

**BEFORE THE
INTERSTATE COMMERCE
COMMISSION.**

Finance Docket Nos. 4353, 4477, 4590, 4591.

**APPLICATIONS OF BOSTON & MAINE
RAILROAD FOR CERTIFICATES PER-
MITTING THE ABANDONMENT OF
CERTAIN RAIL LINES IN MASSA-
CHUSETTS.**

Applicant's Brief.

**W. A. COLE,
Counsel for
Boston & Maine Railroad.**

**BOSTON :
ADDISON C. GETCHELL & SON, LAW PRINTERS,
74 INDIA STREET.
1925.**

**BOSTON & MAINE RAILROAD
HISTORICAL SOCIETY
ARCHIVES**

INDEX.

	Page.
Statement	1
Argument.—Lines in Essex County	3
I. The Boston & Maine's unprofitable branch lines are a serious handicap upon its efforts to earn a fair return	3
II. These branch lines were built in the 40's and 50's for competitive reasons, but with the consolidation of lines in that territory their reason for existence long since disappeared	9
III. The population of many of the towns along these branches has declined since the lines were built seventy-five years ago, and they have developed so little traffic of their own that they have no value as "feeders"	15
IV. Operation of these Massachusetts lines is a burden on the Boston & Maine Railroad to the extent of at least a quarter million dollars per year	20
V. These lines show heavy losses without charging them with any part of operating costs aggregating \$16,000,000 a year to the Boston & Maine system, or any overhead or general expenses	29

	Page.
VI. The Railroad is willing to turn these lines over to the protestants if they wish to continue their operation	30
VII. "Public convenience and necessity" permit the abandonment of these lines	32
(a) Furnishing of substitute motor service by the Railroad and the availability of other rail lines will minimize any local inconvenience	32
(b) The heavy losses of these lines make the "public convenience and necessity" of broad concern	35
Supplement.—Lines in and about Tewksbury	39

BEFORE THE INTERSTATE COMMERCE COMMISSION.

Finance Docket Nos. 4353, 4477, 4590, 4591.

APPLICATIONS OF BOSTON & MAINE RAILROAD FOR
CERTIFICATES PERMITTING THE ABANDONMENT OF
CERTAIN RAIL LINES IN MASSACHUSETTS.

Applicant's Brief.

STATEMENT.

The record here was made on four applications of the Boston & Maine Railroad under paragraph 18 of section 1 of the Act to Regulate Commerce, for certificates permitting the abandonment of some 62 miles of branch lines in Massachusetts. The following four cases are under consideration:

Finance Docket No. 4353, lines in and about Tewksbury aggregating about 9 miles; filed October 2, 1924.

Finance Docket No. 4477, Newburyport Branch, between Wakefield Center and Newburyport, a distance of about 30 miles; filed December 1, 1924.

Finance Docket No. 4590, South Reading Branch, between Wakefield Center and Peabody, a distance of about 8 miles; filed January 14, 1925.

Finance Docket No. 4591, Lawrence Branch, between North Andover and Danvers, a distance of about 15 miles; filed January 14, 1925.

The Tewksbury application grows out of a re-routing of through traffic already carried out. The situation there is different from that of the lines covered by the other three applications, and is treated in a Supplement appearing at the back of the main brief. The body of the brief deals with the three other lines; these are located almost wholly in Essex County in northeastern Massachusetts, and intersect each other at several points.

Joint hearings were held on all four applications at Boston before Commissioner Meyer, Engineer-Examiner Jameson, and the Massachusetts Department of Public Utilities, on February 25-26, and May 18-20, 1925.

ARGUMENT.—LINES IN ESSEX COUNTY.

I. The Boston & Maine's unprofitable branch lines are a serious handicap upon its efforts to earn a fair return.

For many years the Boston & Maine Railroad has failed to earn a fair return on its property. No dividends have been paid on its \$40,000,000 of common stock since 1913. In 1919 there was a reorganization of its finances following a receivership, in the course of which the holders of leased lines securities which theretofore had received dividends by way of rental exchanged their securities for some \$38,000,000 of Boston & Maine preferred stock. Only one dividend has been paid on this preferred stock since the reorganization (17). This failure of the railroad to earn dividends is an undue hardship on its stockholders because the road's capitalization is conservative. The tentative valuation found by the Commission plus additions and betterments to December 31, 1923, is approximately \$288,000,000; its investment account as of the same date \$262,000,000; and the par value of securities in the hands of the public about \$222,000,000 (16).

It would seem clear that a railroad with so conservative a capitalization and investment account is entitled to earn a fair return upon them, but unfortunately such a return the Boston & Maine has been unable to realize for many years. For the last ten years its showing has been as follows:

Year	Rate of Return
1915	4.64%
1916	5.89
1917	3.30
1918	.69
1919	.82
1920	(Deficit)
1921	(Deficit)
1922	2.72
1923	1.21
1924	3.63

It is apparent that these results have not afforded a basis for good credit, for the road has not been able to sell any stock for many years; with the exception of a small issue of bonds in 1922, it has been able to finance its needs only by loans from the Government (39).

Although the company passed through a receivership and financial reorganization as recently as 1919, a further attempt to readjust its finances is now being attempted in the hope of extending certain obligations maturing during the next few years, and securing new funds from the stockholders for making improvements to the property (38). Coincident with this effort to establish the credit of the company and make it a strong and efficient property, the desirability of reducing the amount of unprofitable branch-line mileage has received much attention. This subject is not

a new one with the management, for, since the Commission was given legislative authority over abandonments in 1920, the Boston & Maine has applied to the Commission for permission to abandon certain lines, and received favorable action on all such applications (see Finance Docket Nos. 1439, 1440, 4046, 4285). But it has seemed that the discontinuance of unprofitable lines should be undertaken on a more comprehensive scale (9, 20).

