

# BIENNIAL REPORT

*of the*

# Public Service Commission

For Years Ending November 30, 1939  
and November 30, 1940



## 1939-1940

MISSOURI  
PUBLIC SERVICE COMMISSION  
Jefferson City, Missouri

J. D. JAMES, *Chairman*  
JOHN S. BOYER                      SCOTT WILSON  
JOHN A. FERGUSON                MARION S. FRANCIS  
*Commissioners*

ROBERT E. HOLLIWAY  
*Secretary*

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## MISSOURI PUBLIC SERVICE COMMISSION

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J. D. JAMES, Chairman.....Joplin  
JOHN S. BOYER, Commissioner.....St. Joseph  
JOHN A. FERGUSON, Commissioner.....Cape Girardeau  
SCOTT WILSON, Commissioner.....Ferguson  
MARION S. FRANCIS, Commissioner.....Mexico

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ROBERT E. HOLLIWAY, Secretary.....Jefferson City  
JAMES H. LINTON, General Counsel.....Lexington  
S. B. NELSON, Chief Engineer.....Kansas City  
GEORGE B. COLEMAN, Chief Accountant.....St. Louis  
R. E. DUFFY, Chief Electrical and Mechanical  
Engineer.....Greenfield  
W. A. WEEKS, Chief Rate Expert.....Hannibal  
JOHN C. HIGHBERGER, Supervisor of Motor Bus  
and Truck Department.....Kansas City

## LETTER OF TRANSMITTAL

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January 11, 1941.

*To His Excellency, Lloyd C. Stark, Governor of Missouri.*

Dear Sir:

I have the honor to transmit the Biennial report of the Public Service Commission of Missouri, covering the period from December 1, 1938, to November 30, 1940, inclusive.

Very respectfully yours,

J. D. JAMES,  
Chairman.

# STATE OF MISSOURI

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## BIENNIAL REPORT FOR THE YEARS 1939 AND 1940 OF THE PUBLIC SERVICE COMMISSION

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The Public Service Commission has experienced a period of increased work and beneficial results during the biennium ending November 30, 1940. It issued 4,141 orders, reduced utility rates aggregating \$1,500,093 annually and conducted appraisals and audits of various utility properties throughout the State.

The Commission approved utility security issues totaling almost \$70,000,000, earned fees of \$452,942 and established an all time record in the collection of \$1,674,029 in bus and truck fees to be used in the maintenance and repair of the public highway system.

In the administration of the general Public Service Commission Act there were 315 new cases filed and a total of 439 orders issued.

The decrease in utility rates effected through the efforts of the Commission were divided on a basis of \$959,766.83 for Electric Companies, \$424,497 for Gas Companies, \$100,883 for Telephone Companies and \$14,947 for Water Companies.

The Commission, through its engineering and accounting departments, completed appraisals and audits of the Andrew County Mutual Telephone Company, with nine exchanges; Clinton County Telephone Company, with nine exchanges; Middle States Utilities Companies, with 21 exchanges; Albany Telephone Company; Southeast Missouri Telephone Company, with 42 exchanges and the St. Louis County Gas Company.

The Commission continued to carry on the work of appraising and auditing the properties of the Southwestern Bell Telephone Company in the City of St. Louis and its 86 exchanges throughout the State. This major project is nearing completion and will be submitted within a few months for a determination of a fair value of the company's property for rate-making purposes.

The Commission is progressing with the appraisals and audits of the properties of The Gas Service Company, with 25 gas distribution systems; Missouri Telephone Company, with six exchanges; Central Missouri Telephone Company, with four exchanges, and the Lebanon Exchange of the Missouri Standard Telephone Company.

Miscellaneous detail was supplied from the records of a number of the larger utility companies of the State by the accounting department of the Commission.

The Commission authorized the utility security issues only after rigid examinations. These issues were divided on a basis of \$60,574,655 in bonds; \$6,624,010 in notes and \$2,753,864 in common stock. The Commission earned fees of \$20,444 in connection with the approval of the issues. The other fees earned during the period were \$420,456.97 for salaries and expenses in audits and appraisals and \$12,041.11 in miscellaneous collections.

The major portion of the security issues was \$59,913,482 for refunding purposes, while \$10,039,047 represented new money needed by utility companies for additions and betterments.

The Commission points with pride to its policy in regulating the security issues of Missouri utilities. The soundness of the policy has been reflected in the very small number of defaults in approved issues, none of which occurred during this biennium.

In the approval of security issues the Commission acted in complete cooperation with the Federal Securities and Exchange Commission. This same spirit of cooperation was manifested between our Commission and the other federal agencies, including the Interstate Commerce Commission, the Federal Power Commission and the Federal Communications Commission, in all cases where Missouri and other states were interested parties.

The Commission cooperated with the Federal Power Commission in verifying the original cost of the properties of the Kansas City Power and Light Company; Missouri Service Company; Missouri Utilities Company; Arkansas-Missouri Power Corporation and the Empire District Electric Company.

The Commission is now represented upon 28 joint boards of the Bureau of Motor Carriers of the Interstate Commerce Commission and our representatives participated in more than 250 cases involving applications of bus and truck companies to operate over Missouri highways.

The Commission's orders, relating to the bus and truck law, totaled 3,702 during the period covered by the report.

In establishing the new record for collections in bus and truck fees the Commission increased the collections \$662,074 over the previous two-year period. This increase resulted from additional traffic and the fact the Commission was enabled to employ additional inspectors through an increased appropriation by the Legislature.

The Commission, at the close of the biennium, was regulating 1,358 truck companies and 77 bus lines. This was an increase of 396 truck companies and six bus lines since November 30, 1938.

Included in the truck companies under regulation were 322 contract haulers which did not pay any license fees for the maintenance of the public highways over which they operated. The contract haulers registered with the Commission 3,137 trucks, an increase of 1,479 over the previous two-year period.

The common carriers paying fees registered 5,688 trucks, an increase of 3,696 since November 30, 1938. At the close of the biennium 805 buses were registered, an increase of 297.

The Commission, through its legal department, handled approximately one hundred cases in the State and Federal Courts. A number of these cases involved interpretations of the Bus and Truck Act.

The Commission's legal staff was available at all times to the general public seeking guidance in the presentation of applications or complaints before the Commission.

The Commission, through its Transportation Rate Department, received for filing approximately 15,000 rail, bus, truck and other tariffs and supplements. Each of these documents were carefully examined to determine if it complied with rules and regulations of the Commission as to form and to ascertain its lawfulness.

The Commission, during the biennium, asserted jurisdiction over freight forwarding or car loading companies operating in the State. These companies had been operating for a number of years without regulation of the Interstate Commerce Commission or State Commissions. They were free to make reduced rates and rebates and, therefore, were a serious handicap to rail and truck regulation.

The Commission held the companies came under the classification of express companies as defined in Section 5578, R. S. Mo. 1939, and were, therefore, subject to the jurisdiction of the Commission. In its order of February 7, 1940, in the case of

Anderson Motor Service Company, Inc., vs. Acme Fast Freight, Inc., et. al., the Commission held the freight forwarding companies were subject to State regulation and ordered them to publish, post and file tariff schedules with the Commission in the same manner as other common carriers.

The Commission is now participating in two major interstate rate proceedings which were instituted by the Interstate Commerce Commission in 1939 and 1940. The first proceeding in 1939 ordered a complete investigation of class rates of rail carriers in the United States in the territory east of the Rocky Mountains. The second investigation of the class rates of motor carriers operating in the same area, was instituted by the Interstate Commerce Commission on August 1, 1940. It will probably require several years to complete the proceedings in these two cases and their determination will be of far-reaching importance to Missouri.

Detailed reports of the various departments follow:

### **ENGINEERING DEPARTMENT**

The activities of the Commission that are normally assigned to this department may be grouped under the following general classifications: (a) preparation of appraisals of utility properties, and supervision of related valuation matters, (b) supervision of railway safety and service, and (c) supervision of railway-highway crossings.

The department's principal duty consists of the inventory and appraisal of the properties of various utilities in Missouri, said appraisals being made upon order of the Commission.

During the past biennium, appraisals of the following properties were completed:

- Andrew County Mutual Telephone Company (9 exchanges).
- Clinton County Telephone Company (9 exchanges).
- Middle States Utilities Company (21 exchanges).
- Albany Telephone Company (1 exchange).
- St. Louis County Gas Company.
- Southeast Missouri Telephone Company (42 exchanges).

A state-wide appraisal of the property of the Southwestern Bell Telephone Company has been in progress and is nearing com-



pletion. Appraisals of the following properties are also in progress:

The Gas Service Company (25 Distribution Systems).

Missouri Telephone Company (6 exchanges).

Central Missouri Telephone Company (Lexington, Holden, Sweet Springs and Warrensburg exchanges).

Missouri Standard Telephone Company (Lebanon exchange).

The department's entire field force, consisting of 41 engineers clerks, and stenographers, has been actively engaged in the preparation of the above appraisals. In addition, a considerable portion of the time of the general engineering office staff in Jefferson City, consisting of the Chief Engineer, Assistant Chief Engineer, two assistant engineers, and a stenographer-clerk has also been employed in supervisory and administrative capacity.

Members of the Department's staff have had numerous conferences with representatives of the State Tax Commission, advising them concerning appraisals made by this department of various utility properties in this State and furnishing them technical assistance.

