this Commission has decided to investigate into the above matters upon its own motion.

You are further notified that such investigation and hearing will be at the Hearing Room of the Commission, in the

Capitol Building in the City and County of Denver, State of Colorado, at the hour of 10 o'clock a.m., on the 22nd day of March, 1916.

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

George F. Allen
Secretary

Dated at Denver, Colorado,
this 8th day of March, 1916.

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 removing the telephone exchange of The Mountain States Telephone & Telegraph Company at Pierce, Colorado, to Ault, Colorado, thereby affecting a consolidation of the two exchanges of The Mountain States Telephone & Telegraph Company; said investigation to cover all issues pertaining to the removal of said Pierce exchange.	Case No. 50

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 ordering The Mountain States Telephone & Telegraph Company to remove its telephone exchange located at Pierce, Colorado, to Ault, Colorado, thereby consolidating the two exchanges at Ault; and The Mountain States Telephone & Telegraph Company is hereby ordered to appear at the Hearing Room of this Commission, in the State Capitol Building in the City and County of Denver, State of Colorado, on the 22nd day of March, 1916, at the hour of 10 o'clock a.m., before the Commissioners en banc, to make such showing in the above cause as the said Telephone Company may deem necessary.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is hereby, directed to serve upon the above named Telephone Company a certified copy of this order, accompanied by a notice directing the said Telephone Company to appear at the time and place above specified, to take such part in said hearing as the said Telephone Company and the Public Utilities Commission of the State of Colorado may desire.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is hereby, directed to serve upon

G.S.Hubert, Secretary of the Pierce Commercial Club, and one or more of the petitioners from the "Ault and Pierce Telephone Districts", certified copies of this order, accompanied by notices setting forth the time and place of the hearing of this cause, at which time any or all of said petitioners may be heard by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley

W. H. Aylesworth

Commissioners

Dated at Denver, Colorado,
this 8th day of March, 1916.

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 Cripple Creek Water Company, a corporation, and into the adequacy of the service of said Water Company, and the rules, regulations and practices affecting the same.) Case No. 31

Submitted February 24, 1916 Decided March 25, 1916.

Appearances:
J.E.and W.G.Simonson, for Respondent,
Frank J. Hangs, for Intervenor, The City of Cripple Creek, Colorado.

STATEMENT AND ORDER

On the 20th day of July, 1915, the City Council of the City of Cripple Creek, State of Colorado, passed a resolution requesting the Public Utilities Commission of the State of Colorado to investigate the rates and charges, and the rules, regulations and practices surrounding the same, of The Cripple Creek Water Company.

On the 13th day of August, 1915, the Commission issued an order instituting an investigation on the motion of the Commission into each and every rate or charge made by The Cripple Creek Water Company, and into the adequacy of the service, and the reasonableness of the rules, regulations and practices of the Company, and ordered the said The Cripple Creek Water Company to appear at the council chamber in the city hall in the City of Cripple Creek on the 5th day of October, 1915, at the hour of 10:00 o'clock a.m., to take such part in the investigation and hearing, and to make such showing upon its own behalf as it might desire or its interests might require.

On the 18th day of August, 1915, Mr. F. W. Herbert, the Statistician of the Commission, reported that The Cripple Creek Water Company kept no books at its Cripple Creek office, and that he had learned that the said books were kept at the general office of the Company at Bay City, Michigan. On the 20th day of August, 1915, the Commission issued an order to E.H.Smith, Superintendent and Manager of The Cripple Creek Water Company, at Cripple Creek, ordering the said E.H.Smith to produce within twenty days from the date of said order, for the inspection and investigation of this Commission, all books, accounts, papers, and records of The Cripple Creek Water Company, with surveys and profiles of of reservoirs and water supply, transmission and distribution systems, hydrants and valve locations, and to furnish additional data set forth in the Commission's order of August 20, 1915.

On the 13th day of September, 1915, The Cripple Creek Water Company filed with the Commission a petition for an extension of thirty days from and after October 5, 1915, in which to comply with the order of the Commission dated August 20, 1915; on the 14th day of September, 1915, this petition was denied by the Commission.

The hearing of the above cause convened at the City of Cripple Creek on the 15th day of October, 1915, at 9:00 o'clock a.m., at which time and place Mr. Herbert, statistician for the Commission, introduced into the record a written report setting forth the property and plant account of The Cripple Creek Water Company; the balance sheet of December 31, 1914, of said company; a statement of the assets and liabilities of the company, as of December 31, 1914; a summary of the annual report of The Cripple Creek Water Company, made December 31, 1914; a statement of the revenues and operating expenses of the Water Company for a period of fourteen years beginning with the year 1901 and closing with the year 1914; a statement of the profit and loss account of The Cripple Creek Water Company, and a

detailed income account of The Water Company from the year 1909 to and including the year 1914.

Mr. D. S. Hooker, the Commission's Civil Engineer, introduced into the record a written report in which was set forth in detail the cost of reproducing these properties of The Cripple Creek Water Company in use and useful. The City of Cripple Creek was permitted to intervene in the above cause and Messrs. W. D. Armstrong and A. M. McVicar, councilmen for the City of Cripple Creek, testified in behalf of the intervenor. Messrs. H. F. Smith, Lawrence Moran, Jas. F. Smith, E. H. Smith and C. P. Allen testified in behalf of The Cripple Creek Water Company.

Mr. C. P. Allen, Engineer for the Water Company, introduced into the record a written report containing his opinion of the cost of reproducing these properties of The Cripple Creek Water Company in use and useful. At the termination of the hearing time was allowed The Cripple Creek Water Company and the City of Cripple Creek to file briefs with the Commission.

Following is a condensed summary of the cost to reproduce the property owned by The Cripple Creek Water Company, as contained in the report of Mr. Hooker, Civil Engineer for the Commission:

CONDENSED SUMMARY OF VALUATION.
THE CRIPPLE CREEK WATER COMPANY

Classification:	Cost New	Scrap Value	Present Value
Land	$ 5321	$	$ 4972
Reservoirs	27767		21658
Main Supply Pipe Line	65928	7673	57129
Distribution System	135479	59625	120265
Miscel.Equipment	1771		1771
Water Rights	28000		28000
	$264266	$ 67298	$233795

Following is a statement of the overhead charges of The Cripple Creek Water Company, as allowed by Civil Engineer Hooker and included in his summary of valuation:

STATEMENT OF OVERHEAD CHARGES
THE CRIPPLE CREEK WATER COMPANY

Items:	Classification of Property			
	Land	Supply & Mains	Distribu-tion	Reservoirs
Inventory Omissions, & Contingencies,	0	2	2	1
Engineering	1	5	2	5
General Supervision,	0	2	2	½
Interest during Construction,	7	2	2	2
Legal,	2	½	½	½
Taxes and Insurance,	0	1	1	0
Totals,-	10	12½	9½	9

Following is a summary of the cost of reproduction of these properties of The Cripple Creek Water Company in use and useful, as estimated by C. P. Allen, the Water Company's Engineer.

Distribution system,	$167,344.27
Supply pipes,	75,780.82
Reservoirs,	60,555.00
Water Rights	72,200.00
Storage,	35,464.00
Real Estate,	2,280.00
Interest during construction, one year 8%, $389,742.10,	31,896.16
Legal Services and investigation,	17,642.00
Total,-	$463,152.26
Depreciation,	116,337.06
Present physical value,-	$346,815.20

Mr. Allen found the cost of development to be:-

Engineering Service,	7%
Contingent Expense,	6%
Contractors' profits,	20%
Interest during construction, interest on full cost of plant for one year at	8%

The following are extracts from the report of the Commission's Statistician, based upon figures secured from the

books of The Cripple Creek Water Company and The Michigan Pipe Company:

"Property and Plant a/c, The Cripple Creek Water Company,		
Cripple Creek Contract,	$63,783.62	
Pipe Line Extensions,	83,749.97	
Jones Contract,	3,404.01	$150,937.60
Water rights,		28,000.00
Real Estate:		
Wilber Land,	1,650.90	
Texas Placer,	504.35	2,155.25
Total Property and Plant		$181,092.85

The above shows actual book accounts of Property and Plant Account. These amounts are shown by schedules furnished in Exhibit A, being the amounts taken from the books of The Michigan Pipe Co., for material, etc., furnished in the construction of The Cripple Creek Water Company and transferred afterward to the records of the Water Company. In this Exhibit A is also a schedule which is an account of The Cripple Creek Water Company with The Michigan Pipe Company, amounting to $16,676.14, which I am informed by Mr.H.F.Smith should be included in the Plant Account of the Water Company, as it was paid out of the earnings of the Water Company and is a part of the items shown in the balance sheet in the account of The Michigan Pipe Company. As this does not appear in the book accounts of The Cripple Creek Water Company, I am unable to consider this amount in the Property and Plant A/C. I have examined the items in Exh.A and find that these items are all proper charges to Construction Account. I have not checked these accounts with the books of The Michigan Pipe Company, of which this is a copy, and the amount was charged in a lump sum on the books of the Water Company.

Statement of Revenues and Operating Expenses:

For year:	Assessment Roll	Hydrant Rental	Expenses
1901	$32,452.98	$7,220.00	$13,840.38
1902	31,704.18	8,495.00	12,300.04
1903	24,713.37	8,720.00	13,518.86
1904	27,361.24	8,720.00	9,815.37
1905	32,389.86	8,720.00	11,184.62
1906	29,739.45	8,720.00	10,028.13
1907	25,777.54	4,450.00	8,150.79
1908	28,205.58	4,405.00	9,333.12
1909	29,771.37	6,675.00	9,793.48
1910	28,032.70	17,625.00	6,418.43
1911	26,223.93	8,500.00	6,070.37
1912	25,481.40	6,700.00	6,797.85
1913	24,817.81	9,600.00	20,451.61
1914	22,040.76	3,550.00	16,085.02

The above is memoranda data of accounts as taken from the record book of The Cripple Creek Water Company. It represents actual entries on said records which are more fully explained in the statement of Detailed Income Account. This record covers a period from 1901 only, inasmuch as there are no records previous to that date. The items of hydrant rental are actual book records; adjustments of differences between the amount received and this account appears in Bills Receivable, as the Hydrant Rentals were paid by city warrants and in some cases entries were made when warrants were received and in some cases when warrants were paid. These amounts I am unable to check fully on account of the differences in way of crediting these amounts as the records are kept. These items should have been shown by journal entries, instead of direct ledger charges, and in some cases these warrants were used by The Michigan Pipe Company and H.B.Smith as collateral for bank loans.

The extraordinary increase in expense accounts shown in the years 1913 and 1914 is due to the charges of $3000.00 for manage-

$7546.38 charged to Depreciation in 1913, and $7243.71 charged to Depreciation in 1914. These charges were not made in previous years."

DETAILED INCOME ACCOUNT.

OPERATING REVENUE	1909		1910		1911		1912		1913		1914	
Assessment Roll	$29,771.37		$28,032.70		26,223.93		$25,481.40		$24,817.81		$22,040.76	
Hydrant Rental	6,675.00		17,625.00		8,500.00		6,700.00		9,600.00		3,550.00	
Miscellaneous					52.00							
Total Operating Revenue		$36,446.37		$45,657.70		$34,775.93		$32,181.40		$34,417.81		$25,590.76
OPERATING EXPENSE												
Operation									M3,000.00		M3,000.00	
Superintendence	1,999.93		1,999.95		2,000.00		2,000.00		2,000.00		2,000.00	
Office Expense	204.75		193.10		183.50		242.00		409.77		436.34	
General Expense	192.40		232.05		162.93		160.05		224.35		345.70	
Advertising	6.50		5.00		35.00		15.00		30.00		40.00	
Rebates	5.00		1.40						Ins. 13.60		(S. 60.00)	
Commission			70.25		141.50		205.85		185.00		168.55	
									(S. 40.00)			
Total Operation	2,408.58		2,501.75		2,522.93		2,622.90		5,902.72		6,050.59	
MAINTENANCE												
Labor	3,063.40		2,677.40		2,787.85		3,172.90		3,021.20		2,709.35	
Meters	1.00		13.26		18.10		175.85		200.25			
Reservoir	32.85		43.75		72.05		36.90		9.60		31.80	
Pipe Lines	387.30		278.47		227.15		513.00		604.15		284.48	
Hydrants	9.15		2.30		1.00							
Services	175.60		165.33		90.25		125.65		81.65		53.74	
Total Maintenance	3,669.30		3,180.51		3,196.40		4,024.30		3,916.85		3,079.37	
TOTAL ABOVE EXPENSE	6,077.88	6,077.88	5,682.26	5,682.26	5,719.33	5,719.33	6,647.20	6,647.20	9,819.57	9,819.57	9,129.96	9,129.96
Taxes	2,418.35	2,418.35	212.09	212.09	319.10	319.10	148.65	148.65	10,628.04	10,628.04	6,764.10	6,764.10
Depreciation										7,546.88		7,243.71
TOTAL OPERATING EXPENSE	8,496.23	8,496.23	5,894.35	5,894.35	6,038.43	6,038.43		6,795.85		27,994.49		23,137.77
Net Operating Revenue.		27,950.14		39,763.35		28,737.50		25,385.55		6,423.32		2,452.99
Non-Operating Revenue.		1,504.07		1,313.47		1,687.49		1,625.94		2,159.40		3,116.37
Gross Income		29,454.21		41,076.82		30,424.99		27,011.49		8,582.72		5,569.36
Interest on Floating Debt		1,297.25		524.08		31.94		2.00		43.67		190.96
Net INCOME		28,156.96		40,552.74		30,393.05		27,099.49		8,539.05		5,378.40

The Cripple Creek Water Company was incorporated on the 4th day of December, 1894, with capital stock of $100,000.00, divided into 4,000 shares of $25.00 each. The term of the charter of the corporation was twenty years, and the incorporators were Stephen B. Saleno, Eugene H. Smith and Henry Diedrich.

On the 13th day of February, 1915, the charter of the corporation was renewed, and the annual report filed with the Secretary of State on the same date contains, among other items, the following:

> "Eighth: The property of The Cripple Creek Water Company is in good condition, both real and personal. The deterioration of the supply and distributing pipe line amounts to a reasonable depreciation for wear and tear.
> The financial condition of the Company at the present time is good, there being no bonded or other indebtedness.
> M.H.Smith, Acting President,
> Henry B.Smith, Secretary".

On the 19th day of May, 1893, the City of Cripple Creek passed an ordinance granting to one S.V.Saleno, of Bay City, Michigan, a representative of the owners of the Michigan Pipe Company, who are also the owners of the Cripple Creek Water Company, a franchise for a period of twenty years, which was sub-transferred to The Cripple Creek Water Company. The franchise provided that the City of Cripple Creek should pay to The Cripple Creek Water Company an annual rental of $5,000.00, payable quarterly, for eighty double-discharge fire hydrants; that all fire hydrants ordered by the Board of Trustees in excess of eighty should be paid for at an annual rental of $60.00 each; and that four drinking fountains should be erected by the company for public use, in return for which the company should be exempt from municipal taxes. The franchise further provided that the fire hydrants should be used only in case of fire and for the flushing of gutters and sewers, with a further proviso that the city should be entitled to take therefrom free water for the sprinkling of streets. A schedule of rates was included in the franchise, and provision made that the water works should be completed by November 1st, 1893.

It appears that a period of four months was consumed in the construction of The Cripple Creek Water Company plant, and that the corporation began actual operation in the year 1894. The books of the corporation never have been kept in the city of Cripple Creek, but were made a part of the books

of The Michigan Pipe Company at Bay City, Michigan. It therefore became necessary for the Commission to order The Cripple Creek Water Company to produce its books for examination within the State of Colorado.

The franchise granted the Water Company by the City of Cripple Creek expired May 19, 1913. Since that time the Water Company has operated in the City of Cripple Creek without a franchise, there having been a disagreement between the City and the Water Company as to the rates and charges, and the rules, regulations and practices surrounding the same, of The Cripple Creek Water Company; and it appears from the resolution passed by the City Council of Cripple Creek requesting the Commission to investigate into the rates and charges of the Water Company, and the rules, regulations and practices surrounding the same, that it is the desire of the City to first have the Commission determine reasonable rates and charges which The Cripple Creek Water Company should charge the City of Cripple Creek and its citizens before entering into a franchise contract with the Water Company, although it heretofore has been decided by the Commission that rates and charges, and rules, regulations and practices surrounding the same, set forth in a franchise contract, may be altered, modified, and readjusted by the Commission during the period of said franchise contract.

The Water Company, through its Engineer, Mr. Allen, introduced into the record an estimate of the cost of reproducing its property in use and useful, setting forth the cost new and also the present fair value of the properties. The fair present value of the properties of The Cripple Creek Water Company in use and useful has been estimated by the Witness Allen, under the reproduction method, to be $346,815.20. This value exceeds by $113,020.00 the present fair value of the properties as found by the Commission's Engineer. While the Commission does not doubt the sincerity of the Witness Allen, it finds the sum of $346,815.20, estimated by him to be the cost of reproducing the properties of the Water Company in use and useful, less

accrued depreciation, to be highly excessive.

In his estimate of the reproduction cost of the properties of the Water Company in use and useful, Engineer Allen has allowed 7 per cent. for engineering services, but, while the Commission realizes that 7 per cent. for engineering services may not be excessive in estimating the reproduction cost of the properties of the company, under this method of estimating value, it must insist that the percentage be applied only to that part of the properties of the company which necessarily requires engineering supervision, and it finds in the Allen report an application of the 7 per cent. engineering service to properties of the company in which no engineering service is required. In previous cases, the Commission has permitted 10 per cent. for contractors' profits under the reproduction method of valuing property, but the allowance of this percentage is contingent upon the fact that the same be applied only to such properties as require a contractor. Engineer Allen not only has allowed 20 per cent. for contractors' profits, but has applied the same to properties purchased without the aid of a contractor, such as stores and supplies, meters, etc. He also has allowed $17,642.00 for legal services and investigation, an amount which the Commission holds is unreasonable.

The Witness Allen made an allowance "Interest during construction, 8% of $389,472.00, or $33,896.15". The allowance made by the Commission's Engineer for interest during construction does not exceed $4,000, and the Commission is of the opinion that this allowance is a liberal one.

It becomes apparent, therefore, that the report introduced into the record in the above cause by Engineer Allen has been of no real value to the Commission in arriving at the present fair value of the property of The Cripple Creek Water Company.

REPORT OF THE COMMISSION'S ENGINEER.

The Commission's Engineer, in arriving at the present fair value of the properties of The Cripple Creek Water Company

in use and useful, adopted the reproduction method and found the cost of reproducing the properties new; also the present fair value of the properties by deducting accrued depreciation. In arriving at the present fair value of the properties, Mr. Hooker has allowed $28,000.00 for water rights, which sum appears actually to have been expended by the Company. All other allowances made by the Commission's Engineer were in accordance with the method of finding the cost of the reproduction of the properties, including current prices for material and labor.

The Commission is of the opinion that, while the reproduction method of valuing property is an important factor in valuations by State regulatory bodies, the Commission as a general rule is unable to follow or adopt the reproduction theory in the strictest sense of its meaning. While it is true that an engineer, in arriving at the present fair value of a public utility property by the method of reproducing the property new as of the date of the valuation, arrives at the present fair value of the property by deducting accrued depreciation, yet this theory cannot be followed to the extent that prices of material and the cost of labor should be taken as of the date of the valuation, but, in all fairness, should be averaged for a period of years, - the reason for this conclusion being quite apparent.

The Commission's Engineer finds that the present fair value of the properties of The Cripple Creek Water Company in use and useful is $233,795.00.

ORIGINAL COST.

Pursuant to an order of the Commission, The Cripple Creek Water Company produced its books for inspection by the Commission's statistician, and from an examination of the report of Mr. Herbert, the Commission has been able to find the original cost of the properties of The Cripple Creek WaterCompany. It certainly is true that actual and reproduction cost may well be taken as checks upon each other. This Commission is aware that, in a large majority of the cases presented to it, actual or original cost cannot be ascertained with any de-

gree of certainty. The reasons for this conclusion are so evident as to need no elaboration. By original cost, in the case of physical properties, is meant the actual cost new of properties in use, while in arriving at the reproduction cost the Commission endeavors to ascertain the present day cost of replacing existing property. In both cases, depreciation, or the estimated decline in units of service, from wear, obsolescence, inadequacy or any other causes, is equally to be considered and estimates necessarily must be used in both lines of investigation. In this case the Commission has been able to ascertain the actual cost of the properties of the Water Company, this being shown in its books and other records.

In the cases heretofore presented to this Commission, it has been impossible to ascertain the true original cost to date, or the cost of the existing property, as few accounts would bear the test of a careful examination for the purpose of arriving at original cost. Frequently there has been confusion between the cost of renewals and repairs and maintenance, and usually many of the older records were out of existence. This case presents one of the rare instances in which the Commission has been able to ascertain the actual cost of the properties of the utility in use and useful. In this case it has been possible to ascertain clearly the detailed cost of these properties, and by applying the rule that where original cost may be obtained accurately, the question of whether or not the investment was made honestly, wisely and prudently, must be considered also, the Commission has arrived at the conclusion that the important test in this case is the original cost to date of the properties of The Cripple Creek Water Company, provided the same was honestly, wisely and prudently made, and that the valuations made by the engineers of the Water Company and the Commission should receive small consideration at its hands.