Moreover, the tremendous increase in the use of motor vehicles in recent years has given the matter a new aspect for two reasons. In the first place the increase in the use of the highways for the transportation both of freight and passengers has reduced the always thin traffic of many of these branch lines to the vanishing point; the second reason is that the availability of motor transportation and the offer of the Railroad to furnish it where needed as a substitute for branch-line service will minimize the public inconvenience which might otherwise result from the discontinuance of rail operation. It is perhaps hardly necessary to refer to the growth in the use of motor vehicles, but it appears that between 1918 and 1924 the total motor registrations in Massachusetts have increased from 193,000 to nearly 700,000 (74). Further reference to the matter of substitute motor service will be made later (*post*, p. 34).

In meeting the reduction in traffic through inroads of the motor vehicles, the Boston & Maine has been active in attempting also to reduce expenses. For example, passenger-train miles have been reduced from 12,200,000 in 1913 to 9,700,000 in 1924, and since Federal Control approximately 80 stations have been discontinued or made non-agency stations and 25 or 30 cases of similar curtailment are pending (26, 76). The difficulty, however, is that these curtailments of service follow rather than precede reductions in traffic, and it generally has been difficult for the curtailments to keep pace with the diminishing traffic (426, 428). This is particularly true on branch lines where the lack of traffic makes it impossible to effect the economies in the way of consolidating traffic which are possible on main lines carrying a substantial traffic. In the last ten years an increase of 18 per cent in ton miles on the Boston & Maine has been handled with 16 per cent less freight train miles, but, speaking generally, this sort of economy is not possible on branch lines where the traffic is thin and not capable of concentration into large units (76).

The record here shows that its branch lines of light traffic must be a serious drain on the income of the Boston & Maine Railroad. As disclosed by Exhibit 2, which is a chart reproduced at the back of this brief as Appendix A*, it will be seen that

* As an aid to locating the different divisions and the branch lines under application geographically there is also reproduced herewith, as Appendix B, a density map of the Boston & Maine system based on Exhibits 3, 4, and 5.

the Boston & Maine's average freight density per mile of road in 1922 was about 1,100,000 tons, while for the roads in the Eastern District outside New England the average was three times as much, or about 3,350,000 tons (22). From the chart it will be seen that only two lines—the Berkshire and Fitchburg divisions, which constitute the main route from the Hudson River to Boston—have a density equal to the average of the Eastern Rate Group, while two other main line routes—the Portland and Southern divisions, numbered 3 and 4 on the chart—have about two thirds the density of the Eastern Group. An even more striking fact will be observed from the chart—viz., that blocks 9 to 19, making up something over 1000 miles out of a total of 2400 miles, have an average density of 75,000 tons per mile. It also appears that 42 per cent of the mileage for the Boston & Maine system handles but 3 per cent of the ton miles (30).

In this connection it is interesting to compare the Boston & Maine's density of freight traffic with that of its two principal western connections—the New York Central and Delaware & Hudson. The average of the former is found to be 4,600,000 tons per mile and of the latter 4,500,000, as contrasted with the Boston & Maine's 1,100,000 tons (72). Another interesting comparison is that of the Boston & Maine's density of freight traffic with that of its prosperous neighbor, the Boston

& Albany Railroad. It appears that taking the Boston & Albany's 200 miles of main lines and 200 miles of branches, and the Boston & Maine's parallel lines—the Fitchburg and Berkshire divisions, also comprising approximately 200 miles of main line and 200 miles of branches—the freight density of the Boston & Albany in 1922 was about 3,000,000 tons per mile of road, whereas on the Fitchburg and Berkshire divisions of the Boston & Maine it was about 3,200,000 tons, in both cases an equal amount of auxiliary branch line mileage being taken into account. The striking thing here is that while that portion of the Boston & Maine which is comparable with the Boston & Albany in location and mileage has a slightly greater density of traffic than its neighbor, the density of the Boston & Maine system, including an additional 2000 miles, is diluted to a density of 1,100,000 tons per mile (70).

It is also interesting to compare the results from the operation of the longest branch line under consideration with the average earning power per mile of the Boston & Maine system as developed by the answer to Question 8 of the Questionnaire. It appears there that taking the results for 1924, when the system earned a return of but 3.6 per cent, the net operating revenue for an average 30 miles of the system was \$174,000, by contrast with the showing of the 30 miles of the Newburyport Branch, which fell short of earning anything

in the way of net operating revenue by over \$100,000 (92, 95, 100). This is a significant indication not only of the burden of these lines in themselves, but of the wide margin between the earning power of the average mile of the system and the actual losses involved in the operation of these branches.

Doubtless other railroad systems have unprofitable branches, and information is not available to show whether other systems are burdened to the same extent as the Boston & Maine. It seems clear, however, that for a road not earning a fair living, this large percentage of thin branch lines cannot be other than a heavy financial drain, and that such a situation requires correction.

II. These branch lines were built in the 40's and 50's for competitive reasons, but with the consolidation of lines in that territory their reason for existence long since disappeared.

These three branches of the Boston & Maine Railroad in Essex County are the product of a period of competitive railroad building in the 40's and 50's. At that time the Eastern Railroad ran from Boston along the coast through Salem and Lynn to Newburyport, while the Boston & Maine lay inland, running from Boston through Wakefield, Reading, Lawrence, and Haverhill. The two lines were separated by from 10 to 15 miles of undeveloped country, which has never been important from the standpoint of traffic produc-

tion. These branch lines were built as cross-connections between the Eastern and Boston & Maine, and not on account of any important intermediate territory (103).

The Lawrence Branch, originally the Essex Railroad, was promoted by the Eastern in 1848 to tap the Boston & Maine's line at Lawrence; the South Reading Branch was started by Salem interests in 1850 to give that city a connection with the Boston & Maine and thus end the Eastern's monopoly at that point; while the Newburyport Branch was promoted by local interests in Newburyport for a similar reason. None of these lines was prosperous, and none of them operated independently for more than a few years before being absorbed by either the Boston & Maine or the Eastern. When the Eastern was leased by the Boston & Maine in 1884 and absorbed in 1890, the reason for their existence as competitive lines disappeared, and they have not developed sufficient local traffic of their own to warrant their continued operation (104).

