

DECISIONS OF

# The Public Service Commission

OF THE

COMMONWEALTH OF PENNSYLVANIA

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JUNE 1, 1919 to NOVEMBER 30, 1920.

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VOL. IV

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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 part hereof;

NOW, to-wit, September 7, 1920, IT IS ORDERED: That the Wilkes-Barre Railway Company, respondent, file with this Commission on or before November 1, 1920, a detailed statement of its operating revenues and expenses for the year ending September 30, 1920.

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THE STATE HIGHWAY DEPARTMENT OF THE COMMON-  
WEALTH OF PENNSYLVANIA.

vs.

DELAWARE, LACKAWANNA & WESTERN RAILROAD COM-  
PANY.

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COMPLAINT DOCKET No. 3512.

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*Crossings at grade—Abolition of—Apportionment of cost—Pedestrian subway.*

The Commission in addition to approving the plans of the State Highway Department for the elimination of two crossings at grade over the tracks of the D. L. & W. R. R. Co. in Salem Township, Luzerne County, ordered the construction of a pedestrian subway under the tracks of the respondent railroad company as necessary for the safety and convenience of the public.

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APPEARANCES:

O. E. Jackson, for the State Highway Department.

J. H. Oliver, for Respondent.

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REPORT OF THE COMMISSION.

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BY THE COMMISSION:

The complaint in this case is lodged against two grade crossings in Salem Township, Luzerne County, located in an unincorporated village known as Beach Haven. State Highway Route No.



4, being one of the State Highways included in our primary highway system, extends from Sunbury northeastwardly along the north branch of the Susquehanna River to Wilkes-Barre. At the westerly end of the Village of Beach Haven, the highway crosses the track of respondent railroad company obliquely from the north to the south side, continuing parallel thereto for a distance of about 4700 feet, where it again crosses the track of respondent obliquely, continuing on to Wilkes-Barre. When contemplated improvements are made on this highway it will be very extensively used. The Commission has found both of the crossings complained of to be dangerous.

Another highway in Beach Haven leads from the State Highway northwardly at a point about 1,700 feet east of the westerly crossing and crosses respondent's tracks just east of its Beach Haven Station, located on the north side of its tracks. At this crossing there is a passing siding along the south side of respondent's main track and a local siding on the north side. There are about 40 dwelling houses, etc., erected along the present State Highway Route No. 4 between the two crossings and 12 dwellings are situated thereon east of the easterly crossings. There are also a mill and several dwelling houses north of respondent's tracks along the highway, leading past its station. In Beach Haven Village, south of the track of respondent between the two crossings, there are at the present time two grocery stores, a postoffice, garage and a laundry; also a church and schoolhouse located between the railroad track and the highway a short distance west of the easterly crossing.

The plans submitted by the State Highway Department contemplate the relocation of the State Highway between the two crossings complained of along the north side of respondent's tracks, closing said two crossings and leaving the grade crossing at its station open. If said plan is approved, all traffic passing over said relocated highway will not pass over any grade crossing. All local traffic to and from that part of Beach Haven, lying south of respondent's tracks, will be concentrated on the grade crossing at respondent's station.

All passenger trains and most freight trains on respondent's road stop at Beach Haven and, therefore, necessarily pass over the grade crossing at its station at a moderate rate of speed.

The County of Luzerne, through its counsel and engineer, approved the plan as filed and recommended its adoption by the Commission, including the elimination of the two crossings complained of. The supervisors of Salem Township do not object to the relocation of the highway on the north side of the track as proposed, contending, however, that the two grade crossings complained of remain open to accommodate the public traveling to and from that part of Beach



Haven lying south of the railroad; that if all such travel is compelled to pass over the grade crossing at respondent's station, it will cause much inconvenience, compelling certain parties to travel a much longer distance. Said supervisors also contend that the crossing at the station on account of the three tracks at that point and the obstructed view is more dangerous than the other two crossings. It was estimated by some of the witnesses that the extent of the public travel along this highway, which would desire to go to and from that part of Beach Haven south of respondent's tracks, between the two crossings complained of, would not exceed 5 per cent. of the entire traffic on said highway.

