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The Commonwealth of Massachusetts

ANNUAL REPORT

OF THE

Department of Public Utilities

FOR THE

Year Ending November 30, 1934

COMMISSIONERS' REPORT



DEPARTMENT OF PUBLIC UTILITIES
ANNUAL REPORT

100 Nashua Street, Boston, January 16, 1935.

*To the Honorable Senate and House of Representatives in General Court
Assembled:*

We respectfully submit the fifteenth annual report of the Department of Public Utilities for the fiscal year ended November 30, 1934.

Leo H. Leary, of Brookline, was appointed a commissioner to succeed Everett E. Stone, of Springfield, and assumed the duties of the office on January 2, 1934. Mr. Stone's severance with the Department terminated a long and creditable career in the service of the Commonwealth. He was appointed to the Public Service Commission in 1913 and to the Department of Public Utilities upon its organization in 1919 and served as a commissioner of the Department from that date. His service was distinguished by fidelity to the public welfare and untiring zeal in the discharge of his duties.

Michael J. Scully, who had served as a railroad inspector since his appointment by the Board of Railroad Commissioners in 1912, retired on December 4, 1933. Mr. Scully's long and practical experience in railroad operation made his services of great value to the Department and he discharged his duties with marked ability and intelligence.

William H. O'Brien, director of Telephone and Telegraph Utilities, retired on September 10, 1934. He had occupied this position since his appointment in 1913 by the Public Service Commission. Mr. O'Brien's long and intimate knowledge of matters relating to telephone and telegraph utilities made his services as head of this branch of the Department's activities especially valuable to the Commonwealth. His work in the Department constituted an enviable record of service.

Thomas W. Witcher, a railroad inspector since his appointment in 1918 by the Public Service Commission, retired on November 30, 1934, at his own request. His duties were mainly in connection with the inspection of locomotives, for which his training and experience especially fitted him, and were performed with credit to himself and to the Department.

The number of corporations, private and municipal, persons, firms and associations under the jurisdiction of and filing annual returns with the Department, exclusive of those filing under the Sale of Securities Act, is as follows:

Steam railroads	24	Electric companies	51
Street railways	28	Water companies	79
Telephone companies	15	Motor bus lines	63
Telegraph companies	3	Municipal lighting plants	41
Steamboat companies	3	Manufacturing and other companies	
Sleeping car companies	1	doing an electric business	4
Express companies	3	Voluntary associations	31
Gas companies	52	Total	398

During the year the Department held 239 formal hearings and many informal hearings and conferences. In addition to the above, twenty-two days were devoted to hearings in relation to applications filed with the Department for certificates and permits as common and contract carriers under a recent law placing the operation of motor vehicles transporting property for hire under the jurisdiction of the Department. The following tabulation, showing the number of proceedings instituted, indicates the volume of work requiring the Department's attention during the fiscal year:

Petitions and Applications: Railroad, 45; street railway, 26; gas, 19; electric, 29; water, 8; sale of securities (appeals) 9; motor bus, 106; motor truck, 3,002; sight-seeing, 1; telephone, 2; miscellaneous, 1; total, 3,248.

Special Investigations: Street railway, 1; gas, 1; water, 4; total, 6.

Special Permits: Railroad, 179; street railway, 32; gas and electric, 8; motor bus, 18; steamboat, 3; express, 2; water, 2; total, 244.

Complaints: Railroad, street railway and motor bus, 232; telephone and telegraph, 1020; gas, 230; electric, 498; water, 32; sale of securities, 1165; smoke abatement, 130; total, 3,307.

Tariff or Schedule filings: Railroad, freight service, 1474; passenger service, 347; street railway, 36; express, 135; telephone, 47; motor bus, 35; electric, 454; gas, 206; water, 3; total, 2,737.

RECEIPTS

Year ended November 30, 1934.

Public Service Division

Motor Buses:

Fees, drivers' licenses	\$ 3,398.00	
Fees, bus permits	3,660.00	\$7,058.00

Motor Trucks:

Fees, certificates and permits	30,210.00	
Fees, distinguishing plates	7,922.00	38,132.00

Rent of land, Brattle Square, Cambridge (Cambridge Subway)

2,500.00

Miscellaneous:

Copying	6.00	
Sales	41.20	47.20

\$47,737.20

Gas and Electric Division

Fees, gas meter tests	16,911.00	
Fees, electric meter tests	35.05	16,946.05

Miscellaneous:

Sales	349.00	349.00
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\$17,295.05

Securities Division

Fees, registration of brokers	32,100.00	
Fees, registration of salesmen	16,795.00	\$48,895.00

Miscellaneous:

Copying	4.70	
Sales	26.00	30.70

\$48,925.70

Total

\$113,957.95

RAILROADS

The condition of the railroads has during the past year shown no substantial improvement. Such gain in traffic as has been realized has been offset by increased costs of operations.