The *Newburyport Branch*, which extends about 30 miles from Wakefield Center to Newburyport, is the result of the consolidation of three small roads, built in the 50's—the Danvers Railroad Company from Wakefield Center to Danvers Junction, the Danvers & Georgetown Railroad Company from Danvers Junction to Georgetown, and the Newburyport Railroad Company

from Newburyport to Bradford, near Haverhill, running through Georgetown.

The Newburyport Railroad Company was incorporated in 1846, by local interests who wished to give Newburyport a connection with the Boston & Maine at Bradford in competition with the Eastern Railroad's line to Boston. The 8.5 miles between Newburyport and Georgetown was opened in 1850, and the balance from Georgetown to Bradford in 1851. In 1860 the property was leased to the Boston & Maine for one hundred years, on payment of \$225,000 to be used in paying off 70 per cent of the Newburyport's mortgage bonds and a waiver of the payment of \$75,000 of bonds held by the Boston & Maine, the aggregate of \$300,000 to constitute a debt of the Newburyport to the Boston & Maine at the termination of the lease. In September, 1906, the Boston & Maine acquired the property of the Newburyport Railroad at the same time it acquired the property of the Danvers Railroad (105).

The Danvers & Georgetown Railroad, extending between those two points for about 12 miles, was opened in September, 1854. No separate records of its operation are available, because it was operated for a few months by the Newburyport Railroad Company under a contract, and in 1855 was consolidated with that company.

The line of the Danvers Railroad Company between Wakefield Junction and Danvers Junction,

was opened in October, 1854, but was never operated for its own account. The early financing of the road was so difficult that the Boston & Maine was appealed to, and it leased the road in 1854 before it was opened, in consideration of an arrangement with the Newburyport Railroad and the Danvers & Georgetown for a through route to Newburyport in competition with the Eastern. In 1906 the Boston & Maine acquired the property and franchises of the Danvers Railroad (106).

The Newburyport Railroad had a very hard struggle for an existence. It never paid dividends, and when leased to the Boston & Maine in 1860 the consideration appears to have been merely the taking care of its bonded indebtedness. That it was not a road of large earning power is indicated by the fact that for the seven years prior to its lease to the Boston & Maine in 1860 its earnings were in the vicinity of \$50,000, this figure including the earnings of the Danvers & Georgetown, and the Newburyport's line from Georgetown to Bradford. Presumably it was attractive to the Boston & Maine only as affording it an entrance into Newburyport in competition with the Eastern Railroad.

The *Lawrence Branch* between Salem and North Andover was built by the Essex Railroad Company under an Act of 1846, which authorized it to build a line from Salem to a point near the Merrimac River, in what is now the City of Law-

rence. This road was promoted by the Eastern Railroad, which loaned much of the construction funds, in order to give that company an entrance into Lawrence. The Eastern bought land for extension of the line to Lawrence, but at times the Boston & Maine allowed the Essex Railroad trains to run from North Andover into Lawrence, and the actual extension to Lawrence was never carried through.

The line of the Essex Railroad from Salem to North Andover was opened in 1848, and from the beginning was operated by the Eastern Railroad under various arrangements. Finally, in 1864, the Eastern acquired the entire property of the Essex, and it passed to the Boston & Maine through the latter's absorption of the Eastern in 1890. During the sixteen years prior to its absorption by the Eastern in 1864, the earnings of the Essex Railroad varied from \$40,000 to \$70,000 per year. The road was not a financial success, and barely earned its interest requirements. Service was suspended for a time in 1849, and an assessment was made upon the stockholders (143).

The *South Reading Branch* was incorporated in 1848 to construct a line from South Danvers, which is now Peabody, through Lynnfield to South Reading, now Wakefield Junction on the main line of the Boston & Maine. It was opened to traffic in 1850. At the time of its promotion the South Reading by contract secured running rights over

the Essex Railroad between Peabody and Salem, this being necessary because it was promoted by Salem interests who wished by this means to give that city a route to Boston in competition with the Eastern Railroad, or else to create a line with so large a nuisance value that the Eastern would feel obliged to buy it. In any event, in 1851, the Eastern acquired a controlling interest in the South Reading and operated it until the lease of the South Reading and other Eastern properties to the Boston & Maine in 1884 and their absorption in 1890.

The earnings of the South Reading road, while separately reported—that is, down to 1865—rarely exceeded \$20,000, and after the first year of operation it paid no dividends. There is an indication of its unimportance except for competitive purposes in an agreement between the Boston & Maine and Eastern made in 1855 regarding the traffic of this line, in which it was provided that:

“The Boston & Maine Railroad shall not interpose any objection to the discontinuance of said South Reading branch railroad” (Massachusetts Reports, 1856, page 78).

Evidently the idea of discontinuing this line is not a recent one. In 1866 the franchise was sold under a court execution, but in the following year it was redeemed by certain of the directors (148).

With the consolidation of the Boston & Maine and the Eastern Railroad in 1890 there disappeared the competitive reasons which brought about the construction of these lines from one of the former competitors to the other. It will now be pointed out that, since their construction some seventy-five years ago, these lines have not developed any appreciable amount of traffic of their own; from an economic standpoint they are superfluous.

III. The population of many of the towns along these branches has declined since the lines were built seventy-five years ago, and they have developed so little traffic of their own that they have no value as “feeders.”

As indicated above, these lines no longer serve the competitive purposes for which they were built. It is further of interest that they have never developed any appreciable traffic of their own. This is due in large part to the character of the country in which they are located, for the region between the original main lines of the Boston & Maine and Eastern railroads is a rugged, sparsely settled country of little commercial importance.

Surprising as it may seem, the population of several of the communities served by these lines is actually less than when the branches were built three quarters of a century ago. For example,

Topsfield, which formerly contained shoe factories and other industries, now has no manufactures whatever, and in recent years the principal development there has been the building of country estates (904). The population of Topsfield in 1850 was 1870, and in 1920 only 900, or less than half that of 1850. Boxford had a population of 588 in 1920 and 982 in 1850. It is difficult to state the population of Newbury in 1850, as it then included a part of Newburyport, but in 1900 it had a population of 1600, and in 1920 of 1300 (107).

