

Rates, Commission's Power to Make Joint. Joint Rates, Power of Commission to Fix. Railroad Commission, Power of to Fix Joint Rates.

Under Section 4375, Revised Codes, the railroad commission of Montana has power to fix and establish rates for all or any connecting lines of railroad in this state on the basis of through or joint rates.

October 14, 1910.

Railroad Commission of Montana,
Helena, Mont.

Gentlemen:—

I am in receipt of your letter of October 11th, wherein you enclose a copy of a letter from A. M. Holter Hardware Company, making inquiry if you are in position to inaugurate joint rates from Helena to Roundup, Montana.

The power of making joint rates is specifically given to the board of railroad commissioners under the provisions of Section 4375, Revised Codes. After providing that the board may fix different rates for different rates for different railroads and for different lines on the same road, the section above mentioned provides as follows:

“Said board shall also have the power and it shall be its duty to fix and establish for all or any connecting lines of railroad in this state reasonable joint rates of freight charges for the various classes of freight, and cars that may pass over two or more lines of such railroads.”

The statute seems to be clear in the above delegation of authority with regard to joint rates and I believe the only difficulty which the board might encounter would be the practical one of making a just and equitable pro rata division of the revenue derived from joint business. I do not at this time assume to pass upon the right of the legislature to delegate to the railroad commission the power to make joint rates which might be raised under the constitutional provision that no company may be deprived of its property without just compensation and due process of law. This question is now pending in the United States courts and it is my policy to uphold the constitutionality of statutes enacted by the legislature of this state until their unconstitutionality is announced by a court of competent jurisdiction, or unless they clearly and without doubt run counter to some express constitutional provision.

Your are advised that in my opinion the act which organized your commission and delegated certain powers to it includes the power to make joint rates.

Yours very truly,
ALBERT J. GALEN,
Attorney General.