

Pittsburgh Motor Express, their agents and employes, forthwith cease and desist the rendition of service as a common carrier within the boundaries of the Commonwealth of Pennsylvania.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

THE NEW YORK, ONTARIO AND WESTERN
RAILWAY COMPANY

COMPLAINT DOCKET No. 11589

Crossings—Crossing protection.

Upon complaint that crossing protection was inadequate, the Commission ordered flashing light signals to be installed in conjunction with watchman protection. Commission appropriated half the cost.

Paul Bedford for the N. Y., Ontario & Western R. R. Co.

Philip V. Mattes for the County of Lackawanna.

REPORT AND ORDER BY THE COMMISSION, *June 20, 1938:*

This matter comes before us, upon information by Dickson City Board of Trade, that the public crossings at grade of a single track of the Capouse Mine Branch of The New York, Ontario and Western Railway Company and of a single track of Johnson No. 2 Branch of the same company across Main Street, United States Highway Route No. 6, located, respectively, 3326 feet south of Dickson Station and 1056 feet south of Olyphant Station, both in the Borough of Dickson City, Lackawanna County, are dangerous and that additional protection should be provided in the interest of the public safety. Hearing has been held and briefs filed by respondent and Borough of Dickson City.

At the hearing in this proceeding, witness for the railway company testified that 15-foot earth banks, between which the track of the railway is located, obstruct the view of trains approaching the latter crossing from the west, and that similarly a gasoline filling station located in the northeastern quadrant of the crossing, detracts from the view obtainable to persons approaching

this crossing from the north, of trains approaching from the east. Witness also testified that at the Capouse Mine Branch crossing the clear views along the railroad were restricted by an earth bank in the southeastern quadrant of the crossing and by dwellings and a gasoline filling station in other quadrants. Another witness for the railroad company testified that in the past 10 years, five accidents resulting in injuries to six persons have occurred at the Johnson No. 2 Branch crossing, and 22 accidents resulting in the death of five persons and injuries to 16 persons have occurred at the Capouse Mine Branch crossing.

According to a traffic count made by the railroad company and submitted as respondent's exhibit No. 9, the Johnson No. 2 Branch crossing is used each day by an average of 8792 automobiles, five other vehicles, 17 bicycles or motorcycles, 2190 pedestrians and four freight trains. It was testified that the protection presently provided at the Johnson No. 2 Branch crossing was to stop trains 100 feet from the crossing and to have a flagman, equipped with a red flag in the daytime and a red lantern at night, advance to the crossing to warn highway traffic, and then to signal trains to proceed.

According to the traffic count submitted as respondent's exhibit No. 10, the Capouse Mine Branch crossing is used each day by an average of 7502 automobiles, four other vehicles, 753 pedestrians, 40 bicycles or motorcycles and 17 engines or trains. It was also testified by a witness for the railroad company that the Capouse Mine Branch crossing is presently protected by crossing watchmen for 18 hours daily, namely, between the hours of 6:30 A. M. and 12:30 A. M., and by trainmen when the watchman is not on duty. Witness for the railroad company testified it was estimated that flashing-light signals at the Capouse Mine Branch crossing would cost \$1600.

Witness for the Borough of Dickson City testified that at night, at the Capouse Mine Branch crossing, the watchman's lantern is often mistaken for the rear lamp of an automobile; also that in approaching the crossing by automobile from the south, the view of trains approaching from the east is restricted by the earth bank in the southeastern quadrant of the crossing.

From consideration of the testimony, we are primarily impressed with the occurrence of 27 accidents resulting in the death of five persons and injuries to 22 persons at these crossings in the past 10 years. The number of accidents at these crossings and the consequent toll of persons killed and injured appears to furnish

adequate evidence that the traveling public is not presently provided with sufficient protection at these crossings. Furthermore, it appears that at each crossing, the chief cause of accidents is due to the failure of the public to receive an adequate warning that the highway is obstructed, during such times as the crossing is occupied by moving or standing trains.

From the testimony, it is evident that the member of the train crew functioning as watchman in protecting train movements over the Johnson No. 2 Branch crossing, has merely preceded train movements over the crossing and has not remained on the crossing during the time it was obstructed by trains. It is evident also that the watchman protecting the Capouse Mine Branch crossing can only furnish protection on one side of the track when the highway at this point is similarly obstructed by trains. It further appears that continuous protection by watchmen will not improve this condition, and crossing gates, which were formerly maintained at the crossing have not proven practical. On the other hand, it was testified that flashing-light signals, if operated concurrently with the present watchman protection at this crossing should result in increasing the warning to the public, and lessen the possibility of accidents at this location.

After full investigation of the matters and things involved, we are of the opinion and find that the public crossings, at grade, of the Johnson No. 2 Branch and Capouse Mine Branch of New York, Ontario and Western Railway Company across Main Street (United States Highway Route No. 6), located in the Borough of Dickson City, Lackawanna County, are dangerous and should be additionally protected.

We further find that additional assurance against accidents will be provided at the Johnson No. 2 Branch crossing if the crossing is protected prior to and during the time it is occupied by engines or trains, and at the Capouse Mine Branch crossing by the installation of standard flashing-light signals to function with the manual protection presently provided there.

We further find that the hazard which exists at the Capouse Mine Branch crossing is caused in part by the unusually heavy volume of highway traffic passing over the crossing, due to through traffic on United States Highway Route No. 6, being routed on Main Street. We take cognizance of the public responsibility in connection with the routing of this traffic and accordingly will appropriate by separate order at Crossing Protection Docket No. 710, Eight hundred dollars, or not to exceed one-half the

actual cost of the flashing-light signals herein ordered to be installed at the Capouse Mine Branch crossing; THEREFORE,

NOW, to wit, June 20, 1938, IT IS ORDERED: That The New York, Ontario and Western Railway Company, within 30 days from date of service hereof, submit to this Commission for approval, detailed statement of cost, location and circuit plans for installing flashing-light signals of standard type and design at its grade crossing of Capouse Mine Branch, across Main Street (United States Highway Route No. 6), in the Borough of Dickson City, Lackawanna County.

IT IS FURTHER ORDERED: That The New York, Ontario and Western Railway Company install flashing-light signals at the said crossing in accordance with the plan approved by the Commission.

IT IS FURTHER ORDERED: That a trainman, equipped with a red flag in the daytime and with a lighted red lantern during the hours of darkness, shall be stationed on the crossing of Johnson No. 2 Branch of said railroad company across Main Street (United States Highway Route No. 6), in the Borough of Dickson City, Lackawanna County, prior to and for the duration of all train, engine or car movements over the crossing, and that said trainman, during the hours of darkness, shall further place a lighted red fusee in the ground or on a pole, at a point adjacent to the crossing, and in such location as to permit the red warning light of the fusee to be clearly visible to the public approaching the crossing.

PETITION OF W. S. CURLETT, AGENT

INTERMEDIATE RATE DOCKET No. 28

Public Utility Law—Article III, Section 304.

Petition by agent, in behalf of the carriers by railroad, operating in Pennsylvania, for publishing certain rates on sand, gravel, etc., without observing the Intermediate Rule of Article III, Section 304, was granted, where it was shown that this was a special case. Petition refused for such authorization as to any additional rates which may be established in the future.

No Appearances.