

DECISIONS OF

The Public Service Commission

OF THE

COMMONWEALTH OF PENNSYLVANIA

August 21, 1922, to July 1, 1924

VOLUME VI



HARRISBURG, PA.
Telegraph Press, Printer to the Commonwealth
1926

APPLICATION OF SCRANTON RAILWAY COMPANY

APPLICATION DOCKET No. 8965

Street Railways—Abandonment of portion of line—Conditions prescribed.

The application of a street railway for a certificate of approval of the abandonment of a portion of its line which has been continuously and consistently operated at a loss, will be granted. Notice of cessation of service to be given and streets and highways to be restored by applicant to safe, convenient and traversable condition throughout after removal of its facilities.

James F. Shrader, of Gill, Guckes and Shrader, for Scranton Rwy. Co.

W. L. Pace for Borough of Dupont.

James A. Powell for Lackawanna Township.

John R. Reap for Boroughs of Duryea, Pittston and City of Pittston.

W. W. Kohler for Borough of Moosic.

REPORT BY THE COMMISSION, *February 5, 1924:*

By this proceeding, as amended by stipulation of the parties, the Scranton Railway Company seeks permission of the Commission to cease operation of and abandon that portion of its street railway system which extends from the boundary-line between the Township of Lackawanna and the Borough of Moosic, on the north, to the intersection of Broad and Main Streets in the City of Pittston, on the south. The track mileage between the points for which abandonment is sought is about seven and one-half miles; with siding, etc., included it approximates eight miles.

Beginning at the north end of the proposed abandonment the line in question passes through the Boroughs of Moosic, Avoca, Dupont, Hughestown, the Township of Pittston and the City of Pittston. It was originally constructed under the charter rights and franchises of the Pittston Suburban Passenger Railway Company, Pittston, Jenkins and Avoca Street Railway Company, and the Lackawanna Street Railway Company, which companies by various mergers and consolidations have become and are now merged along with other companies, into the Scranton Railway Company, the applicant. However, only a portion of the lines built under the charter rights and franchises of the Lackawanna Street Railway Company is involved in this proceeding; applicant does not here seek to discontinue

the operation of the remaining portion of the lines of this subsidiary, or its other lines in and about the City of Scranton. The object sought is to reduce petitioner's field of activity by obtaining Commission approval of the abandonment of an alleged burdensome and unprofitable branch. The application is protested by several of the municipalities affected, while one, the Borough of Dupont, has joined in and supported it.

Applicant bases its petition upon the principles laid down by the Supreme and Superior Courts in the recent cases of the Burgess and Town Council of the Borough of Norristown vs. Reading Transit and Light Company et al, 277 Pa. 457, and Borough of Carlisle vs. The Public Service Commission, 81 Pa. Superior Court 475, and contends that the testimony brings this case squarely within the rulings there made, because it conclusively establishes the following facts: (1) That the operation of the line involved has resulted in an actual momentary loss for many years last past; (2) that continued operation will necessitate the immediate rebuilding of a large portion of the line at a large and unwarranted cash outlay; and (3) that there is no public necessity for the continued operation of the line between the points stated.

1. It appears from the evidence that at a point in the northern end of the Borough of Moosic, where the Delaware and Hudson Railroad Company crosses at grade the street on which applicant's line is located, the street railway track is wholly disconnected and severed; that applicant has been perpetually enjoined by the court from making a physical connection of its line over these railroad tracks; that passengers must alight from one trolley walk across the railroad company's right-of-way and board another car in order to make a continuous journey north or south of the grade crossing; that this break is a serious and controlling obstacle and is a deterrent to through travel; that substantially all of the travel on the line is to and from points between the termini; and that insofar as any physical or continuous connection with the Scranton Railway Company is concerned, the portion sought to be abandoned might as well be a line between two distant places, wholly disconnected with the balance of applicant's system. Petitioner contends that the maintenance and operation of this portion of its system is not justified by the existing traffic and the cost of operation. Cars are operated on a forty minute headway.

The line under consideration comprises about 8% of the mileage of the applicant's entire system, yet for the year 1922 it yielded only 2.7% of the passenger revenues therefrom. It operated 4.4% of the car miles. The passengers carried per car mile equaled about 4.3 as compared with 11.3 for applicant's other lines. Recently \$295,500 of outstanding funded obligations of the line matured and were paid.

Apparently the present fare of 8 cents, four-tickets for 30 cents, has not yielded the fair return to which this Commission has found the owners are entitled, and a higher fare, necessarily imposed on all the other patrons of the company to avoid unjust discrimination, would not be justified.

The findings of the engineering conference held by the engineers of the applicant company and the staff engineers of this Commission, May 1, 1920, in connection with the evaluation proceedings of applicant company at C. D. No. 1668, et al., in evidence, show that as early as the year 1900 an annual deficit in the operation of this line was sustained. Based on 1921 figures (the figures for 1922 were less than normal owing to the anthracite coal strike) there was a net revenue deficit of approximately \$9,543.00 which with taxes of \$1,682.00, allocated to this line, made a total operating deficit of \$11,225.00. If to this there be added a 7% return on whatever actual investment remains in the road, the net annual deficit will be proportionately increased.