This department, in conjunction with the Commission's Accounting Department, has joined in the preparation of estimates to be used in the study of the rates of return now being earned on estimated fair values of the properties of the Springfield Gas and Electric Company, Missouri Edison Company, East Missouri Power Company, and Missouri Utilities Company. In general, the work involved has required an inspection of the property to determine accrued depreciation and the amount of property used in public service, the preparation of cost of reproduction and cost of reproduction less depreciation estimates, and recommendations to the Commission of tentative fair values, and annual depreciation allowances. As a result of such procedure and recommendations, the Commission has brought about, through informal conferences with the utility, reductions in rates at Springfield totalling \$160,000 per annum. Other negotiations are in progress.

During the period of this report, cases pertaining to the regulation of railways were passed upon by the Commission and reports and orders issued as indicated in the following summary:

	Application.	
	Granted.	Denied.
<b>Railway Service:</b>		
Discontinued Open Agency Station.....	8	3
Discontinue Caretaker Service.....	9	.....
Abandon Depot.....	6	.....
Abandon Steam Railway Tracks.....	2	.....
Abandon Street Railway Tracks.....	2	.....
Discontinue Train Service.....	3	.....
<b>Railway Signals:</b>		
Interlocking Installation.....	1	.....
Changes in existing interlocking plants and signaling devices approved on informal application..	14	.....
<b>Railway Clearance:</b>		
Less-than-Standard Clearance.....	13	1

In connection with safety in railroad operations, the Department's railroad inspector made numerous investigations during the biennium as summarized in the following tabulation:

	Cases.	Structures.
Railway Terminal Facilities.....	19	163
Railway Overhead and Side Clearance.....	41	80
Red and "Red Neon" Lights adjacent to railroad causing confusion and hazard to railroad operations.....	13	26

The Commission's rules require that the railways operating in Missouri report all accidents to the Commission. A summary of all accidents thus reported during the biennium follows:

	Steam.		Electric.		Total.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Passengers.....	1	114	2	2,161	3	2,275
Employees.....	22	553	0	7	22	560
Trespassers.....	99	149	1	1	100	150
*Non-trespassers....	133	287	25	1,437	158	1,724
<b>Totals.....</b>	<b>255</b>	<b>1,103</b>	<b>28</b>	<b>3,606</b>	<b>283</b>	<b>4,709</b>

\*Includes Grade Crossing Accidents.

Of the above, those in the following Table B were caused by train accidents involving equipment only, and occasioned by the types of accidents shown in Table A.

TABLE A.

	Collision.		Derailment.	
	Passenger.	Freight.	Passenger.	Freight.
Steam Railways.....	23	152	17	191
Electric Railways.....	78	.....	27	.....

TABLE B.

	Passengers.		Employees.	
	Killed.	Injured.	Killed.	Injured.
Steam Railways.....	1	60	7	60
Electric Railways.....	.....	88	.....	2
Totals.....	1	148	7	62

Grade crossing accidents as reported during the biennium are summarized as follows:

	Grade Crossing Accidents.			
	Public Crossings.		Private Crossings.	
	Killed.	Injured.	Killed.	Injured.
Train Striking Vehicle.....	65	187	4	6
Vehicle Striking Train.....	17	52	3	6
Pedestrians.....	40	19	.....	.....
Totals.....	122	258	7	12

Of the above fatal crossing accidents, circumstances prevailing at 64 of them were such as to require further reports from the

railways consisting of maps, photographs, traffic surveys, and other information. These reports were studied by the department to determine the necessity and justification of grade crossing protection or of grade separation. Field investigations were made at a number of grade crossings in order to determine the need of protective devices or other remedies in the interest of public safety.

The following tabulation shows the disposition of railway-highway crossing cases before the Commission during the past biennium:

Grade Separations:	
Viaducts Ordered.....	10
Underpasses Ordered.....	2
Grade Crossings:	
New Crossings Established.....	30
Existing Crossings Closed.....	23
Additional Protection Ordered.....	4
Type of Protection Changed.....	3
Additional Protection approved on informal application.....	3

Summarizing briefly, during the past biennium, in addition to the extensive inventory and appraisal work performed, the Department has had a representative at some 109 hearings, has submitted recommendations to the Commission on cases thus attended, and has handled a considerable volume of correspondence relative to grade crossings, railway safety and service, and other matters relating to valuation of utility properties.

## ACCOUNTING AND STATISTICAL DEPARTMENT

The Department is represented at hearings before the Commission and presents evidence concerning security issue, reorganization, valuation and property acquisition cases; it receives and analyzes annual reports of the utilities and common carriers; it confers with the Commission respecting the appropriations under which the Commission operates; it devotes a considerable amount of time and effort to cooperating with accounting officials of other regulatory bodies and to advising operating companies and others in matters of utility accounting and finance, and it conducts audits and investigations of the utilities and motor carriers.

## PERSONNEL

The personnel of the Department consists of a Chief Accountant, Assistant Chief Accountant, two Assistant Accountants and a Stenographer-Clerk located in the Jefferson City office, and 17 Assistant Accountants and two Typists in the field.

## SECURITY ISSUES

The Department investigates the feasibility of granting authority to issue securities, is represented at hearings, and confers with the Commission on such cases.

The primary objectives of security regulation in Missouri is to assure compliance with the law, protect the investor and preserve the credit of public utilities. Nevertheless, no administrative or regulatory process can relieve investors of prudence, or vigilance, in making purchases. Security issues have as their objective the obtaining of capital funds as distinguished from income, and such capital may be obtained only for specific purposes.

Securities may be issued for the acquisition of property; construction, completion or extension of facilities; improvement of service; reimbursement for moneys actually expended from income or from the company's treasury, for the aforesaid purposes, over a five year period previous to the date of the application, not secured or obtained by the issuance of securities; and for the refunding of obligations.

Authority to issue securities does not obligate the Commission to sanction rates for service sufficiently high to provide a return thereupon. It is the Commission's policy, however, to require a fair and reasonable ratio between property costs and capitalization, and evidence that interest and other obligations in connection with the issue will be met regularly from current income.

The following table shows the securities authorized to be issued during the period of this report:

SUMMARY OF ALL AUTHORIZATIONS TO ISSUE STOCKS, BONDS, AND NOTES UNDER THE PUBLIC SERVICE COMMISSION LAW  
FROM DECEMBER 1, 1938, TO NOVEMBER 30, 1940.

Date of Authority	Case Number	Name of Company	Class of Security	Amount Authorized
12/30/38	9653-4	Atchison County Telephone Company	Notes	\$25,000.00
1/18/39	9643-4	Rich Hill Telephone Company	Notes	16,000.00
2/ 3/39	9680	Missouri Utilities Company	Notes	300,000.00
2/ 4/39	9668	Lexington Water Company	Bonds	55,000.00
2/ 4/39	9668	Lexington Water Company	Notes	28,636.17
3/30/39	B-6006	Ferguson-Wellston Bus Company	Notes	11,057.46
4/10/39	9694	Bourbon Telephone Company	Notes	3,300.00
5/25/39	9719	St. Louis County Water Company	Bonds	1,000,000.00
6/ 3/39	9687	Platte County Water Company	Notes	125,000.00
6/ 3/39	9687	Platte County Water Company	Common Stock	50,000.00
6/27/39	9732	St. Louis Public Service Company	Bonds	33,258,006.55
6/27/39	9732	St. Louis Public Service Company	Common Stock	1,133,252.00
10/25/39	9779	St. Louis Public Service Company	Notes	4,463,000.00
12/19/39	9805	The Gas Service Company	Bonds	6,500,000.00
12/22/39	9687	Platte County Water Company	Bonds	155,000.00
12/22/39	B-7248	St. Louis County Bus Company	Notes	23,681.52
1/26/40	B-7310	Southwestern Greyhound Lines, Inc.	Notes	320,000.00
1/31/40	9833	Central West Utility Company (of Kansas)	Common Stock	270,000.00
2/28/40	9846	Missouri Utilities Company	Notes	300,000.00
3/15/40	9852	The Inter-County Telephone Company	Common Stock	75,000.00
3/15/40	9852	The Inter-County Telephone Company	Notes	50,000.00
3/16/40	9848	Missouri General Utilities Company	Notes	48,500.00
4/ 5/40	9857	Laclede Power and Light Company	Notes	372,750.00
4/ 8/40	9865	Kansas Gas and Electric Company	Bonds	16,000,000.00
4/18/40	9838	Independence Waterworks Company	Common Stock	100,000.00
4/23/40	B-7310	Southwestern Greyhound Lines, Inc.	Notes	64,000.00
5/13/40	9863	Western Light and Telephone Company	Bonds	1,250,000.00
5/14/40	6536-8736 and 9690	The St. Louis County Gas Company	Common Stock	1,100,000.00
6/18/40	T-7493	Plaza Express Company, Inc.	Common Stock	25,612.00

7/11/40	9732	St. Louis Public Service Company	Bonds	6,648.45
7/16/40	9908	Arkansas-Missouri Power Corporation	Bonds	2,350,000.00
7/16/40	9908	Arkansas-Missouri Power Corporation	Notes	300,000.00
7/24/40	9883	Lyle E. Cross and Agnes N. Cross	Notes	13,400.00
8/20/40	9933	St. Joseph Railway, Light, Heat, and Power Company	Notes	32,710.98
9/25/40	9915	Kansas City Public Service Company	Notes	67,000.00
10/18/40	B-7600	St. Louis County Bus Company	Notes	12,974.50
11/19/40	9941	S. J. Laughlin, Cyr. Gas Company	Notes	47,000.00
		Total		\$69,952,529.63

## RECAPITULATION.

Bonds.....	\$60,574,655.00
Notes.....	6,624,010.63
Common Stock.....	2,753,864.00
Total.....	\$69,952,529.63

Of the total amount of securities authorized, the sum of \$59,913,482.00 was for refunding purposes, and \$10,039,047.63 represented new money used for additions and extensions to utility property. The amount of bond, note, and stock issues during the period amounted to only 38.4 per cent of the amount during the 1937-38 period. The securities authorized in the preceding period, however, included several abnormally large issues, which provided funds for increasing demands for service in future years. The Commission authorized the issuance of 37 separate issues in this biennium compared to 30 issues in the 1937-1938 period. The soundness of the Commission's policy of carefully regulating security issues is reflected in the small number of defaults on approved issues since the beginning of regulation in Missouri.

