

Public Service Commission, Power to Investigate. Investigation of Public Service Companies, Powers of Commission in.

The powers of investigation granted to the Public Service Commission by the terms of the law creating it, are wholly limited to the purposes of that act, and do not include investigations to determine the value of such companies for the purpose of purchase.

October 7, 1914.

Hon. Railroad and Public Service Commission,
Helena, Montana.

Gentlemen:

I am in receipt of your communication under date the 24th ultimo, enclosing a petition of the mayor and councilmen of Missoula, asking for an order of your commission to compel the Missoula Light and Water Company to permit a free and proper inspection, survey and appraisal of its water plant, water works, water supply, books, maps, plants, records and property. You state that the purpose of such investigation is for a determination of the value of the plant, with a view to the purchase thereof by the city, and that the water company has refused permission to the city's experts to enter upon their premises, or to make an examination of their records and books.

Sections 6 and 15 (b), give power to the commission to investigate public utilities and make valuations of property used for the convenience of the public. I think, however, that the exercise of this power is bounded by the purpose for which the law was enacted and the commission created, and that these sections must be interpreted in the light of the evident purpose of the legislature. That perhaps is as well expressed in the title of the act as in any other place. It is as follows:

"An Act making the Board of Railroad Commissioners of the State of Montana Ex-Officio a Public Service Commission for the regulation and Control of Certain Public Utilities, Prescribing the manner in which such Public Utilities shall be regulated and controlled, requiring such Public Utilities to furnish reasonably adequate service and facilities. Prohibiting unjust and unreasonable charges for service rendered by such Public Utilities, Providing Penalties for Violation of the Provisions of this Act, Authorizing such Public Service Commission to appoint an expert engineer and to employ Clerks and Assistants and Making an Appropriation for carrying out the Provisions of this Act."

Apparently the whole and only purpose of the law was to create a commission which would see that public service companies render fair and adequate service without discrimination, for a reasonable charge. Nothing in the whole act is said about the purchase of such plants by municipalities, nor is any power given to your commission to investigate for such purposes. The matter of the purchase of the water system by the city is a matter of private concern between the

owners of such system and the city. I know of no law to compel the water company to sell their plant, or to allow an estimate of its value for such purpose, unless such power is reserved to the city in the franchise of the water company.

As to your power to delegate such an investigation to some other party, there seems to be little doubt in the decisions found, but what a commission of this character has the implied power to authorize or hire subordinates to make such examinations in a proper case. It was so held in Attorney General v. Joachim, 99 Mich. 358.

As indicated above, I think that an investigation for the purpose of determining the value of the water plant with the idea of finding out whether the city could finance the project, is without the scope and intent of the Public Service Commission Law, and that you are not empowered to make such investigation.

Yours very truly,

D. M. KELLY,
Attorney General.