

FINANCE DOCKET No. 15795¹NEW YORK, SUSQUEHANNA & WESTERN RAILROAD
COMPANY ABANDONMENT

Submitted June 13, 1949. Decided October 3, 1949

1. Upon consideration of application of the trustee of New York, Susquehanna & Western Railroad Company seeking permission for the abandonment of operations over portions of the line of that railroad company at Edgewater, Bergen County, N. J., by the New York Central Railroad Company and its affiliated lines (including operations by the New York, Susquehanna & Western Railroad Company and its trustee, as agent) and of operations by the New York, Susquehanna & Western Railroad Company and its trustee over portions of line of the New Jersey Junction Railroad Company south of Edgewater in Hudson County, N. J., finding made as to just compensation for services rendered, and final action deferred upon abandonment application pending execution of supplemental contract fixing compensation of New York, Susquehanna & Western Railroad Company and its trustee for such operations.
2. Action deferred on request for a finding that such abandonment will be consistent with the reorganization requirements of the New York, Susquehanna & Western Railroad Company.

Appearances as shown in prior report, 271 I. C. C. 339.

REPORT OF THE COMMISSION ON FURTHER HEARING

BY THE COMMISSION:

Exceptions to the report proposed by the examiner were filed.

As authorized by the District Court of the United States for the District of New Jersey, wherein are pending proceedings for the reorganization of the New York, Susquehanna and Western Railroad Company, hereinafter called the Susquehanna, under section 77 of the Bankruptcy Act, 11 U. S. C. 205, Henry K. Norton, trustee of the Susquehanna, on July 25, 1947, filed an application under paragraphs (18) to (20), inclusive, of section 1 of the Interstate Commerce Act, for a certificate of public convenience and necessity permitting the abandonment (a) by The New York Central Railroad Company, and its owned, leased, and operated lines, including New Jersey Junction Railroad Company (all herein generally referred to

¹ This report also embraces Finance Docket No. 11681, New York, Susquehanna & Western Railroad Company Reorganization.

collectively as the Central) of trackage rights over tracks of the Susquehanna at Edgewater, Bergen County, N. J., and (b) by such trustee of trackage rights over tracks of New Jersey Junction Railroad Company south of Edgewater, in Hudson County, N. J., and for such other and further relief as we may deem appropriate. On September 10, 1947, the same trustee filed a petition praying that we find and conclude that the abandonments for which authorization was sought by the afore-mentioned application would be consistent with the reorganization requirements of the Susquehanna. The application and the petition were heard together and a joint record made.

In our report of November 8, 1948, 271 I. C. C. 339, in these proceedings, we concluded that the evidence of record did not justify a finding that the present or future public convenience and necessity permitted the abandonment sought. We further concluded that while the evidence indicated that the Susquehanna was not receiving adequate compensation for the services performed by it for the Central² the record was inadequate for determining what would be proper compensation for such service. Believing that it was our duty to make such a determination we deferred issuing any order either in respect of the requested abandonments or the reorganization requirements, and assigned the proceedings for further hearing for the purpose of receiving evidence from which to determine what would be the amount of just compensation for the services rendered by the Susquehanna. Further hearing has been held.

Property involved.—The main line of the Susquehanna extends about 88 miles from Jersey City, N. J., through Little Ferry, Hackensack, Passaic Junction, and Beaver Lake to Hainesburg Junction, N. J. Its principal branches are one from Beaver Lake to Hanford, at New York-New Jersey State line, and one from Little Ferry through a tunnel under the Palisades, 3.05 miles to its Edgewater terminal, N. J., on the Hudson River. Its lines also include its so-called northern extension running north from its Edgewater terminal about nine-tenths of a mile and its so-called southern extension running south from the terminal about eight-tenths of a mile to the Hudson-Bergen County line, where it connects with the tracks of the Central's subsidiary, the New Jersey Junction Railroad Company. The present controversy involves trackage rights and operations under trackage

² The Central since November 1, 1928, has paid the Susquehanna \$4.30 and \$6.65, respectively, for each Central loaded car moved to or from the northern and southern extensions, plus \$1 for each car switched on the Edgewater yard or terminal.

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rights over the northern and southern extensions, hereinafter sometimes collectively referred to as the Edgewater sections, and over the shore-line section of the Central's subsidiary extending from its junction with the southern end of the Susquehanna's southern extension south about 1 mile to the Central's Weehawken yard.³ These three segments of lines lie between the Hudson River and the Palisades opposite the area from Seventy-second to One Hundred and Twenty-fifth Streets in New York City, N. Y. The Susquehanna has always performed the physical movements of the Central's cars over both the Edgewater sections and the shore-line section, with minor exceptions, as the agent of the Central under operating agreements.