From an examination of the report of the Commission's statistician, and from the undisputed evidence in the record, as well as from the admissions on the brief of counsel for The

Cripple Creek Water Company, it is found that the original cost new to date of the properties of the Water Company, is $197,768.99; provided, that the Commission should add to this amount the sum of $4,700.00 to include the salaries of H. F. Smith, Henry Diedrich and S. V. Saleno for services during the construction of the system. At the time of the construction of the properties of The Cripple Creek Water Company, these men were employed by The Michigan Pipe Company, and were sent to Colorado by that company to supervise the construction of the work in this State. To this amount should be added also, certain overhead charges not included in the books of the Company. Thereupon, by adopting the method of depreciation, as used by the Commission's engineer, by making fair allowance for working capital, in accordance with the methods heretofore adopted by this Commission, and by considering the properties of The Cripple Creek Water Company as a going concern, the Commission arrives at the present fair values of the properties of The Cripple Creek Water Company.

WATER RIGHTS.

It appears from the evidence in this case that Henry B. Smith, on the 13th day of February, 1893, purchased Priorities Nos. 7, 67, 151 and 298, Water District No.12, in Fremont County, Colorado, totalling 1.33 cubic feet of water per second of time, from the Fremont Ditch, Pipe Line & Water Company, and subsequently conveyed the same to The Cripple Creek Water Company. These appear to be the only water rights owned by The Cripple Creek Water Company up until the year 1901, although the Company was delivering water to the municipality of Cripple Creek and its citizens for a period of eight years prior to this date.

Subsequently the Water Company purchased four separate priorities to the use of water taken from Beaver Creek, totaling 5.89 cubic feet per second of time. The amount paid for these rights, as shown by the record, was $28,000.00.

Although no evidence was introduced as to the necessity

is fairly inferable from the record that these purchases were dictated by the then existing demands upon the Company and the reasonable anticipated demands of the future, and upon this basis it may be assumed, in the absence of definite contravening testimony, that the investment in question was not unwisely made.

Some opinion evidence was presented with respect to the so-called "market value" of these water rights by reference to values which the rights might possess if it were possible to transfer the diversion points thereof and supply a distant community with this water supply, but it is the opinion of this Commission that the evidence in that respect is not sufficiently definite in character to warrant fixing the said value at other than the actual cost of such supply.

Upon the presumption that the purchase was not unwisely made, the Commission reaches the common-sense inference that the actual value was the amount of the purchase price in this case.

The Commission has given careful consideration to the question of whether the basic title to the water rights in question is vested in the company, or in the consumers of water, as a body, supplied by the Company's system. On the one hand it is argued, on the authority of Farmers' High Line v. Southworth, 15 Colo., 111, and Wheeler v. Irrigation Co., 10 Colo., 582, that the basic right is in the water consumer, not in the carrier, and that the carrier's relationship to the consumer is that of agent, and permitting the consumer's appropriation to become vested in him. On the other hand, upon the basis of the decision in the San Joaquin, etc., Irrigation Co., v. Stanislaus County, 223 U.S., 464, and analagous cases, it is urged that the title is vested in the company and that the consumer bears the relationship to the carrier of mere licensee, and that this evidently is the situation, where, as in the pending case, the water right in question was bought outright from the original appropriator by the carrier company.

The Commission finds it unneccessary to determine this interesting and important question. Should the first stated

view be determined to be correct, it obviously is true that before the carrier company in the present case was in position to perform its agency duties it was necessary for it to expend money in the acquirement of rights already vested to the use of the waters of Beaver Creek, and, in the absence of a definite showing that the quantity acquired was excessive in amount or in price paid, it must be assumed, in arriving at the fair valuation of the Company's property, that the Company is entitled to include therein the purchase price of the water rights acquired. Under the second view - that an unlimited fee title to the water right acquired is vested in the company - it is clearly the duty of the Company to present definite evidence with respect to the market value of such rights. This it has not done.

It was urged in the hearing that the quantity of water purchased by the company was excessive in amount for the asserted reason that the pipe lines owned by the Company, and which afford the one means of transporting the water in question to the city, have a combined carrying capacity of 2.5 cubic feet per second of time, and that therefore no reason existed for the Company acquiring 7.22 cubic feet of water per second.

With respect to this contention, no definite testimony was adduced as to the seasonal low conditions of Beaver Creek, nor with respect to the rights of prior appropriators, if any, on Beaver Creek. That is to say, there is no evidence presented as to whether or not these 7.22 cubic feet of decreed water is available at all seasons of the year. Under these circumstances, the Commission feels that it must assume that there was a reasonable necessity for the Company to acquire an amount of water in excess of the discharge capacity of the Company's pipe lines. This assumption is applicable particularly in view of the fact that the Company owns two certain reservoirs, which apparently are used exclusively for the temporary impounding of the water to which the company, or the consumers, are entitled by virtue of the direct appropriation rights.

The testimony in this case, therefore, leads reasonably

to the conclusion that said reservoirs were acquired for the purpose of more efficient utilization of the direct diversion rights purphased by the Company, to the end that the water supply obtained might be equalized and rendered certain throughout the year.

In addition to the construction cost of said reservoirs, the Company, if its contention is understood, has laid claim to their capacity value, apparently upon the theory that if said reservoirs were not used for the purpose of temporarily impounding and more efficiently using the irrigation rights acquired, they could be used for the purpose of catching the flood and unappropriated waters of Beaver Creek during the storage season.

In the absence of any showing as to the existence of any unappropriated flood waters of Beaver Creek, the Commission cannot allow this claim, nor does the Commission feel that a theoretical availability in use of these reservoirs for a different purpose than that for which they are now utilized is properly for the consideration of the Commission in determining this case.

It is conceded that these reservoirs are valuable adjuncts in the utilization of the direct flow rights acquired, but the Commission considers that the Company, in being allowed the full value of such rights and the expense of construction for such reservoirs, has received all it is legally entitled to receive with respect to its water rights.

PIPE LINES.

In the year 1901 The Cripple Creek Water Company purchased a quantity of used pipe line material and constructed a 9-inch pipe line running parallel to the then existing 8-inch pipe line from its mountain reservoirs to a reservoir known as the "City Reservoir", located at Cripple Creek, which is of sufficient capacity to provide adequate fire protection and continuity of service.

for the construction of this additional pipe line. In 1901 the City of Cripple Creek was not growing; in fact, the population had begun to diminish. The Commissioner's Engineer testfied that 1,790,000 gallons of water can be delivered daily to the city of Cripple Creek by the use of the two wooden pipe lines now constructed, and that the daily consumption at Cripple Creek today is 650,000 gallons of water; therefore, the Commission is impelled to the conclusion that the investment made by the Company for the additional pipe line in the year 1901 was not wisely and prudently made, and that the same cannot be considered by this Commission, in a rate-making case, as property in use and useful today. Hence the Commission has deducted from the present value of the properties of The Cripple Creek Water Company, the present value of the additional pipe line, and finds the present fair value of the properties of The Cripple Creek Water Company in use and useful to be $150,000.00 for rate-making purposes.

OPERATING EXPENSES AND REVENUES.

It appears from one of the exhibits introduced into the evidence by the Commission's statistician that the Water Company has earned in excess of $350,000.00 in fourteen years' operation, exclusive of the aggregate operating expenses and the depreciation reserve of $14,000.00 laid aside by the Company in the years 1913 and 1914. It likewise appears from the report of the Commission's statistician that the Company has current assets of $62,803.94. No difficulty was experienced in ascertaining the fact that a large part of the Company's investment was made from earnings and that this Company has been one of the most prosperous and best paying public utilities doing business within this State.

The operating expenses of The Cripple Creek Water Company, exclusive of depreciation, taxes, and Bay City management, for the year 1914, were $6,129.96. The taxes paid by this Com-

being in use and useful in the furnishing of water to the citizens and municipality of Cripple Creek) were $6,764.10. Allowing $1,000.00 for the management of the Company at Bay City, Michigan, and an annual depreciation reserve of $2,500.00, the total operating expenses of the Company are found to be $16,394.06. It is true that the Water Company set aside on its books for the years 1913 and 1914, respectively, a depreciation reserve of $7.546.88 and $7,243.71, plus the sum of $3,000.00 as an annual operating expense for management and to cover the salary of a clerk at Bay City, Michigan. The Commission is of the opinion that $2,500.00 is the proper amount to be set aside annually for The Cripple Creek Water Company as a depreciation reserve, and that an annual charge of $1,000.00 is liberal for general management and the keeping of the books of the Company, which hereafter shall be kept at the City of Cripple Creek and reports made therefrom to the Commission in accordance with its rules and regulations.

It appears from the records of the Company that for the years 1912, 1913 and 1914 the revenues of the Water Company, exclusive of hydrant rental, were $72,339.97, or an average of $24,113.32 annually. The books of the Company have been kept in so negligent a manner as to give the Commission no better basis upon which to arrive at the annual revenues, exclusive of hydrant rentals. The municipality of Cripple Creek has paid to the Company an annual hydrant rental of $8,600.00, or an average of about $61.50 per hydrant, there having been 140 fire hydrants in use. The municipality, through its City Council, has discontinued the use of 40 of these hydrants, and the Commission must therefore attempt to estimate the fire hydrant revenues of the Water Company for the future. Assuming that the City of Cripple Creek will use not less than 100 fire hydrants for fire purposes and street sprinkling, and assuming the annual rental on each fire hydrant to be $52.50, the annual fire hydrant rental revenue should be $5,250.00, making the total annual revenue of the Company $29,363.32. It is true that the Water Company will lose some saloon revenue, due to the State Prohibition law, effective January 1, 1916, but it may be fair to assume that other business

ventures will take the place of the saloons in the City of Cripple Creek, as elsewhere. Also, this Commission has no recourse but to state the fact that the employes of the Water Company have been negligent in the collection of revenues, and that it is unable to understand, or to condone, the lax business methods of this Company, as the Commission has many times stated that it cannot and will not tolerate wasteful management of public utilities within the State of Colorado, when called upon to adjust and fix fair rates for adequate service.

SERVICE CONNECTIONS.

It is the practice of this Company to compel the consumer to lay and pay for the service pipe from the Company's main to the curb of the consumer's property. The Commission cannot concede the justice of this rule and finds it to be unreasonable and illegal. The utility, and not the consumer, has the right to occupy the streets and all pipes laid in the streets should be the property of the utility and the expense of placing them should be borne by the utility, as it is the business of the Water Company to deliver its product to the premises of the Consumer. It is and shall be the opinion and position of this Commission that no water utility in the State of Colorado shall require, by its rules and regulations or otherwise, any water consumer to lay and pay for a service connection from the Company's main to the consumer's premises. It is as much the duty of the Water Company to supply a service connection to the property line as it is the duty of the Company to supply a meter to the consumer when the service is metered. The consumer has no right to dig up the streets and lay service pipes, this right belonging to the Water Company alone; the justice of this being shown in the fact that, after being laid, the pipes are under the complete control of the Water Company. The position of the Commission in this instance is sustained by the following authorities:

Glendale v. Title Guar.T.& T.Co., 2 Calif.R.C.,680;
Hanesville v.Janesville Water Co.,7 Wisc.R.C., 628;
In re.Practice of Water,etc., Utilities requiring deposits, 7 Calif.R.C.,830, P.U.R. 1915 E.,741;
Hatch v.Consumers Co.,17 Ida.,204; $0 LRA (N.S.) 263; 104 Pac.,670;
Consumers Co. v.Hatch,224 U.S.,148, (56 L.Ed.,703).

The Commission further finds that the rates and charges and the rules pertaining to service connections of The Cripple Creek Water Company are unreasonable.

O R D E R.

IT IS THEREFORE ORDERED, That The Cripple Creek Water Company shall, within thirty (30) days from the date of this order, file with this Commission a schedule of reasonable rates and charges, which schedule shall reduce not less than ten (10) per centum, each and every rate and charge said The Cripple Creek Water Company now has or makes; said schedule to be subject to the approval of this Commission and to become effective for the service rendered during the month of April, 1916, and to remain in effect thereafter.

IT IS FURTHER ORDERED, That The Cripple Creek Water Company shall charge the municipality of Cripple Creek for fire hydrant rental, which shall include the use of the fire hydrants for street sprinkling purposes and flushing of sewers and gutters, not to exceed $52.50 per hydrant per annum with a minimum use of one hundred (100) fire hydrants by the municipality of Cripple Creek, and an annual charge of $45.00 per hydrant in excess of 100 hydrants used by the City; said hydrant rates to become effective for the service rendered during the month of March, 1916, and to remain in effect thereafter.

IT IS FURTHER ORDERED, That the rule of The Cripple Creek Water Company requiring the consumer to lay and pay for a service connection from the main of the Water Company to the property of the consumer having been found to be unreasonable, the following reasonable rule be substituted for this unreasonable rule, viz:

"The Company, at its own expense, shall install all service connections."

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(S E A L)

S. S. KENDALL,

GEO. T. BRADLEY,

M. H. AYLESWORTH,

Commissioners.

Dated at Denver, Colorado,
this 25th day of March, 1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CASES 33, 34, 35 CONSOLIDATED.

March 29, 1916

THE DENVER AND SALT LAKE RAILROAD COMPANY,

Petitioner,

-vs-

CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY,

Defendant.

CASE NO. 33.

THE DENVER AND SALT LAKE RAILROAD COMPANY,

Petitioner,

-vs-

THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY, J. M. Dickinson, Receiver,

Defendant.

CASE NO. 34.

THE DENVER AND SALT LAKE RAILROAD COMPANY,

Petitioner,

-vs-

UNION PACIFIC RAILROAD COMPANY,

Defendant.

CASE NO. 35.

APPEARANCES:

For the Petitioner:
Tyson S. Dines, Esq.,
Tyson S. Dines, Jr., Esq.,
Carle Whitehead, Esq.,
Albert L. Vogl, Esq.,

For Chicago, Burlington & Quincy Railroad Company:
E. E. Whitted, Esq.,
T. M. Stewart, Jr., Esq.,

For The Chicago, Rock Island & Pacific Railway Company:
Wm. V. Hodges, Esq.,
E. Edgar Wilson, Esq.,
Wallace T. Hughes, Esq.,

For Union Pacific Railroad Company:
C. C. Dorsey, Esq.,
J. Q. Dier, Esq.

REHEARING DENIED.

WHEREAS, The Commission entered its opinion and decision in the above causes on the 10th day of February, 1916, and on the 14th day of March, 1916, by special permission, the Defendant herein, The Chicago, Rock Island and Pacific Railway Company, Jacob M. Dickinson, Receiver, filed its petition for rehearing, setting forth its reasons for said rehearing, and,

WHEREAS, The Commission is advised as to the allegations in said petition for rehearing set forth, and it further appearing to the Commission that no sufficient reasons have been set forth in the petition for rehearing which justify the Commission in ordering such rehearing,

IT IS THEREFORE ORDERED, That the application of The Chicago, Rock Island and Pacific Railway Company, Jacob M. Dickinson, Receiver, the Defendant, filed with this Commission on the 14th day of March, 1916, be denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. KENDALL,

(SEAL)

GEO. T. BRADLEY,

M. H. AYLESWORTH,
Commissioners.

Dated at Denver, Colorado,
this 29th day of March, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF COLORADO

THE GREELEY GAS & FUEL COMPANY, Complainant	March 21, 1916
-vs-	CASE NO. 26.
THE COLORADO & SOUTHERN RAILWAY COMPANY, THE DENVER & RIO GRANDE RAILROAD COMPANY and UNION PACIFIC RAILROAD COMPANY Defendants	

APPEARANCES:

For the Complainant:
C.S.Darrow, Esq.,
Charles Tew, Esq.,
M.F.Gallagher, Esq.,
E.B.Wilkinson, Esq.,
Carle Whitehead, Esq.,
Albert L. Vogl, Esq.,

For The Colorado & Southern Railway Company:
A.S.Brooks, Esq.,

For The Denver & Rio Grande Railroad Company:
Fred Wild, Esq.,
J.G.MacMurry, Esq.,

For Union Pacific Railroad Company:
C.C.Dorsey, Esq.,
J.Q.Dier, Esq.

REHEARING DENIED.

WHEREAS, The Commission entered its opinion and decision in the above cause on the 20th day of December, 1915, and on the 5th day of March, 1916, by special permission, the complainant herein, The Greeley Gas & Fuel Company, filed its petition for rehearing, setting forth its reasons for said rehearing, and,

WHEREAS, The Commission is advised as to the allega-

tions in said petition for rehearing set forth, and it further appearing to the Commission that no sufficient reasons have been set forth in the petition for rehearing which justify the Commission in ordering such rehearing,

IT IS THEREFORE ORDERED, That the application of The Greeley Gas & Fuel Company, the complainant, filed with this Commission on the 5th day of March, 1916, be denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley

M N Aylsworth

Commissioners

Dated at Denver, Colorado,
this 29th day of March, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

THE WELLINGTON COMMERCIAL CLUB, W.S.McQUAIN, ARTHUR J. PIATT AND ONE HUNDRED AND TWENTY-SIX OTHERS,

Petitioners,

-vs-

THE COLORADO & SOUTHERN RAILWAY COMPANY, a Corporation,

Respondent.

April 8, 1916

CASE NO. 48

APPEARANCES:

For the petitioners:
Messrs. Lee & Shaw,

For the respondent:
E.E.Whitted, Esq.,
A.S.Brooks, Esq.

On the 2nd day of February, 1916, the petitioners filed their written petition with the Commission, alleging that the facilities and service of the respondent at the town of Wellington were inadequate for the service of the patrons of the railway company, and that the freight house provided by the respondent at Wellington was unsafe for the storage of freight.

The petitioners also alleged that it was the custom of the respondent to carry freight consigned to persons residing in Wellington and vicinity from Cheyenne, Wyoming, and connecting points, through the said town of Wellington to the city of Fort Collins, and to retain at Fort Collins all freight consigned to Wellington, originating south of Fort Collins and on the Greeley line of the respondent, until the freight received at Fort Collins should amount to 5,000 pounds in weight before delivering same at Wellington, for the consignees thereof.

The petitioners further alleged that this rule of transportation adopted by the respondent was unjust and unreasonable.

The petitioners prayed that a hearing be held upon their petition, to the end that the Commission should order the respondent to establish adequate and sufficient facilities at Wellington, and that the Commission should determine the rule of the respondent with respect to the transmission and delivery of freight consigned to consignees at Wellington to be unjust and unreasonable, and determine the just and reasonable rule with respect to same.

On the 23d day of February, 1916, the respondent filed its written answer with the Commission, and in the answer so filed stated that long prior to the filing of the petition of the petitioners, the respondent had under consideration improvements of the station at Wellington; that the contemplated improvements included the construction of a new depot and the rearrangement of the present tracks at said station; but that, on account of the finances of the respondent and of the financial depression which had existed for some time past, the respondent had been unable to arrange for the improvements until the present year, and that the estimated cost of improvements at said station was contained in the 1916 budget of the respondent; and that the respondent was ready to commence the construction of the said new depot and the rearrangement of the present tracks at once.

The respondent further answered that it was ready to inaugurate a schedule covering the transportation of inbound less than carload shipments of freight consigned to the town of Wellington, originating at Fort Collins and south thereof, and that under said schedule the respondent would handle this freight three times each week, leaving Fort Collins on Tuesday, Thursday and Saturday; and the respondent further answered that it was ready to inaugurate a schedule for outbound less than carload shipments

of freight originating at the station of Wellington, so that such less than carload shipments of freight would be transported from the station of Wellington on Wednesday of each week.

The respondent then closed its answer with a prayer that the Commission should approve the matters and things set forth in said answer, and that the petition of the petitioners should be dismissed.

The respondent filed with the Commission, as a part of its answer, extensive plans representing the contemplated improvements referred to in its answer.

A copy of the answer of the respondent was filed with the attorneys for the Wellington Commercial Club, et al, and on March 24th, 1916, the Commission received a written communication from Lee & Shaw, the attorneys for the petitioners, setting forth that the answer of the respondent company, together with the plans and specifications submitted by it for the depot at Wellington, was satisfactory to the petitioners, and suggesting that the Commission enter an order dismissing the above cause, with the proviso that the respondent company carry out the terms of its agreement, expressed in its answer, within a reasonable time to be fixed by the Commission.

On the 24th day of February, 1916, the Commission received a written communication from D.S.Hooker, the Commission's Civil Engineer, stating that he had examined the plans for the proposed passenger and freight depot at Wellington on the lines of the respondent company, and further stating that, if the depot building was constructed in accordance with the plans as submitted, the depot facilities would be entirely suitable for both passenger and freight traffic obtaining at the present time, with due allowance for growth in the future.

O R D E R

IT IS THEREFORE ORDERED, That The Colorado & Southern Railway Company construct a passenger and freight depot and rearrange the present tracks at Wellington, Larimer County, Colorado, in accordance with the plans as filed with the Commission, within a reasonable time, to-wit, the 1st day of July, 1916.

