

FINANCE DOCKET No. 4285

ABANDONMENT OF NASHUA & ACTON R. R.

Submitted April 1, 1925. Decided April 8, 1925

Certificate issued authorizing (1) the Boston & Maine Railroad and the Nashua & Acton Railroad to abandon a line of railroad in Hillsborough County, N. H., and Middlesex County, Mass.; and (2) the Boston & Maine Railroad to abandon operation, under trackage rights, between Acton Junction and Concord Junction, in Middlesex County, Mass.

Archibald Tisdale for applicants.

Harry F. R. Dolan for protestants.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS MEYER, EASTMAN, AND WOODLOCK

By DIVISION 4:

No exceptions were filed to the report proposed by the examiner. The Boston & Maine Railroad, a carrier by railroad subject to the interstate commerce act, and the Nashua & Acton Railroad, a corporation organized for the purpose of engaging in interstate commerce by railroad, hereinafter referred to as the Boston Company and the Nashua Company, respectively, on August 22, 1924, filed a joint application under paragraph (18) of section 1 of the act for a certificate that the present and future public convenience and necessity permit the abandonment of the railroad of the Nashua Company, which extends from the union station in Nashua, Hillsborough County, N. H., in a general southerly direction to North Acton, Middlesex County, Mass., a distance of approximately 20 miles, of which about 15 miles are in Massachusetts and the rest in New Hampshire. The Boston Company also seeks to abandon operation, under trackage rights, over a second track of the Old Colony Railroad Company between Acton Junction, where the Nashua Company's railroad connects with the Old Colony Railroad, and Concord Junction, 4.30 miles, in Middlesex County, Mass. This track practically forms an extension of the Nashua Company's line and is used exclusively by the Boston Company. At our request a hearing on the application was held by the Department of Public Utilities of Massachusetts and the Public Service Commission of New Hampshire. At the hearing certain local interests were represented in open I. C. O.

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position to the authority sought, but their objections were limited to opposing the abandonment of service between Nashua and East Groton, about 9 miles. The two State commissions have filed with us their joint recommendation that the application be granted.

The Boston Company controls the Nashua Company through ownership of its entire capital stock. The railroad of the latter company was opened for traffic in 1873. The Nashua Company soon became involved in financial difficulties. Operation of its line has been generally unprofitable, and apparently the results have not justified its construction. The railroad has been sold twice under decrees of court. The Boston Company has operated the line since 1895 under a lease to 1919, and since then by virtue of its stock ownership. Operation from Acton Junction to Concord Junction under trackage rights was undertaken by the Boston Company solely as a complement to its service over the Nashua Company's railroad, and was not needed for any local use.

The line in question traverses a section well supplied with railroads and in which the use of automobiles has increased largely during recent years. The population in the tributary territory is estimated by the applicants at approximately 1,850. No point in the area served is more than 4 miles in a straight-line from another rail line. In the five years ended December 31, 1923, the total tonnage transported was 21,275 tons, which consisted largely of heavy low-grade commodities. The freight traffic in 1923 amounted to 5,433 tons, including 4,332 tons of lumber. The large proportion of lumber traffic was due to the cutting off of a tract of timber near East Groton. For a number of years prior to June 27, 1921, a passenger train and a mixed train were operated daily in each direction between Nashua and Concord Junction. In the week ending June 25, 1921, the average passenger earnings were \$2.65 per train per trip, and on June 27, 1921, passenger trains were discontinued, leaving only a mixed-train service. A study of operating results for 1922 showed operating revenues of \$1,526; cost of maintenance, operation, taxes, and rents, \$57,472; deficit, \$55,946. This is represented to be the out-of-pocket cost of operating the line. In making the computations freight revenues were allocated on a mileage prorate. Operating expenses were assigned directly where practicable. No amount was included for traffic and general expenses. Checks of travel in April and June, 1924, showed a further decline of passenger receipts per train, and since June 23, 1924, no accommodations for passengers have been provided. From August 1, 1924, freight service has consisted of one train each way three days a week, and the average weekly mileage run is only 64 miles, as the train usually runs only between Nashua and East Groton. The tes-

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timony is that 227 tons of freight were transported in the month of August, 1924; that the revenue therefrom assignable to the Nashua Company's line on the most liberal basis of short-line divisions was \$183; that the total revenue to the Boston Company's system from such traffic was \$326; and that the actual labor and fuel cost of the service on the Nashua Company's line was about \$1,400 a month. Maintenance expenses have been reduced to a minimum. It is estimated by the Boston Company that expenditures for maintenance of way and structures must be increased about \$10,000 a year over the amount shown for 1922, and that three overhead highway bridges must be rebuilt, at a cost of about \$25,000, if operations are to be continued. Upon the basis of the present restricted service the applicants estimate that the annual deficit from operation will be not less than \$40,000. It appears that the present service is being furnished at considerably less than 10 per cent of its cost.

