

DECISIONS OF

# The Public Service Commission

OF THE

## COMMONWEALTH OF PENNSYLVANIA

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August 21, 1922, to July 1, 1924

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## STATE HIGHWAY DEPARTMENT

*vs.*

NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD  
COMPANY, ERIE RAILROAD COMPANY, LESSEE, COUNTY  
OF MONROE AND TOWNSHIP OF SMITHFIELD

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COMPLAINT DOCKET No. 3946

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*Crossings below grade—Alteration of—Apportionment of cost.*

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*J. L. Shelley* for Complainant.

*Duane E. Minard* for New York, Susquehanna & Western R. R. Co.

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REPORT BY THE COMMISSION, *October 30, 1922:*

State Highway Route No. 166 (Primary System) extends from Easton, northwardly, via Delaware Water Gap, to Stroudsburg, and is the main artery of travel to Scranton and the Poconos. About two miles southeast of Stroudsburg, in Smithfield Township, Monroe County, a single track of the New York, Susquehanna and Western Railroad Company, respondent, is carried over this highway by a structure complained of as being inadequate and dangerous. The highway at this point has a grade ascending toward the north of upwards of 6 per cent. The horizontal clearance between the stone abutments of the underpass is about 17 feet, and the vertical clearance about 13-1/2 feet. The approach of the highway from the north leads straight into the underpass; the southern approach is at such an angle that drivers of automobiles, going in either direction, cannot see those approaching until they are within a short distance of one another, the western abutment obstructing the view.

The regular travel on this highway is large and during the summer months is very extensive. On Sunday, September 4, 1922, between the hours of 9:00 A. M. and 6:00 P. M., more than 3,400 automobiles were driven through this underpass. This is an old highway opened many years ago and when the railroad was constructed, the high-

way was relocated and the underpass constructed in order to avoid a grade crossing.

A short distance south of the underpass, this highway crosses Broadhead Creek by a bridge having a clearance of 17 feet in width. Other structures along this highway, constructed some years ago, are less than the minimum width of 24 feet, as fixed by the Act of 1911, and adopted by the State Highway Department in the construction of the new system of highways in our Commonwealth.

The State Highway Department has submitted a plan providing for the reconstruction of the underpass by rebuilding the western abutment, so as to afford a horizontal clearance of 24 feet, and, by a depression made in the highway, secure the minimum 14 feet vertical clearance. It also provides for the relocation of the State highway south of the underpass so as to continue the same for some distance in a straight line, thereby affording an unobstructed view through the underpass to those approaching from either direction. The superstructure proposed by the State Highway Department is a through plate girder bridge, with solid floor, and the plans, as submitted, are approved by the municipalities concerned.

Respondent objects to the reconstruction of the underpass complained of, contending the same is unnecessary for the reason that other bridges on the highway are of no greater width, and suggested the straightening of the highway on the south for a short distance, thereby improving the view, but leaving the underpass remain as at present. While the adequacy of the underpass at the time of its construction may have been sufficient to meet the then needs of the public, conditions relating to the use of this highway have materially changed. The advent of the automobile and increased travel by reason thereof have caused structures, which formerly were adequate and safe, to become inadequate and unsafe.

The duty of respondent is to maintain its facilities, including those carrying its tracks over highways, in such condition as to render them adequate and safe to the public, and it is a continuing duty. The fact that other bridges on this highway route are not 24 feet in width should not be urged as a reason for not reconstructing the underpass here complained of. Inadequate structures on other parts of the highway cannot be made the criterion to meet the needs of the public in connection with this underpass. Presumably, they too will be reconstructed when the highway is improved or as soon as circumstances will reasonably permit. The grade in the highway at this underpass is an additional element of danger to the traveling public that does not obtain in connection with some of the other structures thereon.

The conclusions of the Commission are as follows:

That the underpass complained of, by reason of its location, the manner in which the western abutment thereof is constructed, the angle in the highway, the grade thereon, and the narrow clearance between the existing abutments, is both dangerous and inadequate and it should be reconstructed, and the highway on the south side thereof relocated; all in compliance with the plans submitted by the State Highway Department, which are hereby approved.

That all land required to reconstruct said underpass and relocate the highway in accordance with said plans be, and the same is hereby appropriated for the purposes intended; and a proper description, indicating the names of the owners and the amount of land taken, is fully set forth in the order issued pursuant hereto.

That the New York, Susquehanna and Western Railroad Company, respondent, at its own cost and expense, shall reconstruct the underpass complained of in compliance with the plans hereby approved, estimated to cost Ten thousand five hundred fifty-two dollars and eighty-five cents (\$10,552.85); all work to be completed on or before July 1, 1923; the respondent to file with the Commission for its approval within sixty (60) days from the date of service of this report, detailed plans for the reconstruction of said underpass.

That the State Highway Department, having consented, will do all the work necessary to relocate the highway south of the underpass, in compliance with the plans submitted by it, at an estimated cost of Nine thousand eighty-six dollars (\$9,086.00).

That the Township of Smithfield is hereby assessed and shall pay to the State Highway Department, to apply on the cost of relocating said highway south of the underpass, when and as certified by The Public Service Commission, the sum of Five hundred dollars (\$500.00).

That the County of Monroe is hereby assessed and shall pay to the State Highway Department, to apply on the cost of relocating said highway south of the underpass, when and as certified by The Public Service Commission, the sum of Two thousand five hundred dollars (\$2,500.00); said County of Monroe shall also pay all damages resulting by reason of taking, injuring or destroying any adjacent property, through the reconstruction of said underpass or relocation of the highway in accordance with the plans approved.

That the supporting abutments and superstructure of the underpass be hereafter maintained by the respondent railroad company.