

DECISIONS OF

The Public Service Commission

OF THE

COMMONWEALTH OF PENNSYLVANIA

VOLUME 15



HARRISBURG, PENNSYLVANIA
1938

DEPARTMENT OF HIGHWAYS

v.

DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY, et al.

COMPLAINT DOCKET No. 10756

Crossings—At grade—Dangerous conditions—Reconstruction.

Where a crossing at grade was shown to be unsafe and inadequate owing to the alignment and grade of the highway approaches and limited view of approaching trains, the Commission ordered its reconstruction and relocation in accordance with approved plans. The improvement involved the appropriation of several described parcels of land. Costs were allocated, maintenance and safety devices provided, and a completion date set.

Forrest Mercer for the Department of Highways.

F. J. Mervine for the Borough of Mt. Pocono.

G. W. Morgan for D. L. & W. R. R. Co.

Ira A. LaBar for George W. Crane et al.

Asher Seip for Himself.

F. B. Holmes for Monroe County

C. R. Bensinger and *S. S. Shafer* for G. W. Crane et al.

A. W. Williams for James Cornish Est . et al.

Stewart S. Shafer and *C. Edward De Puy* for Carrie M. Gyttle,
et al.

REPORT AND ORDER BY THE COMMISSION, *April 20, 1396:*

State Highway Route No. 168 extending from Stroudsburg to Scranton crosses at grade the three main tracks of The Delaware, Lackawanna and Western Railroad Company at a point in the Borough of Mount Pocono, Monroe County, about 75 feet east of the Mount Pocono Station of said railroad company. This complaint alleges that the grade crossing is dangerous, and should be eliminated for the safety, accommodation and convenience of the public.

Hearings were held at which testimony was introduced to show that, although protected by gates, this grade crossing is dangerous

on account of the alignment and heavy grade of the highway approaches, the limited views of approaching trains and the large volume of highway and railroad traffic. Accidents occur frequently at this crossing or on the highway in the vicinity thereof due to the existence of the crossing.

Plans of the proposed improvement submitted at the hearing of November 7, 1935, as complainant's exhibits Nos. 5 and 6, provide for the relocation of the highway from a point in Paradise Township about 2650 feet southeast of the crossing to a point in Mount Pocono Borough about 1050 feet northwest of the crossing, the relocation of the railroad tracks and facilities from a point in the borough about 1000 feet east of the grade crossing to a point about 2200 feet west thereof, the improvement of the relocated portion of the highway with a concrete roadway at least 20 feet in width, the abandonment of a portion of an existing highway located partly in the borough of Mount Pocono and partly in the Township of Paradise, the construction of a new public road partly in the borough and partly in the township to replace the highway abandoned, the construction of a bridge to carry the relocated railroad tracks over the grade of the relocated portion of the existing state highway, the construction of new station grounds, and the improvement of an existing highway known as Belmont Avenue leading thereto. The new underpass as proposed has an opening with a clear width of 52 feet, sufficient for a 44-foot roadway and one seven-foot sidewalk, and provides a vertical clearance of 14 feet over the roadway. Improvements in accordance with these plans have been estimated to cost \$325,840.70, exclusive of property damages. The improvement involves the appropriation of several parcels of land, damages for which have been estimated at \$36,800. The estimated construction cost is made up of the following main items:

New Highway Underpass	\$ 56,123.60
Railroad Embankment and Drainage.....	114,550.55
Railroad and Track Signal Work and Changes to Western Union Pole Line.....	33,548.34
Moving Railroad Station	2,682.20
Crushed Stone	272.25
Highway Work	118,663.76
Total.....	\$325,840.70

The parties of record offer no objection to the plan of the proposed improvement. The Department of Highways has agreed to assume the construction cost of the improvement, exclusive of

new materials required in the location of the railroad tracks and facilities of the railroad company, provided Federal funds appropriated under the Emergency Relief Appropriation Act of 1935 are allocated to said department for this project, and provided further that the plan of improvement is approved by the Bureau of Public Roads of the United States Department of Agriculture. Regulations governing the use of these Federal funds provide, among other things, that such funds can be used to defray the cost only of that portion of a crossing improvement located between points on either side of the crossing 1500 feet from the nearest track. In this case the improvement extends more than 1500 feet from the nearest track, and the department is willing to pay with State funds the cost of the improvement located more than 1500 feet on either side of the tracks. The parties have agreed of record that the Borough of Mount Pocono will contribute \$5,000 toward the payment of property damages resulting from the improvement, and that the balance of land damages will be paid one-third each by The Delaware, Lackawanna and Western Railroad Company, the Department of Highways, and the County of Monroe.

