

DECISIONS OF

Pennsylvania Public Utility Commission

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\$795,900. Certain other tariffs then in effect, among which was Schedule "P-3," needed no change, and these schedules have continued in effect and, together with those tariffs required specifically to be filed, form the temporary rates under which the company is presently operating. In essence the proposed new schedule would establish a special tariff for one consumer. To do so is discrimination per se. Only the strongest evidence could overcome this presumption and such evidence is lacking here.

Under Section 310 of Article III of the Public Utility Law, it is provided that temporary rates, as fixed, determined and prescribed under that section, shall be effective until the final determination of the rate proceeding unless terminated sooner by the Commission. Hearings have been held with respect to the supplement proposed to be made effective by respondent and, as set out above, respondent has failed to justify any basis for the proposed reduction in minimum charge. We are therefore unable to find a basis for making or permitting any change at this time in the temporary rates prescribed by us in our order of October 19, 1937, at C. 11441; **THEREFORE,**

NOW, to wit, May 8, 1939, **IT IS ORDERED:** That respondent, Metropolitan Edison Company, be and is hereby directed to cancel the revision of Service Classification P-3 proposed by Supplement No. 5 to Tariff Electric-Pa. P. U. C. No. 33.

IT IS FURTHER ORDERED: That respondent forthwith supplement the tariff to continue in effect the provisions of Service Classification P-3 as effective December 1, 1937.

APPLICATION OF THE DELAWARE, LACKAWANNA AND
WESTERN RAILROAD COMPANY

APPLICATION DOCKET No. 56770

Railroad Crossings—Abolition—Public Safety.

Where, pursuant to authorization granted by the Interstate Commerce Commission, a railroad had abandoned its line and dismantled all its facilities excepting the track within the limits of a highway the Commission in the interest of public safety approved the removal of said track to eliminate a railroad crossing and ordered the surface of the highway to be restored to a safe and satisfactory condition at the sole expense of the railroad company.

No appearances.

ORDER NISI

BY THE COMMISSION, May 8, 1939:

Short or Hunyady Street, an improved highway with a paved width of 24 feet, extends in a general northwesterly and southeasterly direction through the Borough of Throop, Lackawanna County, and crosses at grade one main track and one siding track of the Pancoast Branch of The Delaware, Lackawanna and Western Railroad Company. In the instant application, the railroad company seeks our approval of the abolition of the crossing.

The Pancoast Branch of The Delaware, Lackawanna and Western Railroad Company was constructed by the applicant in 1880, primarily to serve an anthracite mining operation at or near the Village of Throop. This branch line has been out of service since May, 1937, and, on November 14, 1938, at Finance Docket No. 12149, a certificate was issued by the Interstate Commerce Commission, Division No. 4, permitting the abandonment by the petitioner of its Pancoast Branch.

The Pancoast Branch of the railroad company, exclusive of the portions located within the boundaries of the public highways in the Borough of Throop, has been dismantled and its facilities removed. No protest has been entered against the abandonment of the crossing.

Upon full consideration of the matters and things involved, we are of the opinion and find that the abolition of the crossing at grade, where Short or Hunyady Street crosses one main track and one siding track of the Pancoast Branch of The Delaware, Lackawanna and Western Railroad Company at a point in the Borough of Throop, Lackawanna County, is necessary or proper for the service, accommodation, convenience or safety of the public; **THEREFORE,**

NOW, to wit, May 8, 1939, IT IS ORDERED NISI: That the application be and is hereby approved.

IT IS FURTHER ORDERED NISI: That the crossing at grade, where Short or Hunyady Street crosses one main track and one siding track of the Pancoast Branch of The Delaware, Lackawanna and Western Railroad Company at a point in the Borough of Throop, Lackawanna County, be and is hereby abolished.

IT IS FURTHER ORDERED NISI: That The Delaware, Lackawanna and Western Railroad Company, at its sole cost and expense, furnish all materials and do all work necessary to remove the rails

and ties from within the limits of Short Street or Hunyady Street and to restore the highway surface disturbed by such removal to a proper and satisfactory condition.

IT IS FURTHER ORDERED NISI: That the raliroad company, at its sole cost and expense, furnish all materials and do all work necessary to remove the crossing warning signs at the crossing herein ordered abolished.

IT IS FURTHER ORDERED NISI: That the railroad company, at its sole cost and expense, furnish all materials and do all work necessary to install any facilities necessary to effect proper drainage of the highway at the crossing herein ordered abolished.

IT IS FURTHER ORDERED NISI: That all work necessary to complete the improvement herein ordered be done in a manner satisfactory to this Commission and be fully completed on or before June 1, 1939.

IT IS FURTHER ORDERED NISI: That, effective upon the completion of the improvement herein ordered, the Borough of Throop, at its sole cost and expense, thereafter maintain that portion of the highway, formerly occupied by the crossing herein ordered abolished, including any necessary drainage facilities.

IT IS ORDERED: That, unless exceptions are filed hereto by one or more of the parties in interest within 15 days after service of this order nisi, it shall become the final order in this proceeding.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

ST. MARYS WATER COMPANY

COMPLAINT DOCKET No. 11419

Intervene—Jurisdiction.

It has been the policy of the Commission to allow a party to intervene only where it is clearly shown that that party has a direct interest in the proceeding and the issues of the proceeding will not thereby be broadened.

Paul D. Larimer and John C. Kelley for Pennsylvania Public Utility Commission.

John H. Murdoch, Jr. and C. A. Dickey for Respondent.

Thomas G. Gregory for the Borough of St. Marys.