Freight Traffic. As might be expected from the decline in population, very little freight traffic has developed along these branches except at points which are served by other rail lines, such as Danvers, Peabody, Machine Shop, and Wakefield. In the entire year 1924, with the exception of a gravel-pit in Topsfield, only 62 carloads were shipped from stations served exclusively by the Newburyport Branch, and 47 of these cars were from Tapleyville, which is within a half mile of the Danvers station on another line which will be retained (110).

The inbound traffic at the five stations along this line amounted to 352 cars in 1924. All the 46 cars received at Lynnfield Center were apples moving to a cider-press at that point in October and November. Tapleyville, which is within the Danvers switching limits, received 116 cars, Topsfield 138, Boxford 22, and Byfield 30 cars (136). The predominating inbound commodities were

grain, feed, and anthracite coal, the coal making up about one half the total (see Appendix D, Return to Questionnaire). It will be observed that the total inbound shipments were the equivalent of 1 car per day over the entire 30 miles of line.

The gravel-pit at Topsfield operated by the Connolly Company shipped 1438 cars of sand and gravel in 1924. This traffic, however, is of doubtful value, 50 per cent being shipped distances of 15 miles or less, and 75 per cent for distances less than 40 miles. It does not move during the winter months, and the rates are very low, having been reduced upon representations of the shippers that higher rates would make it impossible for them to ship in competition with gravel moving by truck. The rates for the shorter distances are as low as 50 cents per ton, and the average revenue about \$20 per car, the entire earnings of the 1438 cars amounting to \$31,000. As there is an empty return movement of equipment, the net return is very small indeed; it was found by a test of the shipments for one month that, out of a gross revenue of \$4600, the car per diem amounted to \$1500 (112, 127, 129).

From the foregoing it will be seen that the Newburyport Branch shipped in 1924 from points dependent on that line only 15 carloads, except the gravel; these stations received an average of 1 car a day. Moreover, even if the line were discontinued the railroad would still receive the rev-

enue from most of this traffic, with the possible exception of the gravel, by handling it at stations on nearby lines. It is fair to say that as a "feeder" of traffic this branch must be regarded as negligible.

The Lawrence Branch also has developed no freight traffic of consequence. There are substantial industries at Machine Shop and Stevens stations on the northern end of the line, but it is proposed to continue the freight service there. In 1924 some 220 cars were received at the other stations on this line—an average of 2 cars every three days; in the entire year only 2 carloads were forwarded from these stations. Many of the carloads received were for the State Hospital at Hathorne station in Danvers, but this institution is now trucking a great deal of its freight, including all its coal from tidewater at Beverly, a distance of about 7 miles (51, 145).

The freight traffic of the South Reading Branch amounts to very little, except that moving to and from industries on the eastern end, which will be served if the branch is discontinued. The only other freight station on the line is Lynnfield, which in 1924 received 19 and forwarded 5 cars during the entire year. So the Lawrence and South Reading Branches as well as the Newburyport Branch are of little public importance as carriers of freight and contribute nothing of value

to the Boston & Maine system as "feeders" of freight traffic.*

Passenger Traffic. There is considerable passenger travel on these lines, but a great deal of it moves to and from points which are served by other lines or will be adequately cared for by highway transportation in a manner to be discussed hereafter (*post*, p. 34). As indicated in the answer to Question 16 of the Questionnaire, about 60 per cent of the travel on the Newburyport Branch is to and from points served by other rail lines, and a great deal of the travel on the South Reading Branch is on the eastern end between Peabody and South Peabody, paying an average fare of 6 cents per trip (180). The Lawrence Branch is paralleled by an interurban electric railway, which would afford adequate service in case of the discontinuance of that line (228). Moreover, a great deal of the passenger travel on all these lines is on low commutation rates, there being a considerable amount of such travel to and from Boston (178-180). There is no passenger service along these lines on Sunday (582).

* Another indication of the unimportance of these lines from the standpoint of freight traffic and the absence of industrial dependence on them, appear in the answers to Question 15 of the Questionnaire which show that on the Newburyport Branch there are only 4 private sidetracks—one to the gravel-pit and the others for local coal dealers; on the South Reading Branch there are no private sidetracks, and on the Lawrence Branch only one to the State Hospital, which is already trucking its coal. The freight service is performed by a local train moving in each direction every other day (425).

As an indication of the trend of passenger travel on these lines, it appears that the number of tickets sold at stations served exclusively by the Newburyport Branch declined 35 per cent between 1920 and 1924; that the number of tickets sold in 1924 on the Lawrence Branch was less than half those sold in 1920, and that there has been an equal falling off on the South Reading Branch (1006; see also answers to Question 16 of the Questionnaire). It will probably not be questioned that a great deal of the reduced travel on these lines is due to the increased use of automobiles.

From the foregoing it is apparent that these branch lines have no value as "feeders" of freight traffic, and that much of the passenger travel will be retained through use of motor cars in connection with nearby rail lines whose operation will be continued.

IV. Operation of these Massachusetts lines is a burden on the Boston & Maine Railroad to the extent of at least a quarter million dollars per year.

Discontinuance of the operation of these lines is of real concern to the Boston & Maine Railroad and to the public generally, because the losses from their operation run into substantial amounts. Upon a thorough analysis of the revenues and expenses of these lines it is apparent

that their operation involves losses of at least \$250,000 per year.* The figures thus developed show the following results for the Essex County Lines (Exhibits 6, 7, 9, 10, 12, 13):

Newburyport Branch.

Revenues, freight	\$23,157
Revenues, passenger	84,942
Revenues, miscellaneous	1,230

Total \$109,329

Expenses, transportation	115,788
Expenses, maintenance of way	47,868
Expenses, maintenance of equipment	51,948

Total \$215,604

Deficit

\$106,275

Lawrence Branch.

