

CHAPTER 220**STREET, SUBURBAN, AND INTERURBAN RAILWAYS****220.01 COMMISSION.**

HISTORY. 1921 c. 278 s. 1; G.S. 1923 s. 4816; M.S. 1927 s. 4816.

While it is possibly true that private users cannot maintain an action to fix the rate of fare, yet if the street railway company is exacting a higher rate than is permitted by law, such users may maintain an action to restrain the company from enforcing more than the lawful rate. *Anderson v St. Paul City Railway*, 152 M 213, 188 NW 286.

The court on the petition of the city may issue a peremptory writ commanding the defendant to permit inspection of its books in order that the city may prepare for a hearing before the commission relative to rates of fare. *State ex rel v Minneapolis Street Railway*, 154 M 401, 191 NW 1004.

A contract was entered into by the City of St. Paul with certain railway companies, including the defendant, to build and forever maintain at the city's expense a bridge to cross the tracks where no street existed. This bridge was built and maintained by the city. Later Raymond avenue was extended so that the bridge became a part of Raymond avenue. It was held that the contract was superseded by the rule that under the police power the railway companies, after the bridge became part of the street, should pay for the maintenance. *City of St. Paul v Minnesota Transfer*, 155 M 237, 193 NW 175.

In a proceeding before the commission for the purpose of fixing rates an order made in the course of the proceeding finding the fair value of the street railway is not appealable to the district court but an order fixing the rate is appealable, and on such appeal the question of value is before the district court. *City of St. Paul v Railroad and Warehouse Commission*, 163 M 274, 203 NW 972.

The commission upon application fixed the rate of fares. Whereupon a bill was filed in the federal district court, and that court enjoined the enforcement of the order. The defendants were the commission, its members, and the City of Duluth. The supreme court of Minnesota has declared the proceedings in court to be judicial and not legislative in their nature, and should the state court affirm the rate fixed by the commission, the matter becomes *res judicata* and a resort to the federal court would be too late, but the plaintiff, if it prefers to entrust the final decision to the courts of the United States rather than those of state, has the right to do so. So this appeal to the supreme court of the United States was properly taken. *Duluth Street Railway Co. v Railroad and Warehouse Commission*, 4 F(2d) 543, 273 US 625, 47 SC 489.

City versus state under utility regulation. 6 MLR 37.

Control of public utilities in Minnesota. 16 MLR 526.

220.02 CITY.

HISTORY. 1921 c. 278 s. 1; G.S. 1923 s. 4816; M.S. 1927 s. 4816.

220.03 STREET RAILWAY AND STREET RAILWAYS.

HISTORY. 1921 c. 278 s. 1; G.S. 1923 s. 4816; M.S. 1927 s. 4816.

220.04 COUNCIL.

HISTORY. 1921 c. 278 s. 1; G.S. 1923 s. 4816; M.S. 1927 s. 4816.

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220.05 INDETERMINATE PERMIT.

HISTORY. 1921 c. 278 s. 1; G.S. 1923 s. 4816; M.S. 1927 s. 4816.

220.06 STREET RAILWAY PROPERTY.

HISTORY. 1921 c. 278 s. 1; G.S. 1923 s. 4816; M.S. 1927 s. 4816.

220.07 FRANCHISES TO BE INDETERMINATE PERMITS; TERMS NOT AFFECTED EXCEPT AS PROVIDED.

HISTORY. 1921 c. 278 s. 2; G.S. 1923 s. 4817; M.S. 1927 s. 4817.

220.08 CITIES MAY ACQUIRE STREET RAILWAYS; PROCEDURE.

HISTORY. 1858 c. 70 s. 1; P.S. 1858 c. 17 s. 299; 1860 c. 66 s. 1; G.S. 1866 c. 34 s. 1; 1875 c. 14 s. 1; G.S. 1878 c. 34 s. 1; 1885 c. 18; 1887 c. 161; G.S. 1878 Vol. 2 (1888 Supp.) c. 34 s. 1; 1889 c. 221; 1893 c. 74 s. 1; G.S. 1894 s. 2592; R.L. 1905 s. 2843; G.S. 1913 s. 6138; 1921 c. 278 s. 3; G.S. 1923 ss. 4818, 7434; M.S. 1927 ss. 4818, 7434.

