

DECISIONS OF
The Public Service Commission

OF THE
COMMONWEALTH OF PENNSYLVANIA

AND OF THE
APPELLATE COURTS IN APPEALS THEREFROM

JULY 1, 1917 TO JUNE 1, 1919

VOLUME III



HARRISBURG, PA.:
J. L. L. KUHN, PRINTER TO THE COMMONWEALTH
1920.

After answer had been filed, the matter was referred to the Bureau of Engineering of this Commission for investigation, and as a result of this investigation and a conference of the parties and a representative of the Bureau, the complainant and the respondent entered into an agreement under the terms of which, the wires to which objection is made, will be removed from the highways and constructed upon a private right-of-way, thus removing the cause of complaint. The Commission has examined this agreement for the construction of a new line and hereby approves the same and directs the respondent to proceed with the construction in accordance therewith, as rapidly as possible, and to notify the Chief of the Bureau of Engineering of this Commission as soon as the work is completed. Upon the completion of the new line and the removal of the old one, the Commission will, on the recommendation of the Chief of the Bureau of Engineering, mark the complaint in this case closed.

The feed wires, etc., leading from the power-house of the respondent, are poorly constructed and are in such a tangled condition that they should be re-located. The respondent company is, therefore, directed to take this matter up with the Borough of Yardley and attempt to secure an agreement for the re-location of this line and to report the result of its negotiations with the borough to the Chief of the Bureau of Engineering of this Commission within sixty (60) days of the date of this order.

IN WITNESS WHEREOF, The Public Service Commission of the Commonwealth of Pennsylvania has caused these presents to be signed by its Chairman, duly attested by its Secretary, this 28th day of August, 1917.

COMPLAINT DOCKET NO. 883.

BOROUGH OF FACTORYVILLE

vs.

DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY

The Commission will make no order compelling a railroad company to render to the borough of Factoryville additional passenger, freight and express service, where

the service rendered the borough by the various railroads serving the same is adequate, and where the cost of rendering additional service would place an unreasonable burden upon the carrier.

Where a railroad provides a borough with carload freight service only when the same should be supplied with a reasonable less-than-carload freight service, the Commission will make an order requiring the carrier to provide to the public of the borough a reasonable less-than-carload freight service in addition to its present carload service.

APPEARANCES:

D. J. Lindley, Representing the Complainant.

J. H. Oliver, Representing the Respondent.

OPINION.

RILLING, *Commissioner*:

The complainant, the borough of Factoryville, asks the Commission to make an order whereby the respondent, The Delaware, Lackawanna & Western Railroad Company, will render to it additional passenger, freight and express service which is to include the re-establishment of the former freight and passenger station and the operation of train service between the same and the present station of the company. The respondent contends that such service is not required, and that the cost of rendering the same would be an unreasonable burden for it to assume.

We find the facts as follows:

The complainant was incorporated as a borough in 1883. In 1910 it had a population of 759, which at the present time is slightly increased. It is located in Clinton township, Wyoming County, about 15 miles north of Scranton, and is the northerly one of five adjacent boroughs.

More than sixty years ago the lines of the respondent company were constructed across the eastern part of Wyoming County and there gradually grew up a center of population which resulted in the incorporation of complainant. Both a passenger and freight station were maintained and express service supplied. At least three trains each way operated by the respondent stopped at the station at Factoryville. The complainant has within its limits ten or twelve stores, a feed mill, a lumber mill and an academy. A large percentage of its population is retired and many are engaged in business or work at Scranton, so that the travel during the morning and evening between the complainant and city of Scranton is consider-

able. About three miles East of the old station and one mile East of the new station there is a summer resort known as Sheridan Lake, to and from which there is considerable travel during the summer months and which is accommodated to a greater extent from the new than from the old station.

Several years ago the Scranton & Binghamton Railroad Company, incorporated as a steam railway company, constructed its line from Scranton northwardly through Factoryville borough, and has since that time been operating the same with electricity, maintaining a station at Factoryville with a service of one hour or less between its cars. It also does a freight but no express business. Its passenger service extends from Scranton northwardly to Montrose and will finally reach Binghamton. The time required to travel over the line of respondent from Factoryville to Scranton is forty minutes, and that of the electric road is about one hour.

Since the operation of the electric line the patronage of respondent has materially decreased. The electric line does not sell any tickets, nor can any trunks be checked to stations beyond its own line.