Revenues, freight	\$3,934
Revenues, passenger	21,233
Revenues, miscellaneous	30

Total \$25,197

Expenses, transportation	61,812
Expenses, maintenance of way	24,603
Expenses, maintenance of equipment	23,922

Total \$110,337

Deficit

\$85,140

* This total figure includes the losses from the Tewksbury lines; losses of nearly as much are disclosed in the cases of the New Hampshire branch lines under consideration in Finance Docket Nos. 4475, 4476, 4549-4552.

South Reading Branch.

Revenues, freight	\$3,899	
Revenues, passenger	17,223	
Revenues, miscellaneous	1,282	
Total	\$22,404	
Expenses, transportation	33,988	
Expenses, maintenance of way	15,450	
Expenses, maintenance of equipment	11,856	
Total	\$61,294	
<i>Deficit</i>		\$38,890

An accurate showing of the revenues and expenses of these lines required very careful study, because little of the traffic is local to them; it will be shown, however, that the methods used were conservative, and that savings considerably in excess of the deficits indicated above can be realized from their abandonment. The only items of expense charged against them were those of actual transportation and maintenance. Complete details of the studies were made a part of the record in order to facilitate the Commission's examination of the subject (see Exhibits 49-57).

The figures submitted at the original hearing were based on the operations of September and October, 1924 in the case of the Newburyport Branch, and November and December in the case of the Lawrence and South Reading lines. The study of the Newburyport line was begun earlier

than that of the other two, and the application filed earlier for that reason (83). The studies of all three lines were continued after the first hearing, and at the later hearing the results of six months' operations beginning with September were shown for the Newburyport Branch, and from November through February for the other two branches. It appeared, however, that the results of the studies for the longer periods did not vary materially from those of the two months originally submitted (see Exhibits 6, 7, 9, 10, 12, 13, 64-66).

In arriving at the *Transportation* expenses, actual expenses were used wherever possible, as in the case of such items as station expenses and crossing protection (86). This latter item is an important one, for along the 30 miles of the Newburyport Branch there are 46 highway grade crossings, 29 of which are protected by human flagmen and 8 by automatic devices (106). It was necessary, however, to make a subdivision of most of the train and engine expenses, because the trains serving these lines operate over other lines as well. In working out this item the crew expenses were determined by study of the trains actually involved, and separation then made between the amount of service performed on the branches and on other lines according to the proportion of mileage run. Fuel was determined in the same way, and assigned to the branch lines in

the proportion of gross tonnage hauled on the branches and elsewhere (87).

Maintenance of Equipment expenses were based on the mileages made by the engines and cars running on the branches. At the time the studies were begun it was necessary to use certain system average expense for locomotive and car maintenance, but later the results of further studies became available as to the cost of maintenance of the particular classes of engines used on these lines. The expenses were separated between "classified" and "running" repairs according to experience with the types of locomotives used on these branches, and it was found that the results corresponded closely with the figures originally used (89).

The expense of freight car hire and repairs was assigned on a mileage basis. This was very favorable to the branch lines because, the hauls in many cases being short, the branches were charged with only a fraction of a day's car hire, instead of the several days which may have been taken in connection with the terminal service incident to loading and unloading. In the case of the Newburyport Branch, for example, only \$1176 was charged on account of freight car hire and repairs on the mileage basis, whereas at the rate of \$1 a day for the actual time the cars were on the branch the charge would have amounted to nearly \$10,000 (90).

Maintenance of Way expenses were based on the estimate of maintenance officials as to the cost of normal maintenance of these lines. It will hardly be disputed that actual maintenance expenditures for short portions of line for brief periods are not reliable, particularly when account is taken of the maintenance of bridges, which may be very large in one year or even one month and relatively small for preceding or following months or years (86). After the maintenance of way estimates were originally submitted, an analysis was made of the maintenance of way expenses of the Boston & Maine system beginning with 1918. The mileage of the system was reduced to a factor of "First Main Track" by use of a formula recently approved by the American Railway Engineers Association. The system expense based on this average factor showed that the estimated normal maintenance used in the cost figures originally submitted was somewhat lower than the figure arrived at by use of this factor applied to the experience of the recent years. A similar study of the so-called "Track Accounts" indicated that the figures used for those accounts were also conservative. The basis of this study is clearly explained in the record (977-993, Exhibit 46).

In arriving at the revenues of these lines special separations were again necessary because little

of the traffic is local to these branches, many of the passengers being commuters to and from Boston. The passenger revenue was separated between the branch and main line movement on the basis of mileage. This seemed entirely proper as mileage is the commonly accepted method of apportioning passenger revenues, and if this passenger traffic involves any special terminal expense, it would be at the Boston end of the run in connection with the expense incident to maintenance and operation of the North Station and Boston terminal area (82).

In apportioning the freight revenue the mileage basis was also used. While mileage is not always a proper basis for apportioning branch-line revenue there are circumstances here which seem to warrant its use. In the first place, as mileage was used as the basis of allocating certain of the costs, the branches were relieved of some of the heaviest items of expense which are incident to terminal operation—in fact, except for station expenses, they were not charged with any of the costs usually regarded as peculiar to terminal operation. Moreover, a very liberal concession was made in apportioning freight car hire on a mileage rather than a per diem basis. In the case of the Newburyport Branch about \$9000 would have been added to the freight expense if the actual per diem had been charged against the line, and on the Lawrence Branch approximately

(90, 100). As will be pointed out later, these were charged with no overhead or general expenses, and as the mileage basis was used in assigning many of the expenses, it seemed proper to use it for the revenues.

In case it might be desired to try other bases of assigning the freight revenues, complete detail of the traffic over these lines for November, 1924, was submitted, including the mileage which the traffic moved both on and off the branches; from this data the revenues can be apportioned in any way desired (Exhibits 20-26).

It should be noted that a considerable portion of the freight revenues credited to these lines were on account of traffic moving to points common with other lines, or to points on these branches close to junction points, which will receive adequate service even if these applications are granted. Such points are Danvers and Georgetown on the Newburyport Branch, and Machine Shop and Stevens on the Lawrence Branch (142, 146). That this traffic is an appreciable part of the total is indicated by the fact that in the case of the Newburyport Branch 39 per cent and the Lawrence Branch 33 per cent of the total freight revenues credited to the branches were on account of traffic to and from junction points with other Boston & Maine lines (Exhibits 8, 11).