If the plans as submitted were approved, it will result in the present highway south of respondent's tracks terminating in a *cul de sac* just east of the westerly crossing. The east end of State Highway Route, however, will continue open, extending over a township road leading eastwardly along the south side of respondent's tracks. School children and other pedestrians, desiring to go from the relocated highway on the north side of the tracks to and from the public school and church located on the south side of said tracks, if the easterly crossing is closed, will be required to travel westwardly to the station grade crossing. It was suggested that a pedestrian subway constructed under the tracks of respondent company, at a line between the church and schoolhouse properties to lead from the relocated highway southwardly under respondent's tracks to the present State Highway, would afford proper access to and from the church and schoolhouse and be of much convenience to persons desiring to go to either place.

The State Highway Department has made estimates as follows:

For the improvement of the highway between the two crossings complained of in its present location, .....	\$52,000 00
For the construction improvement of the relocated highway between the two crossings, not including, however, any damages for right of way, etc., .....	70,000 00
For the construction of said highway between the two crossings without any concrete pavement thereon and without any damages for right of way, etc., .....	37,000 00

The railroad company has estimated the cost of a pedestrian subway six feet wide, with a vertical clearance of eight feet, including a footway leading southwardly therefrom to the present State Highway at \$10,000.00.

The conclusions reached by the Commission are as follows:



That the plans, as submitted by the State Highway Department, relocating the State Highway north of the tracks and closing the two grade crossings complained of, be amended by adding thereto a pedestrian subway six feet wide and eight feet high to lead from the relocated highway southwardly under respondent's tracks at the property line between the church and schoolhouse and a foot-path be opened from the south end of said subway to the present highway, said subway to be properly drained, the plans thereof to be approved by the Commission and the plans as submitted by respondent so amended be and the same are hereby approved.

That the two crossings complained of be and are hereby abolished and so much of the highways as lie within the right of way lines of respondent company be and the same are hereby vacated.

That all private property as shown by said plans required for right of way for the relocated highway or for the purpose of eliminating said two crossings complained of be and is hereby appropriated for that purpose.

That all of the work necessary to relocate said highway and in order to eliminate said crossings, except the building of the pedestrian subway, be done by the State Highway Department.

That the work necessary to construct the pedestrian subway and the pathway leading therefrom southwardly to the present highway shall be constructed by the respondent railroad company at its own cost.

That the respondent railroad company in addition to constructing said subway shall also pay the State Highway Department toward the cost of reconstructing said relocated highway the sum of \$20,000.00

That the respondent railroad company maintain said pedestrian subway, keeping the same open for public use during all the year.

That all damages on account of the taking of any property for the relocation of said highway and the abolition of said crossings be paid as follows:

80 per cent. by the County of Luzerne.

20 per cent. by Salem Township.

That the State Highway Department maintain said relocated highway.

That the respondent install and maintain at the grade crossing, to remain open at its station, an automatic audible and visible signal.



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 the Commission having, by its order dated July 27, 1920, found and determined that the two crossings at grade of State Highway Route No. 4 over the tracks of the Delaware, Lackawanna and Western Railroad Company at Stations Nos. 824 and 864 in Salem Township, Luzerne County, were dangerous to the traveling public, and having abolished the same for the safety, accommodation and convenience of the public; and further hearing having been had upon the question of the adoption of plans prepared by the State Highway Department, providing for the abolition of said grade crossings, and upon the apportionment of the costs and expenses of said abolition, including damages due to adjacent property owners, and the matters and things involved having been fully considered, 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 part hereof;

NOW, to-wit, September 7, 1920, IT IS ORDERED: That the plans submitted by the State Highway Department and filed of record, providing for the abolition of the crossings at grade hereinbefore described, as amended by the foregoing report, be and the same are hereby approved.

IT IS FURTHER ORDERED: That all private property necessary for the elimination of said grade crossings, as indicated in the plans herein approved, be and the same is hereby taken and appropriated for that purpose.

IT IS FURTHER ORDERED: That the Delaware, Lackawanna and Western Railroad Company, the County of Luzerne, and the Township of Salem severally carry out the findings, determinations and conclusions of the Commission in the manner and according to the terms and conditions contained in the foregoing report.

(Affirmed by Superior Court in 76 Pa. Super Ct. 374).