

FINANCE DOCKET No. 10330

SUSSEX RAILROAD COMPANY ET AL. ABANDONMENT

Submitted May 17, 1934. Decided May 26, 1934

Certificate issued permitting (a) the Sussex Railroad Company to abandon, and (b) the Delaware, Lackawanna & Western Railroad Company, lessee, to abandon operation of, a branch line of railroad in Sussex County, N.J.

William S. Jenney, J. L. Seager, and W. J. Larrabee for applicants.

James Maybury for New Jersey Board of Public Utility Commissioners, and *Walter A. Smith* for a local industry.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, PORTER, AND MAHAFFIE

BY DIVISION 4:

The Sussex Railroad Company and The Delaware, Lackawanna and Western Railroad Company, hereinafter sometimes called the Sussex and the Lackawanna respectively, on January 31, 1934, applied for permission to abandon a branch line of railroad extending in a general northeasterly direction from Branchville Junction to Franklin, about 9.16 miles, in Sussex County, N.J. At the request of the New Jersey Board of Public Utility Commissioners a hearing was had, but the State commission has made no other representations herein. A representative of the New Jersey Zinc Company appeared at the hearing and stated that that company does not oppose the application unless it is intended that about 2,300 feet of the track within the village of Franklin, over which the New York, Susquehanna & Western Railroad Company (Susquehanna) now operates under trackage rights, be abandoned. All points mentioned herein are in New Jersey.

The branch line in question is owned by the Sussex. The Lackawanna controls the Sussex through ownership of more than 95 percent of its capital stock and operates its properties under a lease, in perpetuity, dated January 1, 1924. See *Sussex R. Co. Control*, 82 I.C.C. 232. The Sussex also owns a main line extending northward from a system connection at Netcong, through Andover and Branchville Junction, to Branchville, 21.3 miles, all in Morris and

Sussex Counties. In support of their proposal to abandon the Franklin branch the applicants state that the traffic handled thereon is not sufficient to warrant further operation and maintenance of the line.

The Franklin branch was built in 1869-71. At that time there were flourishing iron mines and limestone quarries at Andover and Franklin Furnace (now Franklin). Large quantities of limestone were transported from the quarries at Franklin to furnaces elsewhere in New Jersey, and a blast furnace built at Franklin in 1872 produced an important volume of pig iron. This traffic disappeared long ago, the furnace and quarries at Franklin having been abandoned about 1900 and 1921 respectively.

Franklin is served also by lines of the Susquehanna, a subsidiary of the Erie Railroad Company, and the Lehigh & Hudson River Railway Company (L. & H.), and Branchville Junction will continue to be served by the applicants' line between Branchville and Netcong. At Franklin the station facilities of the Sussex and the Susquehanna are jointly owned and used, and will not be eliminated through abandonment of the branch. The only intermediate stations on the branch are Ackerson, population 40, which is from 1 to 8 miles from other railroad stations, and Monroe, population 125, from 3.75 to 6 miles from other rail service. The population of the entire territory tributary to the line is estimated at 5,380. Aside from zinc mining at Franklin, the principal industries of this territory are farming and dairying. The zinc mine is directly served by the L. & H. and all outbound shipments of ore and concentrates are handled by that carrier. Anthracite coal, the only tonnage of consequence on the branch, is interchanged with the L. & H. If the branch be abandoned, freight now interchanged by the Lackawanna and the L. & H. at Franklin may be interchanged conveniently and economically at Andover Junction.

The applicants state that the decrease in business on the Franklin branch in recent years is due to diversion of traffic, passenger and freight, to motor vehicles. All passenger service was discontinued early in 1932 under authority from the State commission. Freight service is performed by a way-freight train which operates daily between Netcong and Branchville and makes side trips to Franklin when necessary, on the average about every other day.

