

**Telephone Companies, Rights of. Railroad Companies, Duty to Allow Telephone Instruments in Stations. Removal of Telephones in Railroad Stations. Telephones, Removal of From Railroad Stations.**

There is nothing in the laws of Montana prohibiting a telephone company from removing its telephone instruments from railway depots upon the refusal of the railway company to pay for the same.

March 30th, 1914.

Honorable Railroad and Public Service Commission,  
Helena, Montana.

Gentlemen:

I am in receipt of your communication under date of the 17th instant, submitting for my consideration the question of whether a telephone company has the right to take a telephone out of a railroad company's depot and discontinue service at such a place upon the refusal of the railroad company to pay the monthly charges therefor.

Sec. 4340, Revised Codes of Montana, 1907, imposes upon every railroad company the duty to allow telephones to be installed in its ticket office, but it specifically exempts them from any liability for the expenses incident to the installation of such telephones or charges for the use thereof. This section amounts to nothing more than a limitation upon the railroad company. It prevents railroad companies from keeping telephone instruments and services from their ticket office. It imposes no duty upon telephone companies to furnish this service free. Indeed, an attempt to compel telephone companies to furnish such services without remuneration would be invalid, in as much as it would be virtually a taking of property without recompense therefor. If the telephone company could be made to do it in one instance it could in every instance.

You are, therefore, advised that there is nothing in Sec. 4340 of the Revised Codes of Montana, 1907, prohibiting a telephone company from removing its telephone instruments from railway depots upon the refusal of railroad companies to pay for the same, and in the event that the rental for such telephones is not provided for in some other way.

Yours very truly,

D. M. KELLY,  
Attorney General.