

FINANCE DOCKET No. 426 ¹

GUARANTY SETTLEMENT WITH DELAWARE, LACKAWANNA & WESTERN R. R. AND AFFILIATED COMPANIES

Submitted March 24, 1923. Decided July 16, 1924

Amount necessary to make good the guaranty of section 209 of the transportation act, 1920, to the carriers ascertained to be \$7,169,804.59. An aggregate amount of \$5,124,500 having been certified for payment as advances under paragraph (h), and an aggregate amount of \$2,000,000 having been certified as partial payments under paragraph (g) of said section, as amended by section 212, the amount due the carriers in final settlement is \$45,304.59. Certificate issued.

W. H. Truesdale for the carrier.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER

BY DIVISION 4:

The Delaware Lackawanna & Western Railroad Company, the Harlem Transfer Company, the Lackawanna & Montrose Railroad Company, and the Sussex Railroad Company, hereinafter termed the carriers, are carriers partly by railroad and partly by water, which during the guaranty period engaged as common carriers in general transportation. Their lines of railroad were under Federal control from January 1, 1918, to February 29, 1920, inclusive, and they are, therefore, carriers within the meaning of paragraph (a) of section 209 of the transportation act, 1920. The carriers filed with us a written statement accepting the provisions of section 209 on or before March 15, 1920.

The returns of the carriers under our orders of October 18, 1920, January 5, 1921, and December 15, 1921, together with supplemental data, have been examined and it has been ascertained that the debits and credits arising from the accounts called in the monthly reports to us "equipment rents" and "joint facility rents" have been included, and that there are included no debits or credits arising from the operation of street electric passenger railways or interurbans not under Federal control at the termination thereof. In fixing the amount to be allowed for maintenance of way and

¹ This report also embraces Finance Dockets Nos. 516, 567, and 821.

structures and maintenance of equipment in the guaranty period we applied, so far as practicable, the rule set forth in the proviso of paragraph (a) of section 5 of the standard contract between the United States and carriers under Federal control. It has also been ascertained that there were not included any so-called war taxes in arriving at the net railway operating income or deficit for either the test period or the guaranty period, and that there are no eliminations necessary due to disproportionate or unreasonable charges, or charges attributable to another period, under a proper system of accounting. An estimate of the net effect of unaudited items has been made and agreed to under the provisions of paragraph (b) of section 212 of the transportation act, 1920. As a result of our investigation it has been ascertained that the amount necessary to make good the guaranty to the carriers is \$7,169,804.59, as shown by the following statement:

Delaware, Lackawanna & Western Railroad Company

Basis of claim:	
Net railway operating income for the guaranty period.....	\$729, 061. 68
One-half amount of annual compensation under Federal control act named in contract.....	8, 028, 970. 83
Increase in compensation under section 4 of the Federal control act	238, 749. 83
Total amount claimed.....	7, 538, 658. 98
Adjustments:	
Amount claimed based on section 4 of the Federal control act.....	\$238, 749. 83
Allowance based on section 4 of the Federal control act	216, 055. 50
Deduction under section 4.....	22, 694. 33
Net railway operating income during the guaranty period, as claimed.....	\$729, 061. 68
Net railway operating income during the guaranty period, as adjusted.....	753, 005. 64
Deduction for guaranty period.....	23, 943. 96
Amount claimed for maintenance of way and structures and maintenance of equipment..	\$14, 087, 350. 34
Amount fixed for maintenance of way and structures and maintenance of equipment..	13, 698, 342. 63
Deduction for maintenance.....	389, 007. 71
Deduction on account of items estimated by us and agreed to by the carrier under section 212(b) of the transportation act, 1920.....	104, 362. 95
Total deductions.....	540, 008. 95
Amount necessary to make good the guaranty.....	6, 998, 650. 03
90 I. C. C.	

Harlem Transfer Company

Basis of claim:

Deficit in net railway operating income for the guaranty period	\$24,152.16
One-half amount of annual compensation under Federal control act named in contract.....	10,528.63
Decrease in compensation under section 4 of the Federal control act	1,998.88
Total amount claimed.....	32,681.91

Adjustments:

Amount claimed for maintenance of way and structures and maintenance of equipment....	\$16,434.43
Amount fixed for maintenance of way and structures and maintenance of equipment.....	14,953.37
Deduction for maintenance.....	1,481.06

Amount necessary to make good the guaranty..... 31,200.85

Lackawanna & Montrose Railroad Company

Basis of claim:

Deficit in net railway operating income for the guaranty period	\$27,121.38
One-half amount of annual deficit in net railway operating income for the test period.....	4,616.04
Increase in compensation under section 4 of the Federal control act	9.98
Total amount claimed.....	22,515.32