## VALUATION

The Commission has adopted a policy of evaluating all of the important utilities in the state for rate making purposes, and a majority of the employees of the Department is engaged in auditing the accounts of the utilities in obtaining evidence to present to the Commission in such proceedings. Representatives of the Department appear and testify at valuation hearings, and also participate in informal conferences of the Commission and utilities, which often result in rate reductions without the delay and expense of formal valuations.

During the biennium accounts have been audited or miscellaneous detail supplied from the records of the following companies:



AUDITS.

Southwestern Bell Telephone Company  
Southeast Missouri Telephone Company  
The St. Louis County Gas Company  
The Gas Service Company  
Missouri Telephone Company  
Andrew County Mutual Telephone Company  
Clinton County Telephone Company  
Middle States Utilities Company of Missouri  
Albany Telephone Company  
Central Missouri Telephone Company

MISCELLANEOUS DETAIL.

The Laclède Gas Light Company  
Kansas City Power & Light Company  
St. Louis Public Service Company  
Missouri Utilities Company  
Missouri-Edison Company  
East Missouri Power Company  
Missouri Southern Public Service Company  
Missouri General Utilities Company  
St. James Telephone Company  
National City Lines, Inc.

REORGANIZATIONS

Reorganizations of Missouri utilities, although occurring infrequently, must have the approval of the Commission, often at the direction of the Courts. In such proceedings this Department investigates the applicant and presents to the Commission its findings and recommendations respecting the feasibility, fairness, and anticipated results of the proposed plan of reorganization.

During the period of this report the reorganization of St. Louis Public Service Company, which furnishes mass transportation service to the St. Louis metropolitan area, was approved by the Commission prior to approval of the Plan of Reorganization by the Federal Court.

PROPERTY ACQUISITIONS

The Department is represented at proceedings involving the transfer of physical property or the acquisition of more than ten per cent of the capital stock of utilities. It investigates and reports to the Commission on applicants' financial condition and other matters within the scope of the Department.

During the biennium there have been numerous cases before the Commission for such acquisitions.

**ANNUAL REPORTS**

Approximately 2,000 Electric, Gas, Water, Heating, Telephone, Telegraph, Street Railway, Railroad, Sleeping Car, Express, Bus and Truck companies file annual reports covering their financial and operating results. The accuracy and completeness of the reports are carefully checked and the information contained therein is a source of much useful data pertaining to earnings, investment and capitalization. Being public records, the reports are scrutinized by interested parties from within and without the state, and the department supplies statistics upon request of municipalities, investment bankers and others.

**BUDGET**

The Department assists the Commission in preparing the biennial appropriation requests of the legislature, is entrusted with keeping the budget and acquaints the Commission, from time to time, with the status of the funds under which it operates. The fees collected during the period of this report, exclusive of those collected by the Bus and Truck Department, follow:

Audits and Appraisals (salaries and expenses).....	\$420,456.97
Fees for Authorizing Security Issues.....	20,444.00
Miscellaneous Collections.....	12,041.11
<b>Total.....</b>	<b>\$452,942.08</b>

**OTHER REGULATORY BODIES.**

During the past few years there has been a concerted effort on the part of most regulatory bodies to adopt, within reasonable limits, standard accounting procedures for operating utilities. To assist in this laudable movement the Department has reviewed tentative uniform systems of accounts, offered suggestions concerning their adoption, and cooperated in originating interpretations representing the consensus of the regulating authorities. Such action entails considerable responsibility and requires a substantial amount of time, however, the immediate savings to companies under the jurisdiction of other regulatory commissions, and the anticipated standardization and simplification of accounting practices will be well worth the present additional

effort. The most active and authoritative group of regulatory accountants is the Accounting Committee of the National Association of Railroad and Utilities Commissioners of which the Chief of the Department is a conferee.

In prescribing a system of accounts the Commission does not commit itself to the approval or acceptance of any item appearing in any account. The prescribed classifications are designed to set forth the facts in connection with the capitalizations, physical plants, operating results, and statistical data. In connection with such matters as may be before the Commission from time to time, appropriate consideration is given to the items appearing in the several accounts, but the several accounting systems prescribed are not controlling in fixing rates or in any other matter that may come before the Commission.

The Federal Power Commission also has jurisdiction over certain Missouri utilities, and has entered upon a program of verifying the original cost of such properties. At the direction of the Commission, the Department has been represented in these verifications, usually resulting in an agreed original cost of properties, thereby avoiding possible future conflict between regulatory authorities, and also the obtaining of data of important worth in subsequent valuation proceedings. The Department has cooperated in verifications of the original cost of the following companies:

Kansas City Power & Light Company.  
Missouri Service Company.  
Missouri Utilities Company.  
Arkansas-Missouri Power Corporation.  
Empire District Electric Company.

#### MISCELLANEOUS.

The Department receives various requests for assistance and information, and, when compatible with the Commission's policy, these requests are granted.

Certain motor carriers have been checked during the biennium, at the request of the Bus and Truck Department, resulting in disclosures of evasion of the payment of statutory fees. In such instances the fees were collected, together with expenses of the investigations.

The Commission receives inquiries from points throughout the United States respecting accounting, statistical and financial

data of Missouri public service organizations. The Department furnishes available information in answer to such inquiries and often acts in a consultative capacity in matters of refinancing and anticipated reorganizations.

The demands upon the Department continue to increase in each biennium as indicated by the number of audits, annual reports, security issues and miscellaneous responsibilities.

### **THE ELECTRIC, WATER, GAS, TELEPHONE, TELEGRAPH AND STEAM-HEATING DEPARTMENT**

The personnel of this Department consists of the Chief of the Department, clerk and stenographer.

The work of the Department covers:

(a) The keeping of an accurate official record of the rates charged by all privately owned utilities furnishing gas, electric telephone, telegraph, steam heating and water service in this State.

(b) Attention to correspondence and verbal requests for information on matters pertaining to the rates charged and service furnished by gas, electric, telephone, telegraph, steam heating and water utilities.

(c) Adjustment of correspondence complaints involving gas, electric, telephone, telegraph, steam heating or water service.

(d) The filing of the schedules of rates, rules and regulations of gas, electric, telephone, telegraph, steam heating and water utilities, and keeping of a record showing the increase or decrease in the annual gross revenue that will result from the application of the new schedules.

(e) General inspection of equipment and test of service meters.

(f) General supervision of the quality of equipment of gas, electric, telegraph, telephone, steam heating and water utilities insofar as the public interest, public health and safety of the public and employees are concerned.

(g) Attending hearings, offering testimony and making investigations when necessary, in matters before the Commission involving permits for electric transmission lines, inductive interference controversies and transfers of utilities, the filing of rate schedules, and other formal cases before the Commission relating to standards, adequacy and extension of utility service and the

charges for such services, in which sales of utility property were involved.

(h) Making studies and surveys of the conditions surrounding the extension of electric lines in order that service may be extended to rural areas throughout the State. This work has required particular attention concerning the type of line that may be adequate for rendering the service, but at the same time encourage the construction by the use of that type of line that can be constructed at the lowest cost.

During the period 5,579 letters and 184 reports and orders have been written. In addition to writing the letters, it is necessary to collect information and data, and make copies of enclosures to be sent with the letters. During the period covered by this report, 1,605 schedules of rates, rules and regulations were filed. Also 119 hearings and conferences were attended.

Reductions in utilities' annual gross revenues resulting from the filing of new schedules are shown in the table below:

	From Dec. 1, 1938 to Nov. 30, 1940.
Electric.....	\$959,766.83
Water.....	14,947.12
Gas.....	424,497.00
Telephone.....	100,883.00
Total.....	\$1,500,093.95

The major amount of reductions in the electric rates came from the filing of new rates by the Kansas City Power & Light Company at the conclusion of Case No. 6576, in which the Commission found the amount that the company's gross revenues should be reduced. Likewise, most of the reductions in rates for gas service came from the reduction made by the Laclede Gas Light Company. Continued increase in the use of electric service throughout the State makes it possible to secure reductions in electric rates.