IT IS FURTHER ORDERED, That the rule of the respondent as set forth in the petition of the petitioners with respect to the transmission and delivery of freight consigned to consignees in the town of Wellington and its vicinity, is declared unjust and unreasonable; and that the proposed schedule covering the transportation of inbound less than carload shipments of freight and outbound less than carload shipments of freight as set forth in the answer of the respondent is declared to be reasonable; and the respondent is ordered to comply with the said proposed schedules as set forth in its answer.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

J. S. Kendall

Geo. T. Bradley

M. A. Gilmore

Commissioners

Dated at Denver, Colorado,
this 8th day of April, 1916.

ORIGINAL

MAKE NO COPY

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 removing the telephone exchange of The Mountain States Telephone and Telegraph Company at Pierce, Colorado, to Ault, Colorado, thereby effecting a consolidation of the two exchanges of The Mountain States Telephone and Telegraph Company; said investigation to cover all issues pertaining to the removal of said Pierce exchange.

april 8, 1916

CASE NO. 50

APPEARANCES:

John F. Duncan and Others, petitioning for consolidation of the two exchanges of The Mountain States Telephone and Telegraph Company at Pierce and Ault.

G.S.Hubert and Others, petitioning against consolidation of the two exchanges of The Mountain States Telephone and Telegraph Company at Pierce and Ault.

Milton Smith, Esq., for The Mountain States Telephone and Telegraph Company.

On the 6th day of March, 1916, written petitions were filed with the Commission, signed by persons residing within the boundaries of what is called "The Pierce, Colorado, telephone district of The Mountain States Telephone and Telegraph Company", the said petitioners not having telephone service at the time of filing said petitions, requesting this Commission to order The Mountain States Telephone and Telegraph Company to remove its telephone exchange now located at Pierce, Colorado, to Ault, Colorado, thereby consolidating the Pierce and Ault telephone exchanges.

It was set forth in the petitions of the petitioners that, in the event the Commission should make the order prayed for, these signers would at once become subscribers for telephone service. These petitions were also signed by persons residing within the town of Ault, who were at the time of the filing of the petitions subscribers for telephone service and who desired the consolidation of the above named exchanges of The Mountain States Telephone and Telegraph Company.

On the 8th day of March, 1916, the Commission received a written petition signed by the Pierce Commercial Club, objecting to the removal of the telephone exchange at Pierce, Colorado, to Ault, Colorado, and requesting the Commission to investigate fully the needs of the communities affected and the merits of the petitions filed with the Commission by citizens of Ault, Colorado, and farmers residing in the "Pierce Telephone District".

On the 8th day of March, 1916, the Commission decided to investigate, on its own motion, into the feasibility and necessity of removing the telephone exchange of The Mountain States Telephone and Telegraph Company at Pierce, Colorado, to Ault, Colorado, thereby affecting a consolidation of the two exchanges of The Mountain States Telephone and Telegraph Company, said investigation to cover all issues pertaining to the removal of said Pierce exchange; and gave notice to parties interested that the investigation would be heard at the Hearing Room of the Commission, in the Capitol Building, in the City and County of Denver, State of Colorado, at the hour of 10 o'clock a.m., on the 22nd day of March, 1916.

The hearing of the above cause convened at the Hearing Room of the Commission in the City and County of Denver, on the 22nd day of March, 1916, at the hour of 10 o'clock a.m., at which time the Commission heard many witnesses who testified in support of the consolidation of the telephone exchanges and against the consolidation of the telephone exchanges. A written petition was also presented, signed by subscribers of The Mountain States Telephone and Telegraph Company of Pierce and vicinity, and by business men and citizens of Pierce who were not telephone subscribers, requesting the Commission to deny the application in support of the consolidation of the Pierce and Ault telephone exchanges. This petition, objecting to the consolidation of the telephone exchanges, contained many names of signers of the original petitions in support of the consolidation of the telephone exchanges.

From the evidence submitted at the hearing of the above cause, the Commission readily ascertained that the telephone service of The Mountain States Telephone and Telegraph Company at its Pierce exchange was adequate, and that all parties to the hearing were actuated by a sincere desire to improve the existing telephone service and to obtain new subscribers for The Mountain States Telephone and Telegraph Company.

The Mountain States Telephone and Telegraph Company was permitted to intervene in the above cause, and took the position that the Commission should dismiss this action and that the issues herein contained should be decided in the Commission's determination of Case No. 22, "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 and Telegraph

Company within the State of Colorado, and into the Service of The Mountain States Telephone and Telegraph Company within the State of Colorado, and the Rules, Regulations and Practices affecting the same."

Subsequent to the hearing of this cause, L.G. Gomez, the Commission's telephone expert, addressed a written communication to the Commission, stating that, in his opinion, the above cause is only one of a number of many similar cases now existing in Colorado, in which the question of district service is involved, and that it would not be advisable for the Commission to take any definite stand on the question of district service at the present, and that this cause should be dismissed and determined by the Commission's decision in Case No. 22.

It has become apparent to the Commission that a decision in this cause would be inadvisable, inasmuch as the general subject of district service and the rates and charges, and rules, regulations and practices surrounding the same, should be very carefully considered by the Commission before determination. It is the opinion of the Commission that the above cause should be dismissed and the issues contained therein be determined by the Commission in its decision of Case No. 22.

IT IS THEREFORE ORDERED, That Case No. 50, "In the Matter of an Investigation and Hearing, on motion of the Commission, into the feasibility and necessity of removing the telephone exchange of The Mountain States Telephone and Telegraph Company at Pierce, Colorado, to Ault, Colorado, thereby effecting a consolidation of the two exchanges of The Mountain States Telephone and Telegraph

Company; said investigation to cover all issues pertaining to the removal of said Pierce exchange", be dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S S Kendall

Geo I. Bradley

W H Gluntz

Commissioners

Dated at Denver, Colorado,
this 8th day of April, 1916

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 necessity and feasibility of improving all grade crossings of the following railroads within the State of Colorado:-

CASE No.56.

The Argentine & Grays Peak Ry.Co.
The Atchison, Topeka & Santa Fe Ry.Co.
The Beaver, Penrose & Northern Ry.Co.
Chicago, Burlington & Quincy Ry.Co.
The Chicago, Rock Island & Pacific Ry.Co.
The Colorado R.R.Co.
The Colorado & Southeastern R.R.Co.
The Colorado & Southern Ry.Co.
The Colorado & Wyoming Ry.Co.
The Colorado Kansas Ry.Co.
The Colorado Midland Ry.Co.
The Cripple Creek & Colorado Springs R.R.Co.
The Colorado Springs & Cripple Creek District Ry.Co.
The Colorado, Wyoming & Eastern Ry.Co.
The Crystal River R.R.Co.
The Crystal River & San Juan R.R.Co.
The Denver & Intermountain R.R.Co.
The Denver & Rio Grande R.R.Co.
The Denver & Salt Lake R.R.Co.
The Denver, Boulder & Western R.R.Co.
The Denver, Laramie & Northwestern R.R.Co.
The Georgetown & Grays Peak Ry.Co.
The Great Western Ry.Co.
The Manitou & Pikes Peak Ry.Co.
The Midland Terminal Ry.Co.
The Missouri Pacific Ry.Co.
The Rio Grande Junction Ry.Co.
The Rio Grande Southern R.R.Co.
The San Luis Central R.R.Co.
The San Luis Southern Ry.Co.
The Silverton Railway Co.
The Silverton, Gladstone & Northerly R.R.Co.
The Silverton Northern R.R.Co.
The Uintah Ry.Co.
Union Pacific R.R.Co.

The Arkansas Valley Ry., Light & Power Co.
Castle Rock Scenic Ry.& Park,
The Colorado Springs & Interurban Ry.Co.
The Denver & Crown Hill Ry.Co.
The Denver & South Platte Ry.Co.
The Denver Tramway Co.
The Durango Ry.& Realty Co.
The Grand River Valley Ry.Co.
The Greeley & Denver R.R.Co.
The Lookout Mountain Park, Realty & Inv.Co.
The Manitou Electric Ry.& Casino Co.
The Mount Manitou Park & Incline Ry.Co.
The Trinidad Electric Transmission Ry.& Gas Co.
The Western Light & Power Co.

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 ordering the above named railroads, now operating and doing business in the State of Colorado, when crossing any public highway within the State of Colorado at grade, to provide and maintain at each intersection at grade of railroad tracks with public highways, grade crossings and approaches thereto at least twenty-four (24) feet in width, the roadway on either side of track or tracks to be constructed and maintained level with the top of rails for not less than twenty (20) feet from the center line of tracks on either side, and, when more than one track is crossed, for twenty (20) feet from center line of outside track; the approaches to be constructed on uniform grade from a point at least twenty (20) feet from center line of track or tracks, said grade not to exceed six (6) per cent; the roadway to be well drained and surfaced with gravel, or some other suitable paving material, and a smooth roadway surface on approaches and crossings to be maintained, with planking between the rails and for one foot on the outside of either side thereof for the full width of the traveled highway, such planking to be not less than sixteen (16) feet in any case; all to be done at the expense of the above named railroads; and into the feasibility and necessity of requiring each and all the above named railroads to furnish to the Public Utilities Commission of the State of Colorado information showing, for each railroad crossing at grade, the railway alignment and grade location to nearest section line; the section, township, range and county; a cross-section of the railway crossing, showing the crown and approaches, with the rate of grade; the physical condition on either side of railroad crossing, with cuts, fills, trees, buildings, and other obstructions on right of way which interfere with the view of approaching trains; the character of the crossing; the protection of the crossing, whether by gates, flagmen, standard sign, special sign, bell or automatic audible or visual signal; and the direction and speed of trains.

IT IS FURTHER ORDERED, That the above named railroads, through representatives, appear at the hearing room of this Commission in the State Capitol Building, in the city and county of Denver, State of Colorado, on the 10th day of May, 1916, at the hour of 10:00 o'clock a. m., before the Commissioners en banc, to make such showing in the above cause as may be deemed necessary.

AND IT IS FURTHER ORDERED, That the Secretary of this Commission be and he is hereby directed to serve upon the above named railroads a certified copy of this order, accompanied by notice directing the said railroads to appear at the time and place above specified, to take such part in said hearing as the said railroads may desire, and make such defense as shall appear necessary to said railroads.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. A. Kendall

Geo. T. Bradley

M. Highlands

Commissioners.

Dated at Denver, Colorado,
this 13th day of April, 1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

April 20, 1916

In the Matter of an Investigation and Hearing, on Motion of the Commission, into the reasonableness of each and every rate or charge, and into the adequacy of the service, and the rules, regulations and practices of The Colorado Springs Light, Heat & Power Company, a corporation.) CASE NO. 24.

INTERPRETATION OF COMMISSION'S ORDER.

TO THE COLORADO SPRINGS LIGHT, HEAT & POWER COMPANY:

Due to the fact that many written inquiries have been presented to the Commission to interpret that portion of its order entered on the 1st day of March, 1916, relating to minimum charges for residence and commercial lighting, you will please take notice that the Commission interprets its order to the end that any consumer of electric energy in the cities of Colorado Springs, Colorado City or Manitou may take advantage of the $1.00 minimum charge by paying the residence lighting rate. For example, an office tenant may, if he desires, come under the head of the residence lighting rate and thereby pay a minimum of $1.00, rather than the minimum commercial charge of $1.50.

You will please place all consumers of electric energy under the residence lighting schedule, with its minimum charge of $1.00, in the event the consumer's bill does not exceed the sum of $1.50, the minimum charge for commercial lighting.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. KENDALL

(S E A L)

GEO. T. BRADLEY

M. H. AYLESWORTH,

Commissioners.

Dated at Denver, Colorado,
this 20th day of April, 1916.

ORIGINAL

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE GRAND JUNCTION MINING & FUEL COMPANY, a corporation, and THE PALISADE COAL & SUPPLY COMPANY, a corporation,

Complainants,

vs.

THE COLORADO MIDLAND RAILWAY COMPANY and GEORGE W.VALLERY, RECEIVER, THE MIDLAND TERMINAL RAILWAY COMPANY, and THE CRIPPLE CREEK & COLORADO SPRINGS RAILROAD COMPANY,

Defendants.

Case No.43.

Submitted March 15,1916. Decided April 22,1916.

Appearances:

For Complainants,
Messrs.Whitehead & Vogl,
Guy D.Duncan, Esq.

For The Colorado Midland Railway Company and George W.Vallery, Receiver,
Henry T.Rogers, Esq.,
George A.H.Fraser.

For The Midland Terminal Railway Company and The Cripple Creek & Colorado Springs Railroad Company,
F.C.Matthews, Esq.,
Ralph Hartzell, Esq.

STATEMENT

On October 21,1915, the petitioners herein filed complaint with the Commission, attacking the reasonableness of the joint rates on coal, all classes, from Palisade and Cameo points on the Colorado Midland Railway, to all points on the line of the Midland Terminal Railway from Divide to and including Cripple Creek, all within the State of Colorado, and prayed for an order establishing just and reasonable rates between the aforesaid points.

The Defendants herein made separate answers to the petition, and therein admit that they are charging the rates as alleged

in the petition, but deny that said rates are unjust or unrreasonable, and pray that the petition be dismissed.

On this issue the cause came on for hearing before the Commission at its hearing room in the Capitaol Building, Denver, Colorado, on December 22, 1915.

Palisade and Cameo are coal-producing points located on the main line of The Colorado Midland Railway, Cameo being located four miles east of Palisade; both are classed in the same group and the same rates apply from both points. Shipments from these points to Cripple Creek move over the rails of the Colorado Midland Railway to Divide, and thence over the rails of the Midland Terminal Railway to Cripple Creek. Divide is located 259 miles east of Palisade, and Cripple Creek is located 29 miles south of Divide, making a total haul of 288 miles on such shipments.

As the Commission understands this case, the petition is predicated somewhat on the fact that The Colorado Midland Railway Company, one of the Defendants herein, has established and has in force at the present time a rate of $1.75 per ton on lump coal from Palisade to Colorado Springs, which is the eastern terminus of that road,- being 27 miles east of Divide, although petitioners did not attack the rate up to Divide, but attempted to show by testimony that the proportion of the through rate accruing to the Midland Terminal Railway Company is excessive and results in an unreasonable through rate.

The Commission would not allow Petitioners to introduce testimony to show the divisions of the through rates, taking the view that the public is interested only in the through rates in and of themselves, and is not concerned in the matter of divisions, unless the proportions are so low as to become a burden to local traffic. The Commission has taken this position heretofore and adheres to it in the present case.

The evidence shows that the coal involved in this case comes into direct competition in the Cripple Creek district with coal from the Trinidad and Walsenburg districts, Canon City district, and the Pikeview district, the respective distances being as follows:

Cameo-Palisade district to Cripple Creek,.....286 miles,
Trinidad District to Cripple Creek,.....183 miles.
Walsenburg District to Cripple Creek,.....163 miles.
Canon City District to Cripple Creek,.....136 miles.
Pikeview District to Cripple Creek,..... 56 miles.

And the following rates apply:

Walsenburg to Cripple Creek,
Lump, egg, or mine run,.....$3.00
Nut,..... 2.90
Slack,..... 2.65

Trinidad to Cripple Creek,
Lump, egg, or mine run,.....$3.25
Nut,..... 3.15
Slack,..... 2.90

Canon City to Cripple Creek,
Lump, egg, or mine run,.....$2.50
Nut,..... 2.40
Slack,..... 2.15

Palisade to Cripple Creek,
Lump, egg, or mine run,.....$3.50
Nut,..... 3.40
Slack,..... 3.15

Pikeview to Cripple Creek,
Lump, egg, or mine run,.....$1.75
Nut,..... 1.65
Slack,..... 1.40

These rates on lump coal produce the following rates per ton per mile:

	Cents.
Palisade to Cripple Creek,.....	1.22
Trinidad to Cripple Creek,.....	1.77
Walsenburg to Cripple Creek,.....	1.84
Canon City to Cripple Creek,.....	1.83
Pikeview to Cripple Creek,.....	3.12

The Commission feels, as stated in Case No.10, "In re.Eastern Colorado Coal Rates", 1 Colo.P.U.C., 48, (56), "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". It is apparent that the existing rates

do not afford the operators at Palisade and Cameo an equal opportunity to compete for business in the Cripple Creek district and the Commission feels that a somewhat lower rate is justified and would fully compensate the carriers for the service performed.

The Commission finds that a fair rate on coal from the Palisade and Cameo districts to all points on the Midland Terminal Railway, from Divide to Cripple Creek inclusive, via the Colorado Midland and Midland Terminal lines, would be $3.00 per ton on lump, $2.90 per ton on nut, and $2.65 per ton on slack coal, carloads, and further finds that any rate in excess of these amounts is unjust and unreasonable. It is to be further understood that the same differential as now applies between the Cameo-Palisade group of mines and the South Canon group is to be maintained in future.

In arriving at these figures the Commission is not unmindful of the fact that the railroads of this state have used the coal rates applying from Walsenburg as a basis in computing rates on coal from other producing points, using a fixed arbitrary, either above or below the rates applying from that point. Generally speaking, the rates on coal from the Canon City and Walsenburg Districts are on an equality, and it might be here noted that the Commission has this day found a rate of $2.50 per ton on lump coal to be reasonable from the Canon City district to Cripple Creek, and permanently suspended tariffs of certain carriers wherein an attempt was made to increase the rate from $2.50 to $3.00 per ton. While the rates from the Walsenburg District to Cripple Creek were not involved in that case, nor are they before the Commission for consideration at this time, the Commission has considered the necessity of maintaining an harmonious relation between the rates from these groups and feels that the rates on coal from the Palisade-Cameo District to Cripple Creek should be 50 cents per ton higher than the rates from the Canon City and Walsenburg Districts.

The Commission will not attempt at this time to make divisions of the rates, but will leave that matter to the carriers to adjust. In case they fail to agree, the Commission, on petition of any interested party, will fix the divisions by supplemental order.

O R D E R.

IT IS ORDERED, That The Colorado Midland Railway Company, George W.Vallery, Receiver, and The Midland Terminal Railway Company, be, and they are hereby, ordered to cease and desist from charging, demanding, collecting or receiving their present rates for the transportation of lump, nut and slack coal, carloads, from Palisade, Colorado, and points taking Palisade rates, to all points on the Midland Terminal Railway from Divide, Colorado, to Cripple Creek, Colorado, inclusive.

IT IS FURTHER ORDERED, That the Colorado Midland Railway Company, George W.Vallery, Receiver, and The Midland Terminal Railway Company, be, and they are hereby, ordered to publish and put in force joint rates not exceed $3.00 per net ton on lump coal, $2.90 per net ton on nut coal, and $2.65 per net ton on slack coal, carloads, from Palisade, Colorado, and points taking Palisade rates, to all points on The Midland Terminal Railway from Divide, Colorado, to Cripple Creek, Colorado, inclusive.

IT IS FURTHER ORDERED, That the Defendants herein shall publish and make effective the rates as herein set forth by this order on or before May 15, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo T. Bradley

W H Gunnett

Commissioners.

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

ORIGINAL

4-22-16

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

INVESTIGATION AND SUSPENSION DOCKET NO. 4.

COAL RATES FROM CANON CITY
TO
CRIPPLE CREEK, COLORADO.

This investigation involves the reasonableness of the proposed increase of 50 cents per net ton in the rates for transportation of bituminous coal, all classes ,from the mines in the Canon City District to points in the Cripple Creek District, as set forth in tariffs filed by the Atchison, Topeka & Santa Fe Railway, the Colorado Midland Railway, and the Denver & Rio Grande Railroad.

The tariffs under investigation in this proceeding were filed by respondents to become effective July 26, 1915, and August 5, 1915, but were suspended by the Commission until September 12, 1915, and subsequently suspended until May 24, 1916, upon the protests of dealers in coal.

The effective rates and the proposed increased rates per net ton from the Canon City mines to Cripple Creek points are as follows:

Route-	Effective rates			Proposed rates-		
	Lump	Nut	Slack	Lump	Nut	Slack
Via D.& R.G.R.R.- C.C.& S.C.R.R..	$2.50	$2.40	$2.15	$3.00	$2.90	$2.65
Via A.T.& S.F.Ry.- C.C.& C.S.R.R. or A.T.& S.F. Ry.-C.M.Ry.-M. T.Ry.....	2.50	2.40	2.15	3.00	2.40	2.15

On August 20,1915, an informal hearing was held at the office of the Commission, at which all of the Respondents were represented. Following this hearing, the Respondents filed statements setting forth their reasons for the advances.

Many protests have been received from the Canon City District coal dealers, protesting against the advance from Canon City, and many protests against the suspension of the advances have been received from the Walsenburg District coal dealers, who desire that the rates from the two Districts be the same.

From the facts presented, the Commission must arrive at the conclusion that the main reason advanced for the proposed increase is the placing of the Canon City and the Walsenburg Districts on a parity. In fact, one of the Respondents made the statement that it "does not object to the continuance of the current Canon City rate to Cripple Creek, provided the differential that has been maintained for so many years from the other coal mining districts can be maintained."