Susquehanna's position.—The Susquehanna's trustee urges that the public interest will permit the abandonment of the trackage rights under the 1904 and 1911 contracts, and that such abandonment will be consistent with the Susquehanna's reorganization requirements unless within a specified time after the issuance of a final order (a) the Central enters into a new supplemental contract with the Susquehanna, coterminous with the 1904 and 1911 contracts and providing for compensation to the Susquehanna as of October 1, 1948, in the amount of \$23.69 per loaded car (including the payments under the 1904 contract), these amounts to be adjusted up or down with the general rate increases or decreases applicable to switching charges in the Edgewater territory which are ordered, approved, or permitted by us, subject to the right of either party to apply to us from time to time for a modification of the amount of the Susquehanna's compensation; and unless (b) the Central stipulates, such stipulation to be coterminous with the 1904 and 1911 contracts, that (1) it will not in the future operate physically over the Edgewater section, and (2) it will not in the future join the Erie in the publication of through routes and joint rates to Edgewater via Weehawken, unless the Susquehanna is made a party to such routes and rates, on the basis of line-haul divisions to the Susquehanna, or extend its Weehawken switching district and publish switching charges for the movement between the track connection with the Erie at Weehawken and the industries on the northern and southern extensions.

New York Central's position.—The Central's position is that it is willing to enter into an agreement with the Susquehanna which will call for the payment of \$11.68 per loaded car on northern extension traffic and \$11.49 per loaded car on southern extension traffic,

³ The establishment of these trackage rights and operations thereunder are described in detail in our report of November 8, 1948.

commencing October 1, 1948, and continuing in the future subject to revision at any time on 30 days' notice whenever either party desires to have the costs including a fair return, restudied in the same manner as produced the amounts just referred to and the charges revised to reflect changes in operating expenses. The Central is also willing to cooperate with the Susquehanna in ascertaining the costs according to this method for the period commencing 60 days after August 27, 1942, and continuing to October 1, 1948, and to restate the accounts for that period on such basis; i. e., the Central offers without prejudice to treat the trustee's notice of disaffirmance of August 27, 1942, as a 60-day request to revise the operating charge. In addition to these payments, the payments called for under the basic agreements of 1904 and 1911 would be continued as provided in those agreements, covering one-half the interest charge on investment and a car-use proportion of taxes and maintenance on the Edgewater sections and the shore-line section, respectively. For the year 1948, the total charges under the 1904 contract were \$1.467 and \$1.467 for the northern and southern extensions, respectively.

The Central also contends that it should not be required to stipulate that it will not in the future operate physically over the Edgewater section. In the event such a condition is fixed by us, it is the Central's position that the condition should be qualified by a provision requiring the Susquehanna to maintain prompt, fair, and reasonable service standards to be specifically defined by agreement between the general managers of the Central and the Susquehanna from time to time, and in the event of their disagreement at any time the standards should be defined in arbitration proceedings conducted, under the usual rules of arbitration, by three disinterested arbitrators chosen from the members of the General Managers Association of New York, one by the Central and one by the Susquehanna, and the third by the two, so chosen, and that the determination made by the three arbitrators, or a majority of them, shall be binding upon the Central and the Susquehanna with the same force and effect of an agreement between them, and upon the failure of the Susquehanna to maintain, observe, and comply with the service standards so agreed upon or determined by arbitration the Central shall be entitled to enforce

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such standards by specific performance in judicial proceedings or exercise its rights to operate physically over the Edgewater section.⁴

Compensation.—At the prior hearings in these proceedings, both the Central and the Susquehanna introduced studies bearing on the cost of the switching movements under consideration. The question of the Susquehanna's compensation was not then specifically before us, and the studies were introduced primarily for their bearing on the Susquehanna's abandonment application. In our report of November 8, 1948, we rejected the Central's study as "of little value." We indicated that the Susquehanna's study generally was acceptable.⁵ However, certain fallacies were found in that study, the effect of which, in terms of dollars and cents, could not be determined on the basis of the existing record.

