

FINANCE DOCKET No. 8337  
**MORRIS & ESSEX RAILROAD COMPANY ET AL. PRO-  
 POSED ABANDONMENT**

*Submitted May 5, 1931. Decided May 27, 1931*

1. Public convenience and necessity not shown to permit the abandonment by the Morris & Essex Railroad Company and the Delaware, Lackawanna & Western Railroad Company, lessee, of a portion of a loop line of railway in Morris County, N. J. That part of the joint application for such abandonment denied.
2. That part of the application for authority to abandon operation of passenger service on the remaining portion of said line dismissed.

*John L. Seager and William S. Jenney for applicants.*

*Joseph G. Wolber and Howard F. Barrett for borough of Rockaway, A. Harry Moore for Chamber of Commerce of Borough of Rockaway, and Francis S. Stickle for himself, protestants.*

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND MAHAFFIE

BY DIVISION 4:

No exceptions were filed to the report proposed by the examiner.

On June 21, 1930, The Morris and Essex Railroad Company, a corporation organized under the laws of the State of New Jersey for the purpose of engaging in interstate commerce by railroad, and The Delaware, Lackawanna and Western Railroad Company, lessee, a carrier by railroad subject to the interstate commerce act, hereinafter referred to as the M. & E. and the D., L. & W., respectively, filed a joint application under section 1 (18) of the act for a certificate that the present and future public convenience and necessity permit the abandonment by them of the portion of the so-called Rockaway loop of the M. & E. extending from a point 25 feet east of the easterly line of Main Street in the borough of Rockaway in a general southwesterly direction to a connection with the M. & E. main line at East Dover Junction, 2.07 miles, in Morris County, N. J. Authority is also requested for the abandonment by the D., L. & W. of steam passenger operation over the remaining portion of the Rockaway loop, namely, from said point east of Main Street in a general easterly direction to a connection with the M. & E. main line at Denville, 11,870 feet. It is proposed to substitute motor-

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bus service for the present passenger operation. Freight service will continue between Rockaway and Denville.

The protestants, representing the residents of Rockaway, object to the granting of the application, particularly as it relates to the proposed discontinuance of passenger trains on the easterly part of the loop. A hearing was held for us by the Board of Public Utility Commissioners of the State of New Jersey. Following the hearing, that body denied a similar application which had been presented to it. The parties hold differing views as to the jurisdiction of the State in the premises. The lines of the M. & E. lie entirely within New Jersey, but they are operated as a part of an interstate system. The lease of the M. & E. to the D., L. & W. is under date of December 10, 1868, and is in perpetuity.

Two main lines of the M. & E. extend east from Denville to Hoboken, where ferry connection for New York City is made. One of these lines, which passes through Morristown and Newark and is known as the Morristown line, was opened for traffic in 1848. It was built west from Denville through Rockaway to Dover, embracing what is now known as the Rockaway loop. About 20 years later, the other main line was constructed from Dover through Denville, Boonton, and Paterson to Bergen Junction, near Hoboken. This line is called the Boonton branch. It extends west to Phillipsburg, on the Delaware River. In 1903, the crossing of the two lines at Denville was eliminated, a wye connectin was installed, and the major part of the traffic which had formerly moved over the Morristown line through Rockaway was routed over the more direct line of the Boonton branch between Dover and Denville. Trains serving Rockaway now operate over the Boonton branch between Denville and Hoboken, and approximately 85 per cent of the commuters at Rockaway use these trains. A change of cars at Denville is necessary only for passengers who desire to take the Morristown line.

Rockaway, population 3,100, is the only station on the loop. The district is residential in character. There are approximately 60 regular commuters to New York City and Newark, and the average total number of passengers on week days is about 75. The effect of the applicants' proposal on the passenger service at Rockaway constitutes the main issue in the case. Except with respect to commuters, the business has shown a decline in recent years. Rockaway, situated nearly 40 miles from New York City, is near the limit of the commuting zone.

There are no industries on the loop, and all freight is handled at the freight house and team tracks in Rockaway. The extent of the freight business, which is increasing, is represented by a revenue of \$23,326 in 1929. As has been stated, freight service will be continued

at Rockaway. Between that point and East Dover Junction, all the existing industries are served by the Central Railroad of New Jersey. The only suggestion found in the record for continued freight service by the D., L. & W. between Rockaway and East Dover Junction is that there is a steel plant, not in operation, on this part of the line, and that there are good sites for future industries. There was no representation by the owners of the steel plant or by other owners or promoters. The passenger business between East Dover Junction and Rockaway is negligible. A bus line is in operation.

