

Pennsylvania. Public utility commission.

DECISIONS OF

The Public Service Commission

OF THE

COMMONWEALTH OF PENNSYLVANIA

VOLUME 16



HARRISBURG, PENNSYLVANIA

1938

IT IS FURTHER ORDERED: That The New York Central Railroad Company, having agreed so to do, pay the County of Lycoming, when and as ordered by the Public Service Commission, a sum or sums of money equal to 50% of all sums of money paid by said County of Lycoming in accordance with this order, as compensation for damages due to the owners of property taken, injured or destroyed by reason of this improvement, said sum or sums of money to be paid to the County of Lycoming, however, not to exceed a total of \$2,000.

IT IS FURTHER ORDERED: That, upon the completion of the improvement herein ordered and its opening to public use, that portion of the existing State Highway Route No. 23, about 275 feet in length beginning at a point on the southeasterly right of way of the new highway (a) herein laid out, established and opened, at or about State Highway Survey Station 230 plus 00 and extending generally in a northeasterly direction on a curve to a point on the extended southeasterly right-of-way line of the same highway at or about State Highway Survey Station 232 plus 30 be and is hereby vacated and closed to public use.

IT IS FURTHER ORDERED: That, upon the completion of the improvement herein ordered and its opening to public use, The New York Central Railroad Company maintain the substructure and superstructure of the new undergrade highway bridge herein ordered constructed.

IT IS FURTHER ORDERED: That the Department of Highways maintain the balance of the improvement.

DEPARTMENT OF HIGHWAYS

v.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

COMPLAINT DOCKET No. 11231

Crossings—Abolition—Dangerous conditions—Allocation of costs.

Upon complaint, the Commission ordered the abolition of certain crossings and the reconstruction and relocation of new crossings over the tracks of certain railroads in accordance with approved plans, where dangerous conditions were shown to exist. The improvement involved the appropriation of

several described parcels of land. Costs were allocated, maintenance and safety devices provided, and a completion date set.

Forest Mercer for the complainant.

George P. Orlady, Comer W. Morgan, Everett Kent and Samuel L. McCarthy for the respondents.

REPORT AND ORDER BY THE COMMISSION, *March 8, 1937:*

State Highway Route No. 166 extends generally northwesterly over Delaware Avenue in the Borough of Portland, Northampton County, and crosses at grade the single main track of Lehigh and New England Railroad Company at a point in said borough about 2000 feet southeast of the northerly line of the borough. The highway continues thence northwesterly, crosses under the grade of two tracks of the New Jersey Cut-off of The Delaware, Lackawanna and Western Railroad Company at a point in the southerly part of the Village of Slateford, Upper Mt. Bethel Township, Northampton County, about 3600 feet northwest of the northerly line of the Borough of Portland, and crosses over the grade of the four main tracks of the New Jersey Cut-off of the railroad company in the northerly part of the village at a point in the township about 7700 feet northwest of the northerly line of the Borough of Portland. At a point in the township about 600 feet southeast of the state highway overgrade crossing or 7100 feet northwest of the northerly line of the Borough of Portland, a township road leads southwesterly from the state highway and crosses at grade the four main tracks of the New Jersey Cut-off of The Delaware, Lackawanna and Western Railroad Company.

The instant complaint alleges that these four crossings are dangerous and inadequate, and should be abolished or altered.

At the hearings held in this proceeding, the Department of Highways requested permission to amend the complaint to include two additional crossings at grade—one where the public highway leading northeasterly from the state highway (Delaware Avenue) to the interstate bridge across the Delaware River, crosses the two main tracks of The Delaware, Lackawanna and Western Railroad Company at a point in the Borough of Portland about 2300 feet southeast of the northerly line of said municipality, and the other where a borough highway, known as Northampton Street, crosses the single main track of Lehigh and New

England Railroad Company at a point in the borough immediately northeast of the railroad company's freight station and about 1100 feet southwest of the state highway (Delaware Avenue) grade crossing over the single main track of the latter railroad company.

