

DECISIONS OF

The Public Service Commission

OF THE

COMMONWEALTH OF PENNSYLVANIA

September 10, 1929 to May 11, 1931

VOLUME 10



HARRISBURG, PENNSYLVANIA

1931

DECISIONS OF
THE PUBLIC SERVICE COMMISSION
OF THE
COMMONWEALTH OF PENNSYLVANIA

KNAPP et al.

v.

DELAWARE, LACKAWANNA AND WESTERN RAILROAD
COMPANY

COMPLAINT DOCKET NOS. 7995, 7996, 7997, 7998, 8001, 8010, 8013

Railroads—Service—Discontinuance of trains—Public necessity—Earnings.

Complaints against the discontinuance by respondent railroad company of four passenger trains on main line service were sustained where it appeared that although passenger service had fallen off, the gross earnings from the stations involved had increased and the service rendered by street railway and motor bus carriers would not be a sufficient or adequate substitute for railroad service.

A railroad company may be compelled to continue unprofitable passenger train service if there is a public need for the same and the continuance will not jeopardize or place an undue burden upon its general service.

Morton W. Stephens, David J. Reedy and Stanley F. Coar for A. Ray Knapp et al.

Wells, Mumford & Stark for Borough of Clarks Summit and Residents of Borough of Clarks Summit.

D. R. Reese and G. W. Morgan for The Delaware, Lackawanna and Western Railroad Company.

REPORT BY THE COMMISSION, *September 10, 1929:*

In April, 1929, The Delaware, Lackawanna and Western Railroad Company, a double-track interstate railroad, operating between Buffalo, New York, and Hoboken, New Jersey, via the cities of Bing-

hamton, New York, and Scranton, Pennsylvania, announced that certain through and local passenger trains would be discontinued as of April 28, 1929. Of the eight trains to be removed from the new schedule, two were local commuting trains, furnishing early morning service between Binghamton, New York, Hallstead, Pennsylvania, and intermediate points east to Scranton, with a return trip after working hours from Scranton to Binghamton. Two were commuting trains furnishing early morning service from Tobyhanna, Pennsylvania, and intermediate stations west to Scranton, and returning from Scranton in the evening.

Complaints have been filed by individuals residing in New Milford, Hop Bottom (Foster Station), Nicholson, and Clarks Summit, and also by the Borough of Clarks Summit against the discontinuance of trains Nos. 32 and 33, operating intrastate between Hallstead and Scranton. Likewise, individuals residing in Moscow, Gouldsboro and Tobyhanna have filed complaints against the discontinuance of trains Nos. 29 and 30, also operating intrastate between Tobyhanna and Scranton.

At the request of the Commission, respondent voluntarily agreed to defer withdrawal of trains Nos. 32 and 33, and 29 and 30, pending the disposition of these complaints. All of the complaints have been consolidated; hearings and argument have been had.

Respondent has submitted a traffic count covering twenty-six days for the month of April, 1929. This count included pass riders as well as paid passengers. From this evidence it appears the average daily number of passengers per train carried was 118.

The total revenue for the month of April, 1929, derived from the operations of these trains as computed by the railroad company, was as follows: Train No. 29, \$393.92; Train No. 30, \$446.51; Total \$810.43; Train No. 32, \$764.88; Train No. 33, \$835.16; Total \$1,600.04. The monthly cost of the operation of these trains was shown to be \$2,059.10 and \$3,697.85, respectively.

Respondent has introduced evidence to show that the route of trains 32 and 33 west of Scranton was paralleled by bus lines and a trolley line as far as Foster (Hop Bottom); that east of Scranton the route of trains 29 and 30 was paralleled by a bus line as far as Moscow (12.6 miles) and that application had been made to the Commission by this operator for an extension of his route to Tobyhanna. It is the contention of respondent that in connection with the other passenger train service rendered by it, the bus and street railway utilities are in a position to furnish adequate, safe and comfortable transportation service for the communities affected by its proposed train withdrawal.

