

Pennsylvania. Public utility commission.

DECISIONS OF

The Public Service Commission

OF THE

COMMONWEALTH OF PENNSYLVANIA

VOLUME 16



HARRISBURG, PENNSYLVANIA

1938

FIFTH: That the rights, powers and privileges hereby granted shall include the right to furnish service in both directions over the described route.

SIXTH: That the certificate holder shall comply with all the provisions of The Public Service Company Law as now existing or as may hereafter be amended, and General Order No. 29, effective January 1, 1933, or as may hereafter be revised, and any other rules and regulations as may hereafter be prescribed by the Commission. Failure to comply shall be sufficient cause to suspend, revoke or rescind the rights and privileges conferred by the certificate.

IT IS FURTHER ORDERED: That in all other respects the application for a certificate of public convenience be and is hereby dismissed.

DEPARTMENT OF HIGHWAYS

v.

DELAWARE, LACKAWANNA & WESTERN RAILROAD
COMPANY, et al.

COMPLAINT DOCKET NOS. 1953, 1955 AND 4055

Crossings—Elimination—Removal of freight station—Modification of prior order—Refusal—Procedure.

The Commission denied a petition by a railroad to eliminate a requirement in prior orders for the relocation of a freight station in connection with the elimination of certain highway crossings on land appropriated for the purpose, where no good reason was shown for rescinding the requirement. A completion date was set.

R. F. Ingham for the Department of Highways.

Gomer W. Morgan for Delaware, Lackawanna & Western Railroad Co.

George P. Orlady for Lehigh & New England Railroad Co.

W. H. Kirkpatrick for Atlas Portland Cement Co.

Albert F. Kahn for Northampton County.

SUPPLEMENTAL REPORT AND ORDER BY THE COMMISSION, *January 4, 1937:*

The Commission report and order of December 15, 1925, in these proceedings, as amended July 27, 1926, January 11,

1927, March 1, 1927, April 25, 1927 and March 19, 1929, provides for the elimination of several highway crossings at grade over the tracks of Lehigh and New England Railroad Company and The Delaware, Lackawanna & Western Railroad Company, at points in the Village of Martins Creek, Lower Mount Bethel Township, Northampton County, in accordance with an approved plan. The improvement required, among other things, the relocation of the Martins Creek freight station building of The Delaware, Lackawanna & Western Railroad Company to a parcel of land appropriated for that purpose. This matter is now before the Commission upon petition of The Delaware, Lackawanna & Western Railroad Company dated April 14, 1936, for the elimination of the requirement for relocation of its freight station, until such time as the business of the petitioner and the necessities of the public warrant the expense involved.

The railroad company has not relocated its freight station, but on the land appropriated for that purpose has constructed a platform as a temporary means of handling local freight shipments. All work required by our orders, except the relocation of the freight station, has been completed. The record reveals no reason for rescinding our requirement that the freight station be relocated.

The matters and things involved having been submitted by the parties at hearing and full investigation having been had, and it appearing that the interests of petitioner and of the public will be protected and adequately served by extending to January 1, 1938, the time in which to relocate the freight station as provided in our order of December 15, 1925, and its supplements and amendments, we find and determine that the prayer of the petition should be denied; **THEREFORE,**

NOW, to wit, January 4, 1937, IT IS ORDERED: That the prayer of the petition of The Delaware, Lackawanna & Western Railroad Company dated April 14, 1936, for modification of our order of December 15, 1925, and all supplements and amendments thereto, so as to eliminate the requirement of the relocation of the Martins Creek freight station, be and is hereby denied.

IT IS FURTHER ORDERED: That the report and order of December 15, 1925, and all supplements and amendments be and are hereby modified to provide that all work to be done by The Delaware, Lackawanna & Western Railroad Company

in accordance with the approved plans, be completed on or before January 1, 1938.

IT IS FURTHER ORDERED: That in all other respects the report and order of December 15, 1925, and all supplements and amendments thereto remain in full force and effect.

APPLICATION OF BUFFALO, ROCHESTER AND
PITTSBURGH RAILWAY COMPANY

APPLICATION DOCKET No. 1737

Procedure — Crossings — Alteration — Allocation of costs — Rehearing — Grounds for refusal—Prior order.

The Commission refused a petition for rehearing by a railroad company in connection with a grade crossing improvement, and allocation of costs thereon, where the petitioner allowed the period for agreement as to allocation of costs to elapse, or to signify its unwillingness to permit the Commission to allocate the costs and where it appeared that a sufficient basis appeared for such allocation in the prior order of the Commission.

Harry H. Frank for The Public Service Commission.

John E. Evans, Sr., for Baltimore & Ohio Railroad Company.

A. M. Donnan for The Pennsylvania Railroad Company.

SUPPLEMENTAL ORDER BY THE COMMISSION, *January 4, 1937:*

By report and order dated September 15, 1936, we ordered the installation of an interlocking switch and signal mechanism near Falls Creek, Clearfield County, by The Pennsylvania Railroad Company and The Baltimore and Ohio Railroad Company, and further ordered the submission within forty-five days of date of service of that order of an agreement between the two companies providing for allocation of the construction and operating costs of the mechanism. We stated that if no agreement were submitted within the time limit specified, a supplemental order allocating the construction and operating costs would issue. No such agreement having been submitted, on November 30, 1936, we issued a supplemental report and order dividing the cost of construction and maintenance of the mechanism equally between the two companies.