

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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VOLUME VI

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or is unable to make satisfactory arrangements for a continuance of the service furnished thereby, it is at liberty to install its own system or to contract for some other method for lighting its streets.

The city introduced testimony to show that it had in contemplation the installation of the proposed lighting system for a long time prior to taking any definite action thereon; that it had investigated other lighting plants, both in and outside of the State of Pennsylvania, with a view of determining what action it should take, and that in the preparation of the specifications, pursuant to the plan adopted, its only object and purpose was to safeguard the citizens in securing the best lighting system available for the streets under consideration. It is denied on the part of the city that there is any hostility towards the Citizens Electric Company, or that there was any intention on the part of the city authorities to preclude that company, or any other electric company, from bidding on the contract, or that the specifications as drawn were of a character to preclude any electric company from bidding thereon.

Upon due consideration of the whole record, there is nothing to indicate any unfairness, much less illegality in the proceedings leading up to the letting of the contract in question, or in the contract itself that is inimical to any of the parties or interests involved; nor does it appear that the contract is an improvident one either on the part of the city or on the part of the Lycoming Edison Company, and in these circumstances the Commission would not be warranted in withholding its approval thereof and a certificate of public convenience will issue evidencing the Commission's approval of the contract as prayed for.

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MONROE COUNTY AUTOMOBILE CLUB

vs.

DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, STATE HIGHWAY DEPARTMENT, COUNTY OF MONROE AND TOWNSHIP OF STROUD

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COMPLAINT DOCKET No. 5548

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*Grade crossings—Dangerous condition—Abolition of—Appropriation of property—Apportionment of costs.*

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*C. C. Shull* for Complainant.

*G. W. Morgan* for Delaware, Lackawanna & Western Railroad Co.

*O. E. Jackson* for State Highway Department.

*J. B. Williams* for County of Monroe.

*C. H. Rhodes* for Township of Stroud and Lewis Transue.

*Forest J. Mervine* for Jacob Anthony and Sherman Vanvliet.

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REPORT BY THE COMMISSION, *September 25, 1923:*

By this complaint the abolition of two crossings at grade over the four tracks of the main line of the Delaware, Lackawanna and Western Railroad in Stroud Township, Monroe County, is sought to be accomplished. One of them, on the township road, is locally known as Turner's Crossing, and is located about three miles northwest of East Stroudsburg. The other is on State Highway Route No. 169 (secondary system) locally known as Sand House Crossing and is about three and three-fourth miles northwest of East Stroudsburg.

The dangerous character of the crossings is conceded by all the interested parties and was fully established by the evidence. The highways crossed are important arteries of travel and extensively used. The railroad grade is heavy and ascending going westward. From East Stroudsburg to Mount Pocono the grade is the heaviest on the Lackawanna system and is about eighty feet to the mile. Between the two crossings the railroad company operates a storage yard of six or more tracks, resulting in many switching movements over the Sand House Crossing.

Prior to the hearings, numerous conferences were had, participated in by the county officials, railroad engineers, representatives of the State Highway Department and of the Commission's Bureau of Engineering. At the hearing, the railroad company presented a definite plan, where by the location of a highway on the east side of the track and the building of a viaduct over the railroad about midway between the two crossings the dangers can be eliminated and the two crossings closed. This plan submitted by the railroad met the substantial approval of all parties and with certain suggestions made by the State Highway Department at the hearing in modification thereof with respect to the curve of a viaduct approach, is adopted by the Commission and made the basis of a conclusion hereinafter reached in this report, and the blue print plan therefore is hereto attached as a part hereof.

