

FINANCE DOCKET No. 15795<sup>1</sup>NEW YORK, SUSQUEHANNA & WESTERN RAILROAD  
COMPANY ABANDONMENT

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*Submitted January 3, 1950. Decided January 11, 1950*

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1. 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 operation 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., denied.
2. Request for a finding that such abandonments will be consistent with the reorganization requirements of the New York, Susquehanna & Western Railroad Company, denied. Previous reports, 257 I. C. C. 593; 261 I. C. C. 101; 271 I. C. C. 339; 275 I. C. C. 10.

Appearances as shown in prior report.

## REPORT OF THE COMMISSION OF FURTHER CONSIDERATION

## BY THE COMMISSION:

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 & 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 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

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<sup>1</sup>This also embraces Finance Docket No. 11681, New York, Susquehanna & Western Railroad Company Reorganization.

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 abandonments 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 Central, the record was inadequate for determining what would be proper compensation for such services. 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. A further hearing was held.

In our report of October 3, 1949, 275 I. C. C. 10, we found that, while operation of the Central as at present 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 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 should pay the Susquehanna just and reasonable compensation as determined by us, and also should agree that it will not in the future operate with its own engines and crews over the Edgewater section. We, accordingly, further found that the public convenience and necessity would permit the abandonments sought, unless within 60 days from the date of our report of October 3, 1949, the Central (1) offered to enter into a supplemental contract with the Susquehanna, and (2) if the Susquehanna accepted such offer, entered 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 extension traffic, these amounts to be adjusted from time to time in accordance with the formula as approved by us in these proceedings, and (b) that it would not in the future operate physically over the Edgewater section as long as the Susquehanna performs the service thereover as agent for

275 I. C. C.

the Central. In the latter connection, we also found that the Susquehanna should agree that it would 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. We withheld issuance of a certificate upon the abandonment application for a period of 60 days from the date of our report in order that the Central and the Susquehanna's trustee might enter into the agreement and file a verified copy in the proceeding. We also deferred making any findings with respect to the Susquehanna's reorganization requirements pending final action in the abandonment proceeding.

By order of November 29, 1949, the Commission, by Chairman Mahaffie, extended the time within which the contract might be executed to December 30, 1949. On the latter day, the Central and the Susquehanna's trustee executed the agreement as contemplated by our report of October 3, 1949, and a verified copy thereof has been filed with us. In view of the execution of the contract, the Central on December 30, 1949, requested us to enter an order denying the abandonment application, and refusing to make the finding that the abandonments sought would be consistent with the reorganization requirements of the Susquehanna.

Upon further consideration of the record in these proceedings, we find that (1) the present and future public convenience and necessity does not permit abandonment (a) by the New York Central Railroad Company, and its owned, leased, and operated lines, including New Jersey Junction Railroad Company, of trackage rights over the tracks of the New York, Susquehanna & Western Railroad Company at Edgewater, Bergen County, N. J., and (b) by the trustee of the New York, Susquehanna & Western Railroad Company of trackage rights over tracks of New Jersey Junction Railroad Company south of Edgewater in Hudson County, N. J. We further find that the abandonments for which authorization was sought as afore-mentioned would not be consistent with the reorganization requirements of the New York, Susquehanna & Western Railroad Company,

An appropriate order will be issued.

CHAIRMAN JOHNSON did not participate in the disposition of this proceeding.

275 I. C. C.