The vital thing about these revenues is that if the entire freight revenue earned by the Boston & Maine system on the traffic to and from these lines were credited to them, it would fall far short of wiping out the deficits. For example, if the entire revenue of the Boston & Maine system on freight traffic to and from points on the Newburyport Branch were allocated to the branch it would increase the revenues credited to the branch about \$70,000, whereas the deficit is in excess of \$100,000. So, too, in the case of the Lawrence Branch, if the entire Boston & Maine system earnings on the freight traffic were credited to the branch it would increase the revenue about \$60,000, while the deficit is about \$85,000. On the South Reading Branch, against a deficit of \$38,000, the entire system freight revenues amounted to about \$5000 (484, 574, Exhibit 25).

It is believed that discontinuance of these lines would result in but little loss in revenue to the Railroad, and that greater savings in expenses can probably be made than those shown in the Railroad's exhibits. As will be pointed out presently, the expenses charged to the branches in the Railroad's exhibits were conservative, because of the omission of many important items of expense which might properly have been charged.

These lines show heavy losses without charging with any part of operating costs aggregating \$100,000 a year to the Boston & Maine system, or overhead or general expenses.

The expenses charged against these branch lines were only those in three general groups—transportation, maintenance of way, and maintenance of equipment; no charge was made on account of any other items of expense.

It cannot be questioned, however, that many savings in other items would be made by discontinuance of these lines. Nothing has been charged on account of taxes, interest on equipment released or scrap value of the track, and nothing for supervision or overhead charges of any kind. Nothing has been included on account of such items as insurance, cost of clearing wrecks, loss and damage to freight, or injuries to persons. In the system operations these items run into substantial amounts—for example, in 1923 there was paid on account of clearing wrecks \$131,000, loss and damage to freight \$422,000, injuries to persons \$323,000 (90-92). When it is remembered in connection with this last item that there are 46 highway grade crossings on the Newburyport Branch, it can be readily seen that this item is of importance, and that over a period of years a substantial saving would result from eliminating the actual and potential liability of these crossings (106).

Taken together, out of the Boston & Maine's total operating expense of some \$64,000,000 in 1924, items aggregating some \$16,000,000, or one quarter of the total, were not apportioned against these branch lines in any manner (570). There can be no doubt that many savings in these items would result from abandonment of these lines, although it is not easy in the case of many items to state the matter in dollars and cents. It is evident, however, that, taking these circumstances into account, the costs charged against these lines considerably understate the savings which the Railroad would realize if their operation were discontinued.

VI. The Railroad is willing to turn these lines over to the protestants if they wish to continue their operation.

In the return to each of the questionnaires in these cases, in response to Question 18, reading:

“What effort, if any, has been made to dispose of the lines in question so as to assure continued operation?”

the Railroad made the following response:

“The line has been offered to representatives of the communities served by it, but there has been no indication that anyone is interested in taking it over in order to insure continued operation.”

offer on behalf of the Railroad was re-
 at the hearing with the further statement
 Railroad that if the communities took over
 branches for operation, it would co-operate
 the fullest extent in an effort to make their op-
 tion successful (8, 64). The protestants, how-
 er, have shown no interest in taking over the
 —in fact, their counsel has exercised much
 genuity in suggesting why the Railroad could
 not legally transfer these properties to others for
 operation (65, 281, 290, 293, Exhibits 33, 39, 40).
 Evidently the protestants would like to find
 some excuse for not accepting the Railroad's
 offer, but challenging the corporate power to dis-
 pose of the lines and the authority of officers to
 make the offer will probably not impress the Com-
 mission—particularly in view of the practice it
 has followed in many cases of requiring carriers
 to make similar offers as a condition precedent
 to granting abandonment certificates (see state-
 ment of Commissioner Meyer at page 134 of the
 record; also *Application of Eastern Texas Rail-
 road*, 65 I.C.C. 436-440). In any event the atti-
 tude of the protestants toward the railroad's offer
 indicates that they have no idea that these lines
 can be made to earn expenses, and that the ele-
 ment of local convenience and necessity is not
 sufficiently strong to persuade them to undertake
 the venture.

It may also be remarked that this attitude sheds some light on the weight to be given protestants' testimony as to the effect of the proposed abandonment upon their localities. Certainly, if the effect would be as disastrous as some of the protestants' witnesses predicted, these communities would be justified in assuming a considerable deficit in order to avert the calamities which they prophesied. But evidently the margin between the probable deficit from operating these lines and the most pessimistic opinions of the local effect of the abandonments is so wide that the protestants feel that they would be losers if they attempted to assume the deficits involved in continued operation.

VII. "Public convenience and necessity" permit the abandonment of these lines.

(a) *Furnishing of substitute motor service by the Railroad and the availability of other rail lines will minimize any local inconvenience.*

In view of the considerations discussed above, it is not believed that the Commission will find the losses from operation of these lines any less than the \$250,000 shown in the Railroad's exhibits. While an effort was made by the protestants' experts to question these losses, their suggestions were for the most part general in character and of a kind which, if applied, would have

made little change in the results (see pages 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610). The protestants devoted most of their energies at the hearing to elaborating on the hardship and inconvenience which might be caused to communities along these lines if the proposed abandonments are carried out. The extent of such hardship and inconvenience, however, was greatly overdrawn.

In the first place, it must be remembered that the freight traffic along these lines is very small. The territory has gone backward industrially and in population, and there are not more than five private side-tracks along the whole 53 miles of line. Excluding the traffic of a gravel pit paying very low rates, the outbound shipments in 1924 did not average more than a carload every five days, and the inbound shipments less than two cars per day (110, 146, 149). Most of the traffic today is trucked to or from the railroad, and as there are excellent highways throughout the territory, a great deal of freight is trucked without any use of the railroad. For example, the coal supply of the State Hospital at Danvers is trucked some 7 miles from tidewater at Beverly (145), and certain of the affidavits filed by the protestants indicate that they are trucking freight for considerable distances in this territory (see Exhibit 30, Affidavits 24, 25, 31, 201, 227). When it is also remembered that there are other rail lines within a few miles of those under applica-

tion, it is evident that the hardship which may result from abandonment of these lines as carriers of freight would be small.

