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APPLICATION OF
THE DELAWARE, LACKAWANNA AND WESTERN
RAILROAD COMPANY

APPLICATION DOCKET No. 33723

Service—Discontinuance—Passenger trains—Operating costs—Public Necessity.

Application of a railroad company for the discontinuance of two passenger trains on a main line, was approved conditionally upon the inauguration of a proposed bus service, where the service was provided at a loss, and there was no indication of increase in patronage and no great public need for the trains existed.

Although service over a portion of its system is provided at a loss, it is the policy of the Commission to require a public service company to continue the service, when public necessity for the service exists, and the loss sustained from the operation will not jeopardize or unduly burden the general service rendered by the company.

Gomer W. Morgan and Don Reifsnyder for the Applicant.

Abram Salsburg for the Frank Martz Coach Company.

Don Reifsnyder for David H. Williams et al.

REPORT AND ORDER BY THE COMMISSION, *March 17, 1936:*

In 1929, the Delaware, Lackawanna and Western Railroad Company proposed to discontinue the operation of passenger trains Nos. 29 and 30 over its main line between Scranton, Lackawanna County, and Tobyhanna, Monroe County, a distance of about 25.5 miles. Complaints were filed by individuals residing in Moscow, Gouldsboro and Tobyhanna, at Complaint Docket Nos. 7996, 7997 and 7998, protesting against the proposed discontinuance. Hearings were held, at which testimony was submitted relative to the cost of the operation, and the number of passengers using the trains. After consideration of the record, the Commission was not convinced that public necessity no longer existed for the service and, by order issued September 10, 1929, directed the railroad company to continue the operation of the trains.

On May 7, 1935, The Delaware, Lackawanna and Western Railroad Company filed this application for approval of the discon-

tinuance of the operation of trains Nos. 29 and 30 between Scranton and Tobyhanna, alleging that the cost of operating said trains far exceeds the revenue derived therefrom, and that the number of persons now accommodated by these two trains is so small as to make the operation of the trains unnecessary for the accommodation and convenience of the public. The present application is protested by certain individuals residing at Scranton, Elmhurst, Moscow, Gouldsboro and Tobyhanna.

Trains Nos. 29 and 30 are local trains operated daily, except Sundays and holidays, and, in addition to the terminal stations, serve the intermediate stations at Nay Aug, Elmhurst, Moscow, Hollisters, Lehigh and Gouldsboro. Train No. 29 is scheduled to leave Tobyhanna at 7:00 A. M., and to arrive at Scranton at 7:50 A. M., and train No. 30 to leave Scranton at 5:30 P. M., and to arrive at Tobyhanna at 6:25 P. M.

Hearings were held at which testimony was introduced to show that since 1929 the average number of passengers transported by these two trains has materially decreased, and that the cost of operating the trains exceeds the revenue derived therefrom, resulting in an annual loss of approximately \$12,000 to the railroad company, an increase of about 50% in annual loss since 1929. During May, 1935, the daily average number of passengers carried on train No. 29 and 45, compared with 87 carried in April, 1929. On train No. 30, the daily average number of passengers in May, 1935, was 44, as compared to a corresponding figure of 85 in April, 1929. The daily average revenue from trains Nos. 29 and 30 in May, 1935, was \$15.39, whereas in April, 1929, it was \$31.18. Although the data submitted cover a period of only a month, the record tends to show that this traffic varies but slightly throughout the seasons of the year, owing to the fact that the trains are used by persons residing in the vicinity of the various stations to commute to and from their work or places of business in the City of Scranton. Trains Nos. 29 and 30 make no direct connection at Tobyhanna or Scranton with through trains operated over this main line of the railroad between Hoboken and Buffalo and other points.

