

We find that the present and future public convenience and necessity permit abandonment by the Franklin & Tilton Railroad of the line of railroad in Franklin, Merrimack County, N. H., described herein, and abandonment of operation thereof by the Boston & Maine Railroad, lessee. An appropriate certificate will be issued, effective from and after 15 days from its date, in which suitable provision will be made for the cancelation of tariffs.

FINANCE DOCKET No. 13541

NEW YORK, SUSQUEHANNA & WESTERN RAILROAD COMPANY TRUSTEE OPERATION

Submitted December 12, 1941. Decided December 30, 1941

Operation, under trackage rights, by Walter Kidde, trustee of the New York, Susquehanna & Western Railroad Company, over lines or parts of lines of railroad of the New York, Ontario & Western Railway Company and the Middletown & Unionville Railroad Company in Orange, Sullivan, and Delaware Counties, N. Y., and Wayne, Susquehanna, and Lackawanna Counties, Pa., approved and authorized.

Eugene C. Gerhart and W. T. Pierson for applicant.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS PORTER, MAHAFFIE, AND MILLER

BY DIVISION 4:

Walter Kidde, trustee in reorganization proceedings of the New York, Susquehanna and Western Railroad Company, hereinafter sometimes referred to as the Susquehanna, on November 21, 1941, applied, under section 5 (2) of the Interstate Commerce Act, as amended, for authority to operate, under trackage rights, (1) over the line of the New York, Ontario & Western Railway Company between Riverside Junction, Pa., and Middletown, N. Y., approximately 127.4 miles, and (2) over the line of the Middletown & Unionville Railroad Company between Middletown, N. Y., and Unionville, N. Y., approximately 14.3 miles, all in Orange, Sullivan, and Delaware Counties, N. Y., and Wayne, Susquehanna, and Lackawanna Counties, Pa. A hearing has been held. No representations have been made by State authorities, and no objection to the application has been offered. All points mentioned herein are in New Jersey unless otherwise indicated.

The applicant's railroad extends from Edgewater, situated on the Hudson River, west to Franklin Junction, with lateral extensions to

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Hanford and Hainesburg Junction. Several detached segments, serving anthracite mines in the general vicinity of Scranton, Pa., are also owned. The largest and most important of these from a traffic standpoint is the Winton branch, which, along with others, is operated by the trustee of the Erie Railroad Company pursuant to our authorization in *Erie R. Co. Trustees Operation*, 228 I. C. C. 515, decided July 14, 1938.

To forestall any possibility that the present agreement with the Erie be terminated and leave the Winton branch without service of any kind, the applicant proposes to acquire trackage rights over the New York, Ontario & Western Railway from the point of connection with the branch at Riverside Junction, Pa., to Middletown, N. Y., and thence over the line of the Middletown & Unionville to a connection with its own lines near Unionville.

The terms of the agreement covering the proposed operation over the Ontario & Western's line, which is to become effective December 31, 1941, for a term of 20 years, provides for the movement of bridge traffic only between the points mentioned at a rental cost of \$1.50 a train-mile. The Susquehanna is to operate its own trains, under the supervision of the Ontario & Western. The agreement with the Middletown & Unionville, which is to become effective December 31, 1941, also for a term of 20 years, permits the movement of bridge traffic at a rental charge of 8 cents a ton of revenue freight handled and \$1.50 a train-mile for nonrevenue train movements. The Susquehanna will operate its own trains under the direction of the Middletown & Unionville. Each agreement is assignable only upon special conditions, and the Susquehanna assumes full responsibility for the operation of its own trains. Provision for arbitration appears only in the agreement with the Middletown & Unionville.

About 80 percent of the coal originating in the Wyoming area, and handled by the applicant through the Edgewater coal dump, is received from the Erie at Passaic Junction. Shipments of coal from the Winton branch during the first 10 months of 1941 were about 10 percent more than in 1940, when 240,000 tons were handled during the entire year. For the present the Erie will continue to operate the branch, but the Susquehanna desires to conduct operations should the present arrangement be terminated.

The courts having jurisdiction of the applicant and the trustee of the Ontario & Western, whose properties are undergoing reorganization, have approved the proposed transaction, subject to our authorization. The consummation of the plan presented herein will not adversely affect the interests of carrier employees. The transaction is in the public interest because continuous operation of the branch will be assured. Under the proposed operation, coal con-

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signed to destinations on the applicant's lines will be handled without the usual delays at interchange points and without division of the rate. Coal destined to points on other lines will continue to be interchanged with three other railroads at Riverside Junction, Pa. No other railroad is interested in the proposed transaction, and there will be no increase in fixed charges or guaranty or assumption of the payment of dividends or fixed charges.

We find that the operation by Walter Kidde, trustee in reorganization proceedings of the New York, Susquehanna and Western Railroad Company (1) over the line of railroad of the New York, Ontario & Western Railway Company between Riverside Junction, Pa., and Middletown, N. Y., and (2) over the line of railroad of the Middletown & Unionville Railroad Company between Middletown, N. Y., and Unionville, N. Y., in Orange, Sullivan, and Delaware Counties, N. Y., and Wayne, Susquehanna, and Lackawanna Counties, Pa., as described herein, is a transaction within the scope of section 5 (2) of the Interstate Commerce Act, as amended; that the terms and conditions proposed are just and reasonable; and that the transaction will be consistent with the public interest. Since no change in the status or interests of carrier employees is involved, no condition as to employment is necessary.

An appropriate order will be entered.

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