

plan of reorganization, and (d) are not inconsistent with the provisions and purposes of the Interstate Commerce Act, as amended.

We conclude that we should grant authority for the proposed transfers and acquisitions of properties, issue of securities, and assumption of obligations and liabilities in the manner described herein.

An appropriate supplemental order will be issued.

FINANCE DOCKET No. 12863

NEW YORK, SUSQUEHANNA & WESTERN RAILROAD
COMPANY TRUSTEE ABANDONMENT

Submitted November 22, 1940. Decided December 20, 1940

Certificate issued permitting abandonment by Walter Kidde, trustee of the New York, Susquehanna & Western Railroad Company, of a portion of a line of railroad in Warren County, N. J., and Monroe County, Pa. Condition prescribed.

H. A. Taylor, W. T. Pierson, Paca Oberlin, and J. P. Canny for applicant.

Harry W. Vetter for Warren County, N. J., in support of application.

J. H. Stofflet and William Marean for protestants.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS PORTER, MAHAFFIE, AND MILLER

BY DIVISION 4:

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

Walter Kidde, trustee of the property of the New York, Susquehanna and Western Railroad Company, by application filed May 8, 1940, seeks permission to abandon that portion of the line of railroad extending from a point west of Hainesburg Junction Tower, N. J., to Stroudsburg, Pa., approximately 11.79 miles, in Warren County, N. J., and Monroe County, Pa. Protests were filed, and a hearing has been held, at which a representative of the Board of Public Utility Commissioners of New Jersey presided with the examiner. A representative of Warren County appeared in support of the proposal.

The New York, Susquehanna & Western, otherwise designated herein as the carrier, is a subsidiary of the Erie Railroad Company by virtue of capital-stock ownership, although an independent trustee has been appointed to operate the property which is undergoing reorganization under section 77 of the Bankruptcy Act, as amended.

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It operates a line of railroad from Jersey City, N. J., to Stroudsburg which, together with the facilities of its subsidiaries, the Wilkes-Barre & Eastern Railroad and the Susquehanna Connecting Railroad, at one time formed a continuous line of railroad from the anthracite fields in northeastern Pennsylvania to tidewater. Since the changes authorized in *Erie R. Co. Trustees Operation*, 228 I. C. C. 515, decided July 14, 1938, and *Wilkes-Barre & E. R. Co. Trustee Abandonment*, 230 I. C. C. 537, decided January 17, 1939, the traffic formerly handled by the Wilkes-Barre & Eastern and interchanged with the applicant at Stroudsburg has been routed over other parts of the Erie system. Motive power used by the carrier is rented from the Erie.

The railroad proposed to be abandoned, hereinafter referred to as the line, was constructed by predecessor companies during 1877-82 and later acquired by the carrier. It is single track, with mostly 80-pound rail and treated and plain ties on cinder and gravel ballast. Slightly more than half the line is in curves, while the ruling grade is 0.65 percent. There are 25 bridges and culverts, 1 of which spans the Delaware River near Stroudsburg. The track is in a fair state of maintenance for the present traffic, but rail renewals, estimated to cost \$50,000, bridge replacements \$34,600, sloping of cuts to overcome slides, and improvements for protection against floods at an estimated cost of about \$18,300 must be made during the next 5 years. The net salvage value of the recoverable property, including the Stroudsburg bridge, is \$15,685.

The total population served by the line is estimated to be 8,900. The stations, the population at each where reported by the applicant, and the highway mileage to the nearest other railroad are Columbia, 400, 0.3; Dunnfield, 0, 3.8; Water Gap, 150, 1.5; and Stroudsburg, 5,961, 0.7. All are nonagency stations, except the last named, which is a carload freight station exclusively. East Stroudsburg, which adjoins Stroudsburg, is served by the main line of the Delaware, Lackawanna & Western and a branch line of the Pennsylvania Railroad. Passenger service was discontinued on April 28, 1935. Regular freight service consists of a local train in each direction daily. Extra trains are operated whenever necessary. The applicant showed that if abandonment is permitted a rearrangement of the present schedules will effect a substantial reduction in train-operating expense. The line does not connect with any other railroad or with any other branch of the Erie system, except at the point of the proposed severance. State and county highways traverse the area tributary to the line. Common-carrier truck and bus lines operate through Stroudsburg, Water Gap, and Columbia. Pick-up and delivery trucking concerns serve all stations on the line. Except

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for a retail coal merchant at Columbia, all industries and businesses are located at Stroudsburg.

During 1935, 10 local and 14 interline passengers were carried over the line. Freight traffic handled each year, 1935-39, in order, consisted of the following: Between points on the line and points beyond, 489, 601, 487, 444, and 698 carloads and 1,293, 1,282, 1,080, 802, and 814 tons of less-than-carload freight; and bridge traffic, 2,431, 2,225, 2,256, 1,710, and 335 carloads and 698, 742, 757, 776, and 164 tons of less-than-carload freight. No local freight was handled. The increase of 1939 over 1935, consisting in part of 165 carloads of coal and coke and 91 carloads of scrap iron, was due mainly to carrying some of the traffic formerly handled by the Wilkes-Barre & Eastern. Refined oil and fuel-oil shipments to points on the line have declined about 45 percent over the 5-year period, while traffic in other commodities has remained fairly constant.