After the November 8 report, the Susquehanna's expert revised his study, and the nature of the revisions and the results were discussed by him and representatives of the Central. Complete agreement was reached between the Central and Susquehanna's representatives except in two respects, (1) relating to the proper valuation method for computing return on investment, and (2) the propriety of including a portion of the Susquehanna's passenger deficiency. Even as to those two items, the Central agrees to the correctness of the computations. Since the parties are in agreement on the cost figures except for the two respects mentioned, it is unnecessary to discuss at length the revisions made in the original study. Briefly, the revisions fell into these classifications:

⁴ The Susquehanna is agreeable to this modification except that it objects to the proviso which would have the effect of giving to the Central the right to operate physically over the Edgewater section if it determines unilaterally, without our consent, to the abrogation of the condition against the physical exercise of the Central's trackage rights, that the Susquehanna has not complied with the service standards so agreed upon or determined by arbitration. The Susquehanna suggests that, in the event we impose the condition that the Central shall stipulate not to exercise its rights of physical operation, (1) we provide that the present method of operations at Edgewater, including fair and equal treatment of the Central's traffic by the Susquehanna, be continued, and (2) we retain jurisdiction to consider the modification of the condition against physical exercise of the trackage rights in case of alleged failure on the part of the Susquehanna at any time in the future to treat Central traffic on an equal basis.

⁵ The study is based fundamentally upon the Formula for Use in determining Rail Terminal Freight Service Costs (Form F, 5-42), issued by the Commission's Bureau of Transport Economics and Statistics. The nature of the formula and its application in the study are described briefly in the November 8, 1948 report.

1. Revisions to give effect to the suggestions made by us in our report of November 8, 1948.⁶

(a) Substitution of charges made under the 1904 contract for items covered by the contract. (Interest, taxes, and maintenance with respect to the northern and southern extensions).

(b) Elimination of return on 22 acres of land under the water. The return on 5 additional acres which was questioned by our report was not eliminated because the parties were in agreement that these 5 acres were part and parcel of the yard and were used entirely in connection with the operations on the yard, including the handling of Central cars.

(c) Deduction of accrued depreciation from original cost in computing return.

2. Revisions read into the record at the prior hearing but not embodied in the earlier studies.

3. Additional changes to meet suggestions of the Central and to bring the figures up to a current basis with respect to wage rates and material prices. The former adjustments included the elimination of grading, taxes, and return on land under the pavement in zone VII, the team-track yard; elimination of patrolmen in computing the charge for station supplies and expenses for what was considered to be extraordinary law expenses in 1946; and a revision of the credit for intraplant switching.

4. In addition to the above revisions, which are all reflected in the summary sheets received in evidence, additional revisions were read in evidence by the Susquehanna's representative, and these are agreed to by the Central. These aggregate \$0.276 per car for northern extension traffic, and \$0.342 for southern extension traffic.

The result of the revisions of the original study shows a cost per car (including 1948 payments under the 1904 contract and the passenger deficiency) of \$17.06 per car on the northern extension traffic and \$17 per car on southern extension traffic, return being based on reproduction costs new, less depreciation, as of January 1, 1946 (these factors having been furnished by our Bureau of Valuation), adjusted to reflect 1947 prices. If return is based on original cost plus net additions and betterments to 1946 (these factors also having been furnished by our Bureau of Valuation), less accrued depreciation, the total cost (including 1948 payments under the 1904 contract and the passenger deficiency) is \$16.62 and \$16.48 per car, respectively. Sum-

⁶ The parties are in agreement that no adjustment is required because of the absence of coal traffic or the comparatively low amount of Seatrain traffic during the June 1947 test period, and the Central now agrees that such period is representative of the Susquehanna's hauling of Central cars.

mary sheets showing the results of the revisions are attached to this report as appendixes.

The Susquehanna maintains that reproduction cost at present-day prices, less depreciation, provides a more fair and equitable basis for determining a fair return on value than original cost less accrued depreciation. The Central insists that the latter factors should be used because our report in *Increased Freight Rates, 1947*, 269 I. C. C. 33, we made such factors the basis for determining the general level of rates from which the Central must derive its revenues, including revenue in traffic moving to and from Edgewater. The total cost per car on the basis of reproduction cost new, less depreciation exceeds the cost on the basis of original cost, less accrued depreciation by \$0.44 on northern extension traffic and \$0.52 on southern extension traffic. In determining valuation of railroad properties for rate-making purposes, we have considered various elements of value stated in section 19a of the Interstate Commerce Act, including both cost of reproduction new and original cost. In our report in *Increased Freight Rates, 1947, supra*, which, considering several bases of valuation, we chose original cost less depreciation as the most suitable base. We likewise consider original cost less depreciation as the most suitable base for the purpose of this case. In any future revisions of the cost study, such base could be quickly and inexpensively determined.