The testimony shows that State Highway Route No. 166 is a primary state highway route leading from Easton to Stroudsburg and forms part of a main trunk highway leading from points in the states of New York and New Jersey and from points in the eastern part of Pennsylvania to the Mt. Pocono summer resort district, and points west thereof. The state highway grade crossing over the tracks of Lehigh and New England Railroad Company in the borough is inadequate and dangerous for the large volume of traffic on the highway due to the limited views of trains, the heavy grade of the southerly approach, and the narrow width of both highway approaches. Eight to 16 freight trains are operated daily over this crossing, which is protected by flashing lights. No passenger trains are operated over the crossing, and the speed of trains in the vicinity of the crossing is limited to 15 miles per hour.

The tracks of the New Jersey Cut-off of The Delaware, Lackawanna and Western Railroad Company are carried over the grade of the state highway in the southern part of the Village of Slateford by means of a concrete arch structure providing an opening 33 feet in width with a vertical clearance over the roadway ranging from seven to 22 feet.

The state highway is carried over the grade of the four tracks of the New Jersey Cut-off of The Delaware, Lackawanna and Western Railroad Company in the northern part of the Village of Slateford by means of a three-span reinforced concrete structure providing a roadway 30 feet in width. This overgrade crossing is dangerous on account of the heavy ascending grade of the southerly approach and the sharp curve in the roadway at each end of the structure. Several accidents have occurred at this crossing.

The township road which crosses the four tracks of the New Jersey Cut-off of The Delaware, Lackawanna and Western Railroad Company, at grade, about 600 feet southeast of the state highway overgrade crossing sustains only light traffic. The westerly approach to this crossing, which is unprotected and inadequate in width to permit two vehicles to pass, is on a heavy de-

scending grade and the views of approaching trains are limited. An accident occurred at this crossing in 1929.

The record shows that the highway traffic over the Northampton Street crossing at grade, across the main track of Lehigh and New England Railroad Company in the Borough of Portland is light, but that this crossing, which is located only about 180 feet northeast of the Main Street crossing at grade across the tracks of the railroad company, is dangerous on account of the heavy grade of the northeasterly approach and the limited view of approaching trains.

The elimination of the danger at the three state highway crossings by improvements at the crossings in their present locations is presently inadvisable on account of the large construction cost and the excessive resulting property damages. It will be necessary to maintain the three crossings for local traffic. This traffic, however, will be comparatively light, and the crossings will be adequate therefor. A plan prepared by the Department of Highways and submitted at the hearing of January 6, 1937, as complainant's Exhibit No. 1-A provides generally for the construction of a new main highway beginning in the existing state highway at a point in the Borough of Portland about 3400 feet southeast of the northerly line of the municipality and extending thence in a general northwesterly direction a distance of about 2.3 miles along the southwesterly side of the tracks of The Delaware, Lackawanna and Western Railroad Company to a junction with the existing state highway at a point in Upper Mt. Bethel Township about 8600 feet northwest of the northerly borough line and 900 feet northwest of the existing state highway crossing over the grade of the tracks of the railroad company in the northerly part of the Village of Slateford. The new main highway as proposed on the plan crosses under the grade of the main track of the Lehigh and New England Railroad Company in the borough and not only provides a thoroughfare through this section which is adequate for the heavy highway traffic and free of grade crossings, but also affords a means whereby the large volume of traffic on the state highway can detour or by-pass the inadequate crossings under the grade of the tracks of The Delaware, Lackawanna and Western Railroad Company in the southerly part of the Village of Slateford and the dangerous crossing over the grade of the tracks of the railroad company in the northerly part of the village.

The construction of the new main highway as proposed requires the relocation eastward of a portion of the main tracks of The Delaware, Lackawanna and Western Railroad Company about 4000 feet in length, the consequent alteration of the crossing of these tracks in the borough at grade across the public highway approach to the interstate bridge across the Delaware River, and the alteration of the bridge carrying the main track of the Lehigh and New England Railroad company over the grade of the tracks of The Delaware, Lackawanna and Western Railroad Company at a point in the borough about 600 feet northwest of the grade crossing.

