

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)
The Utah Idaho Central Railroad)
Corporation to abandon 3.55 miles)
of track, known as the North Ogden)
Spur.)

Case No. 2818

R E P O R T

Appearances:

S. J. Quinney

For Applicant

Ira A. Huggins

For North Ogden Canning Co.
North Ogden Fruit Exchange
Ben Lomond Orchard Co. and
North Ogden Town

Derrah B. VanDyke

For Ogden City, Utah

By the Commission:

The above-entitled application was filed with the Commission on October 20, 1944. The matter came on regularly for hearing before the Commission at its office in Salt Lake City, Utah on November 10, 1944. Due and legal notice was furnished interested parties by mail and by publication of the notice of hearing in the Ogden Standard Examiner, a newspaper of general circulation in Weber County published in Ogden, Utah. The matter was continued to December 7, 1944, on which date further testimony was adduced and the matter was submitted.

North Ogden Canning Co., Ben Lomond Orchard Co., North Ogden Town, and North Ogden Fruit Exchange were represented by counsel at the first hearing, November 10, 1944, in opposition to the granting of the application. These protestants did not appear at the hearing held December 7, 1944.

The Utah Idaho Central Railroad Corporation is a corporation organized under and existing by virtue of the laws of the State of Delaware and is authorized to do business in Utah, and is engaged in the business of rendering passenger and freight transportation service by electric railroad between Ogden, Utah and Preston, Idaho.

DOCKETED

Said applicant is the owner of 3.55 miles of track hereinafter referred to as "North Ogden Trackage" located in Weber County, Utah, extending from the intersection of Washington Avenue and Second Street in Ogden, Utah, northward along and on Washington Avenue to a point known as North Ogden. The said applicant had operating rights pursuant to a contract over Union Pacific Railroad Company Second Street trackage in Ogden, Utah, extending from the intersection of Washington Avenue and Second Street westward to a point where said trackage connects with applicant's main line, thus making the said North Ogden trackage available to applicant and useful to the public. These contractual rights over said trackage of Union Pacific Railroad Company ceased to exist after September 21, 1942.

Union Pacific Railroad Company, or its subsidiary, Oregon Short Line Railroad Company, used the Second Street trackage described above for the operation of its trains under and pursuant to a franchise granted by Ogden City which franchise was terminated by Ogden City on September 21, 1942, at which time Ogden City ordered Union Pacific Railroad Company or its subsidiary, Oregon Short Line Railroad Company, to remove said Second Street trackage. The validity of the said order of Ogden City was confirmed by the Supreme Court of Utah on February 26, 1943. (103 Utah 186). Ogden City subsequently temporarily extended said franchise to and until December 1, 1944, but declined to extend said franchise beyond that date. Accordingly, Union Pacific Railroad Company, or its subsidiary, Oregon Short Line Railroad Company, has removed said trackage on said Second Street rendering the North Ogden trackage of applicant useless.

The said North Ogden trackage of applicant is in a state of complete disrepair and to restore it to a condition suitable for use would require the expenditure of a considerable sum of money, and even if this were done, said trackage would still be useless to applicant and to the public unless the applicant acquired right-of-way

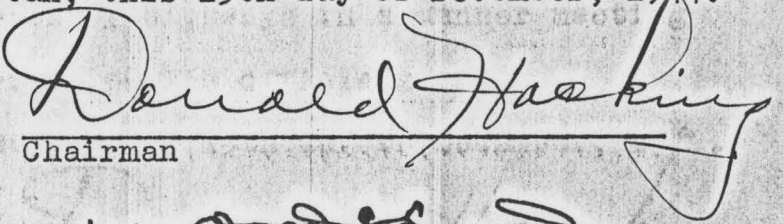
and constructed trackage to connect its main line with the North Ogden trackage. It appears that the potential volume of business would not justify requiring the applicant to repair the North Ogden trackage and build the necessary connecting trackage.


The Commission finds, therefore, from the evidence of record in this case that the North Ogden trackage of applicant does not now, nor will it in the future, serve any beneficial purpose and that the public interest will not be injured if the said trackage is abandoned and removed.

We conclude, therefore, that the application should be granted, provided that as to the removal of that portion of the trackage in the City of Ogden, the Commission shall retain jurisdiction and the applicant shall confer with the proper public bodies as to the manner of restoring the street upon the removal of the trackage, and further, that as to that portion of the trackage crossing the highway near North Ogden, the applicant shall confer with the proper public bodies having charge of said highway as to the appropriate manner of removal and restoration of the street at said point, and further, that as to all other public highway or road crossings, the applicant shall confer with the appropriate body having charge of said public highways or roads as to the removal of track and the restoration of highway or road at said crossings.

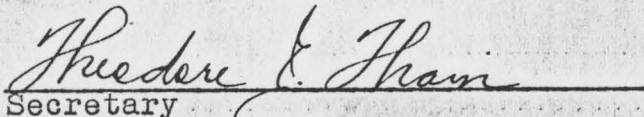
An appropriate order will follow.

Dated at Salt Lake City, Utah, this 13th day of December, 1944.


Chairman


Commissioner

Attest:


Secretary

DOCKETED



In the matter of the Application of
The Utah Idaho Central Railroad
Corporation to abandon 3.55 miles of
track, known as The North Ogden Spur.