In revising the earlier study, the Susquehanna's representative also recomputed the passenger deficiency so that it no longer applies to items covered by the 1904 contract. Some other revisions in the method of computing the deficiency were made at the suggestion of the Central's representatives. As thus recomputed, the passenger deficiency (including return) amounts to \$3.62 and \$3.69 on northern and southern extensions traffic, respectively, if return is based on reproduction new less depreciation, and to \$3.47 and \$3.52, respectively, if return is based on original cost less depreciation. The Central agrees to the correctness of the final computations. However, it is the Central's position that it may not be charged with any portion of the passenger deficiency on the grounds that (1) we so ruled in our November 8, 1948, report, (2) there is no passenger operation at Edgewater, and (3) the 1904 contract precludes the imposition of a portion of the passenger deficiency on the Central.

It is true that in our report of November 8, 1948, we ruled that it was not proper to include the passenger deficiency in the study despite the recognized principle of including passenger deficits in studies employed to determine reasonable fares and rates. As we stated, however, the purpose of the study in the prior proceeding was not to

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determine maximum fares, but to determine costs inherent in the operation of certain trackage rights, and whether to authorize the abandonment of those trackage rights. At that time the study was introduced by the Susquehanna in support of its contention that the compensation it was receiving was so grossly inadequate as to justify authorizing abandonment of the trackage rights. In abandonment cases, where the traffic involved is handled only on the particular section of track involved, and not beyond it on other lines of the applicant, and in the situation here under consideration Central traffic is handled by the Susquehanna only on the northern and southern extensions, we look primarily to the costs related to the particular section or trackage rights sought to be abandoned. However, in fixing reasonable charges and rates we look not only to the particular section on the particular traffic for which compensation is sought, but to the road as a whole. See *Fifteen Percent Case 1937-1938*, 226 I. C. C. 41, 54, *Ashland Coal & Ice Co., Inc., v. Atlantic Coast Line R. Co.*, 241 I. C. C. 120, *Passenger Fares of Hudson & M. R. Co.* 227 I. C. C. 741.

In the instant case the question to be determined is just compensation for the movement of the Central cars by the Susquehanna. Obviously, unless the passenger deficiency is to be recognized in the study⁷ other users of the Susquehanna's services will have to bear the deficit, and as long as the Susquehanna performs switching services for the Central, the Central in effect will be preferred over everyone else depending on the Susquehanna's services at Edgewater. If the Central performed its own physical operations over the Edgewater section and paid the Susquehanna simply the charges provided in the 1904 contract, it, of course, should not bear a portion of the passenger deficiency. However, since the study has been recomputed so that it no longer applies, as was the case in the previous study, to the items covered by the 1904 contract, there would seem to be no good reason why the passenger deficiency should not be recognized in the study, and we so find.

The Susquehanna's trustee relying upon our holding in *Switching at Kansas City*, 178 I. C. C. 97, contends that other factors in addition to cost of operations and return on investment may be taken into consideration in determining the compensation to which it is entitled.

⁷ The formula states that the amount of the passenger deficit apportioned to any given freight traffic is based upon the relative use which such freight traffic itself makes of the carrier's transportation facilities, and that the formula may be used with or without consideration of the passenger deficit depending upon the nature of the case.

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In this connection, it insists that the policy of giving consideration and allowing compensation for additional factors has particular application in the New York Harbor area because of the well-recognized custom in this area of imposing switching charges which make full allowance for the opening of the expensive terminals in this area and for giving up valuable traffic.

It points out that this controversy concerns the one portion of the Susquehanna's small line which has to support the entire system, and maintains that there is no reciprocity at Edgewater which might justify holding the Susquehanna's compensation to cost. It asserts that, on the contrary, whereas the Susquehanna has to handle about 10,000 Central cars a year to and from the industries on the northern and southern extensions, less than 1,000 Susquehanna cars on the average move to and from the Central's shore-line section. It again refers to its obligation under the 1904 contract for the payment of one-half of 4 percent interest on the cost of construction of the shore-line extension, including additions and betterments, plus a proportionate car percentage of maintenance and taxes. It contends that in the period from January 1, 1928, to June 30, 1947, the annual interest charges thereon alone have averaged \$24.70 per car. The Susquehanna's contentions with respect to these charges and its income per car from this traffic were considered by us in our report of November 8, 1948, and it appeared that even under the controversial method used by the Susquehanna to arrive at the cost of operations, the Susquehanna received on shore-line traffic an average income per car of \$10.57 for the first 6 months of 1947, and that if the average increase granted by us in Ex Parte No. 166 had been taken into consideration the revenues per car would have been increased to \$75.98 and the income to \$23.23 per car during that period.

