

Railroad Commission, Establishment of Rates as Affecting Road in the Hands of a Receiver.

Where the Railroad Commission has had a hearing and fixed rates, and thereafter one of the roads duly notified of such hearing has gone into the hands of a Receiver, the rate so fixed would be binding against the Receiver.

Helena, Mont., July 7, 1909.

The Railroad Commission of Montana,

Helena, Montana.

Gentlemen:

I am in receipt of your favor of the 7th inst., asking opinion from this office with respect to your right to fix a freight rate for the carriage of coal, applicable to the Yellowstone Park Railroad. From the facts by you stated it appears that a public hearing was held on May 14th, 1909, with reference to the establishment of a proper rate for the carriage of coal; that this railroad company was duly and regularly notified of such hearing and given opportunity to be heard; that subsequently the railroad was placed in the hands of a receiver. The question now arises as to your right to fix a rate effective as against said railroad under the facts above indicated.

I am of opinion that you have a right to fix the rate under the circumstances. The fact that the railroad is now in the hands of a receiver makes no difference, as the receiver is merely acting in a representative capacity in the conduct of the business and affairs of the railroad company.

Yours very truly,

ALBERT J. GALEN,

Attorney General.