

DECISIONS OF

**Pennsylvania Public Utility**

**Commission**

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protestant carriers resulting therefrom will not be unreasonable in the light of this added convenience and accommodation.

After full investigation of the matters and things involved, we are of the opinion and find that approval of the instant application is necessary for the service, accommodation, convenience or safety of the public; THEREFORE,

IT IS ORDERED:

1. That approval of the application of Joseph L. and John T. Maguire, trading as Capitol Bus Company, at A. 34430, Folder 2, Am-C, for an amendment of our order and certificate of January 17, 1939, as modified and amended by various supplemental orders, be and is hereby granted so as to permit the exercise of the following additional right:

To transport persons on schedule between Wilkes-Barre, Luzerne County, and Scranton, Lackawanna County, in either direction over U. S. Highway Route 309 from Wilkes-Barre to its intersection with U. S. Highway Route 11 at Pittston, thence over U. S. Highway Route 11 through the boroughs of Dupont, Avoca and Moosic to the City of Scranton, with an alternate route from Wilkes-Barre over State Highway Route 315 to the Borough of Dupont, thence over U. S. Highway Route 11 to the City of Scranton,

with the right to render shuttle service between, and consolidate their present service with, service to and from any points along the route herein described and their presently existing routes, subject to the following condition:

That no right, power or privilege is granted to transport passengers locally whose origin and destination are located on U. S. Highway Route 309, U. S. Highway Route 11 and State Highway Route 315, between and including Wilkes-Barre, on the one hand, and Scranton on the other.

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

ERIE RAILROAD COMPANY

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COMPLAINT DOCKET No. 14135

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*Abandonment—Crossings—Commission Approval Required—Interstate.*

Any abandonment of crossings located on a line of railroad which is part of an interstate system or which is owned by an interstate system is unlawful unless Commission approval is obtained even though the Interstate Commerce Commission has permitted the abandonment.

*W. T. Pierson* for Erie Railroad Company.

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BY THE COMMISSION, *April 15, 1946:*

Erie Railroad Company has filed with the Interstate Commerce Commission an application dated January 21, 1946, and docketed at F. D. 15190 for a certificate of public convenience and necessity authorizing the abandonment of that portion of its line of railroad located between a point 300 feet west of the Sinclair Refining Company's switch at Survey Station 1471+04 west of Blossburg, Tioga County, and the end of the line at Hoytville, Tioga County, a distance of about 13.205 miles.

The Pennsylvania Public Utility Commission has information in its possession indicating that 14 highway crossings at grade are located on the portion of the line which the railroad company seeks Interstate Commerce Commission permission to abandon.

In reply to our inquiry dated February 1, 1946, relative to the abolition of the crossings at grade, Erie Railroad Company advises as follows:

"Subsequent to the approval of the Interstate Commerce Commission of the abandonment of the Tioga Division of the Erie Railroad between the New York-Pennsylvania State Line and Tioga Junction, Pa., we restored all highway-railroad crossings to the satisfaction of the highway authorities. It is our intention to do likewise with respect to all highway-railroad crossings on the Hoytville Branch between Survey Station 1471 plus 04 west of Blossburg, Pa., and the end of the line at Hoytville, Pa., if the abandonment of the same is approved by the Interstate Commerce Commission. It is not our intention to file applications with the Public Utility Commission seeking approval of the abolition of the crossings."

The Attorney General of the Commonwealth of Pennsylvania by Formal Opinion No. 482 advises, *inter alia*:

"\* \* \* That under the provisions of Section 409 of the Public Utility Law the Public Utility Commission has jurisdiction over the abolition of crossings located on a line of railroad which is a part of an interstate system or which is owned by an interstate system where the Interstate Commerce Commission has approved the abandonment of said line if the Public Utility Commission has not consented unconditionally to such abandonment."

Applying the Attorney General's Opinion, an application seeking approval of the abandonment of interstate service and of the abolition of the crossings on the portion of the line of railroad, proposed to be abandoned, should be filed with the Pennsylvania Public Utility Commission. Without such approval, abandonment of service or abolition of crossings would subject respondent to the penalties provided by law; THEREFORE,

Pennsylvania Public Utility Commission hereby institutes an investigation upon its own motion under the provisions of the Public Utility Law to determine why Erie Railroad Company should not file applications for Commission approval of: (1) abandonment of intrastate service on the portion of its Hoytville Branch proposed to be abandoned; and (2) abolition of any public highway crossing or crossings located on the portion of its Hoytville Branch proposed to be abandoned.

IT IS ORDERED: That a copy of this order of investigation be served upon Erie Railroad Company, respondent; answer thereto to be filed within 15 days of the date of service hereof and that the case be listed for hearing upon due notice to the respondent.

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HARMONY SHORT LINE MOTOR TRANSPORTATION  
COMPANY

v.

E. E. MACDONALD, F. F. WINTERS, trading as BUTLER MOTOR  
COACH COMPANY and GRAHAM AVIATION FLYING  
SCHOOLS, INC.

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COMPLAINT DOCKET No. 13914

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*Motor Carriers—Transportation of Government Aviation Trainees—Jurisdiction—Private Carrier.*

An aviation flying school incorporated to give flying instructions to government aviation cadets and operating passenger busses to and from an airport is not engaged as a common carrier within the purview of the Public Utility Law where the bus service is rendered for the exclusive use and convenience of trainees under government contract without direct charge and incidental to the school's main business of training air cadets.