STREET RAILWAYS

Of the thirty-two street railway companies operating in Massachusetts when this Department was established in 1919, only seventeen companies (including one transportation area) are in existence at the present time. The two larger companies, the Boston Elevated Railway Company and the Eastern Massachusetts Street Railway Company, have been operated under the control of the Commonwealth since 1918. Only one of the seventeen companies conducts its transportation service exclusively by rail. Ten companies operate motor buses

only and the remaining six companies furnish a very substantial portion of their passenger service by buses.

SPECIAL INVESTIGATIONS

In accordance with the provisions of section 3 of chapter 333 of the Acts of 1931, upon notice from the trustees that a deficit had occurred, the Department made an investigation of the operations and expenses of the Boston Elevated Railway Company. A report in writing containing the Department's findings and recommendations was transmitted to the Governor and to the members of the Metropolitan Transit Council on November 21, 1934.

Under the provisions of chapter 30 of the Resolves of 1934, an investigation was made by the Department as to the advisability and means of consolidating the Dedham and Hyde Park Gas and Electric Light Company with the Boston Consolidated Gas Company, or effecting such a reorganization of the Dedham and Hyde Park Gas and Electric Light Company that the whole or part of the territory now served by it would be served by the Boston Consolidated Gas Company. A report thereon will be transmitted to the General Court.

On an application made to the Interstate Commerce Commission by the Boston and Albany Railroad Company for permission to abandon that part of its Athol branch north of Bondsville, the Department held a hearing, developed the record and transmitted recommendations to that Commission.

TELEPHONE AND TELEGRAPH

The division during the fiscal year handled 1020 complaints that required specific attention.

On November 30, 1933, there were 794,103 telephone stations and on November 30, 1934, there were 797,713 telephone stations, a net gain of 3,610 stations.

On June 15, 1934, a slight reduction was made in the base rate for residential unlimited private branch exchange trunk lines. Effective August 25, 1934, a reduction in service connection and move charges was made which it is estimated will result in savings to the public of \$25,000 per year. During the past year changes have been made in base rate areas which resulted in decreases in the mileage charge in the areas affected.

MOTOR BUS TRANSPORTATION

There are ninety-three persons and corporations operating motor vehicles for the carriage of passengers for hire under certificates of public convenience and necessity granted by the Department. The total number of such certificates issued by the Department during the year was eighty-one. These were issued to thirty-four different persons and corporations, mainly for extensions of or changes in existing routes.

During the fiscal year, the Department issued 366 bus permits and 3398 drivers' licenses.

MOTOR TRUCKS

By chapter 264 of the Acts of 1934, motor vehicles transporting property for hire in the Commonwealth were placed under the supervision and control of the Department. This law became effective June 7, 1934. During the period ending November 30, 1934, 709 applications for certificates as common carriers and 2313 applications for permits as contract carriers were filed with the Department. The Department held hearings on 626 common carrier applications and 1957 contract carrier applications and during this period issued 405 certificates to common carrier applicants and 786 permits to contract carrier applicants. A total number of 7962 sets of distinguishing plates (3335 common carrier sets and 4627 contract carrier sets) were issued.

GAS, ELECTRIC AND WATER COMPANIES

For the year ending November 30, 1934, 64,593 gas meters were tested and sealed by the Gas, Electric and Water division, compared with 76, 971 in 1933. Of these 64,593 meters, 1216 were meters tested on complaint of either the consumer or the company. In addition 24 wet experimental meters, two 5-foot provers and 13 calorimeter thermometers were calibrated for the use of various companies. Six electric meters were tested on complaints of consumers.

During the year there were made 603 tests of the quality of the gas supplied by the various companies of the State, and 58 violations of the legal standard were found. Complaints numbering 760 were received and recorded, 498 relating to electric service or rates, 230 relating to gas and 32 relating to water.