Line revenues accrued for 1935-39 and the first 2 months of 1940, in order, were passenger, \$6, 0, 0, 0, 0, and 0; freight originating at or destined to points on the line, including miscellaneous revenues, \$6,257, \$7,406, \$6,340, \$6,662, \$7,954, and \$1,741; bridge traffic, \$10,668, \$9,330, \$9,281, \$8,021, \$1,395, and 0; totals, \$16,931, \$16,736, \$15,621, \$14,683, \$9,349, and \$1,741. Freight revenues were assigned on a mileage-prorate basis, while passenger and miscellaneous revenues were those actually received. Operating expenses, exclusive of overhead charges, were maintenance of way and structures, \$6,647, \$10,198, \$10,398, \$7,066, \$6,826, and \$786; maintenance of equipment, \$5,968, \$4,736, \$3,752, \$2,961, \$3,553, and \$364; transportation, \$19,119, \$21,718, \$17,654, \$14,483, \$12,904, and \$1,994; railway tax accruals, \$5,319, \$6,909, \$7,629, \$8,216, \$5,970, and \$989; equipment rents (net debits), \$7,093, \$6,069, \$7,071, \$7,845, \$5,827, and \$465; totals, \$44,146, \$49,630, \$46,504, \$40,571, \$35,080, and \$4,598; and losses from line operations, \$27,215, \$32,894, \$30,883, \$25,888, \$25,731, and \$2,857. Maintenance of way and structure expenses were actually incurred; maintenance and hire of equipment were assigned on locomotive-mile or car-mile bases, as appropriate; transportation expense represents the actual cost of operating stations; train and enginemen's costs are on a track-mile apportionment; and fuel and supplies are on the basis of locomotive-miles operated. Tax accruals are those actually levied, mainly on real estate, apportionment being made only where taxing districts overlap.

System revenues from line traffic during the periods mentioned were \$124,208, \$107,003, \$105,330, \$84,959, \$36,109, and \$6,247. The costs of handling this traffic, estimated by using freight operating ratios for each period ranging from 68.55 to 81.01 percent for the Erie, including the Chicago & Erie, 99.26 to 149.32 percent for the

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Wilkes-Barre & Eastern, and 55.43 to 68.25 percent for the applicant herein, or an average ratio weighted according to the revenues received by each from line traffic of 78.32, 78.49, 81.78, 80.90, 74.92, and 69.15 percent, were \$97,280, \$83,990, \$86,141, \$68,736, \$27,054, and \$4,320. System profits from handling line traffic were \$26,928, \$23,013, \$19,189, \$16,223, \$9,055, and \$1,927, which, when offset by the line deficits previously stated, show losses of \$287, \$9,881, \$11,694, \$9,665, \$16,676, and \$930. If 50 percent of the system revenues from line traffic were assumed as the out-of-pocket cost of handling such traffic over other parts of the system, the profits to the system resulting from line operations would be \$34,889, \$20,608, \$21,782, \$16,592, \$7,676 (loss), and \$267.

Traffic to and from the line outside the Stroudsburg area has been negligible. The protestants, whose plants are in Stroudsburg, object to the proposal herein because it will leave them without direct rail service for the receipt of certain commodities. A vinegar-manufacturing concern uses considerable quantities of alcohol which, under Federal regulations, must be transported by bonded carriers either in tank cars or barrels. It contends that to transport alcohol in barrels by truck would increase production costs to such an extent that the plant would be forced to close down. The evidence shows that this company received 18 tank cars of alcohol and vinegar stock in 1939 and 1 of alcohol in 1938. It shipped 2 carloads of manufactured products in 1939. Trucks were used for about 95 percent of the total output of the plant and to a considerable extent for incoming material. The other protestants are a coal company and a lumber concern, which during 1938 received a total of 473 carloads of coal, lumber, oil, and other commodities, 435 in 1939, and 256 from January to June 1940. The greater part of this traffic during 1938 was hauled over the former line of the Wilkes-Barre & Eastern, and the only service performed by the applicant was a switching movement to the protestants' yard nearby, which involved a small amount of revenue. For several months previous to the decision in *Anthracite Coal from Wyoming Region*, 237 I. C. C. 503, decided March 2, 1940, the protestants received about 1,200 tons of coal by motortrucks.

The protestants also contend that if the proposal is granted the certificate should require the applicant to sell, at a price equivalent to the salvage value, that portion of the line in and near Stroudsburg to the Delaware, Lackawanna & Western so that the latter may serve these industries. The necessary track connections would cost approximately \$16,000. This matter has been under negotiation between the two carriers for some time, but at the time of the hearing herein no agreement had been reached.

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The record shows that there is not a sufficient volume of traffic available to enable the applicant to operate the line without financial loss, and the outlook for the development of new business is not encouraging. The expense of rehabilitation necessary to keep the line in a satisfactory operating condition is not warranted under the circumstances. To retain it in service, therefore, would constitute a burden upon the applicant and upon interstate commerce. The approval of the application will not cause any serious public inconvenience, although it will affect the protestants to a limited extent. The applicant cannot be expected, however, to operate the line at a loss indefinitely for the benefit of these few industries.

We find that the present and future public convenience and necessity permit abandonment by Walter Kidde, trustee of the New York, Susquehanna and Western Railroad Company, of the line of railroad in Warren County, N. J., and Monroe County, Pa., described herein, upon condition that said line, or any part thereof, be sold to any responsible person, firm, or corporation offering, within 60 days from the date of our certificate, to purchase the same for continued operation, at a price not less than its fair net salvage value. An appropriate certificate will be issued, effective from and after 40 days from its date, in which suitable provision will be made for the cancelation of tariffs.

COMMISSIONER MILLER did not participate in the disposition of this proceeding.

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