With respect to its loss of line-haul earnings on southern extension traffic as well as northern extension traffic generally, the Susquehanna's trustee testified that the line-haul earnings which the Susquehanna received from its other connections on traffic to and from the northern and southern extensions averaged \$55.90, \$55.85, and \$53.27 for April, August, and December, 1948, respectively (without taking into consideration all recent general rate increases). No showing was made, however, that the service afforded by the Susquehanna on interline traffic was the same as that performed for the Central on the joint sections, nor was there any showing that the cost of performing interline service is the same as that shown by the cost study referred to hereinbefore.

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In support of its contention that a switching charge of at least \$23.69 per car would be reasonable, the Susquehanna points to the Central's absorption of the Susquehanna's \$23.69 charge for switching Central cars to and from the Colgate-Palmolive-Peet Company plant. This plant was located on the southern end of the northern extension at Edgewater until about 1944. However, since the track leading to it lay in the Susquehanna's yard over which the Central does not have trackage rights, the supplemental contracts under which the Susquehanna has performed the physical operations for the Central to the northern and southern extension industries did not apply. Instead, the Susquehanna published a switching charge of \$13.75 per car between the track connection with the Central at Guttenberg and the Colgate plant and the Central expressed its agreement with the charge by providing for absorption in its switching tariffs. In consideration of the general rate increases allowed since the first publication of the \$13.75 charge, the charge is now concededly equivalent to \$23.69. Although the Colgate Company is no longer at Edgewater, the provisions for the charge and for the absorption of the charges are still found in the Susquehanna and Central tariffs.

A witness for the Susquehanna testified that the physical movement of Central cars to or from the Colgate Company was identical with the movement of Central cars to or from the other northern and southern extension industries, and his testimony was not contradicted.

The Susquehanna further points out that a charge equivalent to \$23.69 (allowing for the general rate increases authorized subsequently) was paid by the Central for the same movement involved in these proceedings although it was believed in 1930 that the Ford plant located on the southern extension was not subject to the Central's trackage rights.

The Susquehanna further points out that the \$23.69 charge paid by the Central for switching to the Colgate Company at Edgewater is not an isolated charge. Thus, charges equivalent to \$23.69 (after giving effect to general rate increases authorized subsequently since the publication of such charges) are applicable to the following movements in adjacent territory at Weehawken :

1. Between the Central-Erie track connection at Weehawken and Erie industries at Weehawken the Erie charge is absorbed by the Central.

2. Between the Central-Erie track connection at Weehawken and the two industries on the Central's shore-line section. This is a Central charge, the Erie providing for absorption in its tariff.

3. Between the Central-Erie track connection at Weehawken and the Empire State Ice Company on the Central's north yard at Wee-

hawken. This is a Central charge, still in effect. It was absorbed by the Erie prior to November 8, 1947.

4. Between the Central-Erie track connection at Weehawken and the Central piers at Weehawken. This is also a present Central charge which was absorbed by the Erie prior to March 1, 1948.

A witness for the Susquehanna testified that the nature of these moves, the distances involved, and the general operating conditions are comparable to those prevailing in connection with the switching of Central cars at Edgewater, and that, if anything, the Weehawken moves are the easier ones. The witness conceded that he never held any official position with the Central which involved the switching at Weehawken, but he asserted that his testimony was based on personal observations on the ground.

The Central asserts that the claim of the Susquehanna that reasonable compensation should be at least \$23.69 per car, based on switching and absorption tariffs, is without merit because there are no trackage rights connected with those tariffs, and that the evidence does not show any identity between the service or cost thereof, performed under the \$23.69 charge and that performed by the Susquehanna at Edgewater on Central traffic. The Central further asserts that if any comparison with switching rates is to be made, it should be with the Susquehanna's local rate, originally published at \$6.93 which now amounts to \$11.94 per car and applies to switching between industries on the Edgewater and shore-line sections. In this connection, the Susquehanna undertakes to perform a service for the general public in connection with both road-haul and non-road-haul traffic which in the case of movements from the harbor tank storage on the shore-line section to industries on the northern extension would seem to be identical with the maximum service performed for the Central. The Susquehanna points out, however, that this is an average charge applicable to switching between two industries within the Susquehanna's terminal, and includes movements between two industries situated next to each other as well as the movements described by the Central. It insists that charges of this kind (as distinguished from charges for connecting-line switching) involving a very small amount of traffic and special services for the shippers are customarily placed on an accommodation basis.

