

PROCEDURE BEFORE THE INTERSTATE COMMERCE COMMISSION

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649321957

Procedure Before the Interstate Commerce Commission by C. R. Hillyer

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INTRODUCTION

The Interstate Commerce Commission, under the act creating it and endowing it with powers, and under the decisions of the Supreme Court, is a "tribunal" vested with the power of hearing evidence and determining what are reasonable practices and rates of transportation, and what constitutes unjust discrimination or undue preference.

This sentence describes in a word nine-tenths of the Commission's functions, so far as the shipping public is concerned. The Commission has many other duties and powers which directly affect the carriers and which have been heaped upon it from time to time as Congress has seen fit, but the shippers in interstate commerce are chiefly concerned with its fundamental remedial power above outlined. It is safe to say that nearly all of the time of the Commission as a body and of the Commissioners as individual members is taken up with enforcing the first four sections of the law that contain the matters above specified.¹

¹ Other features of the Commission's jurisdiction will be referred to in succeeding pages. No adequate knowledge of the Commission and its work can be attained without a careful reading of the Act, in connection with this treatise.

How does a complaining shipper proceed to call the attention of this tribunal to his particular grievance, and invoke the operation of this governmental force? Under our Anglo-Saxon institutions all procedure under law must be conducted upon a definite and orderly basis so that no arbitrary action shall be possible and so that all interests affected may receive due and proper consideration.

The Commission is not a court, but operates as an arm of Congress, and therefore belongs to the legislative branch of government. It reports to Congress directly and not through the President or other executive officer; and this further emphasizes its independent character and its affiliation with the legislature as distinguished from the executive and judicial departments of government. The Commission has not inaptly been likened to a special permanent committee of Congress; and this is but natural, since it is to Congress that the commerce clause of the Constitution grants the power to regulate commerce between the states.

With this general statement of the legal status of the Commission and its jurisdiction, we are somewhat prepared to comprehend its procedure when it is called upon to enforce the provisions of the Act to Regulate Commerce. The Act itself sets forth very simple rules of pleading and evidence. As to the former, it states that any person, firm, corporation, etc.,² may file a petition briefly stating the facts complained of against carriers subject to the Act. The Commission is then commanded

² Sec. 18 of the Act; also Commission's Rules II and III, which are shown in the appendix of this treatise, give instructions in the preparation and filing of complaints.

to forward a copy thereof to the carrier or carriers, who shall satisfy or answer the same in writing.

The Commission is then empowered to investigate the matter, and the principal rule of evidence specified in the Act is that all parties in interest shall be given a full public hearing. When this simple procedure has been pursued, the Commission is empowered to exercise its discretion and, after consideration of all the facts of record, to make its findings and enter an order fixing the reasonable or non-discriminatory rate or practice for the future.³

So much for the requirements of the statute. Simple though these requirements are, they must be methodically and carefully observed, because unless this is done the order of the Commission, which the complainant may finally obtain in his favor, can be successfully attacked in the courts if the carrier can show that the Commission has not proceeded in accordance with the requirements of the Act.

The Commission has been in existence for twenty-six years and has always held to the view that the practice before it should be as simple and devoid of technicalities as possible. It must, however, proceed in accordance with the steps outlined in the statute or its findings will not be binding upon the carriers.

It is from this twofold point of view that the Commission has drafted its requirements. It has made them as simple as possible, yet has safeguarded the procedure so that no technicalities can be raised, should its orders be finally assailed in the courts. The procedure involved in the consideration of each case is symbolized in the

³ Sec. 15 of the Act.

formal wording of the order which always sets forth the fulfilment of the terms of the Act as follows: "This case being at issue, upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having made a full report containing its findings of fact and conclusions thereon, it is ordered that"—then follow the requirements which the Commission lays upon the carrier or carriers.

INFORMAL AND FORMAL CASES

(a) The Informal Case

The simplest procedure before the Commission occurs upon what is designated by the Commission (there being no special reference thereto in the statute) as the Informal Docket. This process is nothing more or less than a correspondence bureau which receives letters from the public in reference to any matter within the jurisdiction of the Commission. The Commission gives such communications a file number and takes up the matter by letter with the carriers, and through the medium of this correspondence an adjustment is reached if possible. The annual report of the Commission to Congress shows that during the past year 6,550 such informal matters were listed. Nothing is required except a letter to the Commission setting forth definitely and succinctly the facts, and upon its receipt the Commission proceeds in the informal manner above outlined.

(b) The Formal Case

It frequently happens, however, that after a matter has been under correspondence for some time, the Commis-