As the reasonableness of the proposed advances from Canon City to Cripple Creek is the only question here involved, the reasonableness or unreasonableness of the rates from the Walsenburg or other coal districts is not pertinent to this case. The rates from Canon City to Cripple Creek were put into effect originally by The Denver & Rio Grande Railroad and The Florence & Cripple Creek Railroad, and were in effect by that route from 1896, without change, until the abandonment of the latter road on July 21,1912, due to floods washing out the road bed. In the year 1902 the same rates were published via the Colorado Springs Gateway, in connection with The Denver & Rio Grande Railroad and the Colorado Springs & Cripple Creek District Railway, and subsequently in connection with The Atchison, Topeka & Santa Fe Railway via the Colorado Springs and Divide gateways.

It is claimed by the carriers Respondents hereto that the rates via Colorado Springs and Divide were competitive rates necessary to meet rates via the Florence & Cripple Creek Railroad. This competition was not forced on the Cripple Creek lines, as they are operated under one management and control. In"City of Canon City vs. Florence & Cripple Creek Railroad Company, et al",

Colorado P.U.C., First Annual Report, Page 108, the Commission found that, under a combination entered into in 1905, all of the carriers entering Cripple Creek were to be operated under one general management, and that the revenues and expenses of the three roads were to be combined each month without regard to which road produced the revenue or incurred the expense, and the proceeds then divided between the different roads. The evidence in that regard was undisputed. The Commission said:

> " 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 Railway for the purpose of increasing the earnings of the narrow gauge division."

Nor would there be any inducement for any one of the three roads to enter into competition with the others.

It is evident from the schedules filed that, while the Respondents propose a uniform advance of 50 cents per ton on all classes of coal, when routed via The Denver & Rio Grande Railroad, no attempt is made to increase the rates on nut, pea or slack coal,when routed via The Atchison, Topeka & Santa Fe Railway through the Colorado Springs or Divide gateways. This fact would tend to controvert,in part, the contention of the Respondents with regard to the uniformity desired.

The present rates from the Canon City District to Cripple Creek produce revenues per ton per mile to the carriers as follows:

	Distance	Cents per ton per mile		
		Lump	Nut	Slack
Via D.& R.G.R.R.-C.C.& C.S.R.R. or A.T.& S. F.Ry.-C.C.& C.S.R.R.	132	1.893	1.818	1.530
Via A.T.& S.F.Ry.- C.M. Ry.-M.T.Ry.....	138	1.811	1.739	1.558

Many references from Interstate Commerce Commission cases have been cited by the Respondents in support of the necessity for advances in rates to make rate adjustments, in order to place similarly located producing districts on an equality. In all such cases examined, however, the Interstate Commerce Commission found the advanced rates to be reasonable in and of themselves.

Having due regard for the necessity of placing the Canon City and Walsenburg District rates on a parity and for other pertinent facts presented, it is the conclusion of the Commission, and it therefore finds, that the carriers have not sustained the burden of proof in justification of the increased rates proposed by the suspended schedules. An order requiring their cancellation will be issued.

O R D E R.

IT APPEARING that, by orders dated July 14th and July 22nd, 1915, the Commission entered upon a hearing concerning the propriety of the increases and the lawfulness of the regulations and practices stated in schedules enumerated and described as Supplement 2 to Colorado Midland Railway Tariff No.1862-C, Colorado P.U.C.No.14; Items 5 and 15 of Atchison, Topeka & Santa Fe Railway Tariff No.8571-D, Colorado P.U.C.No.647; and Item 17 of Denver & Rio Grande Railroad Tariff No.5316-A, Colorado P.U.C. No.378; and subsequently ordered that the operation of said schedules be suspended until May 24,1915, and

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,

IT IS ORDERED, That the carriers Respondents herein be, and they are hereby, notified and required to cancel, on or before May 24, 1916, the rates and charges stated in the schedules enumerated and described above.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A S Kendall

Geo T. Bradley

J. A. [illegible]

Commissioners.

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

ORIGINAL

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE CITIZENS OF MOSCA, COLORADO,
Petitioners,
vs.
THE DENVER & RIO GRANDE RAILROAD COMPANY,
Defendant.

Case No.53.

Submitted April 11,1916. Decided April 24,1916.

STATEMENT AND ORDER.

On the 27th day of March, 1916, the Commission received a written petition signed by citizens located in the trade center of Mosca, Colorado, who requested the establishment of a permanent depot agent at Mosca for the purpose of facilitating the transportation of freight and express at that station. On the 7th day of April, 1916, the Defendant corporation, The Denver & Rio Grande Railroad Company, filed with the Commission its answer and offer to satisfy, in which answer tabulations of receipts from freight received from and forwarded to Mosca through the stations of Alamosa and Hooper by months during the calendar year 1915 were set forth, as well as tabulations showing the revenue derived from freight received from and forwarded to Mosca through other stations during the last ten fiscal years. The Defendant company also alleges in its answer that the maintenance of a station at Mosca would be at a loss to the Company, and that the maintenance must be at the expense of the revenues at other stations, which are already contributing their proper quota toward maintenance and operation. The answer also sets forth that there is a station building at Mosca, which has been abandoned due to the fact that the expense of maintenance of an agent and facilities at said station consumed from fifty to seventy-five per cent of the revenues of said station.

The Defendant company also answers that the Superintendent of its Third Division, on which Mosca is located, has investigated the above cause, and reports that the principal grievance of the persons residing in the community of Mosca is that they have no facilities for handling livestock shipments to and from that point. The Defendant company then alleges that it is willing to install a yard and pen sufficient for the handling of such shipments, and will also install a platform for the loading and unloading of hogs from wagons.

The Defendant company also states that it is willing to make arrangements with the proprietor of the one of the merchandising establishments at Mosca, or with the postmaster, to handle express matter for the Company and residents in the vicinity.

On the 11th day of April, 1916, the Commission received a written report from its Inspector, Mr.E.S.Johnson, stating that he had visited Mosca on the 10th day of April, 1916, for the purpose of investigating the matters set forth in the complaint filed by the citizens of Mosca relative to shipping facilities and station agent. Mr.Johnson states that he attended a conference at which thirty of the representative citizens of Mosca and vicinity were present, and that the principal complaints of the petitioners are that outbound shipments are received by the train conductor and billed at the nearest open station, and that trains often pass through Mosca in the night, which necessitates a shipper's presence for the purpose of receiving a receipt for outbound shipments and in order to protect inbound shipments from exposure. At this conference a resolution was adopted requesting this Commission to order the Defendant railroad company to install a yard and pen sufficient to care for live stock shipments, and to erect a platform for the loading and unloading of hogs; to employ a local agent or caretaker to sell tickets, sign freight receipts, handle express matter, attend to telephone inquiries regarding late trains and shipments; and otherwise attend to the Railroad company's interests.

The Commission's Inspector, in his report to the Commission, states that the town of Mosca and vicinity is fast recovering from the recent depression, and recommends that the Commission issue an order granting the relief sought.

A copy of the report of the Commission's Inspector was filed with the Defendant company, and the Commission is in receipt of a communication from it offering to comply with the resolution as adopted by the citizens of Mosca and vicinity.

O R D E R.

IT IS THEREFORE ORDERED, That the Defendant, The Denver & Rio Grande Railroad Company, install at a station on its line of railroad known as Mosca, a yard and pen sufficient to care for local livestock shipments; to erect a platform for the loading and unloading of hogs; to arrange with some merchant or businessman of Mosca, at the expense of the Defendant company, to sell tickets, sign freight receipts, handle express matter, and answer telephone inquiries regarding late trains and shipments.

IT IS FURTHER ORDERED, That the above order of the Commission be complied with by the Defendant railroad, The Denver & Rio Grande Railroad Company, within a reasonable time.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S S Crisdale

Geo T. Bradley.

M H Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 24th day of April, 1916.

[redacted]

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE TOWN OF ARVADA,
Complainant,

vs.

THE ARVADA ELECTRIC COMPANY,
Respondent.

Case No.42.

Submitted April 1,1916. Decided April 27,1916.

Appearances:
George Campbell, Esq., Town Atterney, Arvada,
W.C.Sterne, Esq., for The Arvada Electric Company.

STATEMENT AND ORDER.

On the 15th day of October, 1915, the Petitioner filed with the Commission, through its Town Attorney, a resolution adopted by the Board of Trustees of the Town of Arvada on the 11th day of October, 1915, authorizing the Town Attorney to prepare and present to the Public Utilities Commission of the State of Colorado a petition requesting the Commission to investigate the rates, practices and service of The Arvada Electric Company. It is alleged by the Town Attorney in his petition that the rates of the Respondent corporation are unreasonable, unfair and discriminatory.

On the 2nd day of November, 1915, the Respondent electric company, by its General Manager, W.C.Sterne, filed with the Commission its answer to the petition of the Town of Arvada, denying that its rates and charges are unreasonable, and alleging that its service is adequate, and that its rates and charges should be increased.

The above case was heard on the 10th day of January, 1916, at the hearing room of the Commission, at which time and place Fred J.Rankin, Electrical Engineer for the Commission, introduced as evidence a written report showing his opinion of the cost to reproduce new the properties of The Arvada Electric Company and the present fair value of said properties, together with a statement of overhead charges properly included in construction cost. Following is a summary of the valuation of the Commission's Electrical Engineer and his statement of construction overheads.

Summary of Valuation - The Arvada Electric Company.

Items-	Cost of Reproduction	Present Value
Buildings,	$ 1,500.00	$ 1,275.00
Station equipment,	5,282.00	4,469.00
Transmission and Distribution,	20,658.00	17,733.00
Total,..	$27,440.00	$23,477.00
Add Overhead 11%,	3,018.00	2,582.00
Land,	1,500.00	1,500.00
General Equipment,	2,258.00	2,105.00
	$34,216.00	$29,664.00
Interest during construction period, 2%,	684.00	593.00
Working capital,	1,000.00	1,000.00
Total,	$35,900.00	$31,257.00
Cost of developing business, 10%,	3,590.00	3,126.00
Grand Total,.....	$39,490.00	$34,383.00

Statement of Construction Overheads.

Engineering and Superintendence,.....	5%
Legal and Organization,.....	2
Insurance during Construction,.....	1
Contingencies and Omissions,.....	3
Total,.....	11%

Applicable to items of construction only.
Interest during Construction, 2%, Applicable to all property.

Mr.Rankin added to the physical properties of The Arvada Electric Company ten (10) per cent to cover the cost of developing the business and its "going value". It therefore appears from the evidence that it is the opinion of the Commission's Engineer that $39,490.00 is the cost of reproducing new the properties of The Arvada Electric Company, both tangible and intangible,

and that the present fair value of its properties for rate-making purposes is $34,383.00.

The Commission's Chief Statistician, Fred W.Herbert, filed his written report with the Commission, and the same was introduced into the evidence in the above cause, showing that the revenues of the Respondent corporation for the year 1914 were $7,439.26, and that the operating expenses of the Defendant company, as determined from an examination of its books, was $6,247.95, and that the profit of thesaid Respondent company from its sales of merchandise was $346.90, making a grand total of $1,538.21 as the total net earnings of the Respondent corporation for the year 1914.

From an examination of the books of the Respondent corporation it is apparent that the Respondent company has charged against the total earnings account $1,050.00 for bond interest.

It appears from the evidence that the Respondent corporation purchases electric energy for lighting purposes from The Denver Gas & Electric Company on the basis of 2½ cents per kilowatt hour delivered to the sub-station of the Respondent corporation, plus a fixed charge of $25.00 per month, and 2 cents per kilowatt hour flat for electric energy for power. It is apparent to the Commission from the amount of electrical energy furnished by The Denver Gas & Electric Company to The Arvada Electric Company that this charge is not unduly high.

The Company seems to be operating at a minimum expense, there being no extraordinary expense items and no exorbitant salaries paid for management or clerk hire.

Assuming, but not deciding, that the sum of $1,050.00 charged to bond interest for the year 1914 should not be deducted from the total earnings of the Respondent corporation in this case, and assuming that the Commission should permit the said Respondent corporation to set aside a conservative amount as an annual depreciation reserve, it becomes apparent that The Arvada

Electric Company is not earning a fair return upon its properties in the Town of Arvada, and it is beyond the power of this Commission to order a reduction in the rates and charges of the Respondent corporation on the basis of the evidence introduced at the hearing of the above cause.

No evidence was introduced at the hearing of the above cause as to the inadequacy of the service, and the Commission is of the opinion that the service of the Respondent corporation is adequate.

While it is true that The Arvada Electric Company is not at this time earning a fair return upon the present fair value of its properties in Arvada, the Commission will refuse to permit an increase in its rates and charges for the reason that any increase in rates and charges ordered by the Commission would result in reduced revenue to the Company, and would therefore require the consumer to pay more than the service is actually worth.

IT IS THEREFORE ORDERED, That the complaint of the petitioner be dismissed, and that the present schedule of rates and charges, and the rules, regulations and practices surrounding the same, as now on file with this Commission, shall remain in force and effect until the further order of the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Condon

Geo. T. Bradley

M. H. Comstock

Commissioners.

Dated at Denver, Colorado,
this 27th day of April, 1916.

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE CITIZENS OF LA JUNTA, COLORADO,

Complainants,

vs.

THE ARKANSAS VALLEY RAILWAY, LIGHT & POWER COMPANY,

Respondent,

THE CITY OF LA JUNTA, COLORADO,
Intervenor.

Case No.38.

Submitted February 17,1916. Decided April 27,1916.

Appearances:
For the Petitioners,
O.G.Hess, Esq.,

For the Respondent company,
Messrs.Devine & Preston,

For the City of LaJunta, Intervenor,
H.W.Allen, Esq.

STATEMENT AND ORDER.

On the 30th day of September, 1915, there was filed with the Commission a written petition signed by twenty-five taxpayers, and consumers of electric current, of the City of LaJunta, Colorado, stating, in substance, that a majority of the taxpayers of LaJunta, at a general city election in April, 1915, voted in favor of a municipal bond issue of $75,000.00 for the erection of a municipally owned and operated electric light plant. The petitioning taxpayers, in their petition, questioned the feasibility of the erection and operation of a municipally owned and operated electric light plant, but alleged that the City of LaJunta and its inhabitants are entitled to and should receive lower rates for electric light and power service than those now charged by The Arkansas Valley Railway, Light & Power Company,

and requested the Commission to investigate and to determine upon reasonable rates for electric service to the City of LaJunta and its inhabitants, as now furnished by The Arkansas Valley Railway, Light & Power Company, the Respondent, and further requested this Commission to determine the cost of erecting a municipally owned plant, together with the cost of service and the reasonable rates which should be charged by the City to its patrons.

On the 1st day of October, 1915, the Respondent company filed with the Commission its answer to the petition of the petitioners and denied that its rates and charges for supplying electricity to the City of LaJunta and to the inhabitants of said City were in any respect unfair, unreasonable, unjust, excessive or discriminatory, and averred that the rates and charges of the Respondent company were just, fair, reasonable and equal, and that the service furnished by it to the said City of LaJunta and its inhabitants was above criticism.

In accordance with instructions from the Commission, F.J.Rankin, the Commission's Electrical Engineer, and F.W.Herbert, the Commission's Chief Statistician, began an investigation to determine the present fair value of the properties of the Respondent company, located in the City of LaJunta, together with the valuation of the generating plant at Pueblo and the transmission lines conveying energy to LaJunta, and also a complete, detailed examination of the books of the Respondent company.

The hearing of the above cause convened at LaJunta, Colorado, in the City Hall, at the hour of 10:00 o'clock a.m., December 7, 1915, O.G.Hess, Esq., appearing for the petitioners, Messrs.Devine & Preston appearing for the Respondent company, and H.W.Allen, City Attorney, appearing for the City of LaJunta, which requested and was granted permission to intervene.

The Commission then ruled that the matters contained in the petition relating to the value and the cost of service

of the proposed municipally owned and operated electric light plant were irrelevant to the hearing, and refused to take action as to these matters, wherefore no evidence pertaining to the same was permitted to be introduced.

The following witnesses testified for the Commission:

F.W.Herbert, Chief Statistician,
F.J.Rankin, Electrical Engineer.

The following witnesses testified for the Respondent company:

E.J.Rosenauer, General Auditor,
Geo.W.Milliken, Local Manager,
W.F.Raber, General Manager,
F.H.Lane, Consulting Engineer for H.M.Byllesby & Company, the holding company of the Respondent Company.

From the evidence introduced it appears that the Respondent company is engaged in the business of manufacturing electrical energy at Pueblo and Canon City, Colorado, and serves a territory in Colorado which is divided into three divisions designated on the Company's books as the "Mountain Division", "Pueblo Division", and the "Valley Division". The City of La Junta, located in the Arkansas Valley, is served from the generating plant of the Respondent company located at Pueblo, and is connected by a transmission line running from the generating plant of the Respondent company at Pueblo through the Arkansas Valley, and from which a number of other towns and cities located in the Arkansas Valley are served.

The energy is furnished for the Valley section by means of a 33,000 volt transmission line. At a point 52 miles east of Pueblo, and on the transmission line of the "Valley Division" of the Respondent company, is located the City of Rocky Ford, at which point the Company has installed a transformer sub-station which transforms the energy supply from 33,000 to 11,000 volts for the purpose of distribution of electric energy to Rocky Ford, LaJunta, Fowler, Manzanola, Swink, Ordway, Sugar City and smaller settlements in this section of the State.

For the purpose of this investigation the Commission's Engineer has determined the rate per kilowatt hour for which the Respondent company can afford to deliver energy to sub-stations located in the "Valley Division", and under this method the LaJunta property was treated as an individual operating company purchasing current delivered at its sub-station by a transmission company. In order to arrive at the average cost per kilowatt hour at which it is possible to deliver 3-phase, 60-cycle, 2300 volt energy to the Valley sub-stations, the Respondent company's investment in its Pueblo generating plant, the investment in its Valley transmission line, step-down transformer sub-station, and the cost of generation at the Pueblo station, were taken into account by the Commission's Engineer and apportioned on an equitable basis. The Pueblo generating station of the Respondent company furnishes energy for general lighting and power purposes in Pueblo, Colorado, for the Pueblo street railway system, for certain territory contiguous to Pueblo, and for the "Valley Division" of the Company, as above stated. Some energy also is furnished from the Pueblo station, at 30 cycles, for use by the "Mountain Division" of the Company, the greater portion of the energy for the "Mountain Division" of the Respondent company, however, being manufactured at the Canon City generating plant. That part of the Company's investment in the Pueblo property which is used for generating purposes was apportioned to its "Valley Division" on the basis of the relation of the maximum demand of the "Valley Division", at the time of the station peak, to the total maximum demand. In this way the fixed charges on the Pueblo station, which naturally should be charged to the "Valley Division" of the Company, were determined. Mr.Rankin testified that the investment in the Company's transmission line extending from Pueblo to Rocky Ford was properly chargeable to the consumers in the "Valley Division" of the Company, and that it had been so considered in his report.

The cost of energy delivered to the Valley transmission line, as found by the Commission's Engineer, is made up of operating expenses in the Pueblo plant, which include fuel, labor, repairs and maintenance; the portion of the general office expense properly chargeable to generation; the fixed charges on the Pueblo plant, which include taxes, depreciation and interest on the investment; and the fixed charges on, and the cost of operation and maintenance of, the Valley transmission line. The Commission's Engineer has reported these costs for the conditions now prevailing in the "Valley Division" of the Company as follows:

Operating Expenses,.....	.7619¢	per	k.w.h.	generated,
Fixed charges on Pueblo generating plant,.....	.5047¢	"	"	delivered to "Valley Division",
Fixed charges on Valley transmission line,.....	.8461¢	"	"	
Total,	2.1127¢	"	"	

It may therefore be readily seen that the Commission's Engineer finds that 2.1127¢ per kilowatt hour is the cost of electric energy delivered to the Valley transmission line, as metered at the Pueblo generating station. The operating records taken from the Company's books for several years past indicate that the loss of energy in transmission at present is approximately 12 per cent. It therefore appears that 2.4¢ per kilowatt hour is the cost, according to the Commission's Engineer, of delivering 3-phase, 60-cycle, 2300 volt energy to the Company's Valley sub-stations under conditions prevailing at this time. Mr.Rankin testified that this average cost per kilowatt hour takes into account only the present development of this part of the Company's business, and, as its business develops and the consumption of energy increases, the average cost of 2.4¢ per kilowatt hour should be materially reduced. From the evidence at hand the Commission is convinced that the average cost per kilowatt hour of delivering this energy to the Company's Valley sub-stations has been reduced in the past three years.

F.H.Lane, Engineer for the Company, filed with the Commission his detailed report stating his opinion of the average cost per kilowatt hour of delivering 3-phase, 60-cycle, 2300 volt energy to the Company's Valley sub-stations. This figure is somewhat higher than that determined upon by the Commission's Engineer, but the difference between Mr.Lane's conclusions and those of Mr.Rankin was readily accounted for by the Commission. For instance, the Respondent's Engineer, in arriving at the cost of current delivered to LaJunta, included in his report of the investment in the Pueblo generating station the cost of arc lighting transformers, motor generator sets, and rotary converters used in connection with the Pueblo street railway system, which were not included by the Commission's Engineer for the reason they are not used in the generation of energy. In the opinion of the Commission this equipment was properly excluded by Mr.Rankin for the reason that these properties are simply energy-transforming devices used in the utilization of electrical energy by the different departments of the Company; they form no part of the generating equipment, and are not used in any way in connection with the supplying of energy to the Company's Valley sub-stations.