220.09 COUNCILS TO HAVE POWER TO GRANT FRANCHISES.

HISTORY. 1858 c. 70 s. 1; P.S. 1858 c. 17 s. 299; 1860 c. 66 s. 1; G.S. 1866 c. 34 s. 1; 1875 c. 14 s. 1; G.S. 1878 c. 34 s. 1; 1885 c. 18; 1887 c. 161; G.S. 1878 Vol. 2 (1888 Supp.) c. 34 s. 1; 1889 c. 221; 1893 c. 74 s. 1; G.S. 1894 s. 2592; 1903 c. 139; R.L. 1905 ss. 745, 2841; G.S. 1913 ss. 1329, 6136; 1921 c. 278 s. 4; G.S. 1923 ss. 1254, 4819, 7432; M.S. 1927 ss. 1254, 4819, 7432.

Upon the relation of the City of Duluth to compel the street railway company to extend its lines 2,700 feet, the district court directed a peremptory writ commanding extension of the line. On appeal the supreme court found there was no "necessity" for the extension and the order of the city council directing the extension was arbitrary and unreasonable. *State ex rel v Duluth Street Railway*, 179 M 548, 229 NW 883.

An ordinance requiring construction of additional lines is an exercise of municipal police power and being legislative in character is within the powers of the city council. Such ordinance is presumptively valid, not only as to the question of public necessity but also as to its reasonableness. The burden of proving unreasonableness and invalidity is upon the street car company. *State ex rel v St. Paul City Railway*, 180 M 329, 230 NW 809.

Where Minneapolis erected a bridge which has the effect of changing the grade of the central part of a street which abutted plaintiff's property and devoted the bridge exclusively to street-car traffic, the street railway company was not liable to plaintiff. *Bruer v City of Minneapolis*, 201 M 40, 275 NW 368.

Control of public utilities in Minnesota. 16 MLR 529.

220.10 COMMISSION TO FIX RATES.

HISTORY. 1921 c. 278 s. 5; G.S. 1923 s. 4820; M.S. 1927 s. 4820.

Laws 1921, Chapter 278, authorizes defendant to charge rates authorized by its prior franchise until changed by the commission. This did not take from the defendant the rights given by its prior franchise to collect a fare from every passenger over any part of its railway and a fare from interurban passengers to or from the midway district although no such fare had previously been collected. *Anderson v St. Paul City Railway*, 152 M 213, 188 NW 286.

Powers of the commission in rate-fixing cases defined. *State ex rel v Minneapolis Street Ry. Co.* 154 M 401, 191 NW 1004.

An order of the commission fixing the rate of fare is appealable, and on such appeal question of value is before the district court. *City of St. Paul v Railroad and Warehouse Commission*, 163 M 274, 203 NW 972.

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220.11 RATES MUST BE FAIR; TRANSFERS.

HISTORY. 1921 c. 278 s. 6; G.S. 1923 s. 4821; M.S. 1927 s. 4821.

Under this section on appeal from the commission the court may not fix the rate of fare; it only hears and determines upon its own judgment and upon original evidence controversies as to existing facts which bear upon the final question of whether the future rate fixed by the commission is confiscatory or fair. *Duluth City Railway Co. v Railroad and Warehouse Commission*, 167 M 311, 209 NW 10; 4 F(2d) 543; 273 US 625; 47 SC 489.

220.12 COMPANIES MAY ISSUE EVIDENCES OF INDEBTEDNESS ON PERMIT FROM COMMISSION.

HISTORY. 1921 c. 278 s. 7; G.S. 1923 s. 4822; M.S. 1927 s. 4822.

220.13 STREET RAILWAYS TO MAKE APPLICATION TO FIX RATES.

HISTORY. 1921 c. 278 s. 8; G.S. 1923 s. 4823; M.S. 1927 s. 4823.