With respect to the Central's contention that the evidence does not show any identity between the service or cost performed under the \$23.69 charge and that performed by the Susquehanna at Edgewater for the Central, the record shows that the movements listed as Nos. 2, 3, and 4 above encounter passenger traffic while there is no passenger

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traffic at Edgewater. The witness for the Susquehanna testified, however, that there are sizable gaps between passenger trains at Weehawken so that the switching moves are not impeded. He further testified that the absence of passenger traffic at Edgewater is offset by the fact that the transfer move at Weehawken is made on running tracks whereas the transfer move into Edgewater yard is made in a heavily congested switching territory. Also that the situation at Edgewater is complicated through the spot switching required by most industries.

Consideration of rates for comparable movements is a well-recognized method of determination of appropriate switching charges. *Fitchburg Gas & Electric Light Co. v. Boston & M. R.*, 164 I. C. C. 487, 495. But, as pointed out by the Central, such charges as the \$23.69 charges were established without regard to trackage rights such as were established by the contracts of 1904 and 1911. In its report of July 19, 1944, 257 I. C. C. 593, approving a plan of reorganization for the Susquehanna, division 4 declined to include a provision in the plan rejecting these contracts, and we took similar action in our report of March 5, 1945, 261 I. C. C. 101, approving a modified plan. In our report of November 8, 1948, we indicated that, disregarding the question of just compensation, the record did not justify authorizing as a preliminary step to their disaffirmance, the abandonment of the trackage rights established by the contracts.

The Susquehanna contends, however, that the 1904 and 1911 contracts do not require the Susquehanna to operate for the Central at cost, and that there is nothing in the prior reports in these proceedings to the contrary. It insists that, while it here assumes that the basic contracts will not be unconditionally terminated or their terms changed, its supplemental compensation should reflect all the factors customarily given consideration in switching charges and should take into account the recognized custom in the New York Harbor area of imposing charges which make full allowance for the opening of the expensive terminals in this area. To accept this argument would require that the Central be considered a stranger at Edgewater. Yet, the record is clear that the joint railroad facility at Edgewater was established for the use of both the Susquehanna and the Central, and that it is for operating convenience of the parties resulting from the necessities of the situation that Susquehanna power is used in handling the movement of cars for both roads. The Susquehanna has cited no case in which compensation for joint operations performed in connection with trackage rights has been established on the basis of unrelated switching charges. To fix the charges

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on such basis would be to ignore completely the Central's trackage rights.

The Susquehanna also urges that since the Central's trackage rights do not extend to the Susquehanna's yard at Edgewater the charges for handling Central cars in the yard should be determined on a basis higher than those developed by the application of the formula referred to hereinbefore. The 1911 agreement provides that the Susquehanna would shift the cars of the Central across the yard between the northern and southern extensions "for a reasonable switching rate or charge." The rate or charge contemplated by the 1911 agreement relates to the movement of the Central's northern extension cars and would apply to only about 25 percent of the Central's traffic at Edgewater. The yard is used, however, in the interest of the Susquehanna's operating convenience in classifying cars of both roads for movement to and from industries located on the southern extension as well as the northerly extension of the Edgewater section. The cost study thus assesses the Susquehanna's fully distributed yard costs against all Central cars regardless of whether they moved to or from the northern or southern extensions. It also is to be remembered that we have approved the inclusion of the passenger deficits in the studies although no passenger operations are conducted on the Edgewater section.

The Susquehanna also insists that payment of compensation to it on a basis higher than the charges developed by the cost studies is required as a matter of equity among its creditors and as a matter of public interest. In this connection it points to the provision in the reorganization plan of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company for the execution of a new lease between the Terre Haute and the new company on condition that substantially all the Terre Haute bondholders agree to a modification of their bonds and mortgages. There is little or no comparability between the Terre Haute lease and the trackage rights in question. Moreover, we have found not warranted a provision in the Susquehanna's plan of reorganization rejecting the 1904 and 1911 contracts.

Considering all the evidence of record, we find that the just and reasonable compensation to the Susquehanna for the movement of Central cars over the joint sections of railroads, including use of the yard at Edgewater as of October 1, 1948, should be in the amount of \$15.15 per loaded car on northern extension traffic and \$15.01 per loaded car on southern extension traffic. The general charges payable by the Central under the 1904 contract will also be continued. Such compensation would afford the Susquehanna all costs of operations, plus a 5 $\frac{3}{4}$ -percent return on investment in those portions of the

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Susquehanna yard and the locomotives and equipment and the facilities required for their maintenance which are used by the Susquehanna in connection with the handling of Central's traffic on the Edgewater section. The return to the Susquehanna on the investment in the Edgewater section itself is provided for in the 1904 agreement under which the Susquehanna receives one-half an interest charge of 4 percent on the entire investment together with a user proportion of taxes and maintenance.