The Commission's Engineer introduced in evidence a written report in which was contained the inventory and appraisal of the property of the Respondent company located in LaJunta, and used the date of October 1, 1915, as the date of the appraisal. Mr.Rankin stated that his report covers only the property of the Respondent company located in the City of LaJunta and does not include any part of the transmission line from Pueblo to LaJunta, the Pueblo station, or Pueblo generating equipment. Mr.Rankin also stated that his report excludes the Company's property at Swink and other surrounding points.

Following is a summary of the cost to reproduce, new, and the depreciated, or present fair value of the Company's properties located in La Junta, as determined by the Commission's Engineer

Summary of Valuation.
Of the properties of Respondent Company, located in LaJunta.

Items:	Cost of Reproduction:	Present Value:
Buildings,.....	$4402.00	$3434.00
Station Equipment,....	19188.00	14367.00
Distribution,.....	44148.00	34905.00
	67738.00	52706.00
Add overhead, 13%,....	8806.00	6852.00
	76544.00	59558.00
Land,.....	2000.00	2000.00
	78544.00	61558.00
Interest during construction,.....	2356.00	1848.00
	80900.00	63406.00
General equipment,....	4170.00	3725.00
	85070.00	67131.00
Working capital,.....	5000.00	5000.00
	90070.00	72131.00
Developing business,..	10000.00	10000.00
	100070.00	82131.00
Financing,.....	5000.00	5000.00
Total,.....	$105070.00	$87131.00

Following is a statement of Construction Overheads applicable to items of construction on the Company's properties at LaJunta, as determined upon by the Commission's Engineer:

Construction Overheads.
On the properties of Respondent Company, located in LaJunta.

Engineering and Superintendence,....	7½%
Legal and Organization Expense,.....	2
Insurance during Construction,.....	1
Omissions and contingencies,.....	2½
Total,.....	13%, applicable to items of construction only.
Interest during construction,.....	3%, applicable to all physical property.

Mr.Rankin finds that $85,070.00 is the amount of money required to reproduce, new, the physical properties of the Respondent company located at LaJunta, and that $67,131.00 is the depreciated, or present fair value of these properties. The Respondent's Engineer, in his report to the Commission, finds the present fair value of the Company's physical properties located in LaJunta to be a sum a trifle less than that determined upon by the Commission's Engineer, but this small difference is accounted for by an erroneous assumption on the part of the Engineer for the Respondent Company.

For the purpose of calling the attention of the Commission to the fact that certain intangible values should be added to the present fair value of the physical properties of the Respondent company located at LaJunta, the Commission's Engineer has set forth certain sums of money to cover working capital, developing the business, and financing.

Working Capital.

In arriving at the sum of money that should be included in the present fair value of the Company's properties at LaJunta under the head of "Working Capital", the Commission has taken the total billing for the year ended June 30, 1915, and, by taking one-twelfth of this sum, the average revenue for one month has been determined as approximately $3,500.00, which is sufficient to cover the cash required for working capital. As the LaJunta property is operating through the Company's office at Pueblo, no consideration is given here to the difference between "bills payable" and "bills receivable" as an addition to working capital. The item of "Stores and Supplies" properly should be included under the head of "Working Capital" and the Commission is therefore of the opinion that the Commission's Engineer should not have included the sum of $1,621.00 for "Stores and Supplies" in his appraisal of the physical properties of the Respondent Company at LaJunta. This sum has been deducted from Mr.Rankin's total of the present fair value of the physical properties of the Respondent Company at LaJunta and included in the Working Capital. The present fair value is therefore corrected to read $65,510.00. In arriving at the sum of $1,621.00 to cover "Stores and Supplies", Mr.Rankin determined the values of the "Stores and Supplies" on hand at the date of the appraisal. The Commission is of the opinion that the Stores and Supplies should be averaged for a period of one year, and from this average we arrive at the sum of $1,500.00. The Commission therefore finds that the proper amount of Working Capital to be allowed in this case is $5,000.00.

Developing Business and Going Value.

The Commission has given careful consideration to the evidence introduced by the Respondent company as to the proper allowance which should be made for the development of its business and the added value of its property at LaJunta, due to the fact that it is an established business, and has considered all other intangible values suggested by the Company. The Commission finds the present fair value, for rate-making purposes, of the Company's properties at LaJunta, tangible and intangible, to be $80,000.00.

Book Value.

The LaJunta Electric Light Company was incorporated November 11,1893, with a capital stock of $25,000.00, and the Commission has ascertained from the report of its Statistician that the total amount originally invested in the LaJunta Electric Light Company was $25,000.00. On December 31, 1907, the capital stock of the Company was increased from $25,000.00 to $50,000.00. The additional capital stock was issued to J.B.Farrish and W.S.Baggott, to cover amounts advanced by them on notes given by the Company, which money was put into the plant from time to time, and the purpose of this additional issue of $25,000.00 was to retire indebtedness as follows:

J.B.Farrish,....$13,600.00
W.S.Baggott,....$11,400.00

The plant investment on that date, as represented on the books of the LaJunta Electric Light Company, amounted to $78,948.48, and the Company deducted, through its Profit & Loss Account, for depreciation, $28,948.48, which made the total of the Plant Account $50,000.00, an amount evidently intended to correspond with the amount of capital stock outstanding. When the accounts of The LaJunta Electric Light Company were transferred to The Respondent Company on December 1,1911, due to the purchase of the local plant by the Respondent Company, the

plant investment on the local company's books showed a value of $66,130.66, divided as follows:

Plant,.....	$64,377.68
Street lines and mains,..	224.44
Organization and Reorganization expense,.....	396.00
Electric service,.....	361.28
Furniture and fixtures,..	626.23
Tools and implements,....	24.09
Undistributed construction,	120.94

From December 1,1911, to June 30,1915, the Respondent company's construction accounts for the LaJunta property, (which represented the rebuilding of the LaJunta plant from the date it was acquired by the Respondent company, due to replacements and betterments, to the date of the report of the Commission's Statistician), was $32,446.07, distributed as follows:

Real Estate and buildings,.....$	408.94
Electric plant,.....	441.24
Street lines and wires,.....	10,879.89
Electric service,.....	2,009.41
Transformers,.....	856.37
Meters, $3,909.40 less $672.00,Swink,	3,237.40
Arc lamps,.....	165.21
Tools and implements, electric,.....	28.20
Transmission sub-station, transformer station and equipment,.....	9,183.86
Furniture and fixtures,.....	557.90
Horses and vehicles,.....	123.64
General construction,.....	4,554.01

In addition to the above amounts, the books of the Respondent company show the sum of $1,376.78, inventory of Material and Supplies as of June 30,1915, together with the sum of $35,422.30, which comes under the head of adjustments of Profit & Loss and Undivided Surplus due stockholders of the old LaJunta Electric Light Company and paid by the Respondent company for the business. The present book value of the LaJunta properties of the Respondent company therefore appears to be $135,375.81, as found by the Statistician of the Commission.

Revenues and Operating Expenses.

A statement of the earnings of the LaJunta properties of the Respondent company from June 30,1914, to June 30,1915, as found by the Commission's statistician, is as follows:

Earnings,		June 30,1914, to June 30,1915.
City Arc Lighting.....	$4,241.88	
City Incand.Lighting,....	958.32	$5,200.20
Commercial Ltg.metered,..	27,771.40	
Commercial "not "	894.85	28,666.25
Commercial power,metered,		5,967.05
Signs not metered,.....		400.80
Total earnings,electric sales,....		$40,234.30
Mdse.sales profits,.....		599.46
Forfeited discounts,.....		473.75
Total operating earnings,.....		$41,307.51
Less rebates and allowances,.....		109.70
Gross operating revenue,.....		$41,197.81
Non-operating revenue,water,.....		600.53
Total gross revenue,.....		$41,798.34

A statement of the operating expenses of the LaJunta properties of the Respondent Company from June 30,1914, to June 30,1915, as taken from the books of the Company by the Commission's Statistician, is as follows:

Operating Expenses,		June 30,1914, to June 30,1915.
Cost of Manufacture,		
Operating,		
Power Plant wages,.....		$16.38
Power Plant misc.sup., and expense,.....		20.57
Fuel used, 131.03 T.@ $2.97,...		389.56
Hired power,68,607 KWH @ 2.4¢.		16,465.68
Oil and waste,.....		6.22
Total operating,.....		$16,898.41
Maintenance,		
Steam plant,.....		5.00
Electric Plant,.....		3.93
Total Maintenance,.....		$ 8.93
Total Operating and Maintenance,...		$16,907.34
Less other departments, 29,573 KWH @ 2.4¢.....		709.75
Total Manufacturing Cost,.....		$16,197.59

Cost of Transmission,		
Operating,		
Misc.sup.& exp.,4283 KWH @ 2.4¢,.		$ 165.50
Sub-station labor,.....		1,889.38
Total operating,.....		$2,054.88
Maintenance,		
Sub-station Trans.station equipment,.....		41.72
Total Transmission,.....		$2,096.60
Distribution,		
Operating,		
Meter reading,.....	$	381.00
Trimming arcs,.....		107.62
Supplies and expense,.....		1.74
Cost of meter changes,.....		588.08
Lamp renewals,.....		427.46
Customers' Repairs,.....		981.00
Carbons used,.....		104.35
Globes used,.....		31.28
Leased signs,.....		32.19
Total Operating,.....		$2,654.72
Maintenance,		
Street lines and wires,.....		756.42
Electric services,.....		173.93
Street lights,.....		265.06
Transformers,.....		68.77
Meters,.....		505.60
Total Maintenance,.....		$1,769.78
Total Distribution,.....		$4,424.50
General Expense,		
Salaries, General Officers,.....	$	351.00
Salaries, clerks,.....		2,812.88
Printing, stationery, postage,.....		373.21
Telegraph and telephone,.....		106.34
Advertising, Canvassing, Soliciting,.....		434.45
Misc.General Exp.,3253 KWH @ 2.4¢,.....		2,901.30
Legal expense,.....		755.92
Loss, Injuries and Damages,.....		143.85
Rents,.....		678.00
Taxes,.....		1,083.93
Insurance,.....		188.46
Bad debt account,.....		151.61
Store room expense,.....		3.08
Municipal compensation,.....		682.14
Total General Expense,.....		$10,666.77
Total Operating Expenses,		
Cost of Manufacture,.....		$16,197.59
Transmission,.....		2,096.60
Distribution,.....		4,424.50
General Expense,.....		10,666.77
Total,.....		$33,385.46
Total Gross Revenue,.....		$41,798.34
Total Operating Expenses,.....		33,385.46
Net Earnings,.....		$ 8,412.88

The Commission is of the opinion that the operating expenses of the LaJunta properties, as above set forth, and with certain exceptions, are properly chargeable to the LaJunta properties.

Under the head of "Transmission", in the above statement of Operating Expenses, is the sum of $2,054.88, the cost of sub-station labor and miscellaneous supplies and expense. This item is properly chargeable to LaJunta, as no part of the sub-station labor or miscellaneous supplies and expense occurs as to any of the properties of the Respondent company except those properties in the City of LaJunta. Under the head of "Distribution" in the above statement of Operating Expenses is the sum of $2,654.72, which is a proper charge to LaJunta, as the entire expense of distribution as above set forth occurs within the City of LaJunta.

Under the head of "Maintenance" in the above statement of Operating Expenses is a total of $1,769.78, and, while the items under "Maintenance" are properly chargeable to LaJunta, it has been ascertained by the Commission that Depreciation is carried under the head of "Maintenance" in the above statement, and, as an Annual Depreciation Reserve Fund will be ordered set aside, which fund will be a duplication of some of the items set forth under the general head of "Maintenance", the Commission has arrived at the sum of $500.00 as a proper amount to be deducted from "Maintenance", due to items of replacement set forth under "Maintenance", and which properly come under the head of "Depreciation", thereby reducing the total of "Maintenance" from $1,769.78 to $1,269.78, and reducing the total of "Distribution" from $4,424.50 to $3,924.50.

Under the head of "General Expense" in the above statement, and under the sub-head of "Miscellaneous General Expense", is an item of $2,901.30. Included in this amount is the sum of $1,626.86, expended by the Respondent company during the period

from June 30,1914, to June 30,1915, under the head of "Municipal ownership election expenses". While this is a proper charge against the Respondent Company,- as this company has a right to protect its property through any legitimate expenditure,- and therefore should be included in operating expenses, the Commission is of the opinion that the entire amount should not be charged to the LaJunta plant as an operating expense during the year of June 30,1914, to June 30,1915, but either should be distributed over the entire system of The Arkansas Valley Railway, Light & Power Company, the Respondent company, or spread over a period of years, if charged to the LaJunta property as an operating expense. In this case we are of the opinion that the same should be distributed over the entire system of the Defendant company, and, in order so to distribute it, the Commission has arrived at a percentage on the consumer basis, amounting to 8.08% applicable to the LaJunta properties, or $130.03.

It therefore appears that the sum of $1,491.83 should be deducted from the item of "Miscellaneous General Expense", as above set forth, leaving a total "General Expense" of $9,174.94.

The Commission finds that the net earnings of the La Junta properties of the Respondent company, excluding the annual depreciation reserve, are $10,404.71.

Depreciation.

The Commission finds the proper amount of depreciation to be set aside annually by the Respondent company for the LaJunta properties to be $2,500.00, until the further order of the Commission.

Service.

The Commission finds that the service of the Respondent company in the City of LaJunta is adequate. Considerable money has been expended by the Company in rebuilding the LaJunta system and no complaints were placed before the Commission as to inadequate service. Continuity of service is one of the important factors

in cases of this nature and after a thorough investigation the Commission arrives at the conclusion that no reasonable criticism of the adequacy of the service of the Respondent company has been or can be made.

Reasonable Rates.

The Commission finds that the rates and charges of the Respondent Company now in force and effect in the City of LaJunta are unreasonable. Following is the schedule of rates and charges of the Respondent company now in force and effect in the City of LaJunta:

Present Schedule of Rates and Charges.

General Lighting Service:

First	50	K.W.H.	per month,	per	K.W.H.,	...12¢
Next	100	"	"	"	"	...10¢
Next	100	"	"	"	"	... 8¢
Next	100	"	"	"	"	... 7¢
Next	150	"	"	"	"	... 6¢
Excess		"	"	"	"	... 4¢
		Discount,				.....10%
		Minimum per month,				.....$1.00

General Flat Rate, for Signs, Windows, Display and Outling Lighting (Patrolled Service)

Per month per 100 watts connected,		....$1.25
Discount,		.....10%
Minimum per month,		.....$1.00

General Power Rate:

First	100	K.W.H.	per month,	per	K.W.H.,	.... 8¢
Next	200	"	"	"	"	... 6¢
Next	200	"	"	"	"	... 5¢
Next	500	"	"	"	"	... 4¢
Next	1000	"	"	"	"	... 3¢
Next	2000	"	"	"	"	...2½¢
Excess		"	"	"	"	... 2¢
Minimum per month per H.P.connected,						...$1.00

Old Power Rate,(under which there are still a small number of customers),

1 to 100	K.W.H.	per month,	less	no	discount,	per	K.W.H.,	9¢
101 to 150	"	"	"	5%	"	"	"	9¢
151 to 250	"	"	"	10%	"	"	"	9¢
251 to 400	"	"	"	20%	"	"	"	9¢
401 to 600	"	"	"	25%	"	"	"	9¢
Excess	"	"	"	30%	"	"	"	9¢
		Additional discount,				.....		5%

Irrigation and Refrigeration Rate,

Primary charge per month per H.P.connected,	$1.00
Plus a secondary charge for all current consumed for a period of not less than five months, per K.W.H., ...	3¢
Discount, ...	10%
Minimum per month per H.P.connected, ...	$1.00

Irrigation Only:

At the expiration of the above period (five months), the consumer may have service continued for the other seven months in the year by agreeing to pay for each of the seven months,-

Per month per H.P.connected,.....25¢
Plus secondary charge per K.W.H. for all current of, ... 5¢
Discount,.....10%
Minimum per month per H.P.connected,..... 25¢

Street Lighting Service:

54 series arc lights, 7 amperes, 2000 c.p., or equivalent in cluster lights of 4 - 60 watt mazdas, each per year,$80.00
44 mazda lights, 60 watts each, per cluster of four per year,..... $80.00

In arriving at a schedule of reasonable rates and charges for electric energy to be charged by the Respondent Company in the City of LaJunta, the Commission has assumed that the Company will continue to do business within the City.

The Commission finds that the schedule of rates and charges as hereinafter set forth in the order of the Commission are just and reasonable.

O R D E R.

IT IS THEREFORE ORDERED, That The Arkansas Valley, Railway, Light & Power Company shall, within thirty (30) days from the date of this order, file with this Commission the following schedule of reasonable rates and charges to be charged by it, the said The Arkansas Valley Railway, Light & Power Company, within the City of LaJunta:

Schedule A.

General Lighting Service.

Available to all consumers using the Company's standard service for lighting.

Rate:

First 50	K.W.H.	per	month,	per	K.W.H.,	.... 11¢
Next 100	"	"	"	"	"	.... 9¢
Next 100	"	"	"	"	"	.... 8¢
Next 100	"	"	"	"	"	.... 7¢
Next 150	"	"	"	"	"	.... 6¢

Excess consumption during the month, ... 4¢
Discount,..... 10%
Minimum per month,..... $1.00 net.

Schedule B. Residence Lighting Service.

Available to residence consumers only.

Rate:

First 5 K.W.H. consumption per "active" room per month, per K.W.H. 11¢
Next 5 K.W.H. consumption per "active" room per month, per K.W.H. 8¢
Excess consumption during the month, per K.W.H.,..... 3½¢
Discount,..... 10%
Minimum per month,..... $1.00 net.

All rooms except basements, halls not in general use, bath rooms, porches, and unfinished attics, are to be considered as "active"; provided, that no installation shall be considered as having less than three (3) nor more than nine (9) active rooms.

Schedule C. Municipal Street Lighting.

Rate,

$69.00 per year for each 7½ ampere A.C. enclosed arc lamp burning all night,
$69.00 per year per cluster of four 100 watt Mazda lamps, burning all night.

Schedule D. General Power Service.

Available to all consumers using the company's standard service for power.

Rate:

First 100	K.W.H.	per	month,	per	K.W.H.,	.... 7¢
Next 200	"	"	"	"	"	... 6¢
Next 200	"	"	"	"	"	... 5¢
Next 500	"	"	"	"	"	... 4¢
Next 1000	"	"	"	"	"	... 3¢
Next 2000	"	"	"	"	"	... 2½¢

Excess consumption during the month, per K.W.H.,..... 2¢
Discount,..... 10%
Minimum per month per horsepower connected, $1.00 net.

Schedule E. Sign and Flat Lighting.
(Patrolled service.)

Rate:
Per month for each 100 watts connected,.....$1.25
burning from dusk until 11:00 p.m.
Discount,..... 10%
Minimum per month,.....$1.00 net.

Schedule F. Irrigation and Refrigeration Rate.

A fixed charge per month per horse power
connected of,.....$1.00
Plus an energy charge for all current
consumed for a period of not less than
five months, per K.W.H.,..... 3¢
Discount,..... 10%
Minimum per month per horse power
connected,.....$1.00 net.

Schedule F-1. Irrigation Only.

Rate:
At the expiration of the above five months period, the consumer may have service continued for the remainder of the year by paying for each of the seven months 25 cents per horse power connected, plus an energy charge of 5 cents per K.W.H. This schedule will be subject to a discount of 10% with a net minimum of 25 cents per month per horse power connected.

IT IS FURTHER ORDERED, That the above schedule of rates and charges shall become effective and apply to all electric energy furnished by The Arkansas Valley Railway, Light & Power Company to the municipality of LaJunta, Colorado, and the citizens thereof, for the month of May, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. A. Lockwood

Geo. T. Bradley

W. N. Lawrence

Commissioners.

Dated at Denver, Colorado, this
29th day of April, 1916.

ORIGINAL

At a General Session of the
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,
held at its office in Denver,
Colorado, on the 6th day of
May, 1916.

INVESTIGATION AND SUSPENSION DOCKET No.5.

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 1st, 1916, designated as follows:

F. G. Airy's (Agent) Colorado P. U. C. No. 73.

Supplement 15 to Colorado P. U. C. No. 26; Supplement 6 to Colorado P. U. C. No. 32; Supplement 20 to Colorado P. U. C. No. 33 (Globe Express); Supplement 12 to Colorado P. U. C. No. 69 (Globe Express), and Supplement 2 to Colorado P. U. C. No. 94 (Globe Express), of the Wells-Fargo & Company Express.

IT IS ORDERED, that the Commission enter upon and investigation and hearing to be held at the office of the Commission in Denver, Colorado, at a date to be later designated, 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 intra-state transportation of commodities between stations in the State of Colorado, 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 intra-state traffic until the 30th day of August, 1916, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED that the Secretary of this Commission be, and 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.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley.