In the case of the telephone companies some of the smaller exchanges are finding it necessary to secure authority to raise their rates. They are showing that costs are increasing, no small part of the increases being due to the so-called Wage Hour

Law, and in order to maintain proper service file for higher rates. Additional exchanges have been converted from magneto to common battery and from manual operation to dial. The records in those cases show a very large percentage of the public served desired the change in the service, even though the rates to be charged were higher than for the other type of service. There has been a continual trend downward in the cost added to telephone bills for furnishing of service through the handset, the Southwestern Bell Telephone Company having removed the extra charge for the handset entirely July 1, 1939.

Many of the exchanges have had to provide metallic lines for furnishing service that formerly could be furnished over grounded lines. The proximity of electric lines constructed by rural electric cooperatives has caused many such changes. The rates for the telephone service have been increased in those instances.

Our records show that there are no serious water problems existing at this time, so far as the quality and supply of water is concerned. All privately owned utilities apparently have systems with adequate capacity for treating the water supply, and distribution mains are ample to supply service under satisfactory conditions.

The Personnel of the department consists of the Chief of the Department, one railroad rate expert, one motor carrier rate expert and one stenographer-clerk.

There is assigned to this department the general supervision of the Commission's activities in the administration of the various laws pertaining to the rates, fares, charges, rules, regulations and practices of steam and electric railroad, street railroad, express, sleeping car, motor bus and motor truck companies.

During the period of this report, there have been received by this department for filing approximately fifteen thousand rail, bus, truck and other tariffs and supplements. Each of these documents must be carefully scrutinized to see that they comply with the rules and regulations of this Commission as to form and to determine their lawfulness. Tariff schedules that do not comply with the Commission's rules and regulations are rejected, and those containing fares, rates or any provisions that are deemed unlawful are suspended and assigned for investigation by the Commission.

In addition to the tariffs filed for Missouri intrastate application, this department also maintains an extensive file of inter-

state tariffs published by railroad, bus, truck, express and sleeping car companies applicable to interstate transportation, for the information of the public, from which information is given to other state departments, and are also used for comparative purposes in proceedings before this Commission and the Interstate Commerce Commission involving the lawfulness of rates and charges.

This department analyzes the statistics submitted by various carriers to this Commission and to the Interstate Commerce Commission to keep informed as to transportation conditions in Missouri, surrounding states, various rate territories and in the United States as a whole.

### RATE LEVELS.

The rates and charges of transportation companies in general remain on approximately the same level as at the close of the previous biennial period with the exception of express rates.

During the Year 1938 the Railway Express Agency, Inc., filed a petition with this Commission seeking authority to revise their rate structure to provide reductions in charges for handling light weight packages thereby placing them in a better competitive position with parcel post, and increasing the charges for handling heavy shipments. It appeared that a reduction in the rates on the light weight packages would attract new business in sufficient quantity to result in an increase in revenue. This Commission in Case No. 9559, by order dated March 30, 1939, authorized this readjustment in rates and charges which was the same as authorized by the Interstate Commerce Commission for application on interstate traffic.

Upon petition of certain motor carriers, Cases Nos. 8351 and 8397 were reopened and several hearings held during this biennial period to determine the need of these carriers for additional revenue to meet alleged increased operating expenses. On May 31, 1940, a report and order was issued in which it was found an increase in rates was not justified. Upon petition for modification of this latter order, a further hearing was held, briefs have been filed and the case is now submitted for decision.

During the period of this report, the rate department has received and the Commission has disposed of 683 applications seeking authority to establish rates under emergency conditions

upon less than statutory notice and filing or for relief from some of the provisions of the Commission's tariff rules.

A number of informal complaints concerning rates or services of carriers were received by this department during this biennium. In most instances satisfactory adjustment was made by correspondence, however, in some cases it was necessary to institute formal proceedings to properly dispose of the subject matter.

There have been seventy-four formal cases handled by this department in which the Commission had before it for determination the lawfulness of rates, fares, charges or services of carriers. Sixty-eight of these cases have been disposed of and six are pending. Of the six pending cases, three are being held in abeyance at the request of the applicant pending action by the Interstate Commerce Commission on related subjects.

There was filed with the Commission a complaint, alleging that freight forwarding or carloading companies were within the definition of express companies under Section 5122 (23) R. S. Mo. 1929, therefore subject to the jurisdiction of the Commission. Such companies have been operating for a number of years and were not regulated by the Interstate Commerce Commission and few, if any, State Commissions. They were free to make reduced rates and rebates, therefore were a serious handicap to rail and truck regulation.

The Commission issued its order in the case of Anderson Motor Service Company, Inc., vs. Acme Fast Freight, Inc., et. al., on February 7, 1940, holding that such carriers are subject to regulation by this Commission under the Public Service Commission Law and required them to publish, post and file tariff schedules in the same manner as other common carriers.

### INTERSTATE CASES.

The most important interstate rate proceedings with which this Commission has been concerned for many years were instituted by the Interstate Commerce Commission during the Year 1939. They are the investigation of the class rates of rail carriers in the territory east of the Rocky Mountains (I. C. C. Docket No. 28300) and the investigation of the rail and motor classifications (I. C. C. Dockets 28310 and M. C. C. 150, respectively). On August 1, 1940, that Commission instituted an investigation of the class rates of motor carriers in the same area that is involved in the rail investigation (I. C. C. Docket M. C. C.



200). In all probability, it will require several years to complete these proceedings.

It has been necessary to have conferences with shippers and Chambers of Commerce of the state, and through this department to prepare for presentation to the Interstate Commerce Commission a considerable amount of data to protect the interests of the state in these proceedings.

During the biennial period, the rate department has participated in a number of proceedings before the Interstate Commerce Commission in connection with both rail and motor transportation.

### STREET RAILWAYS.

The weekly pass for street car service in Kansas City, which has been in use for some time past, has been discontinued. The St. Louis Public Service Company is now experimenting with a similar weekly pass which sells for \$1.25 good for an unlimited number of rides. The shopper's ticket is still provided for St. Louis street car riders.

The electric railways service formerly operated by the St. Joseph Railway Light, Heat & Power Company between St. Joseph and Savannah, Missouri, has been abandoned and bus service substituted.

The following tables contain data concerning railroad abandonments in Missouri during this period, also the mileage of various railways operating in Missouri as of December 31, 1939.

RAILROAD ABANDONMENTS.

RAILROAD ABANDONMENTS IN MISSOURI DURING THE PERIOD WERE AS FOLLOWS:

Railroad.	From	To	Miles.	I. C. C. Docket.	Decided.
Chicago, Rock Island & Pacific Ry. Co.	Altamont	Stillings Jct.	67.47	11,888	230 I. C. C. 341
Missouri Pacific R. R. Co.	Carthage Jct.	Ashbury	17.80	12,204	230 I. C. C. 620
Missouri Pacific R. R. Co.	Part of Creve Coeur Branch	in St. Louis County	2.00	12,206	230 I. C. C. 615
Missouri Pacific R. R. Co.	Charleston	Cresno	11.90	12,404	233 I. C. C. 625
Missouri Pacific R. R. Co.	{ Atlas. { Duenweg Jct. { Duenweg	Granby } Duenweg }	14.70	12,977	Unreported.
Missouri Pacific R. R. Co.	Water Works Spur.	Grand Falls (Newton Co.)	1.11	12,788	Unreported.
Missouri Southern R. R. Co.	Himont	Brushy	5.00	12,417	233 I. C. C. 397
Missouri Southern R. R. Co.	Hobart	Himont	10.40	12,535	Unreported.
Quincy, Omaha & Kansas City R. R. Co.	Milan	Kansas City	139.49	12,229	233 I. C. C. 471
Southwest Missouri R. R. Co.	Entire Line.		11.43		No I. C. C. Docket
St. Louis-San Francisco Ry. Co.	Grassy Bayou	Caruthersville	6.77	12,696	Unreported.
St. Louis-San Francisco Ry. Co.	Mingo	Williamsville	24.27	12,423	233 I. C. C. 665
St. Louis-San Francisco Ry. Co.	In McDonald County (The total mileage abandoned between Bentonville, Ark., and Grove, Okla., was 41.01 including the 2.31 miles in Missouri)		2.31	12,695	Unreported.
Total miles abandoned.			314.65		

THE FOLLOWING APPLICATION TO THE INTERSTATE COMMERCE COMMISSION FOR AUTHORITY TO ABANDON IS PENDING AT THE TIME OF THIS REPORT.

Railroad.	From	To	Miles.	I. C. C. Docket.
Missouri Southern R. R. Co.	Ellington	Bunker	24.9	13,084

MILEAGE OF STEAM AND ELECTRIC RAILWAYS AND CITY STREET RAILWAYS OPERATED IN MISSOURI ON  
DECEMBER 31, 1939.

