

FINANCE DOCKET No. 10968
NEW YORK, ONTARIO & WESTERN RAILWAY COMPANY
OPERATION

Submitted November 16, 1935. Decided November 25, 1935

Certificate issued authorizing the New York, Ontario & Western Railway Company to operate, under trackage rights, over a branch line of the Delaware, Lackawanna & Western Railroad Company, in Lackawanna and Luzerne Counties, Pa.

Elbert N. Oakes and Charles E. Simmons for applicant.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, PORTER, AND MAHAFFIE

BY DIVISION 4:

The New York, Ontario and Western Railway Company, on September 30, 1935, applied for authority to operate through freight trains, in either direction, over the railroad of The Delaware, Lackawanna and Western Railroad Company (Lackawanna), from a point on the applicant's line known as Cayuga Junction, in the city of Scranton, to Pittston Junction, in the city of Pittston, 10.34 miles, all in Lackawanna and Luzerne Counties, Pa. No representations have been made by any State authority, and no objection to the application has been offered.

The applicant alleges that there is a present and prospective need for interchange of freight cars and freight between the applicant's railroad and the Lehigh Valley Railroad at Sibley Junction, where the applicant's Capouse branch terminates and connects with the Lehigh Valley's Austin branch; that there is a sufficient number of cars to constitute at least two freight trains a day, the eastbound cars generally being loaded and the westbound empty; that both branches are located in a mountainous region with many curves and heavy grades, including a switchback on the Capouse branch; that the ascending grades to the east predominate, requiring pusher service for loaded trains; and that the proposed trackage-rights operation will provide more convenient and expeditious movement and interchange of through freight than now prevails, as it will provide easier curves and grades, thus permitting the hauling of trains of heavier tonnage without pusher service, and will avoid the necessity of movement through a switchback. This operation will not impair any

212 I. C. C.

service now performed on either the Capouse or Austin branches, as the trains handled will be limited to through freight destined to points beyond either branch.

It is represented that the so-called Coxtan yard of the Lehigh Valley, adjacent to Pittston Junction, is more adequately equipped for inspection and other service incident to freight traffic than is Sibley Junction. At this yard and at Cayuga Junction there are connections between the tracks of the Lehigh Valley and the tracks of the Lackawanna. By the proposed arrangement Pittston Junction will become a point of interchange for through freight trains between the applicant and the Lehigh Valley instead of Sibley Junction. The applicant estimates that the proposals herein will effect an annual saving to it of at least \$35,525.45, and a substantial saving to the Lehigh Valley.

In connection with the proposed plan of interchange two proposed agreements have been prepared, one between the applicant and the Lackawanna and the other between the applicant and the Lehigh Valley, of which copies are filed in the record. By the former, the Lackawanna grants to the applicant the right to operate two through freight trains a day in either direction with its own power and crews, over the Lackawanna's tracks between Pittston Junction and Cayuga Junction, at its sole expense, at such times and upon such schedules as shall be approved by the Lackawanna, and such additional trains as the latter may from time to time authorize in writing. Each engine with or without cars attached shall be deemed to constitute a train. As consideration for such trackage rights, the applicant agrees to pay \$1.50 a train-mile between the above-mentioned termini, and in addition it agrees to pay the cost of all supplies furnished it by the Lackawanna for or in connection with such operation. The Lackawanna agrees to maintain the section in question at its sole expense. The agreement may be terminated by either party giving the other not less than 60 days' notice in writing. There are certain other provisions, including those usually found in trackage-rights agreements between railroad companies.

By the proposed agreement between the applicant and the Lehigh Valley the parties are to maintain interchange of freight cars at Sibley Junction as heretofore, with the exception of the fast or preference freight to be handled by the applicant over the tracks of the Lackawanna between Cayuga Junction and Pittston Junction, and interchanged with the Lehigh Valley at Coxtan yard. Among other things, the Lehigh Valley agrees to pay to the applicant 75 cents a train-mile for trains operated by the applicant under its above agreement with the Lackawanna, and also one half the cost of all supplies furnished by the Lackawanna in connection with the

212 I. C. C.

trackage-rights operation. The agreement may be terminated by either party giving the other 30 days' notice in writing. There are certain other provisions not deemed necessary to enumerate.

It is apparent from the record that the proposed trackage-rights operation will avoid the necessity of the applicant and the Lehigh Valley handling a considerable number of through freight trains over sections that are expensive to operate, and that the proposals herein are likely to result in substantial saving to both companies and in expedited service.

We find that the present and future public convenience and necessity require the operation, under trackage rights, by the New York, Ontario and Western Railway Company, over the line of railroad of The Delaware, Lackawanna and Western Railroad Company in Lackawanna and Luzerne Counties, Pa., described in the application. An appropriate certificate will be issued.

212 I. C. C.