The new main highway is shown graded for a minimum width of 49 feet and paved with concrete and macadam for a minimum width of 30 feet. The construction of this new main highway along the southwesterly side of the tracks of The Delaware, Lackawanna and Western Railroad Company at the Village of Slateford would permit the abandonment of the township road crossing at grade, across the tracks of the railroad company at a point in the township about 600 feet southeast of the existing state highway over grade crossing.

The plan provides also for the elimination of the Northampton Street crossing in the borough at grade across the main track of Lehigh and New England Railroad Company by the construction of a new marginal road about 400 feet in length extending along the westerly side of the track and connecting Northampton Street with Main Street. The new marginal road as shown on the plan submitted at the hearing is graded for a width of 26 feet and paved with macadam of 16 feet. By agreement of the parties made part of the record subsequent to the hearing, the plan has been revised to provide for the construction of a six inch concrete curb and a four foot concrete sidewalk along the easterly side of the paved roadway.

Detailed plans submitted as complainant's Exhibit No. 7 at the hearing of January 6, 1937, provide for the substitution of two deck plate girder spans for the most westerly deck truss span of the bridge carrying the track of Lehigh and New England Railroad Company over the grade of the tracks of The Delaware, Lackawanna and Western Railroad Company and over the Delaware River. This alteration of the structure will permit the proposed relocation of the tracks of the latter railroad company and the construction of the new highway under the grade of the

track of the former railroad company, in accordance with the general plan.

The estimated cost of the improvement, in accordance with the plan, exclusive of property damages, is made up of the following principal items:

New main highway and roadbed for relocated tracks of The Delaware, Lackawanna and Western Railroad Company	\$350,828.63
Alteration of Lehigh and New England Railroad Company bridge	59,265.53
Relocation of tracks and facilities of The Delaware, Lackawanna and Western Railroad Company....	39,525.20
Marginal Road	3,497.61
Total	\$453,116.97

The improvement as shown on the plan involves the appropriation of several parcels of land, damages for which have been estimated at \$25,000. The record shows that Lehigh and New England Railroad Company and The Delaware, Lackawanna and Western Railroad Company have agreed to contribute \$7,500 and \$11,500, respectively, toward the payment of these damages, and that the County of Northampton has agreed to assume the balance of the resulting property damages.

The general and detailed plans submitted as complainant's exhibits Nos. 1-A and 7, modified to provide for the construction of concrete curb and sidewalk along the easterly side of the proposed marginal road connecting Northampton Street with Main Street, are satisfactory to all parties of record, and the fill encroachment in the Delaware River channel necessary for the proposed relocation of the tracks of The Delaware, Lackawanna and Western Railroad Company has been approved by the Water & Power Resources Board of the Commonwealth.

The Department of Highways has agreed to assume the total construction cost of the improvement in accordance with the plans submitted as complainant's exhibits Nos. 1-A and 7, as modified, 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 plans of the improvement are approved by the Bureau of Public Roads of the United States Department of Agriculture.

Upon consideration of the evidence, we find and determine that the crossing of the two main tracks of The Delaware, Lacka-

wanna and Western Railroad Company at grade across the public highway approach to the interstate bridge across the Delaware River at a point in the Borough of Portland about 2300 feet southeast of the northerly line of said municipality, are dangerous and should be relocated; that a new public highway crossing should be established under the grade of the single main track of Lehigh and New England Railroad Company at a point in the Borough of Portland about 2000 feet southeast of the northerly line of the said municipality; and that the crossing of the township road at grade across the four main tracks of the New Jersey Cut-off of The Delaware, Lackawanna and Western Railroad Company at a point in Upper Mt. Bethel Township about 7100 feet northwest of the northerly line of the Borough of Portland and the crossing of Northampton Street at grade across the single main track of the Lehigh and New England Railroad Company at a point in the Borough of Portland immediately northeast of the railroad company's freight station are dangerous and should be abolished, in accordance with the general plan, for the safety, accommodation and convenience of the public, submitted as complainant's Exhibit No. 1-A at the hearing of January 6, 1937, modified to provide for the construction of a concrete curb and sidewalk along the easterly side of the new marginal road connecting Northampton Street and Main Street; **THEREFORE,**

NOW, to wit, March 8, 1937, IT IS ORDERED: That the complaint be and is hereby sustained.

