

DECISIONS OF  
**The Public Service Commission**

OF THE  
**COMMONWEALTH OF PENNSYLVANIA**

AND OF THE  
APPELLATE COURTS IN APPEALS THEREFROM

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JULY 1, 1917 TO JUNE 1, 1919

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VOLUME III

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

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COMPLAINT DOCKET No. 1954.

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STATE HIGHWAY DEPARTMENT OF THE COMMONWEALTH  
OF PENNSYLVANIA

vs.

DELAWARE, LACKAWANNA AND WESTERN RAILROAD  
COMPANY.

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In re: Alleging dangerous condition of grade crossing of State Highway Route No. 165 over track of respondent in Washington Township, Northampton County, Pennsylvania.

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The complaint of the State Highway Department alleges that a certain grade-crossing where State Highway Route No. 165 crosses the tracks of respondent at a point 3,000 feet south of Martin's Creek Junction, is dangerous and should be abolished.

Respondent in its answer admits the dangerous character of the crossing, and declares its willingness to assist in its abolition subject to approval by the Director General of Railroads.

Plans were prepared by the State Highway Department approved by the Commission providing for the elimination of the crossing complained against, together with two others not included in complaint; for changing the bed of Pen Argyl Creek near the proposed new viaduct; and for the relocation of portions of the highway.

Terms and conditions and apportionment of costs are set forth in report.

Abolition of grade crossing ordered.

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APPEARANCES:

J. Denny O'Neil, Representing the State Highway Department.

J. H. Oliver, Representing the D. L. & W. R. R. Co.

Everett Kent, Representing Supervisors of Washington Township, Northampton County.

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OPINION OF THE COMMISSION.

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RILLING, *Commissioner*:

The State Highway Department of the Commonwealth of Pennsylvania on March 7th, 1918, filed its complaint with the Commission, alleging that a certain grade crossing where State Highway Route

No. 165 crosses at grade the tracks of the Delaware, Lackawanna and Western Railroad Company in Washington Township, Northampton County, at a point of about 3,000 feet south of what is known as Martin's Creek Junction, is dangerous and should be abolished.

The answer of respondent admits the dangerous character of the crossing and states that it is willing, subject to the approval of the Director General of Railroads of the United States to assist in its abolition.

The railroad at the point of crossing runs north and south. The Highway crossing the same from the west to the east obliquely and continues along the east side, paralleling the railroad northwardly. Both the railroad and highway crosses Pen Argyl Creek about 2,000 feet north of the crossing. This State highway route is an important one, leading northward from Philadelphia, Bethlehem and Easton to the Delaware Water Gap, the Poconos and other points in that part of the State. It is extensively used by the public, especially during the summer months by a large number of tourists. A contract is to be let for a portion of this State highway, including the point of crossing.

The plans submitted by the State Highway Department for the abolition of this crossing, which is approved by the Bureau of Engineering of this Commission, provide for the continuation of the highway along the west side of the Railroad northwardly about 2,000 feet and then passing the same underneath the railroad at Pen Argyl Creek, where a new viaduct, 90 feet in length, carrying the railroad over both the highway and the creek is to be constructed. The bed of the creek is to be changed so that it will cross the re-located highway a short distance before it passes under the railroad. The re-location of the highway and creek requires the securing of about 4½ acres of land, for which the parties are asking about \$1,000. To grade the new highway, adopting a 5% grade at an estimated cost of \$1.00 per cubic yard, will amount to \$10,825, and the cost of changing the channel of the creek \$3,375. The parties interested in this improvement are the State of Pennsylvania, Northampton County, Washington Township and respondent railroad company. In the improvement of the present State highway route, Northampton County has agreed with the State Highway Department to pay one-half of the cost thereof. If the highway is re-located the county has also agreed that it will at its own expense re-construct the new bridge necessary to carry the re-located highway over Pen Argyl Creek. The bed of the old road vacated will revert to the adjacent property owners and the old bridge over the east side of the railroad will be abandoned.

In connection with this improvement, but not a part of this complaint, it is proper to state that a point about 1,000 feet north of

the proposed crossing of the highway under the railroad a township highway intersecting the State highway also crosses this railroad at grade and continuing northward within a distance of 3,000 feet crosses another branch of respondent's line, running to Bath, twice, and thence continues on to Ackermanville. The respondent railroad company has made arrangements whereby this township highway is to be re-located and connected with the proposed re-located State highway, just north of the point where it crosses underneath the railroad at Pen Argyl Creek, thereby abolishing three grade crossings. The entire cost of the re-location of this township highway, including the reconstruction thereof and the payment of all damages to private property owners has been assumed by the railroad company.

It is the conclusion of the Commission that the said crossing is dangerous and should be abolished in accordance with the plans prepared therefor by the State Highway Department, with the exception that the grade just south of the new bridge over Pen Argyl Creek shall be reduced from seven to five per cent., and with such change made the said plans are hereby approved, said plans having been approved by the municipalities concerned.

All the work necessary to abolish said crossing is to be done as follows:

The respondent railroad company will at its own cost and expense build the new bridge carrying its road over the new highway and Pen Argyl Creek, the plans thereof, so far as they may affect the State highway to be approved by the State Highway Department. The said railroad company will also at its own cost and expense do all the necessary grading to reconstruct said re-located highway from a point at the north end of the new bridge over Pen Argyl Creek to the point where said re-located highway joins the present State highway near the barn of Oscar Houck, as well as construct the proper retaining wall between said highway and Pen Argyl Creek from said new bridge to the east line of its own right-of-way, and do all the work necessary to change the channel of said creek as shown by said plan.

The new bridge over Pen Argyl Creek is to be constructed by Northampton County at its own cost and expense in accordance with plans approved by the State Highway Department.

All the balance of said work needed to abolish said crossing, in accordance with said plans approved, shall be done by the State Highway Department, including the securing of the right of way necessary for the relocation thereof, as well as for the re-location of Pen Argyl Creek, and the total cost of said work and right of way is to be paid as follows:

By the State of Pennsylvania out of the special appropriation of \$200,000, made to The Public Service Commission by Act of July 25th, 1917, the sum of \$3,000. The entire balance thereof is to be paid as follows:

By the State Highway Department, .....	45%
By the County of Northampton, .....	45%
By the Township of Washington, .....	10%

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ORDER.

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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 due 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, June 10th, 1918, IT IS ORDERED: That the grade crossing of State Highway Route No. 165 over the track of respondent in Washington Township, Northampton County, at a point 3,000 feet south of what is known as Martin's Creek Junction be abolished in accordance with the terms and findings of the foregoing report; and that so much of the present State Highway Route No. 165 as is re-located be, and the same is hereby vacated upon the completion of the work of abolition of said crossing in accordance with the adopted plans.

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COMPLAINT DOCKET No. 2354.

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**BELLWOOD CHAMBER OF COMMERCE**

*vs.*

**ALTOONA AND LOGAN VALLEY ELECTRIC RAILWAY  
COMPANY.**

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The respondent operates a trolley system in the City of Altoona and its suburbs, and interurban lines to Bellwood, 7.6 miles; to Tyrone, 7.4 miles; and to Gaysport, 7.24 miles. There are three zones between Altoona and Bellwood, and two zones each on the Tyrone and Gaysport lines. The fares until September 8, 1918, had been 5 cents per zone, and since that date 6 cents.