M. A. Gilsonite

Commissioners.

Dated at Denver, Colorado,
this 6th day of May, 1916.

ORIGINAL

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE GRAND JUNCTION MINING & FUEL COMPANY, a corporation, and THE PALISADE COAL AND SUPPLY COMPANY, a corporation,

Complainants,

vs.

THE COLORADO MIDLAND RAILWAY COMPANY AND GEORGE W.VALLERY, RECEIVER, THE MIDLAND TERMINAL RAILWAY COMPANY, and THE CRIPPLE CREEK AND COLORADO SPRINGS RAILROAD COMPANY,

Defendants.

May 12, 1916

Case No.43.

MODIFICATION OF ORDER.

WHEREAS, on the 22nd day of April, 1916, the Commission entered its order in the above entitled cause to become effective on the 15th day of May, 1916; and

WHEREAS, on the 12th day of May, 1916, The Midland Terminal Railway Company, one of the defendants in the above cause, by its Attorney, C.C.Hamlin, filed an application for a rehearing, setting forth grounds in support of the application; and

WHEREAS, on the 12th day of May, 1916, The Colorado Midland Railway Company, and George W.Vallery, as its Receiver, through their attorneys Henry T.Rogers, George A.H.Fraser, and Messrs. Rogers, Ellis & Johnson, filed with the Commission their written application for a rehearing in the above cause, setting forth grounds in support of said application.

IT IS THEREFORE ORDERED, That the effective date of the order of the Commission, viz; May 15th,1916, entered in the above cause on the 22nd day of April, 1916, is hereby extended until the 1st day of June, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S S Stoddard

Geo T. Bradley

M Hayes Edwards

Commissioners.

Dated at Denver,Colorado,
this 12th day of May,1916.

ORIGINAL

Case 20

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

May 18, 1916

COLORADO STATE BOARD OF STOCK INSPECTION COMMISSIONERS and COLORADO STOCKGROWERS' ASSOCIATION, representing the following membership organizations: Colorado Veterinary Association, Eagle Stockgrowers' Association, Egeria Park Stockgrowers' Association, Gunnison County Stockgrowers' Association, Grand River Stockgrowers' Association, LaPlata County Stockgrowers' Association, Middle Park Stockgrowers' Association, North Park Stockgrowers' Association, Park County Stockgrowers' Association, Pikes Peak Cattle & Horse Growers' Association, Pitkin County Stockgrowers' Association, Lake Fork Cattle & Horse Growers' Association, Querno Verde Stockgrowers' Association, Roaring Fork Stockgrowers' Association, South Side Stockgrowers' Association, Routt County Stockgrowers' Association, Williams River Stockgrowers' Association, Yuma County Stockgrowers' Association,

Plaintiffs,

vs.

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,
Jacob M.Dickinson, Receiver,
The Colorado & Southeastern Railroad Company,
The Colorado & Southern Railway Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company,
Geo.W.Vallery, Receiver,
The Colorado, Wyoming & Eastern Railway Company,
The Crystal River & San Juan Railroad Company,
The Denver & Intermountain Railroad Company,
The Denver & Rio Grande Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
Marshall B.Smith, Receiver,
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 Railroad Company,
The Silverton Railway Company,
The Silverton Northern Railroad Company,
The Uintah Railway Company,
Union Pacific Railroad Company,
The Denver & Salt Lake Railroad Company,

Defendants.

CASE NO.20.

Appearances:

For the Colorado State Board of Stock Inspection Commissioners,
Mr.E.J.McCrillis, Secretary,
J.W.Kelly, Esq.

Colorado Stock Growers' Association,
Mr.Fred P.Johnson, Secretary,

The Atchison, Topeka & Santa Fe Railway Co.,
Henry T.Rogers, Esq.,
Geo.A.H.Fraser, Esq.,
Messrs.Rogers, Ellis & Johnson,

The Beaver, Penrose & Northern Ry.Co.,
Mr.Spencer Penrose,

Chicago, Burlington & Quincy R.R.Co.,
E.E.Whitted, Esq.,
Thos.R.Woodrow, Esq.,

The Chicago, Rock Island & Pacific Railway Co.,
W.V.Hodges, Esq.,
D.Edgar Wilson, Esq.,

The Colorado & Southern Railway Co.,
E.E.Whitted, Esq.,
Thos.R.Woodrow, Esq.,

The Colorado Midland Railway Co.,
Henry T.Rogers, Esq.,
Geo.A.H.Fraser, Esq.,
Messrs.Rogers, Ellis & Johnson,

The Crystal River & San Juan Railroad Co.,
Mr.H.D.Boughner,

The Denver & Intermountain Railroad Co.,
H.S.Robertson, Esq.,

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

The Denver, Boulder & Western Railroad Co.,
E.E.Whitted, Esq.,
Thos.R.Woodrow, Esq.,

The Denver, Laramie & Northwestern Railroad Co.,
W.W.Garwood, Esq.,

The Cripple Creek & Colorado Springs Railroad Co.,
The Midland Terminal Railway Co.,
Ralph Hartzell, Esq.,
Messrs.Schuyler & Schuyler,

The Great Western Railway Company,
Chas.W.Waterman, Esq.,
Caldwell Martin, Esq.,

The Missouri Pacific Railway Co.,
Thos.H.Devine, Esq.,
J.W.Preston, Esq.,

The San Luis Southern Railway Co.,
Franklin S.Brooks, Esq.,

The San Luis Central Railroad Co.,
W.V.Hodges, Esq.,
D.Edgar Wilson, Esq.,

The Uintah Railway Co.,
Vaile, McAllister & Vaile,
Geo.M.Tralles, Esq.,

Union Pacific Railroad Company,
C.C.Dorsey, Esq.,
J.Q.Dier, Esq.,

The Denver & Salt Lake Railroad Co.,
Tyson S.Dines, Esq.

Submitted September 17,1915. Decided May 18,1916.

ORDER OVERRULING DEMURRERS AND MOTIONS TO DISMISS COMPLAINT.

On the 1st day of June, 1915, the State Board of Stock Inspection Commissioners of the State of Colorado and the Colorado Stock Growers Association filed with the Commission a complaint against the above named common carriers operating railroads within the State of Colorado, alleging in substance that the defendants own and operate in the State of Colorado more than five thousand miles of main-line railway, along and over which passenger and freight trains, operated by steam and other motive power, are moved daily and constantly at great speed under the direction and control of said Defendants; that the tracks of the above carriers are constructed upon the rights of way owned by the Defendants or under their control, and the rights of way are of the width of 200 feet extending 100 feet on each side of the railway tracks; that the above named common carriers are public utilities and as such are under the jurisdiction of the Commission and subject and amenable to its lawful orders; that the rights of way and railway tracks of the above common carriers extend and are constructed through and

across cultivated farming lands and pasture lands, and for the most part said rights of way and railway tracks are unfenced and not protected in any way from trespass of livestock upon the said rights of way and railway tracks; that said defendants in operating said railways and the freight and passenger trains thereof do not furnish, provide and maintain such instrumentalities, equipment and facilities as promote the safety, comfort and convenience of its patrons, employes and the public, and as are in all respects adequate, efficient, just and reasonable, and that the failure by the said Defendants so to do, as herein set forth, is unlawful and contrary to the Public Utilities Act, Session Laws, 1913, page 464, and of Sections 13 and 57 thereof, and of an Act pertaining to the fencing of railroad lands, Session Laws, 1911, page 400, and Section 1 thereof.

The complaint then alleges that livestock strays upon the rights of way and tracks of the above carriers and is often struck violently by the rapidly moving passenger and freight trains of the above Defendants, and when so struck is either instantly killed or so greatly injured as to become a total loss to the owners, except for the hides thereof, the value of which hides is only a small percentage of the value of said livestock; that the injury and damage from the destruction of said livestock generally occur at night, or so far from the presence of any witnesses, except employes and servants of the Defendants, that the owners of the said livestock are unable to prove the liability for damages of the said Defendants for killing or injuring the said livestock; that in the said State of Colorado there is each year unlawfully destroyed by the said Defendant railways thousands of head of livestock for which no payment is ever made by the said Defendants to the owners thereof.

The complaint further alleges that the straying of the livestock, as aforesaid, upon the said rights of way and railway

tracks, where they are unlawfully struck and destroyed by the said trains, is a great and constant menace to the safety, comfort and convenience of passengers traveling upon the trains of the Defendants, of the employes of the Defendants, and of the public, for the reason that when trains of the said Defendant railways strike and destroy livestock the said trains are frequently thrown from said tracks thereby and precipitated against or down or over embankments, causing great loss of property to shippers of freight and danger to and loss of life of passengers and employes of the said Defendants; that this loss of life and property and constant danger to passengers and employes of said Defendants is unnecessary, easily preventable, and would not occur if the said railways and rights of way and tracks thereof were protected by suitable fences capable of barring straying livestock from the rights of way and tracks of the said Defendants; that the the erection of said fences, with suitable cattle guards at road crossings, by the Defendant railways, would prevent the said livestock from straying upon the rights of way and railway tracks and eliminate the consequent loss and damage to the owners of the livestock, and to shippers of freight, and to passengers, and the consequent danger to and loss of life by passengers and employes of the said Defendants.

It is then alleged in the complaint that the neglect and refusal of the said Defendant railways to fence their rights of way and railway tracks, and the said operation of trains upon and over said unfenced tracks, are contrary to the statutes of the State of Colorado affecting railways, the enforcement of which statute is not specifically vested in any officer or tribunal, and therefore to be enforced by this Commission within the meaning of Sec.57 of the Public Utilities Act; and that the statute for fencing railway lands, Session Laws 1911, page 400, or a law similar or identical in its purposes terms or effect, has been upon the statute books of the State of Colorado for a term of years prior to the filing of this complaint, and that the Defendants have at all

times unlawfully refused, neglected and wilfully disobeyed, violated and broken the said law by neglecting and refusing to fence their said rights of way or railway tracks, or to pay to the owners of livestock unlawfully killed upon said rights of way or railway tracks, the value thereof.

The Plaintiffs pray for an order of this Commission commanding the Defendant carriers to erect and maintain fences alongside of their roads, or the part thereof open to use, where the same pass through or along or adjoin enclosed or cultivated fields or unenclosed lands, with openings and gates therein, to be hung and to have latches and hinges so they may be shut and opened, at all necessary farm crossings of the road, except at crossings of public roads and highways and within the limits of incorporated towns and cities or the yard limits of established stations; and also to construct and maintain at all public road crossings good and sufficient cattle guards; such fences, gates and cattle guards, for the protection of livestock and to promote the safety, comfort and convenience of the defendant railways' patrons, employes and the public, to be so constructed as to prevent horses, mules,asses and cattle from straying upon said rights of way and railway tracks.

On the 9th day of June, 1915, nine of the above Defendant carriers filed a petition with the Commission praying that the Commission vacate the order entered requiring the Defendants to answer the complaint herein, and requesting that the Commission issue an order permitting the Defendant carriers to file a demurrer to the complaint on the ground that the Commission lacks power or jurisdiction to grant the relief prayed for in said complaint.

(1) On the 11th day of June,1915, the Commission entered an order permitting each of the Defendant carriers to demur to the jurisdiction of the Commission, provided that each of said demurrers be accompanied by an answer admitting or denying the allegations set forth in the complaint.

On the 18th day of August, 1915, at the Hearing Room of the Commission, in the State Capitol Building in the City and County of Denver, the Defendant carriers argued orally before the Commission in support of their several motions and demurrers to the complaint, and to the jurisdiction of the Commission, and the attorney for the Plaintiffs argued orally in support of the complaint and against the motions and demurrers of the several Defendants.

The motions and demurrers of the Defendant carriers brought to issue the following propositions, viz;

1. The right of the Complainants to appear as parties plaintiff before the Commission.

2. A denial of the jurisdiction of the Commission over the following named Defendant carriers, viz;

The Chicago, Rock Island & Pacific Railroad Company, J.M.Dickinson, Receiver,

The Colorado Midland Railway Company, Geo.W.Vallery, Receiver,

The Denver, Laramie & Northwestern Railroad Company, Marshall B.Smith, Receiver,

for the reason that these carriers are represented by receivers duly appointed by courts of competent jurisdiction and subject only to the orders of these courts.

3. That the Commission has no jurisdiction over the subject matter contained in the complaint and no power or authority to grant the relief sought therein.

Competency of Parties Plaintiff.

(2) The first objection made to the complaint by the Defendant carriers is that the plaintiffs are not competent to maintain this proceeding before the Commission. Section 45 of the Public Utilities Act authorizes the Commission to make complaint on its own motion, and permits any corporation, person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural, or manufacturing association or organization, or any

body politic or municipal corporation to file a complaint before this Commission, except as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, and as to those questions permits the Commission to bring a complaint upon its own motion or the petition may be signed by the mayor or chairman or president of the board of trustees, or majority of the council, commission or other legislative body of the county, city and county, or city or town, if any, within which the alleged violation occurs, or not less than twenty-five consumers or purchasers or prospective consumers or purchasers of such gas, electric, water or telephone service. (3) It further appears in this Act that it is the intent of the Legislature that no complaint shall be dismissed because of the absence of direct damage to the complainants.

It would therefore appear that the position of the Defendant carriers as to the incompetency of the parties plaintiff is not well taken.

Jurisdiction of the Commission as to Railroads Operated by Federal and State Receivers.

(4) Three of the Defendant carriers, viz;

The Colorado Midland Railway Company,
By Geo.W.Vallery, Receiver,

The Denver, Laramie & Northwestern Railroad Company,
By Marshall B.Smith, Receiver,

The Chicago, Rock Island & Pacific Railroad Company,
By J.M.Dickinson, Receiver,

have demurred to, and moved to strike, the complaint for the reasons that railroads operated by receivers acting under authority of Federal or State courts are not subject to the jurisdiction of the Public Utilities Commission of the State of Colorado, and that leave must be obtained from the courts appointing the respective receivers before an action can be brought by or before the Public Utilities Commission of the State of Colorado.

Sub-section E of Section 2 of the Colorado law pertaining to public utilities reads as follows:

" The term 'common carriers', when used in this Act, includes every railroad corporation; street railroad corporation; express corporation; despatch, sleeping car, dining car, drawing room car, freight, freight line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading; and every other corporation or person affording a means of transportation by automobile or other vehicle, similar to that ordinarily afforded by railroads or street railways and in competition therewith, either passengers, freight or express between fixed points or over established routes; and every other car corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, operating for compensation within this State."

It therefore becomes quite apparent that the Legislature of the State of Colorado empowered the Commission with jurisdiction to regulate railroads operated by receivers appointed by any court whatsoever.

It is alleged by the Defendant carriers that this Act of the Legislature was ultra vires.

The Denver, Laramie & Northwestern Railroad is operated under the management of Marshall B.Smith, Receiver, appointed by the District Court of the Second Judicial District of the State of Colorado, and it becomes necessary for the Commission to determine whether or not the Denver, Laramie & Northwestern Railroad, and its Receiver, Marshall B.Smith, are subject to the control of the Public Utilities Commission of the State of Colorado, the said receiver having been appointed by a State court of competent jurisdiction. The Supreme Court of the State of Kansas decided this very question in the case of State v. Flannelly, (decided October 1,1915, reported at 152 Pac., 22, at page 26), stating:-

" The next question is, Are the receivers subject to the control of the Public Utilities Commission, under the Public Utilities Act? The Kansas Natural Gas Company, whose property is now in the possession of the receivers, and whose business is now being conducted by them, was engaged in the business of a public utility. When the receivers continue to do the same business and render the same service as that performed by the Kansas Natural Gas Company, they are a public utility, as defined in the Public Utilities Act, and are subject to the provisions of the act. The appointment of receivers to carry on the business of a public utility does not withdraw that public utility or its receivers from the control of the laws of the State. The Public Utilities Commission can make the same orders, rules, and regulations governing these receivers and the

property in their control that they could have made concerning the Kansas Natural Gas Company and its property before the Receivers were appointed. The receivers have the same right to appeal to the courts, that the Kansas Natural Gas Company had - no greater, no less."

The Colorado Midland Railway Company, operating in the State of Colorado by George W.Vallery, Receiver, and the Chicago, Rock Island & Pacific Railroad Company, operating within the State of Colorado by J.M.Dickinson, Receiver, question the jurisdiction of this Commission for the reason that these railroads are operated by receivers appointed by the Federal Court.

It therefore becomes necessary for the Commission to determine whether the railway companies operating in the State of Colorado and under the management of a receiver appointed by a Federal Court may evade the laws of the State and be not subject to the police power of the State. It would appear to be the position of these three objecting carriers that their respective receivers can stand in open opposition to the police power of the State and the statutes pertaining to the regulation of public utilities. This Commission is of the opinion that no court, Federal or State, would permit one of its servants or officers, over whose acts it has plenary control, to merely neglect to obey, much less to openly violate, the terms of a valid law, and the Commission is of the opinion further that the position of these three carriers is untenable. As authority for this proposition, the attention of the objecting Defendants is called to the case of the Railroad Commission of Alabama v. Alabama Great Southern Railroad, decided by the Supreme Court of Alabama on June 30,1913, and found in 185 Ala., 356; 56 L.R.A., (N.S.) 98, 1915 D.

In this case the Railroad Commission of Alabama directed certain railroads operating within the State of Alabama to abandon certain parts of their present facilities and to acquire the necessary property and construct and maintain a union passenger station within the City of Bessemer, Alabama. The Supreme Court of Alabama, after deciding that the Railroad Commission had legal

authority to require the construction of a union railroad station, together with the abandonment of facilities and the acquirement of other facilities, and that the facts in that case sustained the judgment of the Railroad Commission in its order, was called upon by certain objecting carriers operated by receivers appointed by Federal courts to decide whether a railroad company in the possession of receivers appointed by a Federal court is taken out of the operation of a State statute authorizing a railroad commission to regulate common carriers. The Court stated in part:

> "It is the duty of all persons who receive protection at the hands of the law to obey it. Recognizing the binding necessity of this truism, the Congress of the United States has expressly declared that 'whenever, in any cause pending in any court of the United States, there shall be a receiver or manager in possession of any property, such receiver or manager shall manage and operate such property, according to the requirements of the valid laws of the State in which such property shall be situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.' 4 Fed.Stat.Anno., p.386, Comp.Stat.1913, Sec.1047. If, therefore, the receivers of the Atlanta, Birmingham & Atlantic Railroad Company are acting under the appointment and supervision of a Federal court, they are bound, under the express mandates of a Federal statute which provides a penalty for its non-observance, to obey the valid laws of this state. * * * This proceeding in no way involves the actual custody or control of the receivers of the ATLANTA, Birmingham & Atlantic Railroad Company, over the property of said railroad company. It undertakes to take no property from them whatsoever. It simply uudertakes to compel the receivers, in their operation of the railroad of which they are receivers, to obey a valid law of this state. The Congress of the United States has declared that 'every receiver or manager of any property, appointed by any court of the United States, may be sued in respect of any act or transaction of his in carrying on the business connected with such property, without the previous leave of the Court in which such receiver or manager was appointed', (see Fed.Stat.Anno.vol.4, p.387, and authorities cited in the notes to that section); and under this section it is generally held that previous leave of the court in which the receiver was appointed, to sue a receiver, is necessary only when the suit involves the actual custody or control by the receiver of the property, or a part of the property, of which he is in possession or control as such receiver. High, Receivers, 4th Ed., p.542, Sec.395 b. * * * The present suit was instituted for the purpose of compelling receivers, in the administration of the affairs of a corporation in this state, to obey laws which they are neglecting to obey, and for which neglect they are liable to a penalty. * * * This proceeding, in so far as the insolvent railroad company is concerned, as already stated, grows out of the neglect of its receivers to obey one of the general laws of this

state, which law has become operative in the City of Bessemer by virtue of the order of the Railroad Commission. For their neglect or refusal to obey or carry out the terms of this law, these receivers, or the railroad company of which they are receivers, are liable to a penalty fixed by the act. For the collection of this penalty, undoubtedly an action, without first obtaining leave of the court in which the receivers were appointed, would lie. High on Receivers, 4th ed., p.542, Sec.395 b, and authorities cited. And as this proceeding is to confer action on the part of the receivers in a matter growing out of their management of the property as receivers, and required of them by the law of this state, we can see no reason why the above-quoted Federal statute does not apply in this case. High, Receivers, 4th ed.supra."

See also Erb v.Morsch, 177 U.S.,584; 44 L.D.,829.

The above reasoning appears to be logical, and it is the opinion of the Commission, therefore, that the objections of the three defendant carriers operated by receivers to the jurisdiction of the Commission is not well taken.

Jurisdiction of Commission over the Subject Matter Contained in the Petition.

The complaint in this case prays for an order by the Commission "directing and commanding the Defendants, within a time to be fixed by the Commission, to erect and thereafter maintain fences on the sides of their roads, or the part open to use, where the same pass through, along or join enclosed or cultivated fields or unenclosed lands, with openings and gates therein, to be hung and have latches and hinges so that they may be opened and shut, at all necessary farm crossings of the road, except at crossings of public roads and highways, and within the limits of incorporated towns and cities, or the yard limits of established stations; and also to construct and thereafter maintain at all public road crossings now existing, or hereafter established, good and sufficient cattle guards, such fences, gates and cattle guards for the protection of livestock, and to promote the safety, comfort and convenience of the Defendants ' patrons, employes and the public, to be constructed so as to be, in the opinion of the Commission, amply sufficient to prevent horses, mules, asses and cattle from straying upon said rights of way and railway tracks."