Mileage of Class 1 Railroads in Missouri

Railroad.	Miles of road.	Miles of second main track.	Miles of all other main tracks.	Miles of passing track crossovers and turnouts.	Miles of way switch-ing tracks.	Miles of yard switch-ing tracks.	Total.
The Alton Railroad Co.....	252.62	20.03	.....	43.08	20.10	32.66	6368.49
The Atchison, Topeka and Santa Fe Ry. Co.....	309.13	200.27	15.59	08.92	42.81	39.49	76.21
Chicago, Burlington & Quincy R. R. Co.....	1,198.32	129.61	.....	107.15	102.53	248.92	1,786.53
Chicago, Great Western R. R. Co.....	101.25	3.61	.....	15.22	10.02	20.74	150.84
Chicago, Milwaukee, St. Paul and Pacific R. R. Co...	147.62	44.06	11.92	38.90	15.03	55.85	313.38
The Chicago, Rock Island and Pacific Ry. Co.....	527.03	86.51	10.74	64.48	38.23	99.17	826.16
Illinois Terminal R. R. Co.....	2.72	2.52	.....	.....	.....	8.63	13.87
The Kansas City Southern Ry. Co.....	201.16	10.50	.....	38.19	24.52	75.27	349.64
Missouri and Arkansas Ry. Co.....	69.13	.....	.....	6.78	48	5.03	81.42
Missouri-Illinois R. R. Co.....	99.73	.....	.....	8.14	22.10	11.80	141.77
Missouri-Kansas-Texas R. R. Co.....	470.22	28.29	.....	64.94	51.50	56.31	671.26
Missouri Pacific R. R. Co.....	1,551.83	212.46	1.50	211.61	147.14	440.13	2,564.67
St. Louis-San Francisco Ry. Co.....	1,497.66	60.31	.....	190.44	124.65	256.18	2,129.24
St. Louis Southwestern Ry. Co.....	224.97	23.25	.....	35.26	17.20	36.92	337.60
Union Pacific R. R. Co.....	2.16	1.53	.....	6.05	.....	21.12	30.86
Wabash Ry. Co.....	654.16	83.53	13.38	95.31	62.74	126.14	1,026.20
Totals.....	7,300.71	906.48	53.13	994.47	679.05	1,534.36	11,468.20

SMALL ROADS AND SWITCHING AND TERMINAL COMPANIES  
IN MISSOURI MILEAGE.

	Average Mileage.
SMALL ROADS (Steam)	
Bevier & Southern R. R. Co. ....	9.61
Cassville & Exeter Ry. Co. ....	4.70
Hannibal Connecting R. R. Co. ....	2.90
The Kansas City Connecting R. R. Co. ....	4.80
Missouri and Illinois Bridge and Belt R. R. Co. ....	3.54
Missouri Southern R. R. Co. ....	64.62
Rockport, Langdon & Northern Ry. Co. ....	5.65
St. Louis and Hannibal R. R. Co. ....	50.80
St. Louis & Troy R. R. Co. ....	5.20
<b>Total</b> .....	<b>151.82</b>
SMALL ROADS (Electric)	
The Joplin-Pittsburg R. R. Co. ....	18.33
St. Francois County R. R. Co. ....	7.68
<b>Total</b> .....	<b>26.01</b>
SWITCHING AND TERMINAL COMPANIES	
Hannibal Union Depot Co. ....	.90
Joplin Union Depot Co. ....	6.60
Kansas City Terminal Ry. Co. ....	122.91
The Leavenworth Terminal Ry. and Bridge Co. ....	1.01
Manufacturers Railway Co. ....	33.13
Rock Island Frisco Terminal Ry. Co. ....	2.65
St. Joseph Belt Ry. Co. ....	19.84
St. Joseph Terminal R. R. Co. ....	13.72
St. Joseph Union Depot Co. ....	2.14
Terminal Railroad Association of St. Louis. ....	167.76
Union Terminal Ry. Co. ....	7.41
<b>Total</b> .....	<b>378.07</b>

## CITY STREET RAILWAYS AND EXPRESS COMPANIES.

	Average Mileage.
<b>CITY STREET RAILWAYS</b>	
Kansas City Public Service Co. ....	101.82
The St. Louis Public Service Co. ....	378.25
<b>Total</b> .....	<b>480.07</b>
<b>EXPRESS COMPANIES</b>	
Railway Express Agency, Inc.	

**LEGAL DEPARTMENT**

During the biennial period ending December 1, 1940, this department has handled approximately one hundred court cases. In addition, counsel for the Commission made numerous appearances in hearings held before the Commission itself for the purpose of representing the interests of the general public. Counsel for the Commission have also served as legal advisers to the various departments and have prepared numerous legal opinions for the public, the Commission, and its departments.

The department staff has at all times been available to members of the general public seeking guidance for the presentation in a proper manner of applications and complaints before the Commission. Prosecuting attorneys from various sections of the State have frequently consulted the Legal Department for opinions concerning prosecutions for violations of the Missouri Bus and Truck Act.

As outstanding in the proceedings had in the various suits begun, ended or disposed of during this period, the following are among the more important ones:

**CIRCUIT COURTS**

**AALCO EXPRESS, INC., ET AL. VS. A. B. LAMBERT, ET AL.** Fifty-seven truck companies, engaged in the local cartage business in St. Louis, Missouri, have a petition for declaratory judgment and injunctive relief pending in the Circuit Court of Cole County for a determination of their respective rights and statuses under the Missouri Bus and Truck Law.

They contend the law is not applicable to them. Pending a final disposition of the petition, defendants, including the Public Service Commission, are restrained by a temporary injunction. In a petition filed in the Supreme Court the Public Service Commission, and other petitioners, are seeking a writ of prohibition against the Judge of the Circuit Court of Cole County on the ground that circuit courts do not have original jurisdiction of the subject matter of the cause of action pending in the Circuit Court of Cole County. The Supreme Court has handed down an opinion which holds that so-called local cartage carriers operating in a municipality and the suburban territory thereof are exempt, providing the major portion of the transportation lies within a municipality of this State and providing the carrier does not engage in operations which extend beyond the suburban territory. Motion for rehearing is pending in the Supreme Court.

STATE EX REL. ALTON RAILROAD COMPANY VS. PUBLIC SERVICE COMMISSION (Commission Case 7867—Sterling Avenue). In this case the Alton Railroad Company made application to the Circuit Court of Cole County for a writ of review directed to the Commission. The Court issued its writ directing the Commission to certify its record in this cause to the Circuit Court of Cole County for review. After such record had been returned to the Circuit Court, and pending a hearing thereon in said Court, counsel for the Commission and counsel for Jackson County, Missouri, filed their respective motions to quash said writ of review and dismiss the petition because the Railroad Company had failed to take necessary procedural steps entitling it to a review within the time prescribed by statute. On November 26, 1940, the Court entered an order sustaining the motions to quash the writ of review and dismissed relator's petition. This leaves the order of the Commission in effect, pending possible appeal to the Supreme Court.

DALE E. ALEXANDER, ET AL. VS. EDGAR SHOOK, ET AL. This is an injunction suit pending in the Circuit Court of Jackson County at Independence. It was filed by approximately 270 interstate truck operators. They allege in their petition for injunction that, inasmuch as they operate only into Kansas City, Missouri, and suburban territory thereof, they do not come within the provisions of the Missouri Bus and Truck

Law. The Public Service Commission and the State Treasurer have filed petitions to intervene. The question of issuing a temporary injunction has been continued until the Court shall fix the amount of their injunction bond. Upon the contention of defendants that the Circuit Court does not have original jurisdiction of the subject matter, it is quite probable that the Court will not set the case for trial on the merits until the Supreme Court of Missouri has handed down final decisions in two prohibition cases concerning the question of whether or not circuit courts have original jurisdiction of subject matter of petitions within the scope of the provisions of the Missouri Bus and Truck Law.

AMERICAN TRANSFER COMPANY, A CORPORATION, ET AL. VS. CLAUDE C. EARP, ET AL. This is an injunction suit pending in the Circuit Court of Jackson County at Independence. It was filed by approximately 42 local cartage trucking companies which operate both intrastate and interstate. The intrastate operations are between points in Kansas City, Missouri, and suburban territory thereof, while the interstate operations are between such Missouri territory and points within the State of Kansas. The 42 plaintiffs allege in their injunction petition that they are not subject to the Missouri Bus and Truck Law, and that if they are, the law is unconstitutional. This case, in all major aspects, is in the same status as the Dale E. Alexander case, the next preceding case.

STATE EX REL. ANDERSON MOTOR SERVICE CO., INC., ET AL. VS. PUBLIC SERVICE COMMISSION (Commission Case T-7285). This case was heard before the Commission upon application of a considerable number of the larger common carrier truck operators, who requested that the license fee collected for use of the public highways should be based upon the so-called weight-carrying capacities of the tractors instead of the actual weight-carrying capacities of the trailers which carry the load. The Commission denied the application. The applicants thereupon appealed to the Circuit Court of Cole County. The Circuit Court affirmed the order of the Commission. The applicants did not appeal the case to an appellate court.

STATE EX REL. THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY COMPANY VS. PUBLIC SERV-

ICE COMMISSION (Commission Case 6804—Lindell-Union). This appeal is from an order of the Commission dividing the expense of an overhead grade separation at Lindell and Union Boulevards in St. Louis. The overhead crossing itself was constructed under an order of the Commission several years ago. This appeal therefore affects only the merits of the contention of the Rock Island Railway Company as to whether or not the apportionment of expenses between the Rock Island and the Wabash is just and equitable.

INDIANA-MISSOURI FREIGHT LINES, ET AL. VS. PUBLIC SERVICE COMMISSION, ET AL. In this case twenty common carrier trucking plaintiffs petitioned the Circuit Court of Cole County to restrain defendants, and to hear their complaint alleging certain unconstitutional discriminations suffered by them under the provisions of the Missouri Bus and Truck Law. At this time, however, the plaintiffs have requested that their complaint should be dismissed. It is expected that an order dismissing the suit will be entered in the near future.