Upon consideration of all the evidence, the Commission finds and determines that the crossing of State Highway Route No. 168 at grade across the three tracks of The Delaware, Lackawanna and Western Railroad Company at a point in the Borough of Mount Pocono, Monroe County, about 75 feet east of the Mount Pocono Station, is dangerous and should be abolished in accordance with the plans submitted at the hearing of November 7, 1935, as complainant's exhibits Nos. 5 and 6, for the safety, accommodation and convenience of the public; **THEREFORE,**

NOW, to wit, April 20, 1936, IT IS ORDERED: That the complaint be and is hereby sustained.

IT IS FURTHER ORDERED: That the crossing of State Highway Route No. 168 at grade across the three tracks of The Delaware, Lackawanna and Western Railroad Company at a point in the Borough of Mount Pocono, Monroe County, about 75 feet east of the Mount Pocono Station be abolished in accordance with the plans submitted at the hearing of November 7, 1935, as complainant's exhibits Nos. 5 and 6, which said plans are hereby approved, attached hereto, and made part hereof.

IT IS FURTHER ORDERED: That the Department of Highways, within 60 days from the date of service hereof, submit to this Commission for approval and to the parties of record for

examination detail plans of the bridge herein ordered constructed by said department.

IT IS FURTHER ORDERED: That the following public highways be and are hereby laid out, established and opened, to wit:

1. A road or highway approximately 3700 feet in length beginning at a point in the existing State Highway Route No. 168 at or about State Highway Survey Station 727—75 in Paradise Township, Monroe County, and extending thence generally in a northwesterly direction to a junction with the existing State Highway Route No. 168 to a point in the Borough of Mount Pocono about 1000 feet northwest of the grade crossing; alignment, width and grade to be as shown on the approved plan.

2. A road or highway approximately 500 feet in length, beginning at a point in the new highway herein above laid out, established and opened at a point in the Borough of Mount Pocono about 300 feet west of the easterly line of said borough, and extending thence in a generally northeasterly direction to a junction with an existing township road at a point in Paradise Township, Monroe County; alignment, width and grade to be as shown on the approved plans.

IT IS FURTHER ORDERED: That the following described property, together with all buildings and structures or parts thereof, of any description or use whatsoever, erected or located thereon be and is hereby taken and appropriated for this improvement in accordance with the approved plans:

(Descriptions of property are here omitted.)

IT IS FURTHER ORDERED: That The Delaware, Lackawanna and Western Railroad Company furnish all materials and do all work necessary to relocate its tracks, station, signals and other facilities and the overhead wire lines of the Western Union Telegraph Company on its right of way to the new location shown on the approved plans, and, in addition, construct the foundation for and the platforms at the relocated station, said work and materials being estimated to cost \$36,230.54.

IT IS FURTHER ORDERED: That the Department of Highways furnish all materials and do all work necessary to complete the improvement in accordance with the approved plans, including the maintenance of any detour necessary for highway traffic, the construction of the roadbed for the relocated tracks, the grading of the new station grounds and the surfacing of the drive-

ways thereon with crushed stone, said work and materials being estimated to cost \$289,610.16.

IT IS FURTHER ORDERED: That all work herein ordered to be done be fully completed on or before December 31, 1936.

IT IS FURTHER ORDERED: That The Delaware, Lackawanna and Western Railroad Company cooperate with the Department of Highways in the construction of the improvement and, if necessary, operate its trains in the vicinity thereof at reduced speed and under control, and maintain watchmen to protect its train operation.

