

cable on said extension, shall in such schedules refer to this certificate by title, date, and docket number.

And it is further ordered, That this certificate shall take effect and be in force from and after 30 days from the date it is issued.

FINANCE DOCKET No. 4473

CONSTRUCTION OF LINE BY DELAWARE, LACKAWANNA & WESTERN R. R.

Submitted January 26, 1925. Decided February 18, 1925

Certificate issued authorizing the Morris & Essex Railroad Company and the Delaware, Lackawanna & Western Railroad Company to construct and operate a line of railroad in Bergen and Hudson Counties, N. J.

William S. Jenney and Alfred P. Thom for applicants.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND POTTER

BY DIVISION 4:

The Morris & Essex Railroad Company, a corporation organized for the purpose of engaging in interstate commerce by railroad, and the Delaware, Lackawanna & Western Railroad Company, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the Essex and the Lackawanna, respectively, on November 21, 1924, filed a joint application under paragraph (18) of section 1 of the act for a certificate that the present and future public convenience and necessity require the construction and operation of a line of railroad extending from a point near Kingsland station in the township of Lyndhurst, Bergen County, in a general southerly direction to a point in or near the town of Harrison, Hudson County, making connections at each end with the railroad of the Essex, a total distance of 6.77 miles, all in the State of New Jersey. The Port of New York Authority, a body corporate and politic established by compact between the States of New York and New Jersey, such compact having been ratified by Congress, to effectuate the comprehensive development of the port of New York, has investigated the proposed construction and has interposed no objection to the granting of the application. No representations have

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been made by public authorities and no objection to the granting of the authority sought has been presented to us.

The applicants contend that we have no jurisdiction over the construction and operation of the proposed line for the reason that it is a switching track falling within the purview of paragraph (22) of section 1 of the act, and that it is therefore unnecessary for them to secure a certificate from us. They ask that we first determine whether or not a certificate of public convenience and necessity is required. The record indicates that the proposed line is to be used as a cut-off over which both passenger and freight trains will be moved in interstate commerce to destination. We are of the opinion that we have jurisdiction.

The Essex was incorporated on January 29, 1835, under the laws of the State of New Jersey. The Lackawanna was incorporated in Pennsylvania on March 19, 1849, as the Ligett's Gap Railroad Company. In 1853 its present name was adopted. By lease dated December 10, 1868, the Essex leased its railroad to the Lackawanna for the full term of the continuance of its charter and of any and all renewals thereof.

The railroad owned by the Essex divides at Danville, N. J., into two lines which run through different sections to a point immediately west of the Hoboken tunnels and east of the Hackensack River, a distance of approximately 34 miles, where the lines are connected by a wye track. These lines then run through two tunnels to the Hoboken passenger and freight terminal. One of the lines, known as the Morristown branch, runs through Morristown, Summit, the Oranges, and Newark, N. J., and handles a large volume of commuting passenger traffic to and from New York City. It is used almost exclusively for passengers, only local freight being handled thereon. The other line, known as the Boonton branch, runs through Boonton, Paterson, and Passaic, N. J., and is used chiefly for freight traffic.

In order to relieve the Morristown branch from freight traffic as much as possible, it is the practice to move freight from Newark and points west thereof on the Morristown branch to the wye and there switch such freight over to the Boonton branch for movement to destination. Freight carried by the Boonton branch destined to Newark and points west thereof on the Morristown branch is switched over the wye track to the Morristown branch for movement to destination. This practice involves a difficult movement of a considerable amount of freight at a point congested with passenger and freight traffic. The proposed line is designed to relieve this situation by acting as a cut-off between the two branches. It will be located

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about 3.5 miles west of the wye, and west of the Hackensack River. In the event that traffic is held up by reason of one of the drawbridges on either of the branches over the Hackensack River becoming out of order, traffic can be diverted to the other branch without material interruption in service.

The Lackawanna will construct the proposed line in behalf of the Essex and as a part of that company's railroad. It will be operated by the Lackawanna under the provisions of the lease hereinbefore referred to. Construction will be financed by the Lackawanna from funds now available in its treasury and the expenditures for such construction charged against the Essex. It is stated that the Essex will probably issue securities to the Lackawanna at some future date covering such advances. Nothing herein is to be construed, however, as authorizing the issue of any securities.

The new railroad will be single track and laid with 101-pound rail. It will not reach any city, town, community, or industry not now served by the Lackawanna. No new stations will be established. Of the 6.77 miles of track to be built, 4.87 miles will be main line and the remaining 1.9 miles will be connecting tracks. Cost of construction is estimated by the applicants at \$2,135,360. About 60 per cent of that amount will be expended for grading, bridges, trestles, and culverts. The applicants expect to begin construction by March 1, 1925, and to complete the line by December 1, 1926.

Upon the facts presented we find that the present and future public convenience and necessity require the construction and operation by the applicants of the line of railroad in Bergen and Hudson Counties, N. J., described in the application. An appropriate certificate will be issued.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Issued February 18, 1925

Investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is hereby certified, That the present and future public convenience and necessity require the construction and operation by the Morris & Essex Railroad Company and the Delaware, Lackawanna & Western Railroad Company of the line of railroad in Bergen and Hudson Counties, N. J., described in the application and report aforesaid: *Provided, however,* And this certificate is issued upon the

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express condition, that the construction of said line of railroad shall be commenced on or before June 1, 1925, and be completed on or before December 31, 1926.

It is ordered, That the Morris & Essex Railroad Company or the Delaware, Lackawanna & Western Railroad Company shall report to this commission, in writing, the commencement and the completion of such construction within 15 days after such commencement or completion, respectively.

And it is further ordered, That the Delaware, Lackawanna & Western Railroad Company, when filing schedules establishing rates and fares applicable on said line of railroad, shall in such schedules refer to this certificate by title, date, and docket number.

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