

DECISIONS OF

**Pennsylvania Public Utility**

**Commission**

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**VOLUME 25**



HARRISBURG, PENNSYLVANIA

1947

## IT IS ORDERED:

1. That Western Maryland Railway Company provide all materials and do all work necessary to install and thereafter maintain flashing-light signals of standard type at the crossing at grade of its tracks across Commerce Street in the Borough of Chambersburg, Franklin County.

2. That the sum of one thousand fifty dollars (\$1,050) be and is hereby appropriated by Pennsylvania Public Utility Commission toward the cost of installing said flashing-light signals out of funds specifically appropriated to it for the protection of crossings of public highways over the tracks of railroad and street railway corporations by Appropriation Act No. 77A-1943, Symbol 517007; provided, however, that should said sum be in excess of one-half the actual certified cost of said installation (excluding any and all charges comprising percentages assessed against labor or materials, for any purpose whatsoever, and further excluding all charges in excess of a maximum rental of \$10 an hour for work train service and \$2 a day of 24 hours for bunk and tool car rental; such rental charges to be in lieu of all other labor, materials and intangible charges for the use of said equipment; and including proper credit for the salvage value of materials replaced), the amount hereby appropriated shall be one-half of said actual cost as above computed; said specific sum or lesser amount, as the case may be, to be paid to Western Maryland Railway Company, when and as certified by Pennsylvania Public Utility Commission, to apply on the cost of materials to be furnished and work to be done by Western Maryland Railway Company in accordance with this order.

3. 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 November 1, 1945, and that on or before said date Western Maryland Railway Company certify to this Commission the date of actual completion of the work.

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APPLICATION OF THE DELAWARE, LACKAWANNA AND  
WESTERN RAILROAD COMPANY

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APPLICATION DOCKET No. 63682

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*Procedure—Rehearing—Public Safety.*

Although Section 1006 of the Public Utility Law anticipates the issuance of an order by the Commission as a necessary condition precedent to consideration of

any application for rehearing, the Commission may, upon its own initiative, schedule further hearing in cases which involve the safety of the public.

*Commission—Practice and Procedure.*

When the Commission functions as a quasi-judicial tribunal, it possesses a certain latitude of discretion in procedural matters.

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*Gomer W. Morgan* for Applicant.

*Thomas M. Lewis* for Plymouth Borough.

*John R. Verbalis* for Plymouth Borough 8th Ward Citizens.

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BY THE COMMISSION, *May 7, 1945:*

This matter is before us at this interim stage of the proceeding upon a petition for rehearing, filed April 6, 1945, by the applicant. An answer to the aforementioned petition was filed by protestants on April 23, 1945. Both pleadings have been given due consideration.

The petition avers, inter alia, that, subsequent to hearings held August 8, 1944, and October 2, 1944, and submission of briefs on behalf of the respective parties, the applicant has prepared and desires to submit for the information of the Commission a new and additional plan for the operation of certain safety devices for the protection of the crossing involved herein designed to be more effective and adequate than those submitted heretofore.

The answer to the petition which requests that the matter be disposed of upon the present record raises, inter alia, a technical objection to the granting of a rehearing. Based thereon, we are forced to dismiss the petition. Section 1006 of the Public Utility Law, 1937, P. L. 1053, providing for rehearing, anticipates the issuance of an order by this Commission as a necessary condition precedent to consideration of any application for rehearing. Under such circumstances the petition filed by applicant is premature. On the other hand, our examination of the record indicates that the merits of the application, involving as it does matters of public safety, are such as to warrant our considered interest and judgment. We take cognizance of the fact that the Commission, functioning in matters of this sort as a quasi-judicial tribunal, possesses certain latitude of discretion with respect to the procedural aspect of matters brought before us. It appears, therefore, in the interests of expediency and with the realization that matters of public safety are involved, that we, upon our own initiative, should direct further hearing in the premises;

THEREFORE,

IT IS ORDERED:

1. That the petition for rehearing filed on behalf of The Delaware, Lackawanna and Western Railroad Company, applicant herein, be and is hereby dismissed.

2. That the application of The Delaware, Lackawanna and Western Railroad Company at A. 63682 be scheduled for further hearing upon due notice of the time and place thereof to parties at record.

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BEN POLANDO, ET AL.

v.

MENALLEN WATER COMPANY

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COMPLAINT DOCKET No. 14030

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*Service—Water—Charter Rights.*

A company incorporated and chartered for the purpose of supplying, storing, and transferring water and water power for commercial and manufacturing purposes does not have the right or obligation to furnish water for agricultural and domestic uses.

*Water Service—Duty to Serve Limited to Charter Rights.*

Under Section 2 (IX) of the Corporation Act of April 29, 1874, P. L. 73, as amended, a company incorporated for supplying water for commercial and manufacturing purposes does not have the charter right to furnish a general water supply, but is limited to service for commercial and manufacturing purposes and may not lawfully furnish domestic service except as may be incidental to its service for commercial and manufacturing purposes.

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*John G. Gaut* for Respondent.

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BY THE COMMISSION, *May 7, 1945:*

By this proceeding certain residents of the Village of Keisterville in Menallen Township, Fayette County, seek to have public water supply service made available to them by Menallen Water Company. Complainants set forth that they are residents and owners of property in Keisterville, a village of approximately 1,000 population laid out along streets and alleys, formerly owned by Lincoln Coal and Coke Company, having no source of water for domestic use for the residents other than some shallow wells and an open reservoir, the water from which is unfit for human consumption.