

CHAPTER 220

STREET, SUBURBAN, AND INTERURBAN RAILWAYS

220.01 COMMISSION.

Laws 1921, c. 278, the Brooks-Coleman street railway act, transferred from the city councils of the cities of Minneapolis, St. Paul, and Duluth, to the state railroad and warehouse commission the entire control and supervision of the street railway companies affected. The rates in force at the time of the enactment of the act were to remain in force until changed by the commission. On appeal from an order of 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. *Anderson v St. P. City Ry.* 152 M 213, 188 NW 286; *City of Duluth v Railroad & Warehouse Com.* 167 M 311, 209 NW 10.

City versus state under utility regulation. 6 MLR 37.

Power of city to compel operation of a street railway at a loss when the franchise permits the operation of another profitable activity. 9 MLR 379.

Brooks-Coleman act, section by section discussion. 16 MLR 457.

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

By filing its consent any street railway operating under a franchise becomes subject to the provisions of this act. It then operates under an indeterminate permit. The city may at any time acquire its property. Within the limitations that rates "shall be just, fair, and reasonable and sufficient to yield only a reasonable return on the fair value of the street railway property within such city" the commission has exclusive power to fix rates, subject to judicial review. *City of Duluth v Railroad and Warehouse Com.* 167 M 311, 209 NW 10.

220.09 COUNCILS TO HAVE POWER TO GRANT FRANCHISES.

Ex. Laws 1881, c. 200, which required the street railway company to keep space between their rails in repair, and clear of snow and other substance from the part of the street occupied by their tracks, did not shift from the city the duty of keeping streets in safe condition. In the instant case a directed verdict for the defendant is approved. *Phelion v Duluth-Superior Transit Co.* 202 M 224, 277 NW 552.

Rights and remedies of a municipality which has granted a franchise to a street railway company, subject to the right to designate new lines or modification or extension of lines, in default of which franchises may be granted to others. *Mpls. Railway v City of Mpls.* 189 F. 445.

220.11 RATES MUST BE FAIR; TRANSFERS.

Ejection of passenger presenting bad transfer. 13 MLR 255.

220.15 APPEALS.

In proceeding under L. 1921, c. 278, the commission is charged with the duty of fixing reasonable street railway rates. One factor is finding the fair value of the property. An order made in course of the proceedings for finding that value is not appealable to the district court. The rate is in part fixed based upon the

MINNESOTA STATUTES 1947 ANNOTATIONS

220.15 STREET, SUBURBAN, AND INTERURBAN RAILWAYS

532

value, and the order fixing the rate is appealable. City of St. P. v Railroad and Warehouse Com. 163 M 275, 203 NW 972.

Street railway company after electing to comply with and come within the terms of L. 1921, c. 278, providing for appeal to district court from an order of the commission fixing rates, is not required to prosecute such appeal before bringing suit in federal court to enjoin enforcement of order of commission as confiscatory and in violation of the fourteenth amendment to the federal constitution. Railroad and Warehouse Com. v Duluth St. Ry. Co. 47 SC 489, 273 US 625.