IT IS FURTHER ORDERED: That the complaint be and is hereby amended to include the crossing of Northampton Street at grade across the single main track of Lehigh and New England Railroad Company at a point in the Borough of Portland, Northampton County, immediately northeast of the railroad company's freight station, and the crossing of the two main tracks of The Delaware, Lackawanna and Western Railroad Company at grade across the public highway approach at the interstate bridge across the Delaware River at a point in said borough about 2300 feet southeast of the northerly line of said municipality.

IT IS FURTHER ORDERED: That the crossing of the two main tracks of The Delaware, Lackawanna and Western Railroad Company at grade across the public highway approach to the interstate bridge across the Delaware River at a point in the Borough of Portland about 2300 feet southeast of the northerly line of said municipality be relocated; that a new public highway crossing be and is hereby established under the grade of the single

main track of Lehigh and New England Railroad Company at a point in the Borough of Portland about 2000 feet southeast of the northerly line of said municipality; and that the crossing of the township road at grade across the four main tracks of the New Jersey Cut-off of The Delaware, Lackawanna and Western Railroad Company at a point in Upper Mt. Bethel Township about 7100 feet northwest of the northerly line of the Borough of Portland and the crossing of Northampton Street at grade across the single main track of Lehigh and New England Railroad Company at a point in the Borough of Portland immediately northeast of the railroad company's freight station be abolished, all in accordance with the general plan submitted as complainant's Exhibit No. 1-A at the hearing of January 6, 1937, modified to provide for the construction of a concrete curb and sidewalk along the easterly side of the new marginal road connecting Northampton Street and Main Street, which said modified plan is attached hereto, made a part hereof, and is hereby approved.

IT IS FURTHER ORDERED: That the detail plan submitted as complainant's Exhibit No. 7 at the hearing of January 6, 1937, be and is hereby approved.

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

(Highway descriptions and property descriptions were here omitted.)

IT IS FURTHER ORDERED: That Lehigh and New England Railroad Company furnish all materials and do all work necessary to remove the existing bridge ties and place new bridge ties on the most westerly span, to remove the rails and other track material from the most westerly deck truss span of the bridge carrying the railroad company's main track over the grade of the tracks of The Delaware, Lackawanna and Western Railroad Company and over the Delaware River, to place bridge ties, rails and other track materials on the two new spans to be constructed by the Department of Highways, to replace the existing most westerly deck truss span, to make any necessary alterations to its telephone, telegraph, signal lines and other facilities, and, in addition, to maintain watchmen or flagmen to protect its train operations during the time the bridge is being altered; said work, materials and watchman service being estimated to cost \$4565.

IT IS FURTHER ORDERED: That the Delaware, Lackawanna and Western Railroad Company furnish all materials and do all work necessary to relocate its tracks and other facilities to the new roadbed to be provided by the Department of Highways, to relocate the crossing safety gates at the crossing of its tracks at grade across the public highway approach to the interstate bridge across the Delaware River at a point in the Borough of Portland, Northampton County, and to pave said crossing at grade solid between the rails, between the tracks for a distance of at least 24 inches outside of each outside rail for the full width of the roadway, as shown on the approved plan, and, in addition, maintain watchmen or flagmen to protect its train operation during the time its tracks and facilities are being relocated; said work, materials and watchman service being estimated to cost \$39,525.20.