Testimony in opposition to the granting of the application was given by two owners of timberlands near East Groton, who are engaged in cutting timber and shipping it from that point. One of these witnesses began operations in January, 1923, and acquired a second timber tract some time after the filing of the application in this proceeding. At the date of the hearing he had cut and on hand 2,000 cords of wood, 500,000 feet of pine boards, and 5,000 posts, and estimated that his standing timber would enable him to continue operations one year without buying more land. He testified that he hauled to the railroad with horses, and that if the line were abandoned he would be required to reload from wagons to trucks. The other witness shipped nine carloads of wood from East Groton in 1924, and had about eight carloads left to ship at the time of the hearing. He also had a small amount of standing timber. East Groton is a nonagency station. It is about 3 miles from Graniteville and about 6.5 miles from Tyngsboro, both stations on other lines of the Boston Company's system. The testimony as to the character of the intervening highways is conflicting but indicates that they can be used for trucking lumber. A good highway is available through Dunstable to near-by railroad stations. No reason is apparent why these witnesses should be relieved from some trucking expense at a far greater cost to others.

Further testimony in opposition to the application was given by two witnesses from Dunstable. One was a dealer in coal and ice, who receives about eight carloads of coal a year and a small quantity of other commodities. The other witness has a store at Dunstable, and also deals in grain, which he receives over this railroad. He handles about 15 carloads of grain a year. It appears that grain is also distributed to farmers through a farm bureau, and that the

farmers buying grain through the bureau unload it from various rail stations. The witness claimed that he could not continue the grain business profitably if the service of the railroad were discontinued. Dunstable station is 4.5 miles from a station on another rail line, with which it is connected by a good highway. The population of the town, which includes an area of about 18 square miles, is 353. These witnesses would also be put to some additional expense for trucking their shipments.

Apparently the abandonment of this line will not affect seriously the communities through which it passes, and the cost of continuing it in operation is disproportionate to the value of any service which it can render the public.

Our certificate herein will provide that it shall take effect and be in force from and after 30 days from the date it is issued. Suitable provision will be made therein for the cancellation of tariffs.

Upon the facts presented we find that the present and future public convenience and necessity permit the abandonment by the applicants of the railroad of the Nashua Company in Hillsborough County, N. H., and Middlesex County, Mass., and the abandonment by the Boston Company of operation under trackage rights over the line of the Old Colony Railroad between Acton Junction and Concord Junction, in Middlesex County, Mass., both of which lines of railroad are described in the application. A certificate to that effect will be issued.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Issued April 8, 1925

A hearing and investigation of the matters and things involved in this proceeding having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof;

It is hereby certified, That the present and future public convenience and necessity permit the abandonment by the Boston & Maine Railroad and the Nashua & Acton Railroad of the line of railroad in Hillsborough County, N. H., and Middlesex County, Mass., and the abandonment by the Boston & Maine Railroad of operation, under trackage rights, over a line of the Old Colony Railroad from Acton Junction to Concord Junction, in Middlesex County, Mass., both of which lines of railroad are described in the application and report aforesaid.

U. S. C. C.

It is ordered, That the Boston & Maine Railroad, when filing schedules canceling tariffs applicable on said lines of railroad, or either of them, shall in such schedules refer to this certificate by title, date, and docket number.

It is further ordered, That this certificate shall take effect and be in force from and after 30 days from the date it is issued. Tariffs may be canceled upon notice to this commission and to the general public by not less than 10 days' filing and posting in the manner prescribed in section 6 of the interstate commerce act.

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Nov. 25, 1924

Present: Chairman Atwell and Commissioner Wells.

In the matter of Finance Docket No. 4285 of the Interstate Commerce Commission joint application of Boston & Maine R R and Nashua and Acton R R for a certificate of public convenience and necessity authorizing the abandonment of Nashua and Acton Railroad and certain trackage rights of Boston & Maine RR, the following action was taken:

To the Honorable Interstate Commerce Commission
Washington, D. C.

Dear Sirs:

Pursuant to your request that the Public Service Commission of New Hampshire and the Department of Public Utilities of Massachusetts should hold the hearings upon the above entitled matter for you, develop the record and transmit it to you, with such representations or recommendations as we might care to make, and pursuant to notices given and served by you, public hearing was duly held upon November 12, 1924, at 10:30 a.m. at 166 State House, Boston, Mass., upon the petition described in the heading.

The evidence and argument submitted in the case are available in the stenographic record and in the various exhibits files during the course of the hearing all of which we are transmitting herewith to you.

We should now like, in accordance with your suggestion, to make certain brief representations and recommendations. Boston & Maine owns all the stock of Nashua & Acton Railroad. It, also, controls by contract, a track of Old Colony Railroad Company which extends to Concord, Mass. from the end of the Nashua & Acton at North Acton. If the Nashua & Acton is abandoned there will be no occasion for the Boston & Maine's preserving these trackage rights. It purposes, however, in that event, to acquire from the Nashua & Acton, in the course disolution such parts of the Nashua & Acton immediate neighborhood of Nashua, N. H. as it deems important for the public service.

