

Notice of Hearing, Publication of. Publication of Notice of Hearing, Need Not Be in Newspapers.

The notice required to be given under the provisions of Subdivision B, Sec. 17, Laws of 1913, should be by service and not by publication. Section 7145 to 7152 provides how the notice shall be served.

April 18th, 1913.

To the Honorable Railroad Commissioners of the State of Montana,
Helena, Montana.

Gentlemen:

I beg to acknowledge receipt of your communication under date the 14th instant, requesting my opinion as to whether the notice required to be given by Subdiv. B, Sec. 17, Chap. 52, Laws of 1913, should be published in two daily papers for a period of at least ten days prior to the hearing, and you have called my attention to the provisions of Sec. 4376, Revised Codes, requiring publication in two daily papers of the notice of a hearing before the board of railroad commissioners for the purpose of fixing classifications and rates applicable to common carriers.

In my opinion, the provision of Sec. 4376 is not applicable to the notice required to be given by Subdiv. B, Sec. 17 of Chapter 52. Sec. 4376 has reference to a proceeding before the board of railroad commissioners for the purpose of fixing rates generally applicable throughout the State of Montana, and which are to affect all common carriers and all shippers, and under the provisions of the same section

"Any person, firm, corporation or common carrier who may desire it"

Shall have an opportunity to be heard. On the other hand, the proceeding contemplated by Sec. 17 of Chap. 52, Laws of 1913, is a proceeding by particular complainants against a particular public utility, and I take it that only the parties to the proceeding are entitled as of right to be heard. There, therefore, appears no necessity for a general notice to the public, and there is somewhat greater necessity for notice to the particular individuals or corporations, who are personally interested and are parties to the action.

You are, therefore, advised that the notice to be given under

Subdiv. B, Sec. 17, Laws of 1913, should be by service thereof, and not by publication. In this connection I call your attention to Secs. 7145 to 7152 of the Revised Codes, providing how notice in civil actions shall be served.

In my opinion it would be entirely appropriate for you to serve the notice by the method prescribed in these sections last above cited.

Very truly yours,

D. M. KELLY,
Attorney General.