

DECISIONS OF

Pennsylvania Public Utility Commission

VOLUME 18



HARRISBURG, PENNSYLVANIA

1938

DEPARTMENT OF HIGHWAYS

*v.*THE DELAWARE, LACKAWANNA AND WESTERN
RAILROAD COMPANY, et al.

COMPLAINT DOCKET NOS. 1953, 1955 AND 4055

Practice and procedure.

Petition for modification of Commission order was allowed, where it was shown that petitioner was suffering from a lack of funds and due to a lack of business the result desired by the Commission order, could be achieved without the expenditure of so much money.

Gomer W. Morgan for the Delaware, Lackawanna & Western R. R.
R. F. Ingham for the Department of Highways.

SUPPLEMENTAL ORDER BY THE COMMISSION, *July 5, 1938:*

This matter is before us upon petition of The Delaware, Lackawanna and Western Railroad Company, dated March 16, 1938, seeking reconsideration and modification of the supplemental report and order dated January 4, 1937, so as to eliminate the requirement that the railroad company relocate its Martins Creek freight station building.

The Public Service Commission, by its report and order issued 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 and 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 provides, among other things, that the Martins Creek freight station building of The Delaware, Lackawanna and Western Railroad Company be relocated to a parcel of land appropriated for that purpose. The Delaware, Lackawanna and Western Railroad Company petitioned the Commission on April 14, 1936, for the elimination of the requirement that its freight station be relocated. This petition was denied on January 4, 1937, and the petitioner ordered to complete the work on or before January 1, 1938. Owing to decrease of business and lack

of funds the railroad company did not relocate the freight station within the specified time.

The instant petition sets forth that a platform erected on the proposed location of the station has been used for unloading from cars and delivery of such less than carload freight shipments as are handled at Martins Creek and has been sufficient to adequately and conveniently serve the public; that to comply with the order of January 4, 1937, would compel the railroad company to expend \$1,600; that the expenditure of this sum of money appears to be unwarranted and would be burdensome; that during the year 1937, 184 less than carload shipments were received of which the Alpha Portland Cement Company received 133 or 70% of the total; that the total revenue during 1937, received from inbound shipments amounted to \$541.09, of which amount only \$68.90 was received from consignees other than the Alpha Portland Cement Company; that the cement company has advised the railroad company that the facilities for handling freight shipments are adequate and convenient insofar as the cement company is concerned; that the railroad company has received no complaints from those who now use the present facilities and that there is no necessity for relocating the freight station.

The County of Northampton and The Delaware, Lackawanna and Western Railroad Company have entered into an agreement whereby the railroad company agrees to pay the County of Northampton the sum of \$200 and the county agrees to accept said sum in payment of any refund that is due for land paid for by the county.

All parties of interest have advised that they have no objection to the modification of the report and order, and that they do not desire to be heard in the matter.

Upon full and careful consideration of the matters and things involved, we find and determine that the prayer of the petition of The Delaware, Lackawanna and Western Railroad Company dated March 16, 1938, seeking a reconsideration and modification of supplemental report and order dated January 4, 1937, be granted, **THEREFORE;**

NOW, to wit, July 5, 1938, **IT IS ORDERED:** That the Commission report and order issued December 15, 1925, in these proceedings and the supplements and amendments thereto be and are hereby modified so as to eliminate the requirement that The Delaware, Lackawanna and Western Railroad Company relocate

its Martins Creek freight station building to a parcel of land appropriated by the Commission for that purpose.

IT IS FURTHER ORDERED: That The Delaware, Lackawanna and Western Railroad Company forthwith pay to the County of Northampton the sum of Two hundred dollars (\$200) to reimburse the county for moneys paid to the Alpha Portland Cement Company for the parcel of land required for the relocation of the freight station of the railroad company.

IT IS FURTHER ORDERED: That in all other respects, the report and order of December 15, 1925, as amended July 27, 1926, January 11, 1927, March 1, 1927, April 25, 1927 and March 19, 1929, remain in full force and effect.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

MARION HEIGHTS WATER COMPANY

COMPLAINT DOCKET No. 11075

Valuation—Ascertainment—Return—Reasonableness.

In ascertaining value of utility, the depreciated reproduction cost estimate theory was used.

The Commission allowed a rate of return at 6% on valuation. Where the return apparently would be greater than this amount the Commission ordered a new tariff filed in conformity with the findings. Operating expenses were deemed excessive and were therefore ordered reduced.

Harry H. Frank for the complainant.

John L. Pipa, Jr., for the respondent.

ORDER NISI BY THE COMMISSION, *July 5, 1938*:

This inquiry and investigation to determine whether the rates of Marion Heights Water Company, respondent, as set forth in Supplement No. 1 to Tariff Pa. P.U.C. No. 7, are or may be unreasonable and excessive, was initiated by The Public Service Commission upon its own motion by order of December 23, 1935, under the authority of the Public Service Company Law.