During the years 1929-33, in order, the freight traffic handled on the branch amounted to 29,599, 37,071, 15,057, 16,552, and 11,398 tons. A large part of this freight was anthracite coal destined to the zinc company and a dealer at Franklin. The coal shipments declined from 39,095 tons in 1930 to 10,503 tons in 1933, due, largely, it is stated, to decreased consumption by the zinc company. In

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1933 nearly 95 percent of the branch-line traffic was interchanged with connecting lines at Franklin. Less-than-carload shipments declined from 204 tons in 1929 to 86.1 tons in 1933.

Including a small amount of miscellaneous revenue, for storage, system revenues from operation of the branch in 1933 amounted to \$18,924, of which the applicants have allocated to the branch \$1,411, or slightly less than 8 percent, on a mileage basis. Against this allocated revenue, plus credits of \$67 for telephone and telegraph receipts, \$1.04 from concessions, and rent income of \$427, the applicants charge the branch with expense for maintenance of way and structures \$865, maintenance of equipment \$1,187, and transportation \$4,842, and taxes \$6,231, or a total of \$13,126, leaving an indicated deficit of \$11,200. In this calculation of operating results no allowance for superintendence or other overhead expenses is included. The expense of maintenance of way and structures is directly assigned, the taxes are those actually assessed and paid on the branch, and other expense items are either directly assigned or allocated to the branch on equitable bases. The applicants estimate that, if the line be abandoned, annual system revenues would be reduced about \$1,500 through delivery of traffic now moving on the branch to connections at other junction points, but that the net saving to the system, on the basis of the indicated deficit in 1933, would amount to more than \$9,700 a year.

The track in which the zinc company is interested comprises the eastermost segment of the Franklin branch. It forms a connecting link in the Susquehanna's main line from a point north of Franklin to Jersey City, and provides the means of the Susquehanna's access to the zinc company's plant. The Susquehanna used the segment under perpetual trackage rights granted in a contract dated July 28, 1870, between the Sussex and the New Jersey Midland Railway Company, a predecessor of the Susquehanna. Under the terms of this agreement the Sussex is obliged to maintain the track and is entitled to receive 0.524 cent for each ton of freight which the other party transports thereover. This rental has ranged from \$600 to \$1,200 a year. The cost of maintaining the segment is not separately shown. The line of the L. & H. connects with the Susquehanna's line and with the Franklin branch at points in or near Franklin.

The applicants hold that the Susquehanna's rights under the trackage agreement cannot be affected by favorable action in this proceeding, for the reason that the track cannot be taken up because of the contract, and because the applicants believe they doubtless can dispose of the track either to the Erie or the L. & H. and, in the latter

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event, the L. & H. would stand in the place and stead of the Sussex as party to the contract of 1870.

Negotiations with the Erie looking to the transfer to it or the Susquehanna of all right, title, and interest of the Sussex in the track, and cancelation of the contract of 1870, were begun in January 1934. The sole consideration proposed is the salvage value of the ties, rails, and metal fastenings, not more than \$2,000, and as to this the interested parties seem to be in accord and certain other matters have been settled, but the applicants have not yet received definite information as to the Erie's intentions.

The Susquehanna's operation at and through Franklin cannot lawfully be abandoned without our permission, and the Susquehanna has not presented any such proposal to us nor made any representations in this proceeding. Continued operation is therefore to be presumed. It is not within our province, nor our desire, to interfere in the negotiations between the applicants and the Erie or the L. & H. Nevertheless, the applicants are responsible for disposing of the segment of track in Franklin in such wise that operation by the Susquehanna thereover may continue without interruption, and our action herein is taken upon that understanding.

With the exception of the segment in Franklin, the Franklin branch has served the purpose for which it was primarily constructed. Traffic now available is or can be conveniently handled in other ways. There is now no substantial use of or need for the line and its operation results in losses which impose an undue burden upon interstate commerce.

We find that the present and future public convenience and necessity permit the abandonment by The Sussex Railroad Company, and the abandonment of operation by The Delaware Lackawanna and Western Railroad Company, lessee, of the branch line of railroad in Sussex County, N.J., described in the application. An appropriate certificate will be issued, effective from and after 30 days from its date. Suitable provision will be made therein for the cancelation of tariffs.

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