IT IS FURTHER ORDERED: That the Department of Highways furnish all materials and do all work necessary to complete the balance of the improvement in accordance with the approved plan, including the construction of the new roadbed for the relocated tracks of The Delaware, Lackawanna and Western Railroad Company, the maintenance of any detour necessary for highway traffic, the construction of the marginal road, the construction of barricades at the two grade crossings herein abolished; said work and materials being estimated to cost \$409,026.97.

IT IS FURTHER ORDERED: That all work herein ordered to be done be fully completed on or before November 1, 1938.

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

IT IS FURTHER ORDERED: That the Department of Highways cooperate with Lehigh and New England Railroad Company and The Delaware, Lackawanna and Western Railroad Company so that in the alteration of the bridge and the relocation of the tracks, the operation of the railroad companies' facilities will not be endangered or unnecessarily impeded.

IT IS FURTHER ORDERED: That, during the time the bridge is being altered and the tracks are being relocated, Lehigh and New England Railroad Company and The Delaware, Lackawanna and Western Railroad Company each cooperate with the Department of Highways and operate their trains in the vicinity of the improvement in a safe manner and under control.

IT IS FURTHER ORDERED: That the Department of Highways pay Lehigh and New England Railroad Company, when and as certified by the Public Service Commission, a sum or sums of money equal to the actual cost of materials furnished and work done by said railroad company in altering its track and other facilities in accordance with this order, including the cost of watchman or flagman services rendered during the time the railroad company's bridge is being altered, and during the time the railroad company is making alterations to its facilities in accordance with this order, but exclusive of the services of watchmen, flagmen, linemen or other railroad employes required and placed by the railroad company at other periods; said reimbursement to the railroad company by the Department of Highways to be only for such items of work and expenses incurred by the railroad company as are eligible for payment under the rules, regulations and administrative orders of the Bureau of Public Roads of the United States Department of Agriculture covering Works Program grade crossing projects undertaken with Federal funds appropriated under the Emergency Relief Appropriation Act of 1935: the salvage value of materials recovered or temporarily used to be deducted from the actual cost of that portion of the work to be done and materials to be furnished by the railroad company at the expense of the department.

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 materials furnished and work done by said railroad company in relocating its tracks and other facilities in accordance with this order, including the cost of watchman or flagman services rendered during the time the railroad company is relocating its tracks and other facilities in accordance with this order, but exclusive of the services of watchmen, flagmen, linemen or other railroad employes required and placed by the railroad company at other periods; said reimbursement to the railroad company by the Department of Highways to be only for such items of work and expense incurred by

the railroad company as are eligible for payment under the rules and regulations and administrative orders of the Bureau of Public Roads of the United States Department of Agriculture covering Works Program grade crossing projects undertaken with Federal funds appropriated under the Emergency Relief Appropriation Act of 1935; the salvage value of materials recovered or temporarily used to be deducted from the actual cost of that portion of the work to be done and materials to be furnished by the railroad company at the expense of the department.

IT IS FURTHER ORDERED: That Lehigh and New England Railroad Company, The Delaware, Lackawanna and Western Railroad Company and the Borough of Portland each pay any money to which they severally may be entitled as compensation for damages to any of their respective properties taken, injured or destroyed by reason of this improvement.

IT IS FURTHER ORDERED: That the County of Northampton be responsible for the vacation and the relocation, removal or demolition of non-utility structures, including occupied dwellings located upon property herein appropriated. Any reasonable costs actually incurred by said county in connection with such vacation, relocation, removal or demolition shall be paid and borne by the same parties and in the same manner and proportion as herein provided for the payment of compensation for damages to the owners of property taken, injured or destroyed by reason of this improvement.

IT IS FURTHER ORDERED: That the County of Northampton pay all compensation for damages due to the owners of property, exclusive of the respondent railroad companies and the Borough of Portland, for property taken, injured or destroyed in the execution of this improvement.