Figures compiled by the railroad at the request of the Commission

and introduced in evidence show total passenger earnings for 1928, at stations Tobyhanna to Hallstead (just south of the Pennsylvania State Line), and exclusive of Scranton, of \$59,575.36, a decrease of \$17,324.94 over a three-year period. On the other hand earnings from freight, demurrage, etc., at these stations for the year 1928, are shown to be \$646,055.55, an increase of \$73,892.61 over a like period. These latter figures do not include earnings from milk shipments at the stations west of Scranton, which are shown to be \$183,107.60 for 1928, an increase of \$30,839.42 over three years.

In addition to the total earnings derived by respondent railroad from the communities affected, complainants have adduced testimony to show the existing public need for the service in question and the inadequacy and inconvenience of substituted bus and street car travel.

From a consideration of the whole record, the Commission is not convinced that public necessity no longer exists for the service now being rendered by the trains in question, nor does it feel in this instance that the transportation facilities afforded by the bus and street car companies are an adequate or convenient substitute for the train service which these communities are now receiving.

A city depends for its man-power and supplies not only on its own residents, but on a certain proportion of the inhabitants of nearby communities who are so situated as to have available frequent and rapid transportation from the local station to and from their places of employment in the municipal "hub." Conversely, the value of any such adjacent commuting residential territory depends directly not on the distance from the city but on the time required to commute.

A large volume of commuting business has been built up in the past twenty years in the district in question, due to the service furnished to and from Scranton by trains Nos. 29, 30, 32 and 33. Unquestionably, within the past few years some of this business has been lost to the railroad, due to the competition of private automobiles and busses, which in many instances furnish a more convenient and rapid form of transportation to persons whose residences are located at points more or less distant from the local railroad stations. But this is a country-wide situation and is not peculiar to this particular section.

There remains the question of whether a continuance of the service at a loss will jeopardize or place an undue burden upon the general service rendered by the railroad. The proposed curtailment refers to main-line, not branch-line service. That these communities continue to support their railroad is shown by the substantial yearly increase in gross earnings at stations in this district, notwithstanding the loss in passenger earnings. In view of this fact respondent must fulfill its corporate obligations as a railroad and render such service

as public necessity requires, even though this particular incident of its service may not be profitable. *Chesapeake & Ohio Railway Co. v. Pub. Ser. Com. of W. Va.*, 242 U. S. 603; *Borough of Carlisle v. Public Service Commission*, 81 Pa. Sup. Ct. 475; *Hoover et al., v. The Pennsylvania Railroad Company*, 7 Pa. P. S. C. 10.

The Commission finds and determines that the public accommodation and convenience will not permit the discontinuance of trains Nos. 29, 30, 32 and 33. An order will issue, sustaining the complaints and directing respondent to continue the operations of said trains.

COATESVILLE RESIDENTS

v.

PENNSYLVANIA RAILROAD COMPANY, WEST CHESTER STREET RAILWAY COMPANY, DEPARTMENT OF HIGHWAYS, COUNTY OF CHESTER AND TOWNSHIP OF CALN

COMPLAINT DOCKET No. 5802

Crossings—Reconstruction—Modification of plans.

Plans for reconstruction of an overhead bridge were modified so as to provide for the operation of two additional railroad tracks under the bridge, and the additional cost incurred thereby was directed to be paid by the railroad company.

Walter E. Greenwood for Residents of City of Coatesville.

Holdings & Harvey for West Chester Street Railway Company.

W. W. MacElree for County of Chester.

Spencer G. Nauman, J. E. B. Cunningham and *C. H. Bergner* for The Pennsylvania Railroad Company.

J. L. Shelley, Jr., for Department of Highways.

T. L. Hoskins for Township of Caln.

ORDER BY THE COMMISSION, *September 10, 1929:*

This matter being before The Public Service Commission of the Commonwealth of Pennsylvania, upon petition of The Pennsylvania Railroad Company for modification of the plan for the reconstruction