It is the contention of the Plaintiffs that large portions of the rights of way and railway tracks of the Defendant carriers are unfenced, and are not protected in any way from trespasses of livestock, and that the Defendant carriers, in operating said railways and the freight and passenger trains thereof, do not furnish, provide and maintain such instrumentalities, equipment, and facilities as promote the safety, comfort and convenience of their patrons, employes and the public, and as are in all respects adequate, efficient, just and reasonable, and that the failure by the defendant carriers so to do is contrary to the Public Utilities Act of the State of Colorado and contrary to an act relating to the fencing of railroad lands found in the Session Laws of the State of Colorado, at page 400, for the year 1911.

Section 57 of the Public Utilities Act makes it the duty of the Commission to see that the provisions of the Constitution and Statutes of this State affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that the violations thereof are promptly prosecuted and the penalties due the State therefor collected; and it is further provided that it shall be the duty of the Attorney General or the District Attorney of the proper county or county and city to aid in any investigation, hearing or trial had under the provisions of this Act, and to instutute and prosecute actions and proceedings for the enforcement of the provisions of the Constitution and Statutes of this State affecting public utilities, and for the punishment of all violations thereof.

The Defendant carriers attack the constitutionality of the "fencing act", and earnestly contend that the Commission has no power to order the Defendant carriers to comply with this statute; and also contend that the Commission, under the terms of the Public Utilities Act, is not empowered with legal authority to order the said carriers to fence their rights of way or any part thereof, taking the position that even though the Commission has been given this authority by the Legislature the same is unconstitutional

and null and void.

(5) It is perhaps within the province of this Commission to suggest to the Attorney General that a suit be brought in the name of the People of the State of Colorado, or the Public Utilities Commission of the State of Colorado, to compel the Defendant carriers to fence their rights of way in accordance with the provisions of the "fencing act", but it is the opinion of the Commission that where the Legislature has directly vested the Commission with authority to direct every public utility to provide and maintain such service, instrumentalities, equipment and facilities as shall promote the health, safety, comfort and convenience of its patrons, employes and the public, and as shall in all respects be adequate, efficient, just and reasonable, and in Sections 24 and 25 of the Public Utilities Act providing that whenever the Commission, after a hearing upon its own motion or upon complaint, shall find that the rules, regulations, practices, equipment, appliances, facilities or service of any public utility are unjust, unreasonable, unsafe, inadequate or insufficient, or where the Commission shall find that additions, extensions, repairs or improvements to or change in the existing plant, operating facilities or other physical property of any public utility, or of any two or more public utilities, ought reasonably to be made, or that the new structure or structures should be erected to promote the convenience or security of its employes or the public, or in any other way to secure adequate service or facilities, it is made the duty of the Commission to determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or method to be observed, furnished, constructed, enforced or employed, and to direct that the additions, extensions, repairs, improvements or changes be made, or such structure or structures to be erected.

The Commission is of the opinion that the Legislature of the State of Colorado has directly vested the Commission with jurisdiction over the subject matter in the petition of the petitioners.

It then becomes necessary for the Commission to determine whether it shall attempt by proper action to enforce the provisions contained in the "fencing act", or, in lieu thereof, permit the Plaintiffs in this cause to present to the Commission sufficient showing, if the same can be made, to require an order of the Commission directing one or more of the Defendant carriers to fence and otherwise properly protect portions of the rights of way owned and controlled by a defendant carrier or carriers.

The Commission is uncertain as to whether the Legislature intended that the "fencing act" should be enforced through the action of this Commission, but has concluded that it was the intention of the Legislature to vest in the Commission power and authority, by the terms of the Public Utilities Act, to assume jurisdiction over the subject matter contained in the complaint of the Plaintiffs, and the Commission therefore will permit the Plaintiffs to present evidence in the above cause against one or more of the Defendant carriers for the purpose of showing the Commission that additional instrumentalities, equipment, appliances, facilities, apparatus or improvements to the physical property of one or more of the Defendant carriers should be made to promote the safety, health, comfort and convenience of its patrons, employes and the public, and to make the same in all respects adequate, efficient, just and reasonable.

IT IS THEREFORE ORDERED, That the demurrers of the Defendant carriers to the complaint of the Plaintiffs be over-ruled.

IT IS FURTHER ORDERED, That the motions to strike and the motions to dismiss the complaint be denied.

IT IS FURTHER ORDERED, That the Plaintiffs may appear before the Commission, upon a date to be set by the Commission, and make such showing as they desire as to the subject matter contained in their complaint.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

E. S. Stoddard

Geo. T. Bradley

M. Hughes

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

The Town of Arvada, Complainant,	)	
vs.	)	Case No.42.
The Arvada Electric Company, Respondent.	)	

Appearances:
Geo.B.Campbell, Esq., for Complainant,
Mr.W.C.Sterne, for the Respondent company.

Submitted May 8,1916. Decided May 18,1916.

REHEARING DENIED AND ORDER MODIFIED.

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On the 27th day of April,1916, the Commission dismissed the complaint of the Plaintiff in the above entitled cause, setting forth sufficient reasons for so doing.

On the 8th day of May,1916, Geo.B.Campbell, Esq., Town Attorney for the Town of Arvada, the Complainant in this cause, filed a motion for a rehearing, alleging that the Commission erred in including the sum of $3,158.78 in arriving at the sum of $34,383.00 as the present fair value of the properties of the Respondent company, for the reason that the sum of $3,158.78 represents the value of the transmission line owned by The Denver Gas & Electric Company, the wholesaling company.

It appears from the evidence that the Commission erred in including the present fair value of the transmission line, which is the property of The Denver Gas & Electric Company, as a part of the present fair value of the properties of the Respondent company. This error having been very properly called to the Commission's attention the present fair value of the Respondent company's property in the sum of $34,383.00, as found by the Commission, is accordingly reduced to equal the sum of $31,224.22.

The Complainant contends that the Commission further erred in taking as the basis of its computations the earnings for the year 1914 instead of the year 1915. The Commission had presented to it in the evidence the earnings of the Respondent company for ten months during the year 1915, as well as the earnings for the entire year of 1914, and while it is true that the Respondent company demonstrated a better showing for the year 1915 than was made in the year 1914, the increase in earnings was such that it could result in no difference in the decision of the Commission.

The Complainant also complains that the Commission committed error in its order of April 27,1916, in the above cause, in that it did not order every consumer of the Respondent company to pay the same rate for electric energy. The Colorado laws pertaining to public utilities and the regulation thereof do not contemplate the same rate for all classes of service furnished by electric utilities, but in specific terms state that electric utilities under the direction of the Public Utilities Commission may establish a graduated scale of charges for electric energy. Of course the Commission expects the Respondent company to charge the same rate for the same class of service to each of its consumers, and so orders.

It appears from the evidence that in the event the Commission should reduce the rates of the Respondent company, as prayed for in the complaint of the Plaintiff and in its petition for a rehearing, the Respondent company would then be unable to earn operating expenses, and the Commission is of the opinion that such action on the part of the Commission would be illegal and would bring about a deplorable state of affairs in connection with the ownership and management of the Respondent company's property, resulting in only temporary benefit to the citizens of the Town of Arvada.

IT IS THEREFORE ORDERED, That the Complainant's application for a rehearing of the above cause be denied.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

L. S. Crandall

Geo. T. Bradley

M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE NATIONAL FUEL COMPANY, Complainant,	)	May 18, 1916
vs.	)	Case No.58.
THE COLORADO & SOUTHERN RAILWAY COMPANY, Defendant.	)	

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

M. H. Aylesworth

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE NATIONAL FUEL COMPANY, Complainant,	)	May 18, 1916
vs.	)	Case No.59.
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, Defendant.	)	

ORDER FOR SPECIFICATIONS

WHEREAS, on the 9th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the date of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

M. H. Lyons

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE NATIONAL FUEL COMPANY, a corporation,
Complainant,

vs.

UNION PACIFIC RAILROAD COMPANY,
Defendant,

May 18, 1916

Case No.60.

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Vredenburgh

M. Hay Symmes

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE COLORADO FUEL AND IRON COMPANY, a corporation, Complainant,	)	May 18, 1916
vs.	)	Case No.61.
UNION PACIFIC RAILROAD COMPANY, a corporation, Defendant.	)	

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to beapplicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny, or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises,

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Dated at Denver, Colorado,
this 18th day of May, 1916.

Commissioners.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE SUMMIT GRAIN & COAL COMPANY,
Complainant,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY,
Defendant.

May 18, 1916

Case No.62.

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May,1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in the said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

W. H. Gilmore

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE SUMMIT GRAIN AND COAL COMPANY, a corporation, Complainant,	)	May 18, 1916
vs.	)	Case No.63.
UNION PACIFIC RAILROAD COMPANY, a corporation, Defendant.	)	

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

M. Hay Summers

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE COLORADO FUEL & IRON COMPANY,
Complainant,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY,
Defendant.

May 18, 1916

Case No.64.

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May,1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May,1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statemnt with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, the Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

W. H. Lynch

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE COLORADO FUEL & IRON COMPANY,
Complainant,

vs.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,
Defendant.

May 18, 1916

Case No. 65.

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall

M. D. Thomas

Geo. I. Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE SUMMIT GRAIN & COAL COMPANY, Complainant,	)	May 18, 1916
vs.	)	Case No.66.
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, Defendant.	)	

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May,1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May,1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. A. Kendall

W. H. Gyle Smith

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

WILLIAM E.RUSSELL,

Complainant,

vs.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, a corporation,

Defendant.

May 18, 1916

Case No.68.

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 12th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

WILLIAM E.RUSSELL,

Complainant,

vs.

UNION PACIFIC RAILROAD COMPANY, a corporation,

Defendant,

May 18, 1916

Case No.69.

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 9th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S S Condon

W H Lewis

Geo T Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

WILLIAM E.RUSSELL,

Complainant,

vs.

THE COLORADO & SOUTHERN RAILWAY COMPANY, a corporation,

Defendant,

May 18, 1916

Case No.70.

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 12th day of May, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 16th day of May, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect tp each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. D. Thomas

W. H. Aylesworth

Geo. T. Bradley

Commissioners.

Dated at Denver, Colorado,
this 18th day of May, 1916.

ORIGINAL

MAKE No COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

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May 27, 1916 7480

In the Matter of an Investigation and Hearing, on Motion of the Commission, into the necessity and feasibility of improving all grade crossings of the following railroads within the State of Colorado;

May 27, 1916

Case No. 56.

The Argentine & Grays Peak Ry. Co.,
The Atchison, Topeka & Santa Fe Ry. Co.,
The Beaver, Penrose & Northern Ry. Co.
Chicago, Burlington & Quincy R. R. Co.,
The Chicago, Rock Island & Pacific Ry. Co., J. M. Dickinson, Receiver,
The Colorado R. R. Co.,
The Colorado & Southeastern R. R. Co.,
The Colorado & Southern Ry. Co.,
The Colorado & Wyoming Ry. Co.,
The Colorado Kansas Ry. Co.,
The Colorado Midland Ry. Co., G. W. Vallery, Receiver,
The Cripple Creek & Colorado Springs R. R. Co.,
The Colorado Springs & Cripple Creek District Ry. Co.,
The Colorado, Wyoming & Eastern Ry. Co.,
The Crystal River R. R. Co.,
The Crystal River & San Juan R. R. Co.,
The Denver & Intermountain R. R. Co.,
The Denver & Rio Grande R. R. Co.,
The Denver & Salt Lake R. R. Co.,
The Denver, Boulder & Western R. R. Co.,
The Denver, Laramie & Northwestern R. R. Co., M. B. Smith, Receiver,
The Georgetown & Grays Peak Ry. Co.,
The Great Western Ry. Co.,
The Manitou & Pikes Peak Ry. Co.,
The Midland Terminal Ry. Co.,
The Missouri Pacific Ry. Co., B. F. Bush, Receiver,
The Rio Grande Junction Ry. Co.,
The Rio Grande Southern R. R. Co.,
The San Luis Central R. R. Co.,
The San Luis Southern Ry. Co.,
The Silverton Railway Co.,
The Silverton, Gladstone & Northerly R. R. Co.,
The Silverton Northern R. R. Co.,
The Uintah Ry. Co.,
Union Pacific R. R. Co.,

The Arkansas Valley Ry., Light & Power Co.,
Castle Rock Scenic Ry. & Park,
The Colorado Springs & Interurban Ry. Co.,
The Denver & Crown Hill Ry. Co.,
The Denver & Interurban R. R. Co.,
The Denver & South Platte Ry. Co.,
The Denver Tramway Co.,
The Durango Ry. & Realty Co.,
The Grand River Valley Ry. Co.,
The Greeley & Denver R. R. Co.,
The Lookout Mountain Park, Realty & Inv. Co.,
The Manitou Electric Ry. & Casino Co.,
The Mount Manitou Park & Incline Ry. Co.
The Trinidad Electric Transmission Ry. & Gas Co.,
The Western Light & Power Co.

Submitted May 16, 1916 ------ Decided May 27, 1916.

FINDINGS AND ORDER.

On the 8th day of April, 1916, D. S. Hooker, Civil Engineer of the Commission, pursuant to instructions to him by the Commission that he investigate the necessity and feasibility of improving grade crossings of steam and electric railroads operating within the State of Colorado, filed a written report with the Commission recommending that the Commission, on its own motion, institute an investigation into the feasibility and necessity of ordering the steam and electric railroads now operating and doing business within the State of Colorado, when crossing any public highway within the State of Colorado at grade, to provide and maintain at each intersection at grade of railroad tracks with public highways, grade crossings and approaches thereto at least twenty-four (24) feet in width, the roadway on either side of track or tracks to be constructed and maintained level with the top of rails for not less than twenty (20) feet from the center line of tracks on either side, and, when more than one track is crossed, for twenty (20) feet from center line of outside track; the approaches to be constructed on uniform grade of not to exceed six (6) per cent from a point at least twenty (20) feet from center line of track or tracks; the roadway to be well drained and surfaced with gravel, or some other suitable paving material, and a smooth roadway surface on approaches and crossings to be maintained, with planking between the rails and for one foot on the outside of either side thereof for the full width of the traveled highway, such planking to be not less than sixteen (16) feet in any case; all to be done at the expense of the above named railroads; and into the feasibility and necessity of

requiring each and all the above named railroads to furnish to the Public Utilities Commission of the State of Colorado information showing, for each railroad crossing at grade, the railway alignment and grade location to nearest section line; the section, township, range and county; a cross-section sketch of the railway crossing, showing the crown and approaches, with the rate of grade; the physical condition on either side of railroad crossing, with cuts, fills, trees, buildings, and other obstructions on right of way which interfere with the view of approaching trains; the character of the crossing; the protection of the crossing, whether by gates, flagmen, standard sign, special sign, bell or automatic audible or visual signal; and the daily number, direction and speed of trains.

On the 13th day of April, 1916, the Commission directed the above named carriers to appear, through representatives, before the Commission, en banc, at the hearing room of the Commission, in the State Capitol Building, in the City and County of Denver, Colorado, on the 10th day of May, 1916, at the hour of 10:00 o'clock a.m., to make such showing as their interests seemed to require in answer to the recommendations to the Commission by its Engineer, Mr. Hooker.

On the 10th day of May, 1916, at the hearing room of the Commission, Mr. Hooker, the Engineer of the Commission, testified, and, with some slight modifications, again recommended that the Commission order compliance by the above named carriers with the recommendations contained in his report to the Commission as hereinabove specifically set forth.

Mr. H. U. Mudge, the President of The Denver & Rio Grande Railroad Company, upon request by the Commission, testified and stated that, as president of the American Railway Association, he had appointed a committee of seven operating railway officers to report on "Prevention of accidents at Grade Crossings", and

stated that the subject of prevention of accidents at grade crossings having become one of the most important subjects before the officers of operating railways of this country, this committee would report to the said Association on the 17th day of May, 1916, in the City of New York.

Mr. Mudge then read the report of the Committee to the members of the American Railway Association, and suggested that the Commission make no order pertaining to the matters and recommendations contained in such report until such time as the American Railway Association should act upon the same, and stated that in his opinion a rule of uniformity should exist throughout the United States on the matters contained in the report of the committee.

It was apparent from the reading of the report of the committee by Mr. Mudge that the matters under consideration by the committee pertain to a rule of uniformity on the protection of grade crossings by gates, flagmen and automatic signals. Mr. Mudge recommended to the Commission that distant signals should be placed on state highways within the State of Colorado, and that the style of signal should be uniform throughout the United States. While the Commission has no power to order the State to place such signs on highways not on the rights of way of carriers, it is the opinion of the Commission that after the American Railway Association has acted upon the report of its committee the State Highway Commission should take some action to cooperate with the carriers in the protection of grade crossings in the State.

While it is true that the Commission has ordered certain carriers to protect grade crossings by the use of audible and visual signals, otherwise known as "wig wag" signals, as well as by flagmen and other devices of safety, the Commission has made no rule of uniformity as to designs of safety devices, and will await the report of the American Railway Association upon

those matters, if said report is made within a reasonable time.

Mr. C. H. Bristol, General Superintendent of The Atchison, Topeka & Santa Fe Railway Company, then testified before the Commission to the effect that the recommendations of the Commission's Engineer were very good as a whole, although he was of the opinion that some exceptions should be made to the general rule.

Mr. H. W. Wagner, Engineer of the Northern District of the Western Lines of the Atchison, Topeka & Santa Fe Railway Company, testified that, in his opinion, the Commission could make a feasible general rule applicable to all grade crossings, and permit any carrier to make a showing in event of it appearing that the general rule should not apply in certain cases.

Mr. W. F. Thiehoff, on behalf of The Chicago, Burlington & Quincy Railroad Company, testified that the Chicago, Burlington & Quincy Railroad Company would cooperate in every way with the Commission, and recommended that a Committee of the engineers representing the defendant carriers meet with the Commission's engineer for the purpose of preparing and presenting to the Commission a report containing recommendations pertaining to the matters before the Commission.

The hearing was then adjourned so that a committee of the engineers representing the defendant carriers could meet with the engineer of the Commission on the 16th day of May, 1916, as suggested.

On the 16th day of May, 1916, the committee of engineers met and adopted the following resolution and presented the same to the Commission:-

RESOLVED, That it is the sense of the engineers, in view of the fact that none of the carriers have among their records sufficient data to adequately comply with the Commission's order as to information to be furnished, and to prepare the maps desired illustrating the conditions at each

crossing, and that to obtain such data will involve an expense not warranted by the results which we believe will thereby be obtained,-

IT IS THEIR RECOMMENDATION, in order to obtain the most prompt results and to effectively remedy such defective or seemingly hazardous conditions as obtain at each crossing, that the highway crossings on each railroad be made the subject of joint inspection by a representative or representatives of the Commission and of the owning or operating railroad, whose joint recommendation as to improvements should be accepted by both parties.

(SGD) Atchison, Topeka & Santa Fe Railroad Co.,

By D. E. Helvern,

(SGD) The Chicago, Burlington & Quincy Railroad Company,

By F. T. Darrow,

(SGD) The Chicago, Rock Island & Pacific Railway Company,

By S. L. McClanahan,

(SGD) The Colorado & Southern Railway Company,

By E. F. Vincent,

(SGD) The Colorado Midland Railway Company,

By V. B. Wagner,

(SGD) The Denver & Rio Grande Railroad Company,
The Rio Grande Southern Railway Company,

By J. G. Gwyn,

(SGD) The Denver & Salt Lake Railroad Company,

By L. D. Blauvelt,

(SGD) The Great Western Railroad Company,

By C. B. Daniels,

(SGD) Union Pacific Railroad Company,

By Chas. Wanzer,
Geo. F. Davis,

(SGD) The Midland Terminal Railroad Company,
The Cripple Creek & Colorado Springs Railroad Company,
The Beaver, Penrose & Northern Railroad Company,

By J. J. Cogan,

(SGD) The Denver Tramway Company,
The Denver & Intermountain Railway Company,
The Denver, Laramie & Northwestern Railroad Company,

By Edward A. West.

Dated at Denver, Colorado, this 16th day of May, 1916.

The Commission is of the opinion that it is sufficiently advised in the premises to dispose at this time of the issues contained in the above cause. The annual reports of the defendant carriers filed with this Commission as of June 30, 1915, show that at that time there were 3675 railway crossings at grade within the State of Colorado, of which 3433 were unprotected and 254 were protected, the protection consisting of gates, flagmen, bells, or other safety devices in addition to the usual crossing signs.

The defendant carriers are required to submit to the Commission reports of all accidents, and the causes thereof, upon railroad trains or railroad tracks, and from these reports the Commission is able to arrive at the conclusion that the number of accidents has greatly increased of late years, due largely to the increased number and use of automobiles.

