

Public Service Commission, Powers of. Telegraph Companies. To Furnish Reasonable Service.

Under the provisions of Chap. 52, Session Laws of the 13th Legislative Assembly, the Public Service Commission may order a telegraph company to furnish service and open an office in towns through which their lines pass.

June 26, 1914.

Hon. Board of Railroad Commissioners,
Helena, Montana.

Gentlemen:

I am in receipt of your communication under date the 4th ultimo, asking if in my opinion, your commission would have the right to require a telegraph company to open and operate an office in a town where it does not now furnish service, but through which town its lines pass. You further state that you are not certain whether the public service commission law is broad enough to give you the power to order the opening of an office under such circumstances.

Section 5 of Chapter 52, Session Laws of the 13th Legislative Assembly provides in part as follows:

“Every public utility is required to furnish reasonably adequate service and facilities.”

Here is a direct statutory requirement that reasonably adequate service is furnished. Further examination of the act fails to disclose any definition of “reasonably adequate service.” Section 19 of the Act, which deals with the power and duty of the commission upon investigation as to the justness, reasonableness or equality of rates, uses the following language:

"If it shall in like manner be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of the provisions of this act, or if it be found that the service is inadequate, or that any reasonable service cannot be obtained, the commission shall have power to substitute therefor such other regulations, measurements, practices, services or acts, and make such order relating thereto as may be just and reasonable."

By this language the legislature has conferred upon the commission the power to make orders and regulations which will insure adequate service. What is reasonable or unreasonable under the circumstances of each case is left in the judgment of the commission, and upon any order being made, any company affected thereby would have an appeal to the courts to test the question of the reasonableness of the regulation prescribed by the commission.

Subject to this limitation, I am of the opinion that your commission is given power to order telegraph service furnished in towns through which the lines of a telegraph company pass, when in the opinion of the commission, such order is reasonable and just under the circumstances.

Yours very truly,

D. M. KELLY,
Attorney General.