The following companies or persons engaged in selling water have violated the law by failing to file annual returns with the Department within the limit of time prescribed by law:

Auburn Water Company	Junction Water Company
Churchill, Merritt H.	The Kendall Company
Deerfield Glassine Company	Mill River Water Company
Geo. H. Gilbert Company	Sagamore Beach Development Co.
Glen Farms Water Company	West Warren Water Company

MUNICIPAL LIGHTING PLANTS

The following is a list of the municipal gas and electric plants with earnings which, from reports filed in 1934 for the year 1933, appear to have violated the provisions of the statute requiring them to reduce their rates when the plants have earned a profit in excess of the eight per cent allowed by law:

	Per Cent		Per Cent
Ashburnham	11.21	Norwood	9.81
Braintree	13.14	Peabody	34.32
Hingham	8.12	Shrewsbury	8.78
Littleton	8.20	South Hadley	9.50
Marblehead	9.05	Templeton	8.41
Merrimac	8.55		

The Norwood Municipal Lighting Plant violated the law by failing to file its annual return with the Department within the limit of time prescribed by law.

SMOKE ABATEMENT

By chapter 352 of the Acts of 1934, the division of smoke inspection, which was abolished by chapter 76 of the Acts of 1933, was reestablished. Michael C. O'Neill, of Everett, was appointed director of the division and assumed the duties of the office on September 27, 1934.

During the year ending November 30, 1934, 212,002 observations were made and 714 violations were recorded. No formal hearings were held during the year but conferences were had with owners or operators of plants violating the law and violations as to such plants have been eliminated. One hundred and thirty complaints were received during the fiscal year, a marked decrease in the number received during the preceding year.

CAPITAL STOCK AND BONDS

Twelve applications for approval of issues of stock, bonds or notes have been decided during the year which ended November 30, 1934. The par value of securities to the amount of \$14,566,300 was approved.

The following table shows the securities approved by the Commission for the

several companies applying therefor, giving both the par value of the capital stock and the issue price thereof, determined as required by law.

COMPANY	CAPITAL STOCK APPROVED			Bonds Approved at Par	Date
	Amount at Par	Issue Price	Value at Issue Price		
Attleboro Steam and Electric Com- pany	\$100,800	\$25	\$100,800 ¹	\$ —	May 11
Boston & Albany Railroad Company	—	—	—	4,500,000	Mar. 19
Boston Elevated Railway . . .	—	—	—	2,098,000 ²	Feb. 5
Boston Elevated Railway . . .	—	—	—	1,581,000 ²	July 11
Boston Metropolitan District . . .	—	—	—	2,098,000 ²	Feb. 21
Boston Metropolitan District . . .	—	—	—	1,581,000 ²	July 25
Dedham Water Company	200,000	100	200,000	—	Dec. 8
Greenfield Electric Light and Power Company	686,400	100	686,400 ⁴	—	Dec. 8
Montaup Electric Company	—	—	—	3,000,000 ⁵	Feb. 9
Plymouth & Brockton Street Rail- way Company	—	—	—	130,000 ⁶	May 2
Union Street Railway Company	—	—	—	250,000 ⁷	Dec. 22
Wachusett Electric Company	412,500	100	412,500 ⁸	—	Feb. 1
Williamstown Gas Company	1,422,600	100	1,422,600 ⁹	—	Feb. 2
Worcester Street Railway Company	110,000	100	110,000 ^{10, 11}	75,000 ¹¹	Dec. 20

¹ To purchase Seekonk Electric Company.

² Negotiable registered or coupon bonds.

³ Approved as to maturity and interest rate only.

⁴ To purchase Western Counties Electric Company.

⁵ Renewal note.

⁶ Income Mortgage bonds, to be registered without coupons.

⁷ Maturity of bonds extended ten years.

⁸ To purchase Clinton Gas Light Company.

⁹ To purchase North Adams Gas Light Company and Adams Gas Light Company.

¹⁰ \$55,000 Common stock; \$55,000 preferred stock.

¹¹ To purchase North End Street Railway Company.

SECURITIES DIVISION

In 1934, a total of 3,359 salesmen and 642 brokers were registered in the Division. The sale in this Commonwealth, during the year 1934, of securities of persons, corporations or other organizations having an aggregate par value of \$199,579,504 has been forbidden by the Securities Division. Since the effective date of the Sale of Securities Act (August 26, 1921) up to November 30, 1934, the proposed sale of securities having an aggregate par value of \$2,912,212, 235.14 has been prohibited. Twenty-seven formal hearings were held by the Commission or by the Director of the division during the past year on complaints arising in connection with sales of securities or the manner in which brokers or salesmen conducted their business. Eleven appeals were made to the Commission from orders of the Securities Division. The registrations of 23 brokers and 166 salesmen were cancelled pursuant to their request. The registrations of 6 brokers and 178 salesmen were cancelled or suspended on the register by orders of the division. In addition to the formal hearings, approximately 1165 complaints against brokers and salesmen were investigated by the Division. Three cases were referred to the Attorney General during the year under section 20 of the Sale of Securities Act.