STATE EX REL. T. E. PITTMAN VS. PUBLIC SERVICE COMMISSION (Commission Case 9022). By stipulation of parties this case was remanded to the Commission by the Circuit Court of Jackson County, in order that the Commission might consider any evidence for a solution of the grade crossings problems within the City of Wentzville. Such hearing was held at the Commission offices in Jefferson City in November, 1939. Based upon the evidence presented at the hearing, the Commission has issued a new and final report and order satisfactory to the State Highway Commission, the City of Wentzville, County of St. Charles, and others. During the year of 1940, the Wabash Railway Company and the City of Wentzville, in accordance with the order of the Commission, made numerous changes and improvements at railroad crossings within the City of Wentzville providing for the greater safety and convenience of the public.

STATE EX REL. A. J. RIETH, ET AL. VS. PUBLIC SERVICE COMMISSION (Commission Case T-6723—Litzsinger). This is an appeal by sixteen moving companies from an order of the Commission granting Litzsinger common carrier authority to operate in St. Louis and suburban territory. The Circuit Court, after hearing, reversed and remanded the order



of the Commission. The case will be set for further hearing before the Commission, at which time applicant and protestants will be given an opportunity to present any evidence for and against the application.

THOMAS RUSSELL, ET AL. VS. A. B. LAMBERT, ET AL. Six truck operators filed their petition in the Circuit Court of St. Louis City for declaration of their rights and statuses under the Missouri Bus and Truck Law. Their petition alleges that their motor trucks are wholly exempt from the provisions thereof because said trucks have manufacturers' rated capacities of 1½ tons or less. The Commission enforces the law on the basis of actual weight-carrying capacities of trucks.

The Commission and other defendants petitioned the Supreme Court to issue its writ of prohibition against the Circuit Judge in St. Louis City on the ground that circuit courts do not have original jurisdiction of the subject matter of plaintiff's petition. The opinion of the Supreme Court holds that the Commission is authorized to license common carriers of freight on the basis of the actual weight-carrying capacities of their vehicles.

STATE EX REL. CITY OF ST. LOUIS VS. PUBLIC SERVICE COMMISSION (Commission Cases B-5338 and B-5852—Goldstein). These cases were heard upon application of Golden Arrow Bus Company for common carrier authority between St. Louis and all other points within the State of Missouri. The Circuit Court has reversed and remanded the orders of the Commission on the ground that the City of St. Louis did not receive notice of the hearing before the Commission. These cases were reheard by the Commission, after the City of St. Louis was duly notified of the hearing. All interested parties, including the City of St. Louis, appeared at the hearing. The matter is now pending before the Commission for a final new order.

STATE EX REL. CITY OF ST. LOUIS VS. PUBLIC SERVICE COMMISSION (Commission Cases T-7279-X and T-7280-X). This is an appeal by the City of St. Louis from an order of the Commission granting contract hauler authority to the Columbia Transfer Company. The City contends that the evidence adduced at the hearing before the Commission tends

to prove that the applicant is a common carrier instead of a contract hauler. The case is pending in the Circuit Court of Cole County for a hearing.

#### KANSAS CITY COURT OF APPEALS

STATE EX REL. DONIPHAN TELEPHONE COMPANY VS. PUBLIC SERVICE COMMISSION (Commission Case 9649). The filing of a schedule of toll rates with the Commission was protested by the Southwestern Bell Telephone Company on the ground that said schedule, together with the telephone services represented thereby, constitutes an unlawful invasion of territory. The Commission, after due investigation and hearing, ordered that the aforesaid toll rates should be withdrawn from its files. The Doniphan Telephone Company prosecuted a writ of review out of the Circuit Court of Cole County. Said Court affirmed the order of the Commission. An appeal from the judgment of the Circuit Court was taken by the Doniphan Telephone Company. The Kansas City Court of Appeals at its October, 1940 Term dismissed the appeal.

STATE EX REL. INTERSTATE TRANSIT LINES VS. PUBLIC SERVICE COMMISSION (Commission Case B-4144). The Commission's report and order granting a certificate of convenience and necessity to the Burlington Transportation Company in the vicinity of Kansas City and St. Joseph was affirmed by the Circuit Court of Cole County and thereafter affirmed by the Kansas City Court of Appeals. Petition of Interstate Transit Lines to the Supreme Court for writ of certiorari was denied.

STATE EX REL. V. C. RINGO VS. PUBLIC SERVICE COMMISSION (Commission Case B-4145). Application of, V. C. Ringo for a certificate of convenience and necessity to operate between Rushville, Missouri, and Parkville, Missouri was denied by the Commission. The Circuit Court of Cole County affirmed the Commission's order, as also did the Kansas City Court of Appeals at its March, 1939 Term. Ringo's application for writ of certiorari to the Supreme Court was denied.

STATE EX REL. A. W. SHEPHERD, ET AL. VS. PUBLIC SERVICE COMMISSION (Commission Case B-6147). Relators, by writ of review, challenged the report and order of

the Public Service Commission granting a certificate of convenience and necessity to the Frisco Transportation Company between Springfield and Seneca. The Circuit Court of Cole County reversed the Commission's order. Appeal was taken to the Kansas City Court of Appeals. The Kansas City Court of Appeals has reversed the judgment of the Circuit Court and has affirmed the order of the Commission.

STATE EX REL. TOEDEBUSCH TRANSFER, INC. VS. PUBLIC SERVICE COMMISSION (Commission Case T-5955). Applicant Toedebusch requested the Commission to grant authority to establish through and joint rates between St. Louis and Kansas City, based upon the contention that he had acquired operating rights which combined warrant establishment of direct service over U. S. Highway 40 between St. Louis and Kansas City. The Commission denied the application. The Circuit Court of Cole County, on review of the Commission's order, reversed said order. By decision rendered in November, 1940, the Kansas City Court of Appeals reversed the judgment of the Circuit Court, thereby making final the order of the Commission.

#### ST. LOUIS COURT OF APPEALS

STATE EX REL. POTASHNICK TRUCK SERVICE, INC. VS. PUBLIC SERVICE COMMISSION (Commission Case T-5722). Report and order of the Commission denying extensive regular route common carrier authority to applicant was affirmed by the Circuit Court of Cape Girardeau County. Subsequently the judgment of the Circuit Court was affirmed by the St. Louis Court of Appeals.

#### SUPREME COURT OF MISSOURI

STATE EX REL. ANDERSON MOTOR SERVICE COMPANY, ET AL. VS. PUBLIC SERVICE COMMISSION (Commission Case T-3786). An order of the Commission granting joint and through rates to applicant Brooks Truck Company was reversed and the cause remanded to the Commission for further proceedings by the Circuit Court of Cole County. Its judgment was affirmed by the Kansas City Court of Appeals at its October, 1939 Term. One of the judges dissented, however, and thereupon the case was transferred to the Supreme

Court. The matter has been argued before the Supreme Court, and an opinion of that Court is expected soon.

STATE EX REL. PUBLIC SERVICE COMMISSION, ET AL. VS. HONORABLE SAM C. BLAIR, CIRCUIT JUDGE. This is an original proceeding in prohibition in the Supreme Court against Honorable Sam C. Blair, Judge of the Circuit Court of Cole County, whereby petitioners allege that circuit courts are without original jurisdiction of subject matter within the scope of the provisions of the Missouri Bus and Truck Law. The nature of the injunction action pending in the Supreme Court has hereinbefore been described in the case of Aalco Express, Inc., et al. vs. A. B. Lambert, et al. The prohibition case was submitted to the Supreme Court at its October, 1940 Term. The opinion of the Supreme Court, against which a motion for rehearing is pending, holds that the courts may assert original jurisdiction for the sole purpose of judicially construing the statute in question to determine whether the carriers are exempt from the provisions thereof when so construed.

STATE EX REL. PUBLIC SERVICE COMMISSION, ET AL. VS. HONORABLE EUGENE L. PADBERG, CIRCUIT JUDGE. This is an original proceeding in the Supreme Court against Honorable Eugene L. Padberg, Judge of Division 3 of the Circuit Court of St. Louis City, whereby petitioners allege that circuit courts are without original jurisdiction of subject matter within the scope of the provisions of the Missouri Bus and Truck Law. The nature of the injunction action pending in the Circuit Court has hereinbefore been described in the case of Thomas Russell, et al. vs. A. B. Lambert, et al. The prohibition case was submitted to the Supreme Court at its October, 1940 Term. The opinion of the Supreme Court holds that the Commission is empowered to license trucks on the basis of their actual weight-carrying capacities, and that the Circuit Court cannot interfere with the Commission in determining such capacities.

#### FEDERAL COURT AND SUPREME COURT OF THE UNITED STATES

BRASHEAR FREIGHT LINES, INC., ET AL. VS. PUBLIC SERVICE COMMISSION. Following dismissal in the year of 1938 of plaintiffs' bill by the three-judge Federal court, fees impounded in the amount of \$104,015.43 were re-

leased to the Public Service Commission for transfer to the State Treasury. Appeal of the Commission against that portion of the decree denying the Commission the right to prosecute an action for collection of certain license fees was taken to the Circuit Court of Appeals for the Eighth Circuit. Said court, with a dissenting opinion, affirmed the order of the three-judge District Court dismissing the Commission's action for collection of said fees. Petition for certiorari was filed in the Supreme Court of the United States in November, 1940, and on December 16, 1940, the writ of certiorari issued out of said Court.