IT IS FURTHER ORDERED: That Lehigh and New England Railroad Company, having agreed so to do, pay the County of Northampton, when and as ordered by the Public Service Commission, a sum or sums of money equal to \$7,500 to apply on the damages herein required to be paid by said County of Northampton.

IT IS FURTHER ORDERED: That the Delaware, Lackawanna and Western Railroad Company, having agreed so to do, pay the County of Northampton, when and as ordered by the Public Service Commission, a sum or sums of money equal to

\$11,500 to apply on the damages herein required to be paid by said County of Northampton.

IT IS FURTHER ORDERED: That, upon the completion of the improvement and its opening to public use, that portion of Northampton Street in the Borough of Portland located between a point in the center of the highway 35 feet northwesterly from the center of the main track of Lehigh and New England Railroad Company, and a line parallel with and distant 12 feet southeasterly from the center of the main track of the railroad company, be and is hereby vacated and closed to public use.

IT IS FURTHER ORDERED: That, upon the completion of the improvement and its opening to public use, that portion of the existing township highway at the grade crossing located approximately 7100 feet northwest of the northerly line of the Borough of Portland which lies between the northeasterly right-of-way line of The Delaware, Lackawanna and Western Railroad Company and the northeasterly right of way of the new main highway hereinabove laid out, established and opened, be and is hereby vacated and closed to public use.

IT IS FURTHER ORDERED: That, upon the completion of the improvement and its opening to public use, that portion of Northampton Street in the Borough of Portland and that portion of the township road at the crossing located 7100 feet northwest of the northerly line of the Borough of Portland herein vacated be effectively barricaded to public use by the Department of Highways, the barricades at the Northampton Street crossing to be thereafter maintained by Lehigh and New England Railroad Company, and the barricades at the township road crossing to be thereafter maintained by The Delaware, Lackawanna and Western Railroad Company.

IT IS FURTHER ORDERED: That, upon the completion of the improvement and its opening to public use, Lehigh and New England Railroad Company maintain its altered facilities including the substructure and superstructure of its altered bridge; The Delaware, Lackawanna and Western Railroad Company maintain its relocated tracks and facilities, including the new drainage facilities located within the limits of the right of way for the relocated tracks and, in addition, maintain the paving of the altered grade crossing of its tracks at grade across the public highway approach to the interstate bridge over the Delaware River and continue to maintain and operate the gates at said grade crossing 24 hours daily; the Borough of Portland main-

tain the new marginal road, the altered portion of the public highway approach to the interstate bridge over the Delaware River and the altered portion of Delaware Avenue beyond the curb line of the new main highway hereinabove laid out, established and opened; the Township of Upper Mt. Bethel maintain all altered portions of the existing township roads and all altered portions of the existing state highway in the township located beyond the edge of the pavement of the new main highway hereinabove laid out, established and opened; and the Department of Highways maintain the balance of the improvement, including the new concrete curb along the portion of the new main highway located within the Borough of Portland.

PUBLIC SERVICE COMMISSION

v.

THE LEHIGH VALLEY TRANSIT COMPANY

COMPLAINT DOCKET No. 11318

Crossings—At grade—Street car companies—Adequacy of protection—Excessive speeds—Safety devices—Allocation of costs.

Upon complaint instituted by the Commission against a company the Commission found from the evidence that the cars of the company on the route complained of were one man cars, which were not equipped with dead man control; that cars were operated along highways and through boroughs at excessive speed, and at excessive speed over inadequately protected grade crossings.

Respondent was ordered to install automatic safety devices, that speed limits be reduced within certain limits, and that adequate signal systems be installed at certain grade crossings. Costs were allocated and completion date set.

S. G. Miller for the Public Service Commission.

Edmund G. Hauff and *J. Harry La Brum* for the Respondent.

REPORT AND ORDER BY THE COMMISSION, *March 8, 1937:*

Upon information indicating that the grade crossings of certain public roads and streets over the interurban electric line of Lehigh Valley Transit Company between Allentown and Philadelphia, said line being designated by the company as its Liberty Bell