The record further shows that a bus line now being operated between Scranton and Daleville serves Nay Aug, Elmhurst and Moscow, and provides more frequent service between Scranton and said points than is now afforded by the passenger trains of the railroad company. If the operation of passenger trains Nos. 29 and 30 is discontinued, it is the intention of the bus company, upon approval of this Commission, to extend the bus service from Dale-

ville to Tobyhanna, and thereby furnish not only bus service in substitution for train service to all stations on the railroad between Scranton and Tobyhanna, except Lehigh and Hollisters, but also additional and more frequent service between said points; this service to be provided at the same or lesser fares than are now charged on the trains. Figures submitted by the applicant show that the revenue derived from the transportation of the 159 passengers that boarded or departed from the trains at the Lehigh and Hollisters stations during the month of May, 1935, amounted to only \$22.75. Upon the discontinuance of the trains, and the inauguration of the proposed bus service, these present patrons of the railroad company can obtain transportation by bus at points on the Lackawanna Trail (State Highway Route No. 168) about two miles distant from the railroad stations.

While there will be some inconvenience resulting from the discontinuance of service, where the service is being provided at a relatively great loss to the railroad company, and there does not appear to be any great public need for it, the Commission is not justified in requiring the continuance of the service, especially if other means of transportation are available, and there is no indication of increased patronage of the passenger trains. Although service over a portion of its system is being provided at a loss, it is the policy of the Commission to require the public service company to continue such service, when public necessity for such continuance exists, and the loss sustained from the operation will not jeopardize, or place an undue burden upon, the general service rendered by the public service company.

In view of the facts that the traveling public makes little use of the service here involved, and that the demand for this service is diminishing, as evidenced by the decrease in the average number of passengers carried by the two trains since 1929, the Commission is of the opinion that the railroad company should not be required to continue this passenger train service in the event that reasonably adequate and convenient service for the major portion of the persons now using the trains is provided by the extension of motor bus service from Moscow to Tobyhanna.

The Commission finds and determines that under the facts disclosed in this record, the continued operation of trains Nos. 29 and 30 between Scranton and Tobyhanna is not necessary for the service, accommodation and convenience of the public after the inauguration of such bus service between Scranton and Tobyhanna as will provide reasonably adequate, frequent and convenient

service to the public between said points at a lesser or no greater cost to the public than the cost for the present travel by train; THEREFORE,

NOW, to wit, March 17, 1936, IT IS ORDERED: That the application for approval of the discontinuance of the operation of passenger trains Nos. 29 and 30 by The Delaware, Lackawanna and Western Railroad Company between Scranton and Tobyhanna be and is hereby approved.

IT IS FURTHER ORDERED: That this approval shall become effective only upon the inauguration and continuance of bus service approved by this Commission, providing transportation in substitution for and at approximately the same schedule as that of the trains, and at a lesser or no greater cost to the public than for transportation on the trains, and after fifteen (15) days' notice of the discontinuance of the operation of passenger trains Nos. 29 and 30 on the main line of The Delaware, Lackawanna and Western Railroad Company has been given to the public and to this Commission.

APPLICATION OF
PHILADELPHIA RAPID TRANSIT COMPANY

APPLICATION DOCKET No. 33559

Public service companies—Reorganization—Merger of underliers—Section 77B of the Bankruptcy Act—Issuance of securities—Inventory and appraisal—Sufficiency—Depreciated cost value—Insufficiency of data.

The Commission deferred approval of a plan of reorganization of a street railway company involving the merger of certain traction companies, known as "underliers" and providing for issuance of certain classes of stocks and bonds, under Section 77B of the Federal Bankruptcy Act. A prior inventory and appraisal of applicant's property for rate making purposes was rejected by the Commission as not sufficient for proceedings under Section 77 B of the Bankruptcy Act, which involved inter alia, the issuance of securities. Applicant was directed to furnish a statement of original cost new, less accrued depreciation, of all property owned by it, used and useful in the public service, and of all the "underlier" properties involved in said merger together with other specified data.

Allen Hunter White and Ballard, Spahr, Andrews & Ingersoll, by Frederick L. Ballard and George Wharton Pepper for the Applicant.