COLUMBIA TERMINALS COMPANY, A CORPORATION, VS. A. B. LAMBERT, ET AL. Plaintiff, an operator of more than one thousand motor vehicles in and around the City of St. Louis, filed its complaint in Federal court in which it alleged that its vast freight-carrying motor vehicle operations are not subject to regulation under the Missouri Bus and Truck Law, and in which it further stated that, if the law be construed as applicable to its vast operations, the law is unconstitutional. After submission of plaintiff's application for an interlocutory injunction to a three-judge court, the court rejected plaintiff's contentions, and thereupon dismissed its bill in equity and dissolved the temporary restraining order. Columbia Terminals prosecuted a direct appeal to the Supreme Court of the United States against the judgment of the District Court denying its application for interlocutory injunction. The Supreme Court ordered the District Court to dismiss plaintiff's bill in equity on the merits.

The Columbia Terminals Company has, since the entry of the aforesaid order of the Supreme Court of the United States, been granted common carrier authority by the Public Service Commission.

FRANK EICHHOLZ VS. PUBLIC SERVICE COMMISSION. Plaintiff's temporary injunction, after trial on the merits in the District Court, was dissolved and its Bill in Equity dismissed. Plaintiff alleged in his Bill that the Commission was illegally interfering with his so-called interstate operations between St. Louis, Missouri, and Kansas City, Missouri, which were conducted through a terminal in Kansas City, Kansas.

On appeal to the Supreme Court of the United States the judgment of the three-judge District Court was affirmed. The Court held that the commerce in question was intrastate com-

merce, and that the rule of the Commission promulgated to protect the State's own commerce was a valid one.

After the mandate of the Supreme Court of the United States came down, Public Service Commission took judgment in the District Court against plaintiff's sureties on the injunction bond in the amount of \$11,000, which amount was paid by the sureties and transmitted by the Commission to the State Treasurer.

### BUS AND TRUCK DEPARTMENT

There has been a continued increase in the number of carriers who have been granted certificates and permits and placed under the regulation of the Commission, despite opposition by certain trucking interests. This has also resulted in an increase in revenue, which was remitted to the State Treasurer to be allocated for the maintenance and repair of the streets and highways over which operations were being conducted by common carriers.

For the purpose of comparison, the following tabulations show the increase in revenue received from *common carriers* for the past two biennials, and also the increase in the number of common carriers who have been granted certificates and permits:

	December 1, 1936 to No- vember 30, 1938.	December 1, 1938 to No- vember 30, 1940.
Truck license fees . . . . .	\$438,493.15	\$964,869.04
Truck emergency fees . . . . .	377,911.32	461,705.60
Bus license fees . . . . .	184,710.18	216,967.24
Bus emergency fees . . . . .	10,841.00	10,488.00
Totals . . . . .	\$1,011,955.65	\$1,674,029.88

The amount of fees collected from December 1, 1938, to November 30, 1940, include \$104,015.43 paid to Roy B. Chipps, Trustee, during the years of 1937 and 1938, pending determination of an injunction suit filed by Brashear Freight Lines, Inc., et al., in which decision was rendered in favor of the State, and the amount transmitted to the State Treasurer in May, 1939.

*Common Carriers* holding authority to operate in this State, are classified and subdivided as follows:

## TRUCK OPERATORS.

	December 1, 1938.	December 1, 1940.
Intrastate only:		
Regular.....	20	17
Irregular.....	101	111
Regular and Irregular.....	35	29
	156	157
Interstate only:		
Regular.....	16	101
Irregular.....	186	316
Regular and Irregular.....	23	90
	225	507
Combined Intrastate and Interstate:		
Regular.....	3	4
Irregular.....	161	149
Regular and Irregular.....	249	219
	413	372
Total common carriers of freight	794	1036

## DRIVEAWAY OPERATIONS.

	December 1, 1938.	December 1, 1940.
Interstate Irregular.....	17	
Intrastate and Interstate Irregular.....	1	
	18	
Total common carriers engaged in driveaway operations.....	18	

## BUS OPERATIONS.

	December 1, 1938.	December 1, 1940.
Intrastate only:		
Regular.....	27	26
Irregular.....	2	2
Regular and Irregular.....	4	6
	33	34
Interstate only:		
Regular.....	9	16
Irregular.....	2	1
Regular and Irregular.....	..	3
	11	20
Intrastate and Interstate:		
Regular.....	8	5
Irregular.....	3	3
Regular and Irregular.....	16	15
	27	23
Total common carriers of pas- sengers.....	71	77

The revenue received from *common carriers* has increased each biennium since the Bus and Truck Law became effective, as shown in the following:

Biennium.	Receipts.
1931-1932.....	\$114,068.78
1933-1934.....	537,175.09
1935-1936.....	977,632.90
1937-1938.....	1,011,955.65
1939-1940.....	1,674,029.88

In calling attention to the number of *contract haulers* holding authority to operate in Missouri, it will be noted that there is also a substantial increase in 1940, over the year of 1938. *Contract haulers* are exempt under the present Bus and Truck Law from the payment of any fees for the maintenance and repair



of the streets and highways, as is imposed upon common carriers, and they are not restricted as to the number of contracts or the number of shippers, under which and for whom they may transport; the vehicles operated by contract haulers are comparable as to size and weight with vehicles operated by common carriers.

The following is a tabulation of the number, and classification as to service, of *contract haulers* holding authority from this Commission:

## TRUCK OPERATORS.

	December 1, 1938.	December 1, 1940.
Intrastate only:		
Regular . . . . .	10	7
Irregular . . . . .	27	33
Regular and Irregular . . . . .	2	..
	39	40
Interstate only:		
Regular . . . . .	9	29
Irregular . . . . .	142	194
Regular and Irregular . . . . .	3	3
	154	226
Intrastate and Interstate:		
Regular . . . . .	1	1
Irregular . . . . .	22	51
Regular and Irregular . . . . .	2	4
	25	56
Total contract haulers of freight	218	322

## DRIVEAWAY OPERATIONS.

	December 1, 1940.
Interstate irregular . . . . .	2
Total contract haulers engaged in driveaway operations . . . . .	2

Vehicles licensed by *contract haulers* for operation in the State, on which no fees are paid, are shown in the following tabulation:

Capacity of vehicles.	November 30, 1938.	November 30, 1940.
2 tons . . . . .	5	56
3 tons . . . . .	173	90
4 tons . . . . .	176	688
5 tons . . . . .	81	191
6 tons . . . . .	113	263
7 tons . . . . .	112	158
8 tons . . . . .	52	91
9 tons . . . . .	125	291
Over 9 tons . . . . .	821	1,309
<b>Totals . . . . .</b>	<b>1,658</b>	<b>3,137</b>
Driveaway contract haulers permit cards issued . . . . .		85

Vehicles licensed by *common carriers* for operation in the State, on which fees have been paid, are shown in the following tabulation:

Capacity of vehicles.	November 30, 1938.	November 30, 1940.
2 tons . . . . .	252	461
3 tons . . . . .	307	718
4 tons . . . . .	363	644
5 tons . . . . .	181	393
6 tons . . . . .	64	537
7 tons . . . . .	124	190
8 tons . . . . .	235	585
9 tons . . . . .	284	894
Over 9 tons . . . . .	182	1,266
<b>Totals . . . . .</b>	<b>1,992</b>	<b>5,688</b>

Busses licensed by *common carriers* for operation in the State, on which fees have been paid, are shown in the following:

Capacity of busses.	November 30, 1938.	November 30, 1940.
1 to 10 Passengers.....	75	61
11 to 20 Passengers.....	70	91
21 to 30 Passengers.....	161	264
Over 30 Passengers.....	202	389
Totals.....	508	805

There are no carriers holding contract authority to transport passengers.

*Common carriers* are permitted to license one or two alternate or emergency vehicles by the payment of \$5.00 on each of the alternate or emergency vehicles at the time of licensing vehicles on which the annual license fee is paid as provided in Section 5728 of the Missouri Bus and Truck Law.

This provision was adopted after a hearing in which interstate common carriers contended that vehicles licensed to operate in Missouri were operated approximately two-thirds of the time in other states and they were consequently required to pay greater or higher fees for such operation when conducted in Missouri than paid by Missouri intrastate common carriers operating daily over the highways of this state.

The tabulation with respect to contract haulers shows a very marked increase in the use of vehicles of a larger carrying capacity. In the year 1940 there was an increase of over 100% in vehicles of a carrying capacity of 9 tons and an increase of approximately 59% in vehicles of a carrying capacity greater than 9 tons operated by this class of carriers, as compared to the year 1938.