The Nashua & Acton mileage in Massachusetts is 15.249 main track and

2.207 yard track and sidings, and in New Hampshire 4.861 of the former and 1.449 of the latter, making the entire trackage in both states little less than 24 miles.

The history of the Nashua & Acton indicates that it probably should never have been built. It met financial vicissitudes from the outset, and, as the years passed, and particularly, in the last ten years, the cost of operation has consistently increased while its receipts have progressively ~~declined~~ diminished because of passenger and freight automobiles. Its passenger business last June reached practically the vanishing point. On June 19, 20 and 21, for example, the total gross passenger receipts per train ran from 10 cents to \$2.12. Accordingly it has discontinued all passenger ~~xxxxxx~~ business since June 30, 1924.

The freight for August, 1924, aggregated 227 tons or \$183.00, and for September, slightly more. The detailed figures show that the total freight revenue per month is substantially less than the lowest possible out-of-pocket expenses per week. The total freight receipts for 1923 were \$3734.00 \$3734.23 and for the first ten months of 1924, \$3103.19. The total expenses of the Nashua & Acton last year were \$57,472, and although the abandonment of passenger service will reduce these expenses \$19,450 a year the road, if operated, will require, in the opinion of the Chief Engineer of the Boston & Maine, an additional expenditure of \$10,000 a year for maintenance and the rebuilding of three highway bridges in Massachusetts at an estimated outlay of of about \$25,000.

Looked at from any point of view, this service furnished at less than 10 10% of its cost and the other 90% is derived ~~from~~ either from other patrons of the road or from the invested capital of the stockholders.

That present and future public convenience and necessity demand the abandonment is so obvious that only a few appeared in opposition and those all from Dunstable and East Groton in favor of the continuation of freight service between these points and Nashua, New Hampshire.

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This fact led naturally to the inquiry whether such service was practicable between these points. Dunstable is 6.39 miles from Nashua, East Groton somewhat over two miles more. Our best judgement is that this suggestion in reduction in mileage (while it would affect savings in some directions) would not affect materially the results previously stated, and this is, in our opinion, established by the evidence, including the letter from Mr. Brigham of November 24, 1924.

Two persons appeared in opposition to the petition from East Groton. One a lumberman who had recently purchased some woodland there, the last lot since the railroad instituted these proceedings, and who naturally preferred as short trucking as possible, The other, a resident of Dunstable, who has some woodland in East Groton, feels the same way about it. East Groton is about three miles from ~~WXXX~~ Graniteville on the Stony Brook branch of the Boston & Maine RR, about $6\frac{1}{2}$ miles from Tyngsboro on the main line of the Southern Division of the Boston & Maine Railroad, and about three miles by road from Dunstable. This last road is a reasonably good ~~XXXX~~ highway, and while there is some conflict of ~~XXXXXX~~ evidence about the condition of two other highways mentioned above and that from East Groton to East Pepperell, another railroad point, we are of the opinion that all these roads are such as may be used for the trucking of lumber.

We see no reason why these two gentlemen should be relieved of some trucking expense of a far greater cost to the other patrons of the ~~line~~ road or its stockholders. Besides if they are alert, they might well get most if not all, of their lumber out before the freight service actually stops.

Several other residents of Dunstable in opposition. Its total population is 383. It is $4\frac{1}{2}$ miles by highway from Tyngsboro, on the main line of the Southern Division of the Boston & Maine Railroad. The road is good, It is, also, a little farther by highway from East Pepperell, another railroad point. One of these gentlemen is principally in the

of this coal business. He uses about eight cars a year. Another is in the grain business. He uses about fifteen cars of at a year. The Eastern States Farmers Exchange in this vicinity also has about the same number of cars of grain a year. It does not appear, however, that the abandonment of the railroad at Dunstable would ~~XXXXXXIX~~ ^{Seriously} affect the Exchange, because its farmer customers take their grain direct from the car on the track and other nearby railroad stations exist. The Dunstable grain dealer could pursue the same the same general course. Probably he would make somewhat less money in this way, and so would the coal dealer mentioned above, if he followed the same method or else trucked his coal from Tyngsborough, but while we sympathize with these gentlemen, we cannot ignore the fact that these profits can only be insured to them at a far greater cost to others. Railroads must be run on something at least approximating ordinary business principles. To deny the petition is, in our judgement, to establish a precedent which could tend to hamper seriously the rehabilitation of the New England Railroads. We accordingly recommend the issuance of the certificate of public convenience and necessity. request by the Petitioners.

(Signed)

Respectfully submitted,

Henry C. Atwill, Everett E. Stone,

Leonard F. Hardy, Henty G. Wells,

Commission of the Department of Public Utilities
of Massachusetts.

William Gunnison, Thomas D. Worthen,

John W. Storrs

Commissioners of the Public Service

Commission of ~~XXX~~ New Hampshire.