For similar reasons no substantial hardship will be caused to the passenger travel. While there is an appreciable travel at present, it appears that the number of tickets sold at stations served exclusively by two of these lines is only 50 per cent of the number sold five years ago, and on the other line it has been reduced 50 per cent (see returns to Question 16 of the Questionnaire). Moreover, the Lawrence Branch is paralleled by an interurban trolley line and there is a public bus running between Lynn, Lynnfield, and Wakefield (226). Other rail lines are within a few miles of those under application, and the points from which much of the passenger travel on these lines now moves, such as Danvers, Georgetown, Peabody, and Wakefield, are served by these other lines.

Finally, in order that any local inconvenience may be reduced to a minimum, the Railroad has formally offered, either by itself or through the Boston & Maine Transportation Company to operate both freight and passenger highway motor service in substitution for any of these branch lines, where there is a reasonable public necessity for such service. The proposed motor service was explained in detail at the hearing, and such additional motor service will be oper-

ated as may be necessary (239-246, Exhibit 20). So long as the motor service is made self-sustaining the Railroad is willing to leave the arrangement of schedules and fares with representatives of the interested communities (60).

Under these circumstances the shipping and traveling public of this section have little reason to complain of the Railroad's proposals. In recent years the public here has preferred motor transportation to the railroad in a large degree, and as it is evident that the territory along these lines can not support both rail and motor service, it may now fairly be asked to take the logical step, and accept motor service where that will give adequate and more economical service. Under these circumstances the public convenience and necessity of these localities do not require further operation of these rail lines.

(b) The heavy losses of these lines make the "public convenience and necessity" of broad concern.

While it does not seem that allowance of these applications will involve substantial hardship to the local communities, if the contrary were true it would not be of controlling importance. Paragraph 18 of section 1 of the Act to Regulate Commerce requires the Commission to consider "the public convenience and necessity" in abandon-

ment proceedings, but if merely local "convenience and necessity" were controlling, few abandonments ever could be authorized. The Commission must, of course, give consideration to the sort of testimony which the protestants have offered in this proceeding, and undoubtedly it is a familiar part of such proceedings, but as the phrase "public convenience and necessity" is used in the Act, something much broader than the interests of small communities is involved.

Prior to the Amendments of 1920 the Commission had no authority over abandonment of rail lines. It was then empowered to authorize abandonments "where the present or future public convenience or necessity permit," and in giving this authority Congress naturally had in view that its exercise should be in the public interest. It can hardly be assumed that this provision was passed merely to accommodate railroads which might wish to be relieved of operating certain lines. Unquestionably Congress saw in this matter of burdensome branch lines a field in which the Commission could act in furtherance of the broad policy of the Amendments of 1920. This policy has been declared by the Supreme Court as one imposing—

"... an affirmative duty on the Interstate Commerce Commission to fix rates and to take other important steps to maintain an

adequate railway service for the people of the United States."

Railroad Commission of Wisconsin v. Chicago, Burlington & Quincy, 257 U.S. 563, 585.

The Commission's authority over this particular subject has been interpreted as involving the question whether—

"... unremunerative operation would or might burden or cripple the main line and thereby affect its utility or service as an artery of interstate and foreign commerce."

Texas v. Eastern Texas R.R., 258 U.S. 204, 217.

Having in mind the undoubted purpose of Congress that these matters be considered in the light of their effect upon instrumentalities of commerce outside the localities immediately affected, it is clear that when cases are presented involving such substantial losses as \$250,000 in the case of these Massachusetts lines, and an amount nearly as great in New Hampshire, the "public convenience and necessity" to be considered is that of the whole section served by this important railroad system, and the other sections of the country in constant rail communication with it. To these broad sections of the public it is of vital importance that the Boston & Maine Railroad be an effective transportation machine with facilities

adequate to care for all its traffic. They are interested in having the road enjoy the credit necessary to finance needed improvements in its plant, and it is clear that abandonment of lines involving these heavy losses is an important step toward that end.

With these losses established beyond question, the Commission must weigh the "public convenience and necessity" of the protesting localities against that of the larger community. It is the broad rather than the local interest to which the law directs that the Commission give primary consideration. The broader and controlling interest requires that the inadequate earnings of the Boston & Maine Railroad no longer be dissipated in supporting these lines which these local communities are unable or unwilling to support.

Respectfully submitted,

W. A. COLE,

Counsel for BOSTON & MAINE RAILROAD.

June 13, 1925.

SUPPLEMENT.— LINES IN AND ABOUT TEWKSBURY.

This application covers three small portions of line aggregating about 9 miles and located in the towns of Tewksbury, Wilmington, and Andover in northeastern Massachusetts. These lines are duplicates of nearby lines, and have never had importance except as parts of through routes. Through a re-arrangement of routings, no freight traffic had moved over these lines for several months prior to the hearing; passenger service was suspended on August 11, 1924 (158).

Lowell & Lawrence Branch. The application covers the portion of the Boston & Maine Railroad's Lowell & Lawrence branch which lies between Tewksbury Junction and Pike's Siding, Lawrence, a distance of about 5 miles. This is part of a line built by the Lowell & Lawrence Railroad Corporation in 1838, originally consisting of about 12 miles of road, extending some 7 miles south from Lawrence to Tewksbury Junction, thence west 5 miles to Lowell. The line was leased to the Boston & Lowell Railroad Corporation in 1858 and merged with it in 1879, giving that road a route between the cities of Lowell and Lawrence, which was also used in connection with certain of its other lines, to make a through route between Lawrence and Boston. In 1887 the Boston & Lowell Railroad, together with this Lowell and Lawrence line, was leased to the Boston &

Maine, and in 1919 all these lines were merged into the Boston & Maine system (151).