Further discussion and final conclusions.—In our prior report in these proceedings, we found, aside from the matter of just compensation, that the record did not support a finding that the present or future public convenience and necessity permit the abandonment sought. Upon further consideration of the record as supplemented, we are convinced that operation by the Central over the area in question as now conducted through the Susquehanna is more efficient and economical and is more convenient for the shipping public than would be operation by the Central with its own engines and crews. However, as pointed out in our prior report, the welfare of individual carriers, financial soundness and continued independence, the payment to them of reasonable compensation, bearing as they do on the ability of the carrier to perform its duties to the public, are among the factors to be considered in determining the problem here as it relates to "the public interest." Operation of the Central as now conducted through the Susquehanna would be in the interest of shippers using the Edgewater and shore-line sections and should be continued if possible. Such operation, however, would impose a burden upon the Susquehanna and upon interstate commerce which would outweigh the inconvenience to shippers which might result from the abandonment unless the Central pays the Susquehanna just and reasonable compensation as indicated above, and also agrees that it will not in the future operate with its own engines and crews over the Edgewater section. We find, therefore, that the public convenience and necessity will permit the abandonments sought in the application under consideration, unless within 60 days from the date hereof the Central (1) offers to enter into a supplemental contract with the Susquehanna, and (2) if the Susquehanna accepts such offer, enters into such contract, providing (a) compensation as of October 1, 1948, for the movement of Central cars over the Edgewater section, including use of the yard at Edgewater, in the amount of \$15.15 per loaded car on northern extension traffic and \$15.01 per loaded car on southern exten-

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sion traffic, these amounts to be adjusted from time to time in accordance with the formula as approved by us in these proceedings,⁸ and (b) that it will not in future operate physically over the Edgewater section so long as the Susquehanna performs the service thereover as agent for the Central. In this latter connection, the Susquehanna should agree that it will perform the joint switching for itself and the Central, upon the Edgewater section and the shore-line section, and in and across the Susquehanna yard at Edgewater, with equal dispatch and without preference to either party.

As indicated in our prior report, this record does not warrant a finding that the Central should stipulate that it will not in the future join the Erie in the publication of through routes and joint rates to Edgewater or Weehawken, or extend its Weehawken switching district and publish switching charges for the movement between the track connection with the Erie at Weehawken and the industries on the northern and southern extensions. Edgewater is a station on the lines of the Central and has been a station on its lines for the past 35 years. Under the basic contracts the lines of the Central were extended to Edgewater, and the Central is under an obligation as a common carrier to maintain Edgewater as a station on its lines to serve the shipping public in the movement of traffic over such routes as may be lawfully established. We conclude and find that the record does not justify the imposition of this requested condition.

We will withhold issuance of a certificate upon the abandonment application for a period of 60 days from the date hereof in order that the Central and the Susquehanna's trustees may enter into the agreement above indicated and file verified copies thereof in this proceeding. If and when verified copies of the agreements are filed or, in the event the Susquehanna refuses to enter into such agreement, upon proper showing by the Central that it has offered to enter into such agreement and the Susquehanna has refused the offer, consideration will be given to the entry of an appropriate order in the abandonment proceeding.

Pending final action in the abandonment proceeding, action on the request of the Susquehanna's trustee for findings as to whether the abandonments will be consistent with the reorganization requirements of the Susquehanna will be deferred.

COMMISSIONERS ROGERS and JOHNSON did not participate in the disposition of this proceeding.

⁸ These amounts are exclusive of the general charges payable by the Central under the 1904 contract.

APPENDIX A

Summary of cost per loaded car of handling New York Central traffic at Edgewater, N. J., revised subsequent to I. C. C. decision of November 8, 1948; return based on I. C. C. reproduction cost new less depreciation as of January 1, 1946, adjusted to reflect 1947 prices

