

DECISIONS OF

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From the record, it is clear that respondent is misinterpreting the aforesaid Rule 11 (b). Had the service been rendered, for example, to supplement a contemporaneously scheduled run on which a bus had broken down, or where an insufficient number of buses had been dispatched in response to a call on a day when regular service is rendered, or dispatched to supplement existing service during a snow emergency or to a special event of wide interest likely to attract a large number of people, the rule would be applicable. But to provide a service which it has discontinued for lack of business, namely, a run over the Overlook line on a Sunday just to accommodate its own group and party work is a subterfuge and clearly is not within the intendment of our rule; **THEREFORE,**

IT IS ORDERED:

1. That the complaint at C. 17626 be and is hereby sustained.
2. That respondent cease and desist from the transportation of persons not authorized by its certificate of public convenience and not in accordance with the provisions of the Commission's Bus and Taxicab Regulations.

**APPLICATION OF ERIE-LACKAWANNA RAILROAD
COMPANY**

APPLICATION DOCKET No. 87805

Service Discontinuance—Stations—Railroad Companies—Agency Status.

A railroad company is refused permission to change the agency freight status of one of its stations to that of a nonagency carload only freight station, where the railroad failed to allege that its operation of the station was not conducted at a profit, gross station revenues had increased annually for the past four years, the proposed savings appeared slight when compared to the inconvenience which would befall the users of the freight service upon the elimination of the personal and immediate service offered by the agent, a substantial business was handled through the station, and the elimination would subject less-than-carload shippers to travel round-trip distances of many miles.

Warren, Hill, Henkelman and McMenamin by *Cody H. Brooks* for Erie-Lackawanna Railroad Company.

Brandon and Shearer by *Thomas P. Shearer* for Spencer Milling Company.

M. D. O'Malley for Thompson Borough Council, et al.

Ulric McHale for Borough of Forest City.

BY THE COMMISSION, *February 19, 1962*:

This matter is before the Commission upon application of Erie-Lackawanna Railroad Company for approval of a change in the status of its station in the Borough of Thompson, Susquehanna County, from that of an agency freight station to that of a nonagency carload only freight station. Protests were entered against Commission approval of the application.

At a public hearing held at Montrose on March 8, 1961, one witness testified on behalf of the applicant and five witnesses were heard in protest. Applicant submitted one exhibit which was admitted into the record. A brief was filed on behalf of the protesting Spencer Milling Company.

Thompson station is located on the Jefferson Division of The Delaware & Hudson Railroad Corporation, 13 miles by highway east of its Susquehanna agency and 17 miles by highway west of its Forest City agency. A full time agent is in attendance daily from 8 a. m. to 4 p. m. Saturdays, Sundays, and holidays excepted. Thompson, a rural community, has an approximate population of 430 people. Carload and less-than-carload traffic is presently handled by rail on a two day per week basis. No passenger or Western Union services are provided at the Thompson Station.

A recapitulation of applicant's exhibit showing results of its freight operations at Thompson follows:

Year	Carload				Less-than-carload Shipments				Total Gross Revenue*
	In	Out	Total	Revenue	In	Out	Total	Revenue	
1957	134	0	134	\$20,264	113	6	119	\$689	\$20,952
1958	140	0	140	23,733	93	6	99	622	24,355
1959	189	0	189	29,007	134	7	141	850	29,857
1960 (6 months)	127	0	127	21,016	68	5	73	488	21,504

* Erie-Lackawanna Railroad's share of gross revenue approximately 57 per cent.

Applicant's exhibit showing the annual operating expenses at Thompson follows:

Agent's salary	\$5,053	
D & H Railroad Composite	1,218	
		\$6,271
Telephone, heating, electricity, tariffs, water, stationery supplies		288
		\$6,559
Total		

Applicant proposes, in the event of Commission approval of this application, that the agent at Susquehanna would have jurisdiction over Thompson freight operations. Carload shipments would be handled, on a prepaid basis, as at present, except that shipments consigned to patrons on the credit list could be handled on a collect basis, if so desired. The agent at Susquehanna would render freight bills, make collections, and furnish arrival notices.

Less-than-carload traffic, incoming and outgoing, would be discontinued at Thompson but would be handled at the Susquehanna agency station. Consignees would be notified via telephone or U. S. mail regarding arrival of shipments.

To further clarify the operation at Thompson, the applicant's supervisor of stations and car service, testified, "the D & H own the railroad; in fact, the Erie-Lackawanna Railroad sold it to D & H in the neighborhood of about five years ago. The stations and the track-and everything belongs to the D & H Company. The agencies work for the D & H Railroad, and they bill the Erie-Lackawanna Railroad Company for the service." This witness stated that one motor carrier presently services the Thompson area, but he was not familiar with its operating schedule.

The five witnesses for the protestants included three feed merchants, a dairy farmer and a freight conductor of applicant, a legislative representative of the Brotherhood of Railroad Trainman. Their testimony collectively shows, among other things, that the agent's presence is valuable in expediting damage claims, issuance of arrival notices, spotting cars, and receiving payment of freight charges. Protestants' witnesses also testified that the primary traffic into Thompson is chicken feed which must be unloaded from the car and distributed promptly. In some cases, sales are made directly from the railroad car and protestants expressed doubt as to the applicant's Susquehanna agency's ability to provide the expediency necessary to estimate damage and permit unloading of cars. It was established that the facilities at the Thompson agency are utilized by additional patrons from the outlying areas, namely, Thompson Township, Ararat Township, and Harmony Township.

The record discloses, among other things, that an annual saving of \$6558 would appear to be realized by the applicant if the Commission approved the application. However, applicant does not allege that its operation of this station is not conducted at a profit. Indeed, gross station revenues have increased annually for the past four years. The proposed savings appear slight when compared to the inconvenience which would befall the users of the freight service upon the elimination of the personal and immediate services offered by the present agent. It is further evidenced that a substantial freight business is handled through the Thompson station when compared to the agency expense. In addition, the less-than-carload shippers would be subject to additional expense and time traveling a round-trip distance of 26 miles to transact shipping business.

Accordingly, after full consideration of the matters and things herein involved, we find and determine that our approval is neither necessary nor proper for the service, accommodation, convenience, or safety of the public; **THEREFORE,**

IT IS ORDERED: That approval of the prayer of the application of Erie-Lackawanna Railroad Company docketed at A. 87805, seeking a change in the status of its station in the Borough of Thompson, Susquehanna County, from that of an agency freight station to that of a nonagency carload only freight station, be and is hereby denied.