The annual operating loss is accounted for by the fact that it is practically impossible to maintain the line south of the Delaware and Hudson grade crossing in the Borough of Moosic in a safe operating condition, or so as to render adequate and regular service, on account of the fact that all machinery and appliances for track rebuilding and maintenance must be transferred across the grade crossing. Likewise it is impossible to maintain the two cars used on this part of the line in safe operating condition. The company has no car-barn or repair shops south of the crossing, so the rolling stock is exposed to all kinds of weather. When such repairs are needed as require taking the cars to the barns and repair shops in Scranton, the regular cars must be "jacked" across the tracks of the railroad company and the substitute cars must go through the same operation; and as often as such repairs and rehabilitation are needed, this must be repeated. Furthermore, it is impossible on account of the grade crossing, to put snow plows on the lower end of the line in winter, with the result that this portion must be cleared of snow and ice by the most expensive and costly method, hand shovels. Then, too, there is the costly element of maintenance of the Smithville viaduct in the Borough of Dupont, which carries applicant's line over the tracks of several railroad companies and which, due to mine subsidence, needs constant attention and frequent repair, and upon which, so great is this menace, the company maintains watchmen throughout the twenty-four hours of every day.

2. The second reason advanced is that the continued operation of the line in question will necessitate a large and immediate cash outlay for a rebuilding program. It is conceded that the rails, roadbed and facilities are in a deplorable condition, and that, at

least, five or six miles of track must be immediately rebuilt, if operation of the line is to be continued. Otherwise, adequate service cannot be rendered. The record shows the following cost of track maintenance for the past several years: 1920, \$8,407.42; 1921, \$10,943.29; 1922, \$10,730.84, and for the first nine months of 1923, \$9,094.59. The estimated cost of such rebuilding, exclusive of paving in Lackawanna Township which, under the stipulation of the parties relative to the length of the proposed abandonment, is eliminated, approximates \$213,000. If applicant's track, now located partly in the center and partly on either side of the highway through the municipalities, must be relocated, proceedings to compel which have not only been threatened but actually begun in some instances, and if the paving obligations in the boroughs are enforced, this sum will be increased to \$350,000. The re-surfacing of State Highway Route No. 5 upon which the track sought to be abandoned is in part laid, appears to be imminent, and if and when, this does occur it will necessitate the relocation and relaying of the remaining portion of applicant's line under consideration. This will, of course, require further cash outlay. At least the majority of these expenditures cannot be escaped if the operation of this unprofitable portion of the system must be continued. In our opinion no justification can be found under the evidence for requiring the investment of additional capital in that portion of applicant's system which has been so continuously and consistently operated at a direct loss.

3. The third reason assigned by applicant, that there is no public necessity for the continued operation of this line, is supported by the weight of the evidence. The community is served by three steam and two electric railway lines. The railroads are the Delaware, Lackawanna and Western Railroad, the Delaware and Hudson Railroad, and the Central Railroad of New Jersey. The electric railways are the Lackawanna and Wyoming Valley Railroad, generally known as the "Laurel Line" and operating under a railroad charter, and the Wilkes-Barre Railways Company. The testimony discloses the character and frequency of service rendered by these carriers by day and by night, the rates of fare, the running time for express and local trains between the termini, the location of tracks and stations of these carriers, their proximity to the line here involved, and their accessibility to the residents of the protesting municipalities. We do not consider it necessary to advert thereto in detail in this report, but in our opinion the community will be adequately served by the steam and electric carriers operating, in reasonably close proximity for the greater part of the distance, to the line proposed to be abandoned. The Laurel Line especially renders frequent and fast local service, available at all hours to the residents of the boroughs affected, while its express trains, together with those of the several

railroads, afford reasonable and practically sufficient transportation facilities between the terminals. It may be that some of the residents of the boroughs may have to walk a greater distance than now to take the cars of this high-speed line, but such inconvenience cannot be a justification for requiring applicant to continue service on this unprofitable portion of its system.

The contemplated improvement of the State highway above referred to will afford every reasonable facility for transportation by privately owned motor vehicles between the various localities affected. Furthermore, it will no doubt suggest the establishment of motor bus lines if, when and where needed, a matter within the control and supervision of this Commission. It is almost axiomatic that the improvement of State highways affects adversely the operating revenues of rural street railway lines of the character here involved.

We have carefully considered the reasons for and against the proposed abandonment. The standard of service required by The Public Service Company Law is that it shall be reasonably adequate and practically sufficient for the accommodation and convenience of the public. In the light of the overwhelming and practically uncontradicted evidence with respect to the operating losses which have been sustained for years on the line under consideration, with respect to the additional capital which admittedly must be put into the system immediately to place it in safe operating condition, with respect to the lack of necessity for the continued operation of the line and to the varied and adequate transportation facilities now serving the community affected, we are constrained to find, and do find and determine, that the proposed abandonment is necessary and proper for the service, accommodation and convenience of the public.

In accordance with the foregoing findings, determinations and conclusions the application will be granted and an order will issue permitting the abandonment of that portion of applicant's railway system which extends from the boundary line between the Township of Lackawanna and the Borough of Moosic, on the north, to the intersection of Main and Broad Streets in the City of Pittston, on the south; cessation of service thereon to become effective sixty (60) days after the date of service hereof and upon filing with the Commission proof that applicant has given at least thirty (30) days public notice prior thereto by posting in its cars, at its stations along the line, and by proper publication in local newspapers; and the tracks, ties, poles and other facilities of applicant to be removed from the streets and highways of the municipalities, and said streets and highways to be restored by applicant to safe, convenient and traversible access throughout, on or before July 1, 1924.