RECOMMENDATIONS FOR LEGISLATION

1. Under the provisions of the Sale of Securities Act an interested person aggrieved by an order or finding, or refusal or failure to make an order or finding by the Director is entitled, upon filing within twenty days a claim therefor in writing, to a public hearing before a majority of the Commission. It is further provided that at the conclusion of such hearing the Commission shall re-consider and review the subject matter and shall, within twenty days thereof, affirm, modify or rescind the order or finding or refusal complained of. Pending the final action by the Commission the order or finding of the Director is in effect. We believe that justice requires a provision of law by which the taking effect of the order or finding of the Director may be stayed, pending final

action by the Commission, where there is serious doubt, in the judgment of two or more of the commissioners, as to the soundness of the order or finding of the Director.

2. Many persons in this Commonwealth have been engaged in the sale of mineral deeds conveying fractional interests in the minerals or oil under the ground. There has been some conflict of opinion as to whether these mineral deeds are within the purview of the Sale of Securities Act. On April 16, 1934, in the Suffolk Superior Criminal Court it was ruled by the presiding justice that certain mineral deeds did not constitute securities within the meaning of the Sale of Securities Act. We see no reason why these mineral deeds should not be included in the term "security" when oil, gas, and mining leases and certificates of interest in or under the same are all included under the term "security" in the Act. There is little or no distinction between the two and the evil of the indiscriminate sale of the one is the same as in the other.

3. Substantially all the intrastate telephone business is now carried on in the Commonwealth by the New England Telephone and Telegraph Company of New York, organized under the laws of the state of New York. It carries on its business over locations granted to corporations organized under the laws of this Commonwealth. In its issue of stock and other securities it is not subject to the laws of the Commonwealth, as are other public utility companies operating in the Commonwealth, with the exception of companies engaged in the telegraph business.

In a decision of the Department establishing rates of the company, rendered July 30, 1925, this situation was pointed out and the commissioners of the Department then stated: "We have no power in this matter which we can exercise without doing more harm than good to the public, and are of the opinion that this subject merits the attention of the Great and General Court." Subsequently the Governor requested the opinion of the then Attorney General, the Honorable Jay R. Benton, as to the authority of a Massachusetts telephone company to permit a foreign telephone company to use its locations, and what authority a foreign telephone company has to construct and operate equipment on the locations of a domestic company. The opinion of Mr. Benton, rendered on January 7, 1926, as we understand it, is to the effect that a telephone company organized under the laws of the Commonwealth may permit a foreign company to use its locations, at least so long as it does not thereby disable itself from doing business, and that a foreign company may construct and operate equipment on the locations of the domestic company for the purpose of transacting an interstate business, but that the State, in the absence of action by Congress, may prohibit a foreign company from doing an intrastate business. No legislation followed as a result of this opinion or the views expressed by the Department in its decision of July 30, 1925.

In the recent investigation of the telephone rates, as to which a decision was made July 31, 1934, the right and propriety of the New England Telephone and Telegraph Company of New York carrying on an intrastate business over locations not granted to it was again raised. The opinion of the Attorney General of January 7, 1926, not being clear, the Department, on September 21, 1934, requested the opinion of the Attorney General as to whether the carrying on of intrastate business by the New England Telephone and Telegraph Company of New York over locations granted to domestic telephone and telegraph companies is a violation of law within the purview of section 39 of chapter 159 of the General Laws. If the opinion of the Attorney General, in response to our inquiry, is to the effect that it is a violation of law, legislation, we think, will be necessary to give the company time to arrange for the conduct of its business by a corporation organized under the laws of the Commonwealth. If, on the other hand, the opinion is in the negative, we are of the opinion that legislation requiring intrastate telephone business to be carried on by a corporation organized under the laws of the Commonwealth should be enacted, the taking effect of which to be postponed sufficiently to enable those now carrying on the business to adjust their affairs to comply therewith.

We think the legislation should be confined to corporations engaged in the

transmission of intelligence by telephony, as it seems probable, in view of the Act of Congress approved July 24, 1866, which declares that companies accepting its provisions shall have the right to construct, maintain and operate lines of telegraph over and along any of the military or post roads of the United States, that such legislation would be ineffective as to foreign telegraph companies.

Respectfully submitted,

HENRY C. ATTWILL, *Chairman,*
HENRY G. WELLS,
LEONARD F. HARDY,
A. C. WEBBER,
LEO H. LEARY,

Commissioners.