

**Railroad Commission, Notice, Power to Alter Rates and Classifications Without.**

The Board of Railroad Commissioners may by supplemental order alter or amend rates or classifications by it established without notice; provided, the company affected waives such notice.

Helena, Montana, Aug. 14, 1907.

The Railroad Commission of Montana,

Helena, Montana.

Gentlemen:—

I am in receipt of your favor of the 13th inst., asking the opinion of this office with respect to your power and authority under the law to modify and establish rates of any character locally within the State without giving the notice prescribed by law. In this connection you state that it will be to the great benefit and advantage of the people, and make more effective your work, if such delay can be obviated and emergency tarriffs be put into effect by your order at once.

In answering this question we are required to turn to Section 15 of the Railroad Commission Law (Chap. 37, Laws 1907, page 68) and endeavor to interpret and construe the meaning, intent, and purpose thereof. By said section it is provided that the Board shall have the power from time to time to change, alter, amend or abolish, any classification or rate established by it, when deemed necessary. And further, that such action on the part of the Board shall be "put into effect in the same manner as original classifications or rates." Ordinary classifications or rates are put into effect as provided by Section 14 of the Act, and by said section it is required that notice be given and published both of the intent of the Board to finally fix and decide the rates and classifications, and the date of taking effect of the rates established by the Board. The notice provided for in this section is a matter of personal privilege to the railroad companies and certainly can be by them waived. But unless the company were willing to waive such notice, and acquiesced in your order modifying rates regularly established and effective, it would be necessary for you to pursue the procedure outlined in said section 14 in order to alter or amend a rate or classification. Now again, reverting to the language used in Section 15 of the Act, "the original classifications or rates" are by you put into effect by virtue of your formal order fixing the rates. And while it is true that your order is not effective, so far as the railroad company effected is concerned, unless you have followed the procedure outlined in Section 14, still, if the railroad company waives notice and agrees to your order, there can be no question as to your right to make supplemental orders amending or changing the rates or classifications by you originally established to meet emergency cases of the character to which you make reference.

Respectfully submitted,  
ALBERT J. GALEN,  
Attorney General.