In the location of the highway, according to the proposed plans, it was necessary to appropriate certain lands and the property owners affected were properly notified of the hearing. The estimated cost, exclusive of land damage, as disclosed by the evidence, for the accomplishment of this project, is One Hundred Three Thousand Five

Hundred Fifty-seven Dollars and thirty-seven cents, of which the viaduct itself was estimated to cost Twenty-seven Thousand Six Hundred Four Dollars and thirty-nine cents; the relocated highway Sixty-six Thousand Four Hundred Sixty-two Dollars and forty-four cents; temporary track, false work, engineering, etc., Nine Thousand Four Hundred Ninety Dollars and fifty-four cents. The parties themselves agreed upon and submitted to the Commission proposed allocation of these cost factors with the exception of the determination of consequential property damages caused by the closing of the crossings.

The County of Monroe offered to procure or in the event of inability to make arrangements with the owners to pay for the land damages caused by the appropriation of land for the new highway on the east side of the track and for the connecting highway crossing the viaduct on the east and west side of the railroad. They objected to being responsible for any purely consequential damages to property owners whose land was not taken, or who might be affected by the closing of the crossings, but suggested with reference to these that if there were such damages they would assume the payment of three-fourths, if the Township of Stroud, in which these crossings are located, would bear the other one-fourth. The Commission is of the opinion that there will be no property damages of that character, but in order that the record and order may be complete, we will determine upon whom will rest the burden of paying such consequential damages in the event that they are hereafter established.

In the light of the whole record, the Commission finds:

1. That the crossings at grade involved in this proceeding are dangerous and their abolition necessary for the safety, accommodation and convenience of the public; that said abolitions be accomplished by closing and barricading said crossings to all traffic at, and by vacating the highway within the right of way lines of the railroad company; that the abolition be made in accordance with the general plan No. 96.10 revised July 30th, 1923, and which is hereby approved. That detailed plans for the concrete viaduct be prepared by the railroad company, submitted to the Commission for approval within 30 days from date of service thereof, and that said abolition become effective upon the construction and opening of the roads and viaduct hereinafter provided for.

2. That a crossing of the railroad by an overhead bridge or viaduct be established at the point and in the manner indicated in the attached and approved plans.

3. That the land described on the attached blue print and accompanying order be appropriated for the purposes intended in accordance with centre lines of the highways directed to be established.

4. The Delaware, Lackawanna and Western Railroad Company at its expense shall construct and complete the reinforced

concrete viaduct according to said plan, the structure to consist of eight spans and a total length of approximately 300 feet; the vertical clearance over all the tracks to be not less than 22 feet; the horizontal width approximately 28 feet; consisting of a clear roadway of 24 feet. The approaches to the viaduct shall not exceed 5% grade.

5. The Delaware, Lackawanna and Western Railroad Company shall construct at its expense the new stretches of state highway and township road, according to said plans; the roads to be finished to sub-grade and in accordance with the State Highway Department's standards in cross section; also to install all drainage structures of adequate dimensions where needed along the new highways.

6. The State Highway Department having agreed thereto, is to construct at its expense the shale surfacing for the total length of the new highways and the approaches to the viaduct; also to lay the paving on the viaduct and construct all cable guard fencing where deemed necessary.

7. The County of Monroe shall acquire or pay for all land appropriated including damages resulting from said appropriation for the new roads and the viaduct over the railroad (outside of railroad right of way).

8. The County of Monroe and the Township of Stroud shall pay all consequential damages, if any, that may be lawfully claimed by the property owners fronting the present highway on account the closing of the two crossings, in the event the Commission shall make awards therefor, in the ratio of three-fourths by the County of Monroe and one-fourth by the Township of Stroud.

9. With respect to the maintenance of the roads and the structure over the railroad after completion, the Commission finds and determines that the railroad company shall maintain the viaduct, the State Highway Department shall maintain the approaches and the paving on the viaduct. The Township of Stroud shall maintain the approach of the township road connecting with State Highway Route No. 169.

10. The Commission finds and determines that all the work on this improvement shall be completed on or before December 1, 1924, and upon the opening of the improvement to public use the two crossings involved in these proceedings shall be properly barricaded by the erection of substantial fences located on the boundary lines of the railroad and so maintained.

An order will issue carrying the above findings, determinations and conclusions into effect.