Adjustments:

Amount claimed for maintenance of way and structures and maintenance of equipment....	\$16,643.13
Amount fixed for maintenance of way and structures and maintenance of equipment.....	15,879.39
Deduction for maintenance, total deduction.....	763.74

Amount necessary to make good the guaranty..... 21,751.58

Sussex Railroad Company

Basis of claim:

Deficit in net railway operating income for the guaranty period	\$138,632.37
One-half amount of annual deficit in net railway operating income for the test period.....	14,968.82
Increase in compensation under section 4 of the Federal control act.....	116.93
Total amount claimed.....	123,780.48

90 I. C. C.

Adjustments:

Amount claimed based on section 4 of the Federal control act.....	\$116. 93	
Decrease based on section 4 of the Federal control act	46. 60	
Deduction under section 4.....		\$163. 53
Amount claimed for maintenance of way and structures and maintenance of equipment.....	\$91, 040. 02	
Amount fixed for maintenance of way and structures and maintenance of equipment.....	85, 625. 20	
Deduction for maintenance.....		5, 414. 82
Total deductions.....		5, 578. 35
Amount necessary to make good the guaranty.....		118, 202. 13

Summary

Delaware, Lackawanna & Western Railroad Company.....	\$6, 998, 650. 03	
Harlem Transfer Company.....	31, 200. 85	
Lackawanna & Montrose Railroad Company.....	21, 751. 58	
Sussex Railroad Company.....	118, 202. 13	
Amount necessary to make good the guaranty to the carriers---		7, 169, 804. 59

Certificates for advances under paragraph (h) and for partial payments under paragraph (g) of section 209, as amended by section 212, have been issued by us in favor of the carriers as follows:

Advance, certificate No. 55, June 17, 1920.....	\$1, 142, 000	
Advance, certificate No. 95, July 15, 1920.....	1, 282, 500	
Advance, certificate No. 206, Aug. 28, 1920.....	2, 000, 000	
Advance, certificate No. 256, Oct. 12, 1920.....	700, 000	
Partial payment, certificate No. 353, Mar. 19, 1921..	2, 000, 000	
Total		7, 124, 500

The amount due the carriers, is therefore, \$45,304.59, for which an appropriate certificate will be issued in favor of the Delaware, Lackawanna & Western Railroad Company, pursuant to authority on file with us.

COMMISSIONER POTTER did not participate in the disposition of this case.

Certificate No. A-1001 under Section 209 (g) of the Transportation Act, 1920

TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES:

1. The Interstate Commerce Commission, hereinafter called the commission, hereby certifies that the Delaware, Lackawanna & Western Railroad Company and the Lackawanna & Montrose Railroad Company, corporations of the State of Pennsylvania, the Harlem 90 I. C. C.

Transfer Company, a corporation of the State of New York, and the Sussex Railroad Company, a corporation of the State of New Jersey, hereinafter called the carriers, are carriers as defined in paragraph (a) of section 209 of the transportation act, 1920; and that the carriers filed with the commission on or before March 15, 1920, written statements that they accepted all of the provisions of said section 209; and that the three companies last mentioned individually filed with the commission resolutions passed by each of their boards of directors authorizing the Delaware, Lackawanna & Western Railroad Company to act as their agent in effecting settlement under said section 209 and to receive payment of any sum or sums due them thereunder, said companies being under common control through direct or indirect ownership of their capital stock and composing a single system of transportation.

2. The commission has ascertained, and hereby certifies to the Secretary of the Treasury, that the amount of \$7,169,804.59 is the amount necessary to make good to said carriers the guaranty provided by section 209 of the transportation act, 1920.

3. The commission has heretofore certified to the Secretary of the Treasury as advances to the companies herein involved under paragraph (h) of section 209, an aggregate amount of \$5,124,500, as follows:

Certificate No. 55, June 17, 1920.....	\$1,142,000
Certificate No. 95, July 15, 1920.....	1,282,500
Certificate No. 206, Aug. 28, 1920.....	2,000,000
Certificate No. 256, Oct. 12, 1920.....	700,000

and as a partial payment under section 209 (g), as amended by section 212, an amount of \$2,000,000 under certificate No. 353, dated March 19, 1921.

4. The commission hereby certifies that the amount necessary to make good to said carriers the guaranty provided by said section 209, in addition to the amount of advances and partial payment heretofore certified, as aforesaid, is \$45,304.59.

5. The commission has made final determination, as aforesaid, of the amount of the guaranty provided for by said section 209.

Dated this 16th day of July, 1924.

90 I. C. C.