A few years ago in order to straighten its lines the respondent by proper action relocated and reconstructed them so that the same now pass to the eastward of complainant, its newly established station being nearly two miles east of the old, and a side track has been constructed from the new station to a point near the old over which the respondent at the present time renders freight service in carload lots only. The old station was abandoned in 1915. A new highway has been constructed from the complainant borough to the new station partly within the limits of the borough and partly within Clinton Township. The highway has excessive grades and is in a very poor condition, being almost impassable during certain portions of the year. If the respondent were required to render the service required by complainant it would be necessary to operate a train three times a day between the new and old stations so as to meet the three trains which daily stop at the new station, and it would also require the maintenance of the old station with the necessary employes. The operation of this service by the respondent would require the employment of separate train crews and involve an expense to such an extent as to exceed the receipts of the company at Factoryville.

It is conceded that the respondent had a legal right to relocate its lines as it has done. This being true, should not this complaint be disposed of on the basis or theory that the respondent should only be required to render and the complainant is only entitled to receive such reasonable service as the facts and circumstances as they now exist will warrant, and that in determining this question we cannot take into consideration the fact that the former tracks and station were located within the limits of complainant borough or that by

reason thereof the service it formerly received must be continued. To state the question more properly: Is the complainant borough, as the facts now exist, entitled to have the additional train service it asks of the respondent, in view of the location of its present lines and station?

Considering the population as the topographical conditions and the other transportation facilities afforded to the complainant in addition to those supplied to it by the respondent at the present time, we are not convinced that the request of complainant as made is justified for the reason that the maintaining of the extra train service required would entail such an expense upon the respondent as to far outweigh the benefits. All the facts considered, the transportation service now afforded to the borough of Factoryville is reasonably ample and much better than many boroughs of like population and importance in our State enjoy. The service afforded to it by the Scranton & Binghamton Railway Company furnishes its population with easy means of access to and from the large city of Scranton. Those who desire to go beyond Scranton or in any other direction may be accommodated either by transferring at Scranton or by going to the present station of respondent. The fact that there exists such a poorly maintained highway leading from complainant borough to the new station should not, in our opinion, be charged against the respondent. The local authorities within whose limits such highway is located are enjoined by the law to place and maintain this highway in proper condition for the traveling public, and if there has been any dereliction in the performance of this duty by these authorities, and from the evidence we think there has, such dereliction should not be charged to the respondent or urged as an argument in favor of the complainant's request for additional service.

The respondent has rail connections with its old station and supplies the public at this time freight service in carload lots. We are of the opinion that with a small additional cost it can and should render to the public in complainant borough freight service in less than carload lots in a reasonable manner.

The Commission can not be unmindful of the present abnormal conditions and the extent to which they affect railroad companies. The several agencies co-operating with the Federal Government in the conduct of the war have called the attention of Public Service Commissions to the great demands now being made upon railroad companies, and that they have been urged to curtail their train service in order to better meet the demands of the nation. We are all called upon to accept as our patriotic duty certain inconveniences or burdens which the war conditions have imposed. On account of these conditions, commissions feel constrained at this time to make orders relating to such matters as are considered in this report, which if made under normal conditions might be varied.

The conclusion of the Commission is that upon the respondent supplying a reasonable less-than-carload freight service in addition to its present carload service to the public in complainant borough, that the balance of the complaint will be dismissed. An order will be drawn accordingly.

ORDER.

This matter being before The Public Service Commission of the Commonwealth of Pennsylvania upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having on the date hereof made and filed of record a report containing its findings of fact and conclusions thereon, which said report is hereby approved and made a part hereof:

NOW, to-wit, August 28, 1917, the Delaware, Lackawanna and Western Railroad Company IS ORDERED: To file, post and publish an amendment or supplement to its tariff and schedule of rates providing for a reasonable less-than-carload freight service to the public of the borough of Factoryville, Pennsylvania, said amendment or supplement to the existing tariff and schedule of rates to be made effective by the railroad company on or before October 1, 1917, upon one day's notice to the public and this Commission;

And IT IS FURTHER ORDERED: That upon compliance with this order by the railroad company the complaint in this case be, and the same hereby is, dismissed.

COMPLAINT DOCKET No. 1337.

H. P. SHUNK, ET AL.

vs.

BUFFALO & LAKE ERIE TRACTION COMPANY

A rule of a street railway company which requires a passenger who has had no opportunity to purchase a ticket at the station where he boards the car to pay an extra fare, is unjust and unreasonable. It places upon such a passenger the bur-