IT IS FURTHER ORDERED: That the Department of Highways cooperate with The Delaware, Lackawanna and Western Railroad Company in the construction of the improvement so that the operation of its facilities will not be endangered or unnecessarily impeded.

IT IS FURTHER ORDERED: That the Department of Highways pay The Delaware, Lackawanna and Western Railroad Company, when and as certified by the Public Service Commission, a sum or sums of money equal to the actual cost of work performed and materials furnished by said railroad company in accordance with this order, exclusive of the cost of constructing the platforms, building foundation and service connections for the relocated station and exclusive of new material, except ballast, used in relocating the tracks, but inclusive of new material used in relocating the wire line of the Western Union Telegraph Company, and inclusive of the cost of watchman and flagman services rendered during the time the railroad company is making alterations to its facilities in accordance with this order, but exclusive of services of watchmen, flagmen, linemen or other railroad employes required and placed by the railroad company at other periods; the salvage value of materials recovered or temporarily used, excepting track materials, to be deducted from the cost of that portion of the work to be performed and materials to be furnished by said railroad company at the expense of the Department of Highways.

IT IS FURTHER ORDERED: That The Delaware, Lackawanna and Western Railroad Company pay any money to which it may be entitled as compensation for damages to any of its property taken, injured or destroyed by reason of this improvement.

IT IS FURTHER ORDERED: That the County of Monroe pay all compensation for damages due to the owners, exclusive of the

respondent railroad company, of property taken, injured or destroyed in the execution of this improvement.

IT IS FURTHER ORDERED: That the Borough of Mount Pocono pay the County of Monroe, when and as certified by the Public Service Commission, a sum or sums of money equal to \$5,000, to apply on the property damages herein required to be paid by said County of Monroe.

IT IS FURTHER ORDERED: That The Delaware, Lackawanna and Western Railroad Company, having agreed so to do, pay the County of Monroe, when and as certified by the Public Service Commission, one-third of the amount of property damages in excess of \$5,000 herein required to be paid by said County of Monroe.

IT IS FURTHER ORDERED: That the Department of Highways pay the County of Monroe, when and as certified by the Public Service Commission, one-third of the amount of the damages in excess of \$5,000 herein required to be paid by said County of Monroe.

IT IS FURTHER ORDERED: That any relocation of, changes in or removal of any adjacent structures, equipment or any facilities of any public service company which may be required as incidental to the execution of this improvement, be made by said public service company at its own expense in such a manner as will not interfere with the construction of the improvement.

IT IS FURTHER ORDERED: That upon the completion of the improvement herein ordered and its opening to public use, The Delaware, Lackawanna and Western Railroad Company maintain the substructure and superstructure of the new bridge, and in addition, maintain its tracks and other facilities including the station and station grounds.

IT IS FURTHER ORDERED: That upon the completion of the improvement herein ordered and its opening to public use, the Borough of Mount Pocono maintain the sidewalks in the highway underpass, and on the approaches thereto, and in addition, maintain Belmont Avenue, the portion of Barclay Avenue directed to be altered, and that portion of the new road approximately 500 feet in length hereinabove laid out, established and opened, which is located within the limits of that municipality.

IT IS FURTHER ORDERED: That upon the completion of the improvement herein ordered and its opening to public use, the

Township of Paradise maintain that portion of the new highway approximately 500 feet in length hereinabove laid out, established and opened, which is located within the limits of said township.

IT IS FURTHER ORDERED: That upon the completion of the improvement herein ordered and its opening to public use, the Western Union Telegraph Company maintain its relocated overhead wire line.

IT IS FURTHER ORDERED: That upon the completion of the improvement herein ordered and its opening to public use, the Department of Highways maintain the state highway approaches to the underpass, exclusive of the sidewalks in the underpass, and on the approaches thereto, but inclusive of the curbs and drainage facilities in the underpass and on the state highway approaches thereto.

IT IS FURTHER ORDERED: That upon the completion of the improvement herein ordered and its opening to public use, that portion of the present State Highway Route No. 168, located between a point 100 feet south and a point 60 feet north of the center line between the relocated tracks of the railroad company, be and is hereby vacated to public use.