On a rate hearing where the value of the company's property is pertinent, the city may obtain an order permitting an inspection of the company's books. *State ex rel v Minneapolis Street Railway Co.* 154 M 401, 191 NW 1004.

The courts have no power to fix rates but may determine whether the future rate fixed by the commission is confiscatory or fair. *Duluth Street Railway Co. v Railroad and Warehouse Commission*, 167 M 311, 209 NW 10.

The company may be commanded to consent to a period of reduced fares which might or might not result in confiscation in order to determine by trial if the rate is unfair and confiscatory. *State v St. Paul City Railway Co.* 196 M 456, 265 NW 434.

Rate-fixing generally, *United Railways v West*, 280 US 258, 50 SC 128.

The commission has the right to proceed on its own initiative to make an investigation of street car rates as provided in sections 220.11 and 220.13, 1934 OAG 731, Sept. 1, 1933 (371b) 11.

220.14 PROCEEDINGS COMMENCED BY FILING PETITION; HEARING.

HISTORY. 1921 c. 278 s. 9; G.S. 1923 s. 4824; M.S. 1927 s. 4824.

See annotations under section 220.13.

220.15 APPEALS.

HISTORY. 1921 c. 278 s. 10; G.S. 1923 s. 4825; M.S. 1927 s. 4825.

See annotations under section 220.13.

220.16 RESERVATIONS BY CITY.

HISTORY. 1921 c. 278 s. 11; G.S. 1923 s. 4826; M.S. 1927 s. 4826.

220.17 FRANCHISE TO BE ISSUED ONLY UPON CERTIFICATE FROM COMMISSION.

HISTORY. 1921 c. 278 s. 12; M.S. 1923 s. 4827; M.S. 1927 s. 4827.

220.18 COMMISSION TO INVESTIGATE, PRESCRIBE SYSTEM OF ACCOUNTING AND DEPRECIATION.

HISTORY. 1921 c. 278 s. 13; G.S. 1923 s. 4828; M.S. 1927 s. 4828.

220.19 PERMIT MAY BE GRANTED TO MINNESOTA CORPORATIONS ONLY; RIGHTS RESERVED.

HISTORY. 1921 c. 278 s. 14; G.S. 1923 s. 4829; M.S. 1927 s. 4829.

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220.20 STREET RAILWAYS IN CITIES; REDUCED RATES FOR TRANSPORTATION OF MEMBERS OF POLICE AND FIRE DEPARTMENTS.

HISTORY. 1913 c. 539 s. 1; G.S. 1913 s. 4339; G.S. 1923 s. 4811; M.S. 1927 s. 4811.

220.21 INTERPRETATION OF SECTION 220.20.

HISTORY. 1913 c. 539 s. 2; G.S. 1913 s. 4340; G.S. 1923 s. 4812; M.S. 1927 s. 4812.

220.22 SUBURBAN RAILWAYS MAY BE GRANTED FRANCHISE FOR CARRYING FREIGHT.

HISTORY. 1915 c. 310 s. 1; G.S. 1923 s. 4813; M.S. 1927 s. 4813.

220.23 COMPENSATION TO BE FIXED BY COMMISSION.

HISTORY. 1915 c. 310 s. 2; G.S. 1923 s. 4814; M.S. 1927 s. 4814.

220.24 CARS AND EQUIPMENT TO BE FURNISHED BY SUBURBAN RAILWAYS.

HISTORY. 1915 c. 310 s. 3; G.S. 1923 s. 4815; M.S. 1927 s. 4815.

220.25 SANITARY TOILET FACILITIES REQUIRED ON INTERURBAN CARS; REGULATION BY MUNICIPAL AUTHORITIES.

HISTORY. 1917 c. 449 ss. 1, 2; G.S. 1923 ss. 4908, 4909; M.S. 1927 ss. 4908, 4909.

The assistant attorney general assigned to the commission is entitled to free transportation. OAG Jan. 8, 1934.

220.26 RAILROADS AND STREET RAILWAYS IN CONNECTION.

HISTORY. 1909 c. 482 s. 1; G.S. 1913 s. 4363; G.S. 1923 s. 4853; M.S. 1927 s. 4853.