

Opinion No. 12-919

July 10, 1912

BY: FRANK W. CLANCY, Attorney General

TO: State Corporation Commission, Santa Fe, N. M.

ELECTRIC LIGHT COMPANY.

State Corporation Commission not given jurisdiction as to corporations of this class.

OPINION

{*58} Late yesterday I received your letter of the 9th instant enclosing a communication from a resident of Tucumcari, which I return herewith, complaining as to what he considers unreasonable requirements of the local electric light company, upon which you ask my opinion as to the extent that you may proceed in the matter of regulating or correcting the company's charges and requirements.

I regret very much being compelled to say that I do not find that you have been given any jurisdiction as to corporations of this class. The legislature can confer such jurisdiction and probably will do so when attention is called to the matter.

You will notice that by Section 7 of Article XI of the constitution you are charged with the duty of fixing, determining, supervising, regulating and controlling all charges and rates of railway, express, telegraph, telephone, sleeping car and other transportation and transmission companies and common carriers within the state. Electric light and power companies are not mentioned, and the only word which could possibly be considered as referring to such companies is the word "transmission." It is true that such electric companies do transmit power in the form of an electric current, but it is quite clear that transmission companies mentioned in the constitution do not include this class of corporations. After enumerating several special kinds of corporations there is added the words "other transportation and transmission companies." By a well-established rule of construction such other companies must be of the same kind as those previously mentioned, and a power and light company cannot be considered as of the same class notwithstanding the fact that electricity is the operating power of telegraphs and telephones and of some railways. The telegraph and telephone transmit messages and it is in that sense that the word transmission was used. The language used in Sections 9 and 10 of the same article indicates the correctness of this view. In Section 9 mention is made of transportation and transmission companies engaged in the transportation of passengers and property; and Section 10, referring again to transmission companies, shows that the transmission referred to is the transmission of messages.

I am unable to see that you can have any control over such a company as the one at Tucumcari any more than you would over a {*59} corporation which transmitted power by steam or compressed air, or by some hydraulic device.

Such corporations are, however, subject to control and regulation by municipal ordinances, and the aggrieved citizens of any city can find a remedy through their city governments.