Salem & Lowell Branch. The application covers the portion of the Salem & Lowell Branch lying between Tewksbury Junction and Wilmington Junction, a distance of 3.2 miles. This line was built in 1850 by the Salem & Lowell Railroad Corporation, which in 1858 was leased to the Boston & Lowell Railroad and in 1879 merged with it. It became a part of the Boston & Maine system through the lease of the Boston & Lowell in 1887 and the Boston & Maine merger of 1919.

The third portion of line in the application, referred to as .42 miles in length between Lawrence Junction and Salem Junction, is a connecting track between the two other lines at Tewksbury (152).

The lines covered by this application were competitive with the Boston & Maine before it leased the Boston & Lowell in 1887. The Lowell & Lawrence line gave the Boston & Lowell an entrance into the city of Lawrence, which theretofore had been served only by the Boston & Maine. Subsequently, in 1874, the Boston & Maine through a subsidiary, the Lowell & Andover Railroad, built a line between Lowell Junction and Lowell, giving it an entrance into Lowell and connections between that city and Lawrence and Boston in competition with the Boston & Lowell. The Salem & Lowell line of the Boston & Lowell gave the latter

company an entrance into Salem, an important center theretofore served only by the Boston & Maine. The lines covered by the application were, therefore, purely of a competitive character, duplicating routes of the Boston & Maine in order to give the Boston & Lowell lines to Lawrence and Salem, two cities which will not be in the least affected by the proposed abandonments. The Boston & Lowell probably had little idea that local traffic would develop along these lines; in any event, no such traffic has developed along the portions embraced in the application (153).

The only stations on the line from Tewksbury Junction to Lawrence are Haggett and West Andover. The latter is merely a passenger stop, and has not been an agency station for many years, if it ever was. The West Andover stop is slightly more than a mile from Andover station on the main line, and it is around the latter station that the residential and industrial parts of that town are located. Haggett station, which is 1.5 miles from Baldwin—a station which is to be continued—has not been an agency station since 1916. For the year ended July 31, 1924, no carload traffic was forwarded from that point and the traffic received consisted only of coal, fertilizer and feed, all of which can be handled equally well at Andover station. Arrangements have been made to so handle it, and no complaint has been received from the receivers of freight in that sec-

tion. During the period last summer when passenger trains operated over this route, the travel to and from both these stations did not exceed eight passengers per day (154).

On the line from Tewksbury Junction to Wilmington Junction the only station is Burt, which is 1.5 miles from Wilmington Junction and about the same distance from Baldwin. Burt is merely a passenger stop; it has no freight facilities and was never an agency station. Before the passenger service was suspended there was no regular travel to and from Burt, and the occasional travel did not average a passenger per day.

Tewksbury Junction has been discontinued as a freight station, and Tewksbury Junction and Tewksbury Center have been discontinued as passenger stations, but the distances from these to other stations are very slight. It is about quarter of a mile from Tewksbury Junction to Baldwin, and a half-mile from Tewksbury Center to Almont, both stations on the line from Lowell to Lowell Junction. Freight will be received and delivered at Tewksbury Center as heretofore. The Tewksbury passenger service is now operated along the double track line between Lowell and Lowell Junction, with stops at Almont and Baldwin, both of which are within the Tewksbury town limits. Nine trains are operated in each direction daily, with connections in various directions (155).

The territory through which these lines run is sparsely settled, and the traffic, which was never large, has been dwindling. There are no industries along these routes and if there is any local freight traffic, it can be handled conveniently at points on other lines. During the early years of these lines there was a considerable passenger travel, but with the building of a trolley line between Lowell and Lawrence in 1894 and between Lowell and Boston within a mile of Tewksbury Center in 1901, the travel by train dropped off materially. The advent of the automobile has now reduced the travel to the vanishing point. Before the service along the line through Haggett was suspended last August there were five trains daily on that route. During the week of June 30th the average number of passengers for the entire run was eight, and few, if any, of these were traveling to or from stations on the lines in question. The average revenue per train trip was \$2.60 (157).

By the abandonment of these lines and consequent re-arrangement of train service the following expense can be saved: an agent and two crossing tenders at Tewksbury Junction, a crossing-tender at Burt, crossing-tender at Salem Junction, three towermen and maintenance of tower at Wamesit, crossing tender at South Lawrence, and maintenance of about 9 miles of track. There are also savings in train expenses, and

when certain tracks at Wilmington Junction are rearranged it will be possible to remove the crossover at that point and save the wages of three towermen and the maintenance of the tower and crossover there. The final saving will amount to about \$35,500 per year. In the return to the questionnaire the estimated net annual saving was given as \$26,140, but this did not include the proposed savings at Wilmington Junction, which have not yet been realized (158).

In conclusion it should be remembered that passenger service over these lines has been suspended since August 5, 1924, and freight has been delivered at stations on other lines. If there ever was any need of these duplicate lines as parts of competitive through routes, it has ceased to exist. The flow of traffic between Lowell, Lawrence, Salem, and Boston is now along other routes. These lines were not built on account of any intermediate local traffic, and no such traffic has ever developed.

The only point offering an appreciable amount of traffic which might be affected by abandonment of these lines is Tewksbury; but its freight service will not be changed, and nine trains each way daily would seem to be ample passenger accommodation.

No testimony was offered at the hearing in opposition to this application, although certain affidavits, numbered 233-236, 259 and 260, were filed

as a part of Exhibit 30. The persons who made the affidavits appear to have been under some misapprehension as to what is proposed, as all refer to passenger service, four being made by students living in or near Lowell and attending the Normal School at Salem. They indicate that the persons who made them were principally concerned about something which "would happen" to the service. As they were made in March, 1925, some six months after passenger service had been suspended, and the persons making them were then attending the Normal School and using the Salem-Lowell line, which is not covered by any application, some misapprehension is evident. The other two affidavits refer to reduced passenger accommodations at Tewksbury, but it would seem that nine trains each way per day should be sufficient for that town, which is also on a through trolley line.