During the period from December 1, 1938, to November 30, 1940, inclusive, orders relating to motor carriers subject to the Bus and Truck Law were issued, classified as follows:

Report and orders licensing new carriers.....	669
Extension of authority.....	196
Denials.....	55
Dismissals.....	341
Transfers.....	160
Joint and through rates.....	26
Citations.....	268

Revocations.....	199
Rehearings.....	7
Sustaining motions.....	75
Overruling motions.....	51
Extending effective date.....	50
Cancelling permits.....	11
Supplemental orders.....	26
Tariffs.....	6
Suspensions.....	663
Reinstatements.....	601
Changing name.....	23
Discontinuing service.....	19
Correcting orders.....	23
Issue chattel mortgage to buy busses.....	3
Granting carrier permission to self insure.....	2
Investigations.....	8
Ordering filing of time schedules.....	5
Temporary permits.....	208
Permission to increase capital stock.....	2
Permission to purchase additional equipment.....	1
Permission to purchase additional travel orders.....	1
Change from contract to common carrier.....	3
	3,702

#### Cases pending before the Commission December 1, 1940:

New applications awaiting hearing.....	55
Submitted on the record.....	27
Continued for hearing at a future date.....	9
Set but not heard.....	26
Approved, waiting for fees and insurance.....	16

The personnel of the Department on November 30, 1940, consisted of a Supervisor, eight Inspectors and fifteen clerks and stenographers.

Pursuant to the provisions of Section 5594, Revised Statutes of Missouri, 1939, we respectfully submit herewith the above and foregoing report of the proceedings of the Public Service Commission for the preceeding biennium.

J. D. JAMES, Chairman,  
JOHN S. BOYER,  
JOHN A. FERGUSON,  
SCOTT WILSON,  
MARION S. FRANCIS,  
Commissioners.

Dated at Jefferson City, Mo.,  
the 11th day of January, 1941.

## HISTORICAL

The act creating the Missouri Public Service Commission was passed by the Forty-seventh General Assembly and became effective April 15, 1913. The bill creating the Commission was introduced by Senator William G. Busby, who later became general counsel and chairman of the Commission. The act was approved by Governor Elliott W. Major.

The act provided for a Commission of five members appointed by the Governor, with the advice and consent of the Senate. Provision was made for the Governor to designate one member as chairman.

The first appointments were on the basis of one member for two years, two members for four years and two members for six years, and, thereafter, all for six-year terms.

Appointments which have been made to the Commission follow:

FRANK A. WIGHTMAN, railroad expert, Monett, Mo., effective April 15, 1913, for term of two years ending April 15, 1915. Resigned, effective April 24, 1915.

JOHN KENNISH, lawyer, Kansas City, Mo., effective April 15, 1913, for term of four years ending April 15, 1917.

HOWARD B. SHAW, electrical engineer, Columbia, Mo., effective April 15, 1913, for term ending April 15, 1917.

JOHN M. ATKINSON, lawyer, Chairman, Doniphan, Mo., effective April 15, 1913, for term ending April 15, 1919. Resigned, effective May 1, 1916.

WILLIAM F. WOERNER, lawyer, St. Louis, Mo., effective July 3, 1913, for term ending April 15, 1919. Resigned, effective November 18, 1914.

EDWIN J. BEAN, lawyer, DeSoto, Mo., effective November 19, 1914, to succeed William F. Woerner, for unexpired term ending April 15, 1919. Reappointed, effective April 15, 1919, for term ending April 15, 1925. Resigned, effective June 26, 1925.

EUGENE MCQUILLAN, lawyer, St. Louis, Mo., effective April 24, 1915, to succeed Frank A. Wightman, for term ending April 15, 1921.

WILLIAM G. BUSBY, lawyer, Carrollton, Mo., effective May 1, 1916, to succeed John M. Atkinson, for term ending April 15, 1919. Designated Chairman of Commission.

DAVID E. BLAIR, lawyer, Joplin, Mo., effective February 26, 1917, to succeed Eugene McQuillan and for the unexpired term ending April 15, 1921. Resigned, August 23, 1920, effective immediately.

NOAH W. SIMPSON, lawyer, LaBelle, Mo., effective April 15, 1917, to succeed John Kennish, for term ending April 15, 1923.

EDWARD FLAD, civil engineer, St. Louis, Mo., effective April 15, 1917, to succeed Howard B. Shaw, for term ending April 15, 1923. Resigned, effective October 11, 1921.

JOHN KENNISH, lawyer, Kansas City, Mo., effective August 23, 1920, to succeed David E. Blair, for unexpired term ending April 15, 1921. Resigned, effective December 1, 1920.

A. J. O'REILLY, civil engineer, St. Louis, Mo., effective October 11, 1921, to succeed Edward Flad, for unexpired term ending April 15, 1923. Reappointed, effective April 15, 1923.

JOHN A. KURTZ, lawyer, Kansas City, Mo., effective December 1, 1920, to succeed John Kennish, for unexpired term ending April 15, 1921. Reappointed, May 1, 1921, for term ending April 15, 1927. Designated Chairman of Commission, May 1, to succeed William G. Busby, as Chairman, resigned. Died, June 17, 1923.

HUGH McINDOE, lawyer, Joplin, Mo., effective May 1, 1921, to succeed William G. Busby, for unexpired term ending April 15, 1925. Died, May 28, 1923.

THOMAS J. BROWN, lawyer, Charleston, Mo., effective June 13, 1923, to succeed Noah W. Simpson, for term ending April 15, 1929. Designated Chairman of Commission, effective August 30, 1924, to succeed Merrill E. Otis, as chairman who resigned effective August 15, 1924.

RICHARD H. MUSSER, lawyer, Plattsburg, Mo., effective June 16, 1923, to succeed the late Hugh McIndoe, for unexpired term ending April 15, 1925.

MERRILL E. OTIS, lawyer, St. Joseph, Mo., effective June 23, 1923, to succeed the late John A. Kurtz, for unexpired term end-

ing April 15, 1927. Designated as Chairman of Commission on same date. Resigned, effective August 15, 1924.

ALMON ING, lawyer, Poplar Bluff, Mo., effective January 14, 1925, to succeed Merrill E. Otis, resigned, for unexpired term ending April 15, 1927. Reappointed April 15, 1927, for term ending April 15, 1933. Designated Chairman of Commission, effective October 1, 1928, vice Thomas J. Brown, Chairman, resigned.

D. F. CALFEE, lawyer, Jefferson City, Mo., appointed January 15, 1925, to succeed A. J. O'Reilly, for unexpired term ending April 15, 1929. Appointment effective February 4, 1925.

S. M. HUTCHISON, lawyer, Kansas City, Mo., effective April 15, 1925, to succeed Richard H. Musser, resigned, for term ending April 15, 1931.

J. H. PORTER, engineer, St. Louis, Mo., effective June 26, 1925, to succeed Edward J. Bean, resigned, for term ending April 15, 1931. Reappointed April 15, 1931, for term ending April 15, 1937. Resigned, effective August 15, 1933.

JAMES P. PAINTER, lawyer, Milan, Mo., effective October 1, 1928, to succeed Thomas J. Brown, for unexpired term ending April 15, 1929.

MILTON R. STAHL, lawyer, St. Louis, Mo., effective May 29, 1929, to succeed D. F. Calfee, for term ending April 15, 1935. Designated Chairman of Commission, May 29, 1929, succeeding Almon Ing, Chairman. Resigned, effective August 11, 1933.

J. FRED HULL, editor, Maryville, Mo., effective May 29, 1929, to succeed James P. Painter, for term ending April 15, 1935. Resigned, effective January 17, 1934.

GEORGE H. ENGLISH, lawyer, Kansas City, Mo., effective June 15, 1931, to succeed S. M. Hutchison, for term ending April 15, 1937. Resigned, effective June 10, 1936.

J. C. COLLET, lawyer, Salisbury, Mo., effective April 26, 1933, to succeed Almon Ing, for term ending April 15, 1939. Designated Chairman on same date, succeeding Milton R. Stahl, Chairman. Resigned, effective September 1, 1935.

WILLIAM STOECKER, engineer, Webster Groves, Mo., effective August 11, 1933, to succeed Milton R. Stahl, for term ending April 15, 1935.

W. M. ANDERSON, lawyer, Harrisonville, Mo., effective August 15, 1933, to succeed J. H. Porter, resigned, for term ending April 15, 1937.

HARRY E. MCPHERSON, insurance, St. Joseph, Mo., effective January 17, 1934, to succeed J. Fred Hull, resigned, for term ending April 15, 1935.

JOHN S. BOYER, lawyer, St. Joseph, Mo., effective June 1, 1935, to succeed Harry E. McPherson, for term ending April 15, 1941.

SAM O. HARGUS, lawyer, Kansas City, Mo., effective September 1, 1935, to succeed J. C. Collet, resigned, for term ending April 15, 1939. Designated Chairman, effective same date.

ALBERT D. NORTONI, lawyer, St. Louis, Mo., effective April 16, 1936, to succeed William Stoecker, for term ending April 15, 1941. Died May 31, 1938.

JOHN A. FERGUSON, lawyer, Cape Girardeau, Mo., effective June 10, 1936, to succeed George H. English, resigned, for term ending April 15, 1937. Reappointed April 15, 1937, for term ending April 15, 1943.

J. D. JAMES, lawyer, Joplin, Mo., effective January 1, 1937, to succeed Sam O. Hargus, for term ending April 15, 1939. Designated Chairman, effective same date. Reappointed for a term ending April 15, 1945.

SCOTT WILSON, engineer and business man, Ferguson, Mo., effective August 15, 1938, to succeed W. M. Anderson, for term ending April 15, 1943.

MARION S. FRANCIS, lawyer, Mexico, Mo., effective August 15, 1938, to succeed the late Albert D. Nortoni, for term ending April 15, 1941.