) Case No. 2818

) A P P L I C A T I O N

The Utah Idaho Central Railroad Corporation respectfully represents:

1. That it is a corporation of Delaware and is authorized to do business in Utah and is engaged in intrastate and interstate commerce, operating a line of electric railroad from Ogden, Utah, to Preston, Idaho, a distance of 94.07 miles.

2. That it is the successor of Utah Idaho Central Railroad Company; that The Utah Idaho Central Railroad Corporation and its predecessor because of their continuity of operation are sometimes referred to herein as "petitioner."

3. That petitioner is the owner of 3.55 miles of track referred to herein as "North Ogden Trackage", located in Weber County, Utah, extending from the intersection of Washington Avenue and Second Street in Ogden, Weber County, Utah, northward along and on Washington Avenue to a point known as North Ogden, and, until September 21, 1942, had operating rights pursuant to contract over The Union Pacific Railroad Company Second Street trackage in Ogden, Utah, extending from the intersection of said Washington Avenue and Second Street westward to a point where said trackage connects with petitioner's main line, thus making said North Ogden Trackage available to petitioner and useful to the public.

4. That prior to the acquisition by petitioner of said North Ogden Trackage, The Utah Rapid Transit Company had used said trackage as part of its electric street car system and disposed of it to petitioner when bus transportation replaced electric street cars in Ogden, Utah, and over said North Ogden Trackage; that during part of the time said North Ogden Trackage was owned by The Utah Rapid Transit Company said trackage was used by petitioner under an agreement by and between petitioner and the owner of said trackage.

5. That at all times herein mentioned The Union Pacific Railroad Company or its subsidiary, Oregon Short Line Railroad Company, collectively referred to herein as "U.P.", owned a single track extending from the intersection of Washington Avenue and Second Street, Ogden, Utah, westward and along Second Street, a distance of 1.5 miles approximately to the main Union Pacific tracks. The Union Pacific occupied and used said Second Street for said trackage and the operation of its trains under and pursuant to a franchise granted by Ogden City, which franchise was terminated by Ogden City on September 21, 1942, and at that time was ordered by Ogden City to remove said Second Street trackage which it and petitioner used in the operation of their trains, engines and cars. The validity of the said order was confirmed by the Supreme Court of Utah, February 26, 1943, (103 Utah 186). That because of such action petitioner has no means of moving its electric motors or cars from its main line to its North Ogden Trackage, thus rendering said trackage useless to

petitioner and to the public.

6. That because of the order of Ogden City which severed said North Ogden Trackage from petitioner's main line, thus rendering said trackage useless, petitioner did not and has not maintained its said North Ogden Trackage, and the same has fallen into complete disrepair; that it would cost approximately \$22,895.00 to restore said trackage to use and approximately \$4,080.00 per annum to maintain said trackage after such restoration and pay the cost of operation; that the average annual gross operating revenue would not justify such an expenditure even though it were possible to connect said trackage with petitioner's main line.

7. Petitioner has never maintained a train schedule or regular service over said North Ogden Trackage; has never furnished express, passenger or mail service; has maintained no buildings, loading platforms or agents at any point along said trackage; has had no telegraph or telephone line in connection therewith. Bills of lading for cars, outbound, are made out by the shippers who have originated freight on said trackage. That said trackage was constructed in the first instance as an electric line to carry passengers and used by the petitioner only incidentally for the movement of freight; that said trackage serves one industry (North Ogden Canning Company) and a fruit loading track at North Ogden; said trackage does not invade new territory; and its continued operation or abandonment is of local and not national concern.

8. That for many months last past and at the present time the shippers and receivers of freight who formerly used petitioner's North Ogden Trackage have employed other available railroad and highway facilities for shipping and receiving their freight, and in the future they and the public will and can continue to employ said other transportation facilities for such purpose and public convenience and necessity does not require the continued maintenance and operation of said North Ogden Trackage but requires the abandonment of the same and the abandonment of such facilities as petitioner maintains along the Second Street trackage of The Union Pacific.

WHEREFORE, petitioner prays for an order of the Commission authorizing petitioner to abandon its North Ogden service and to abandon and remove its North Ogden Trackage, the electrical installations used in connection therewith and its electrical installations used in connection with said Union Pacific tracks on said Second Street in Ogden, Utah, and for such other orders as may be appropriate in the process.

Dated October 19, 1944.

THE UTAH IDAHO CENTRAL RAILROAD
CORPORATION

By

Re. J. J. J.

Vice-President.

Judd Ray Zinner, Thebecker
Attorneys for Petitioner.

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STATE OF UTAH,)
) SS.
COUNTY OF SALT LAKE.)

R. E. TITUS, being first duly sworn on oath deposes and says; That he is the Vice-President of The Utah Idaho Central Railroad Corporation and makes this verification for and on its behalf; that he has read the foregoing application and knows the contents thereof and that the same is true to the best of his information, knowledge and belief.

R. E. Titus

Subscribed and sworn to before me this 19 day of
October, A. D. 1944.

[Signature]
Notary Public,
Residing in Salt Lake City, Utah.

My Commission expires:

July 28 - 1946