Line No.	Item (1)	N. Y. C. northern extension traffic			N. Y. C. southern extension traffic		
		Operating expenses, rents, and taxes (2)	Return (3)	Total (4)	Operating expenses, rents, and taxes (5)	Return (6)	Total (7)
1	Zone charges, center section.....	\$0.614	\$0.821	\$1.435	\$1.123	\$1.304	\$2.427
2	Switching charges.....	7.170	.553	7.723	6.300	.485	6.785
3	Station service, clerical.....	.382	.005	.387	.382	.005	.387
4	Freight train car expense.....	.167	.015	.182	.169	.016	.185
5	Cost per car, revenue traffic.....	8.333	1.394	9.727	7.974	1.810	9.784
6	Adjustment for abnormal expenses (increased wages and prices).....	1.911	-----	1.911	1.829	-----	1.829
7	Special services (intraplant switching).....	-----	-----	-----	cr .181	-----	cr .181
8	Cost for nonrevenue traffic.....	.056	.008	.064	.054	.010	.064
9	Total cost per car (including nonrevenue traffic but excluding passenger deficiency).....	10.300	1.402	11.702	9.676	1.820	11.496
10	Passenger deficiency.....	2.934	.683	3.617	2.807	.887	3.694
11	Total cost per car (including passenger deficiency).....	13.234	2.085	¹ 15.319	12.483	2.707	² 15.190

Maintenance, taxes, and interest billed against N. Y. C. under 1904 contract—year 1948

12	Maintenance of way and structures.....	.214	-----	.214	.214	-----	.214
13	Taxes.....	.084	-----	.084	.084	-----	.084
14	Interest.....	-----	1.169	1.169	-----	1.169	1.169
15	Total charges under 1904 contract.....	.298	1.169	1.467	.298	1.169	1.467

Summary

16	Grand total cost per car (including payments under 1904 contract and passenger deficiency).....	13.532	3.254	³ 16.786	12.781	3.876	⁴ 16.657
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¹ This amount would be increased to \$15.595 to reflect additions made at the hearing and agreed to by the New York Central.

² This amount would be increased to \$15.512 to reflect additions made at the hearing and agreed to by the New York Central.

³ This amount would be increased to \$17.062 to reflect additions made at the hearing and agreed to by the New York Central.

⁴ This amount would be increased to \$16.999 to reflect additions made at the hearing and agreed to by the New York Central.

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APPENDIX B

Summary of cost per loaded car of handling New York Central traffic at Edgewater, N. J., revised subsequent to I. C. C. decision of November 8, 1948; return based on I. C. C. original cost plus net additions and betterments to 1946, less accrued depreciation

Line No.	Item (1)	N. Y. C. northern extension traffic			N. Y. C. southern extension traffic		
		Operat- ing ex- penses, rents, and taxes	Return	Total	Operat- ing ex- penses, rents, and taxes	Return	Total
		(2)	(3)	(4)	(5)	(6)	(7)
1	Zone charges, center section.....	\$0.614	\$0.612	\$1.226	\$1.123	\$1.030	\$2.153
2	Switching charges.....	7.170	.474	7.644	6.300	.417	6.717
3	Station service, clerical.....	.382	.003	.385	.382	.003	.385
4	Freight train car expenses.....	.167	.009	.176	.169	.010	.179
5	Cost per car, revenue traffic.....	8.333	1.098	9.431	7.974	1.460	9.434
6	Adjustment for abnormal expenses (in- creased wages and prices).....	1.911	-----	1.911	1.829	-----	1.829
7	Special services (intraplant switching).....	-----	-----	-----	cr. .181	-----	cr. .181
8	Cost for nonrevenue traffic.....	.056	.006	.062	.054	.008	.062
9	Total cost per car (including nonrevenue traffic but excluding passenger deficiency).....	10.300	1.104	11.404	9.676	1.468	11.144
10	Passenger deficiency.....	2.934	.538	3.472	2.807	.715	3.522
11	Total cost per car (including passenger deficiency).....	13.234	1.642	14.876	12.483	2.183	14.666

Maintenance, taxes and interest billed against N. Y. C. under 1904 contract—year 1948

12	Maintenance of way and structure.....	.214	-----	.214	.214	-----	.214
13	Taxes.....	.084	-----	.084	.084	-----	.084
14	Interest.....	-----	1,169	1,169	-----	1,169	1,169
15	Total charges under 1904 contract.....	.298	1,169	1,467	.298	1,169	1,467

Summary

16	Grand total cost per car (including pay- ments under 1904 contract and passenger deficiency).....	13.532	2.811	16.343	12.781	3.352	16.133
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¹ This amount would be increased to \$15.152 to reflect additions made at the hearing and agreed to by the New York Central.

² This amount would be increased to \$15.008 to reflect additions made at the hearing and agreed to by the New York Central.

³ This amount would be increased to \$16.619 to reflect additions made at the hearing and agreed to by the New York Central.

⁴ This amount would be increased to \$16.475 to reflect additions made at the hearing and agreed to by the New York Central.

275 I. C. C.