The Legislature has vested in the Commission the authority to adequately protect all railway crossings at grade within the State of Colorado, and, if necessary, to eliminate all railway crossings at grade. The elimination of all railway crossings at grade at this time is unnecessary and impracticable. The time has arrived, however, when adequate protection must be given the traveling public, when crossing railway crossings at grade. In many cases, where the facts so justified, the Commission has ordered certain carriers of the State to adequately protect railway crossings at grade by automatic signals, electric bells or audible and visual signals, and doubtless will continue to order additional protection to railway crossings at grade where the conditions

justify such action.

Prior to the common use of the automobile, highway conditions and highway improvement were of far less importance than they are today. A horse-drawn vehicle, traveling at a rate of not to exceed 5 miles an hour and naturally within a limited radius, did not require the improved highway and the protection at railway crossings at grade that today must be given the traveling public, and this is illustrated in many ways. From the year 1913 up to the present time more than three millions of dollars have been expended on the State highway systems of Colorado, (that is, highways constructed entirely or in part by State funds), involving an improved mileage of 6200 miles. County and city commissions and officials have expended large sums of money on the main arteries within their jurisdiction, whether or not supported by the State, and the "good roads" movement has become one of the important questions of the day, and perhaps the most important concerning the people of the State of Colorado, due to the vast number of tourists traversing the highways within the State to points of interest and scenic beauty.

While it appears that the State of Colorado and its counties and municipalities have expended vast sums of money in constructing and improving highways of Colorado, it is apparent that the railroads operating within the State have not entirely kept pace with the changed conditions at their railway crossings at grade. This is quite natural, and the Commission is of the opinion that the railroads operating within the State of Colorado have had the interests of the public before them and at a great expense have kept abreast with the changed conditions in the mode of travel in that many betterments for swifter and safer travel upon their system of railways have been instituted within the past few years.

However, it is the duty of every railroad to afford to the public adequate protection at its railway crossings at grade,

and, in the opinion of the Commission, a uniform rule of improvement and maintenance of these railway crossings at grade should be made by this Commission at this time for permanent improvement and the better protection of the public at large. It also should be the position of the State of Colorado to assist the carriers in their efforts to protect railway crossings at grade by furnishing and maintaining at the State's expense uniform signals of safety on the highways of the State in addition to the devices of protection which now are and hereafter will be furnished and maintained by the carriers on their rights of way.

The Commission has had prepared and printed forms which will be distributed among the defendant carriers, one for every railway crossing at grade, upon which the carriers shall, by sketch and description, furnish the Commission with information showing for each railway crossing at grade the railway alignment and grade location to nearest section line, the section, township, range and county; the cross section of the railway crossing showing the crown and approaches, with the rate of grade; the physical condition on either side of railway crossing, with cuts, trees, fills, buildings, and other obstructions on right of way which interfere with the view of approaching trains; the character of the crossing; the protection of the crossing, whether by gates, flagmen, standard sign, special sign, bell or automatic audible or visual signal; and the direction and speed of trains. This information shall be furnished to the Commission within a reasonable time, to be definitely set forth in this order.

The Commission is well aware of the many different kinds of highways within the State of Colorado. Upon some the traffic is greatly congested; upon others very little travel is found today. Some highways traverse the valleys and plains of the State, while others wind in and out among the mountainous passes; and while the speed of the vehicles traversing some of the highways is great, the character of the country through which some

of the highways pass is of such a nature that the speed of vehicles traversing them is necessarily restricted.

The Commission is convinced that no general rule laid down by this Commission can or should be complied with in every case, and it therefore has come to the conclusion that a general rule of uniformity should be applied, subject, however, to exception when sufficient showing is made to the Commission by the carrier to excuse it from strict compliance with the rule. While well aware of the fact that the order to be made by it in this cause will result in expense to the defendant carriers, the Commission is of the opinion that, regardless of the duty of the carrier to adequately protect the traveling public at railway crossings at grade, much permanent benefit will result to the railroads from the order.

O R D E R

IT IS THEREFORE ORDERED, That the above named railroads now operating and doing business within the State of Colorado, at all points where their railways cross any public highway known as a State Highway, whether primary or secondary, within the State of Colorado, at grade, shall provide and maintain at each intersection at grade of railroad tracks with such public highways, grade crossings and approaches thereto at least twenty-four (24) feet in width, the roadway on either side of track or tracks to be constructed and maintained level with the top of rails for not less than twenty (20) feet from the center line of tracks on either side, and, when more than one track is crossed, for not less than twenty (20) feet from center line of outside track; the approaches to be constructed on uniform grade of not to exceed six (6) per cent from a point at least twenty (20) feet from center line of track or tracks; the roadway to be well drained and surfaced with gravel, or some other suitable paving material, and a smooth roadway surface to be maintained

on approaches and crossings; all crossings within city or town limits shall be planked ten inches on the outside and inside of each rail and the space between the planking in the center of the track shall be filled with gravel or other suitable material, the kind of material used to be discretionary with the carrier and under the supervision of the Commission's engineer, and in no case shall the planking or the gravel material be less than sixteen (16) feet in width; that on all crossings not within city or town limits the railroad may use either planking, gravel, slag, or other suitable material, provided same be not less than sixteen (16) feet in width, but in no case shall slag or other sharp edged material be used unless the same be covered with bonding clay or sand to compact and to give a smooth surface; each of the above named railroads to bear the expense of complying with these requirements with regard to crossings at grade on its lines within the State of Colorado.

IT IS FURTHER ORDERED, That the above named railroads now operating and doing business within the State of Colorado, at all points where their railway tracks cross at grade any public highway other than State highways within the State of Colorado, shall provide and maintain at each of such intersections grade crossings and approaches thereto at least sixteen (16) feet in width, the roadway on either side of track or tracks to be constructed and maintained level with the top of rails for not less than twenty (20) feet from the center line of tracks on either side, and, when more than one track is crossed, for twenty (20) feet from center line of outside track; the approaches to be constructed on uniform grade of not to exceed six (6) per cent from a point at least twenty (20) feet from center line of track or tracks; the roadway to be well drained and surfaced with gravel, or some other suitable paving material, and a smooth roadway surface to be maintained on approaches and crossings; all crossings within city or town limits shall be planked ten inches on the outside

and inside of each rail and the space between the planking in the center of the track shall be filled with gravel or other suitable material, the kind of material used to be discretionary with the carrier and under the supervision of the Commission's engineer, and in no case shall the planking or the gravel material be less than sixteen (16) feet in width; that on all crossings not within city or town limits the railroad may use either planking, gravel slag, or other suitable material, provided same be not less than sixteen (16) feet in width, but in no case shall slag or other sharp edged material be used unless the same be covered with bonding clay or sand to compact and to give a smooth surface; each of the above named railroads to bear the expense of complying with these requirements with regard to crossings at grade on its lines within the State of Colorado.

Provided, that upon a showing made by any carrier that the above order, when applied to any crossing or crossings, would be unreasonable or unjust, the Commission may exempt said carrier from a strict compliance with the ~~above order~~ same by a special order setting forth the conditions which shall be complied with by the carrier.

IT IS FURTHER ORDERED, That all work done by the carriers in compliance with the above order, or any order which the Commission may hereafter make pertaining thereto, shall be under the supervision of the Engineering Department of the Commission, and that the defendant carriers shall begin at once to improve the most dangerous railway crossings at grade and to accomplish all of the work required within a reasonable time.

IT IS FURTHER ORDERED, That the above named railroads furnish within ninety (90) days, unless additional time be granted by written consent of the Commission, to the Public Utilities Commission of the State of Colorado information to be given upon forms to be placed with the Railroads by this Commission showing, for each railroad crossing at grade, the railway alignment and

grade location to nearest section line; the section, township, range and county; a cross-section sketch of the railway crossing, showing the crown and approaches, with the rate of grade; the physical condition on either side of railroad crossing, with cuts, fills, trees, buildings, and other obstructions on right of way which interfere with the view of approaching trains; the character of the crossing; the protection of the crossing, whether by gates, flagmen, standard sign, special sign, bell or automatic audible or visual signal; and the daily number, direction and speed of trains.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S A Kendall

George T. Bradley

[illegible]

Commissioners.

Dated at Denver, Colorado,
this 27th day of May, 1916.

ORIGINAL

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE GRAND JUNCTION MINING & FUEL COMPANY, a corporation, and THE PALISADE COAL & SUPPLY COMPANY, a corporation,

Complainants,

vs.

THE COLORADO MIDLAND RAILWAY COMPANY and GEORGE W.VALLERY, Receiver, THE MIDLAND TERMINAL RAILWAY COMPANY, and THE CRIPPLE CREEK & COLORADO SPRINGS RAILROAD COMPANY,

Defendants.

Case No.43.

Submitted May 12,1916. Decided May 27,1916.

REHEARING DENIED.

WHEREAS, on the 12th day of May, 1916, The Midland Terminal Railway Company, by its Attorney, C.C.Hamlin, Esq., and The Colorado Midland Railway Company and George W.Vallery, as Receiver, by their attorneys Messrs.Henry T.Rogers, George A.H. Fraser, and Rogers, Ellis & Johnson, filed with the Commission petitions for rehearing in the above entitled cause; and

WHEREAS, on the 12th day of May, 1916, the Commission extended to the 1st day of June, 1916, the effective date of its order in the above entitled cause; and

WHEREAS, The Commission is now advised in the premises.

IT IS THEREFORE ORDERED, That the petitions for rehearing filed by the Defendants in the above entitled cause be denied.

IT IS FURTHER ORDERED, That that part of the opinion of the Commission in the above entitled cause bearing date of April 22nd, 1916, which reads:-

"(3) It is to be further understood that the same differential as now applies between the Cameo-Palisade group of mines and the South Canon group is to be maintained in future."

is altered and modified to read as follows:

The Commission is of the opinion that a differential of twenty-five (25) cents should apply between the Cameo-Palisade group of mines and the South Canon group.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

C. A. Kendall

Geo T. Bradley

H H Symmes

Commissioners.

Dated at Denver, Colorado,
this 27th day of May, 1916.

ORIGINAL MAKE NO COPY

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 Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company of electric gongs, audible and visual signals, or other suitable safety devices, at their respective railroad crossings located on their lines of railroad between the City of Denver and the City of Pueblo, within the State of Colorado.

June 1, 1916

Case No.76.

NOTICE OF HEARING.

To the Above:
The Denver & Rio Grande Railroad Company,
The Atchison, Topeka & Santa Fe Railway Company.

You are hereby notified that on April 17th and April 18th, 1916, D.S.Hooker, the Commission's Civil Engineer, examined all railway crossings located upon your lines of railroad between the City of Denver and the City of Pueblo, within the State of Colorado, at the request of the Commission, to the end that a report be made by the said Engineer for the Commission as to the feasibility and necessity of the installation of safety devices at railroad crossings on your lines of railway between Denver and Pueblo. That on the 20th, 21st and 22nd days of May, 1916, at the request of the Commission, E.S.Johnson, the Commission's Railway Inspector, made a traffic census at certain railway crossings on your lines of railway between Denver and Pueblo, and submitted a report to the Commission's Engineer, who, on the 27th day of May, 1916, submitted a written report to the Commission recommending to the Commission that an investigation be initiated into the feasibility and necessity of the installation of suitable safety devices at the railway crossings on your lines of railway between Denver and Pueblo, 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 of 10:00 o'clock a.m., on the 9th day of June, 1916.

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 George T. Ogley
Secretary.

Dated at Denver, Colorado,
this 1st day of June, 1916.

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 Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company of electric gongs, audible and visual signals, or other suitable safety devices, at their respective railroad crossings located on their lines of railroad between the City of Denver and the City of Pueblo, within the State of Colorado.

Case No.76

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 adequate safety devices by The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company at their railroad crossings located on their respective lines of railway between the City of Denver and the City of Pueblo, within the State of Colorado; that the said defendants be and they are hereby ordered to appear at the Hearing Room of the Commission in the State Capitol Building in the City and County of Denver, on the 9th day of June, 1916, 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 Defendants.

AND IT IS FURTHER ORDERED, That the Secretary of this Commission be and he is hereby directed to serve upon the said Defendants certified copies of this order, accompanied by notice directing the said Defendants, and each of them, to appear, at the time and place above specified, to take such part in said hearing as they may desire, and make such defense as shall appear necessary to the said Defendants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

M. N. Summers

Commissioners.

Dated at Denver, Colorado,
this 1st day of June, 1916.

ORIGINAL

MAKE

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

BRECKENRIDGE CHAMBER OF COMMERCE,

Petitioner,

-vs-

THE COLORADO & SOUTHERN RAILWAY COMPANY, a corporation,

Defendant.

The Colorado Railroad Commission
Case No. 59.

The Public Utilities Commission
Case No. 74.

Submitted December 30, 1913, Decided June 5th, 1916.

Appearances:

Barney L. Whatley, Esq., for Petitioner,
E. E. Whitted, Esq., for Defendant.

STATEMENT.

On September 23rd, 1913, the above named petitioner filed complaint before the State Railroad Commission of Colorado, and, eliminating the formal allegations, alleged: first, that the passenger fares charged by the defendant to and from points on its line of railroad located in Summit County, Colorado, and to and from other points on its line of railroad in Colorado, particularly between the Town of Breckenridge and the City of Denver, are unreasonable, excessive and discriminatory; second, that the defendant has and is maintaining and enforcing unjust and unreasonable freight rates on all commodity shipments and on ores, lumber, logs, hay, straw, etc., to and from points on its line of railroad west of Como, Colorado, and between points on its line of railroad situated wholly in Summit County; that said passenger fares and freight rates are wholly unreasonable, unfair

and unjustly discriminatory, and prayed for an order directing the defendant to cease and desist from demanding, collecting and receiving said unreasonable, unfair and unjust fares and rates, and further prayed that the Commission fix, by order, reasonable, fair and just fares and rates, and such other and further relief as to the Commission might seem meet and proper.

By way of answer, the defendant made a general denial of all the material allegations in the petition and particularly denied that any of its passenger rates, fares or charges between Leadville and Denver, or between Breckenridge and Denver, or between Breckenridge and Leadville, or between any other points, have at any time been unjust or unreasonable or unjustly discriminatory or unduly prejudicial; and for further answer alleged that at all times since it resumed operation of the line between Como and Leadville, said line from Denver to Leadville, as well as its branches, have been operated at a large monthly and annual loss to defendant; that both freight and passenger business over said line from Denver to Leadville, and from Breckenridge to Denver, and from Breckenridge to Leadville, as well as over all branches, have been carried on at a heavy monthly and annual loss; that said state of conditions had existed for a period of more than ten years prior to January 1st, 1912, and that said line from Denver to Leadville is at present being operated at a heavy monthly and annual loss in operating expenses alone, excluding both taxes and interest upon the value of the property employed by this defendant between Denver and Leadville; that to reduce any of the passenger or freight rates on said line would have the effect of increasing losses, which are already heavy and very unjustifiable, and that to reduce any of said rates and fares below the rates and fares which exist at present would be unjust to the defendant, would be

taking its property without due process of law, would compel the defendant to devote its property to public use without just compensation, and would be a denial of equal protection of the law to the defendant, in violation of both the Constitution of Colorado, and the Constitution of the United States, and prayed that said petition be dismissed.

The issues thus made up, the case came on for regular hearing before the State Railroad Commission of Colorado at its hearing room in the Capitol Building, Denver, Colorado, at 10 o'clock a. m., November 24th, 1913, the petitioner being represented by Barney L. Whatley, Esq., and the defendant by E. E. Whitted, Esq.

While the petition in this cause was filed and heard under the former Railroad Commission Act, which law was automatically repealed when the present Public Utilities Commission Law became effective on August 12, 1914, the final determination of the cause will be made under the provisions of the present Public Utilities Act, Section 66, chap. 127, Session Laws of 1913.

That part of the complaint referring to passenger fares having been heard and determined by the Commission, since the filing of this petition, in another action designated as Case No. 11, reported in 1 P.U.C., 35, it therefore is dismissed.

While the petition attacks the reasonableness of general and specific commodity rates as carried by the defendant carrier between points on its line into and out of points on its line in Summit County, and points wholly situated on its line of railroad in Summit County, it developed at the hearing that the principal complaint was directed to the rates on low grade ores from Breckenridge to Denver, and almost all of the testimony introduced concerned these particular rates. The identical rates involved in this case were attacked before the Interstate Commerce Commission also, in the case of The Wellington Mines Company vs.

The Colorado & Southern Railway Co., et al, 39 I.C.C.,202. In that case the reasonableness of the proportion on the through rate on ore from Breckenridge to Denver, as applied to shipments moving from Breckenridge to Bartlesville, Oklahoma, was attacked. The testimony in that case was taken before an Examiner of the Interstate Commerce Commission, just prior to the hearing in this case, and much of the relevant testimony taken in that case was submitted in the form of exhibits to the State Railroad Commission for its consideration in this case. While no written stipulation was filed, it was agreed between all parties of interest that the findings and order of the Interstate Commerce Commission in the case above referred to would be followed by the Commission in this case. The case just cited was decided by the Interstate Commerce Commission on May 2nd, 1916, that Commission finding that a rate of $2.25 per ton on ore, not exceeding in value $12.00 per ton of two thousand pounds, would be a reasonable rate from Breckenridge to Denver, when applied as a proportion of a through rate to Bartlesville, Oklahoma.

On November 1st, 1910, the defendant herein ceased to operate that portion of its line between Como and Breckenridge. The Breckenridge Chamber of Commerce filed a complaint before the State Railroad Commission protesting against the closing of this portion of the line. The defendant was ordered to re-establish service between these points, but refused to comply. An action of mandamus was brought to enforce the order, which was sustained in both the District and Supreme Courts of the State (C.R.C. Biennial Report 1911-12, page 39; also 54 Colo., 64.)

It is contended by the petitioner, and admitted by the defendant, that the order in the above case was the direct cause of the increase in freight rates into and out of stations on its line of railroad in Summit County. It appears that when

the line between Como and Breckenridge was closed for traffic on November 1st, 1910, and for many years previous thereto, the defendant carried the following rates on ore, carloads, from Breckenridge to Denver:

Valuation per ton.....	$8.00	$12.00	$18.00	Released to $100.00	Over $100.00
Rate per ton....	1.50	1.75	2.00	3.00	6.00

On January 20, 1913, subsequent to the opening and resumption of service of the line between Como and Breckenridge, the defendant filed with this Commission Supplement 16 to Tariff 1-I, C.R.C. 219, which provided for a rate of $3.00 per ton on all grades of ore from Breckenridge to Denver. This supplement, however, made no change in the rate of $1.50 per ton on low grade ore from Como, a point 22 miles east of Breckenridge, to Denver.

The testimony developed the fact that practically all of the ore produced in Summit County is low grade. This change in the rates therefore resulted in a substantial increase on every ton of ore shipped out of the district, which increase amounted to one hundred percent. in practically every case. The defendant introduced testimony showing the heavy operating expenses on its Leadville Division, that part of its line between Leadville and Como, in justification of the increase.

The testimony developed the fact, however, that the increase in rates made prohibitive the shipment of low grade ore, thereby greatly curtailing the output of that class of ore and materially decreasing the revenues of the defendant.

The Commission is inclined to the view that the practice of the carriers in making a graduated scale of rates on ores based on valuation is a reasonable one. The scale,

however, should be such as to permit the free movement of low grade, as well as high grade ores.

The Commission is of the opinion, and so finds, that the increase of the rate on low grade ore from Breckenridge and points in Summit County to Denver, to $3.00 per ton, is unreasonable and unjustified and results in a charge in excess of the value of the service. The fact that the defendant for many years had carried a rate of $1.50 per ton on ore, not exceeding in value $8.00 per ton, from Breckenridge to Denver, raises a presumption that the rate was reasonable.

The Commission is of the opinion, and so finds, that a rate of $2.25 per net ton on ore and concentrates of all kinds not exceeding in value $12.00 per ton of two thousand pounds would be a reasonable rate to charge on shipments from Breckenridge and points on the line of the defendant railroad company in Summit County to Denver.

An order therefore will be entered in accordance with this opinion.

O R D E R.

IT IS ORDERED, that the defendant, The Colorado & Southern Railway Company be, and it is hereby notified and required to cease and desist on or before June 20, 1916, and thereafter to abstain from, publishing, demanding or collectings its present rates for the transportation of ore and concentrates of all kinds in carloads, when the value thereof does not exceed $12.00 per ton of two thousand pounds, from Breckenridge, Colorado, and points on its line of railroad in Summit County, to Denver, Colorado, which rate has been found to be unreasonable.

IT IS FURTHER ORDERED, That The Colorado & Southern Railway Company be, and it is hereby, notified and required to established on or before June 20, 1916, upon notice to the Public Utilities Commission and the general public, by not less than five days filing and posting in the manner prescribed by law, and thereafter to maintain and apply to the transportation of ore and concentrates of all kinds from Breckenridge, Colorado, and points on its line of railroad in Summit County, to Denver, Colorado, a rate of not in excess of $2.25 per ton of two thousand pounds, when the value thereof does not exceed $12.00 per ton, which rate is found to be reasonable.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,

S. S. Kendall

Geo. T. Bradley

W. H. G. Lunsch

Commissioners.

Dated at Denver, Colorado,
this 5th day of June, 1916.