IT IS FURTHER ORDERED: That upon the completion of the improvement herein ordered and its opening to public use, The Delaware, Lackawanna and Western Railroad Company effectively barricade to public travel that portion of the present State Highway Route No. 168 hereinbefore vacated, said barricades to be thereafter maintained by said railroad company.

DEPARTMENT OF HIGHWAYS

vs.

READING COMPANY, et al

COMPLAINT DOCKET No. 10970

Crossings—At grade—Abolition—Dangerous conditions—Allocation of costs.

Upon complaint, the Commission ordered the abolition of a crossing at grade, and the construction of a subway carrying a state highway under the tracks of a railroad, in accordance with approved plans, where the evidence showed that dangerous conditions existed owing to the alignment of the ap-

and Louthier streets, the intersection of North and College streets, West Street near its intersection with Penn Street, and Pitt Street.

IT IS FURTHER ORDERED: That, upon completion of the improvement herein ordered, the Borough of Carlisle thereafter maintain, at its own cost and expense, the new drainage facilities installed at Pitt Street and at East Street where said streets intersect High Street and in addition thereafter maintain, at its own cost and expense, the sidewalks on each side of the new highway bridge over Letort Spring.

IT IS FURTHER ORDERED: That, upon completion of the improvement herein ordered, the Department of Highways thereafter maintain, at its own cost and expense, the remainder of the improvement.

DEPARTMENT OF HIGHWAYS

v.

THE DELAWARE, LACKAWANNA AND WESTERN
RAILROAD COMPANY, et al

COMPLAINT DOCKET No. 10756

Procedure—Crossings—Cast iron pipe—Substitution—Modification of prior order—Reasons therefor.

The Commission approved a petition of the Department of Highways to modify a prior order permitting the substitution of 48-inch cast iron pipe of a specified type for a 72-inch pipe for conveyance of surface water, in a crossing improvement upon evidence that failures had occurred in cast iron pipe of such large diameters.

Forrest Mercer for Department of Highways.

F. J. Murvine for Borough of Mt. Pocono.

G. W. Morgan for Delaware, Lackawanna & Western R. R. Co.

Ira A. LaBar for property owners.

Asher Seip for himself.

SUPPLEMENTAL ORDER BY THE COMMISSION, *June 22, 1936:*

This matter comes before us upon request of the Department of Highways, for modification of the report and order of April 20, 1936.

We are advised that since the plan was adopted in this case providing for a 72-inch cast iron pipe under the new railroad fill to carry surface drainage water, failures in cast iron pipe of such large diameter have developed, and the Department of Highways requests that a 48-inch number 8 gauge asphalt coated corrugated pipe be substituted for the cast iron pipe. This proposed change in the size and type of pipe to be laid under the railroad embankment at railroad Survey Station 14/70 is agreeable to all parties in interest.

The matters and things involved having been fully considered; THEREFORE,

NOW, to wit, June 22, 1936, IT IS ORDERED: That the plan adopted in the report and order of April 20, 1936, providing for a 72-inch cast iron pipe under the new railroad fill to carry surface drainage water be modified so as to permit a 48-inch number 8 gauge asphalt coated corrugated pipe to be laid under the railroad embankment at railroad Survey Station 14/70.

APPLICATION OF SHAMOKIN & MOUNT CARMEL
TRANSIT COMPANY

APPLICATION DOCKET No. 34569

Service—Street railways—Discontinuance—Substitute bus service—Security for fulfillment of conditions—Repaving.

Application of a trolley car company for approval of discontinuance of service between two boroughs, granted, subject to provisions that substitute bus service be installed before discontinuance of the service, and that satisfactory security be filed for repaving the highway after removal of the tracks and for fulfillment of the prerequisite conditions.

Sterling G. McNees for the applicant.

Louis Cohen for Borough of Mt. Carmel.

Phil. H. Lewis for Department of Highways.

D. W. Kearney for Borough of Shamokin.

REPORT AND ORDER BY THE COMMISSION, *July 2, 1936:*

This matter is before us upon the application of the Shamokin & Mount Carmel Transit Company for our approval of discon-