In support of their proposal, the applicants state that there would be a saving of \$5,300 per annum in maintenance and operation of the loop line, a further saving in the cost of grade-crossing protection at two points, and a large ultimate saving for the elimination of four grade crossings. The present complicated movement of loop trains at Denville, in order to reach the station which is situated south of four main tracks, would be avoided. It would not be necessary to maintain a track from East Dover Junction to Dover for the exclusive use of Rockaway trains, when the interlocking plant at East Dover Junction shall have been eliminated according to the applicants' plans for the future. In lieu of the rail passenger service now furnished, it is proposed to install a motor-bus service between Rockaway and Denville station, through an arrangement to be made with the Public Service Coordinated Transport. That concern now operates busses through Dover, Rockaway, Denville, and Morristown and would put on additional units for the separate D., L. & W. service proposed. It is stated that the M. & E. is authorized under New Jersey laws to own and operate motor-bus lines. By the plan under consideration, baggage and express would be handled by trucks of the express company, and passengers and mail would be carried by the new line of busses. It is proposed to have the busses make 23 round trips between Rockaway and Denville station on week days and 10 on Sundays, these trips being timed according to the train schedules. The schedule time of the busses varies from 8 to 17 minutes for the 2.2 miles. With the electrification of the Morristown line, improved service to and from Hoboken has been installed. According to the time table of January 25, 1931, there are 21 eastbound and 20 westbound trains via that line on weekdays, in addition to 12 eastbound and 13 westbound trains on the Boonton branch. No increase in the present fares for Rockaway passengers will be made. Confidence is expressed in the ability to provide sufficient bus accommodation at all times and to make the trips to and from Denville station without serious delays. The protestants, however, present strong objections to the proposed bus service, complaining of the necessity for the

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change at Denville station, the alleged inconvenience, discomfort, and danger attending the use of busses, and the conditions on the highways which tend to make it difficult for the busses to operate on time. Very extensive testimony was introduced on both sides of these questions. While it is probable that nothing but a trial of the proposed bus service would suffice for a real determination of the matters in controversy, it can not be found on this record that the united objection of the community is unreasonable, as it is set forth and explained, and that the advantages of the plan with respect to the applicants' interests are consistent with public convenience and necessity as a whole.

But, as stated in our report in *Public Convenience Application of K. C. S. Ry.*, 94 I. C. C. 691, we have no jurisdiction over a partial discontinuance of rail service. Accordingly, the part of this application which covers the proposed abandonment of passenger service and the substitution of busses therefor is not a matter which in itself we are authorized to decide. It is, however, a condition which attaches to the part of this proposal that does come within the purview of section 1 (18), namely, the complete abandonment of line between Rockaway and East Dover Junction. It is an essential part of the plan. In any event, we could not reasonably ignore it because of a lack of jurisdiction, and grant approval of the other part. In view of the showing made by the protestants and the action taken by the State board with respect to the discontinuance of passenger service, such a disposal of the case would be particularly undesirable.

Upon the facts presented, we find that the present and future public convenience and necessity are not shown to permit the abandonment by The Morris and Essex Railroad Company and The Delaware, Lackawanna and Western Railroad Company, lessee, of the portion of a loop line in Morris County, N. J., described in the joint application. An order will be entered denying that part of the application which relates to such abandonment and dismissing that part which is for authority to abandon operation of passenger service on the remaining portion of said line.

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ORDER

*Entered May 27, 1931*

A hearing and investigation of the matters and things involved in this proceeding having been had, and said division having, on

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the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

*It is ordered,* That the joint application of The Morris and Essex Railroad Company and The Delaware, Lackawanna and Western Railroad Company, lessee, for authority to abandon a portion of a loop line of railway in Morris County, N. J., described in the application and report aforesaid, be, and it is hereby, denied.

*It is further ordered,* That the application of the Delaware, Lackawanna & Western Railroad Company for authority to abandon operation of passenger service on the remaining portion of said loop line of railway be, and it is hereby, dismissed.

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