

BEFORE THE
**Interstate Commerce
Commission**

Finance Docket No. 13093

**APPLICATION OF
BOSTON & MAINE RAILROAD
FOR A CERTIFICATE AUTHORIZING
ABANDONMENT OF PORTIONS OF ITS
NEWBURYPORT AND GEORGETOWN
BRANCHES IN MASSACHUSETTS**

APPLICANT'S BRIEF

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STATEMENT

In this application filed on November 13, 1940 the Boston & Maine Railroad seeks authority to abandon approximately 15.5 miles of its Newburyport Branch and 4.5 miles of its Georgetown Branch, both in Essex County, Massachusetts. Protests were made and testimony in opposition offered by certain of the communities served by the lines and by the Massachusetts Department of Public Utilities. John

S. Prichard, Esq., as Examiner for the Commission, conducted the hearings, which commenced at Haverhill, Massachusetts, on March 6, 1941.

If abandonment is authorized it is the purpose of the Railroad also to discontinue its passenger service between Danvers and Topsfield below the southerly end of the portion of the Newburyport Branch involved in the application, as well as a round-trip of passenger service between Danvers and Boston. These latter services are portions of runs of passenger trains which operate over the part of the Newburyport Branch which it is proposed to abandon. In a paragraph near the bottom of page 10 of the return to the Commission's questionnaire are stated the annual savings which the applicant expects to realize from the proposed abandonment and "related changes," and a tabulation of the expected economies and loss of revenues is shown in Exhibit 9. These matters were also explained at pages 50-54 of the record. Objection was made, however, on the ground that the matter of economies to be realized through reductions in passenger service on connecting lines of the applicant were not before the Commission. Accordingly, that phase of the subject will not be pressed, although applicant believes that it is a matter properly to be considered.

ABSTRACT OF TESTIMONY

Railroad Lines. Applicant's Newburyport Branch extends from Wakefield Junction, a station about 10 miles north of Boston on one of its main lines, in a northeasterly direction for about 30 miles to New-

buryport on another main line; this application involves the 15.5 miles of the branch between Topsfield and Newburyport. From Georgetown station on the Newburyport Branch a line known as the Georgetown Branch diverges in a northwesterly direction to Bradford near Haverhill on a main line. This application embraces approximately 4.5 miles of the Georgetown Branch between Georgetown and a point known as Paper Mill, it being intended to continue freight service from Bradford to Paper Mill. The portions of the Newburyport and Georgetown branches embraced in the application will be generally referred to in this brief as "the branch."

As shown in Exhibit 2, these lines lie between applicant's two main lines between Boston and Portland, Maine; one known as the eastern route runs through Lynn, Salem, Newburyport and Portsmouth, the other known as the western route through Wakefield Junction, Lawrence and Haverhill (26).^{*} In the territory served by the branch the main lines are from 4 to 15 miles apart (583). These lines converge at North Berwick, Maine, about 35 miles south of Portland, and have connecting lines between Rockingham and Portsmouth, and between Wakefield Junction and Salem. With these connections available, the lines under consideration have no value as connections between the main lines even in emergencies (27).

Freight Service and Traffic. The freight service on the lines in question is performed by a local train which every week-day leaves Salem and runs north to Newburyport via the main line, thence down a

^{*}This and similar references are to pages of the transcript of testimony.

short branch line to Amesbury and returns via Newburyport south along the Newburyport Branch to Salem. This is a loop operation, with a short side trip down the Amesbury Branch, a semi-weekly operation from the main line down the Essex Branch and side trips when necessary from Georgetown on the Newburyport Branch down the Georgetown Branch to Groveland (38, 287). The carload traffic handled at the stations where it is proposed to abandon service has been as follows:

CARLOADS RECEIVED AND DELIVERED
BY STATIONS (Exhibit 15)

	1935	1936	1937	1938	1939	1940
<i>Georgetown</i>						
Ice.....	...	52	82	...	...	...
Coal.....	29	30	28	34	37	45
Grain.....	4	...	...	...	6	2
Road Tar....	18	24	18	9	9	21
Other.....	10	8	6	12	16	13
Total....	61	114	134	55	68	81
<i>Groveland</i>						
Grain.....	29	57	41	26	20	36
Coal.....	36	28	27	17	16	20
Gasoline.....	21	1	...	...	...	...
Oil.....	34	10	...	...	5	...
Other.....	11	19	22	7	14	16
Total....	131	115	90	50	55	72
<i>Byfield</i>						
Tobacco.....	9	5	9	7	6	8
Other.....	2	2	1	2	2	7
Total....	11	7	10	9	8	15
<i>East Boxford</i>						
Total....	...	9	19	...	5	3
Grand Total	203	245	253	114	136	171

The foregoing figures show that the carload traffic on the 20 miles in question declined from an annual average of 234 cars for the years 1935-1937 to an average of 140 cars for the three succeeding years, a loss of 40 per cent. Little, if any, of the freight traffic is local to the line, there is very little overhead traffic (34, 47), and most of the traffic is long-haul coal and grain interchanged with carriers connecting with the Boston & Maine at its western gateways (37, 41).

The testimony of protestants' witnesses interested in the freight service may be summarized as follows:

Seth L. Kelsey conducts a nursery business in Boxford, with a trucking distance to the station of about a half mile (145). In 1938 his concern paid inward freight charges of \$32.00, in 1939 \$596.00, and in 1940 \$256.00; in 1941 one carload shipment has been made and 3 more are in prospect; in 1940 32 less-carload and 2 carload shipments were made, and no carload shipments received; during the past ten years the average carloads received were 2 or 3 and 4 or 5 shipped; approximately 20 per cent of the traffic not trucked away by customers is handled by rail and the balance by truck (138-150). Except for some ice handled in 1937, the total carload traffic handled at East Boxford station in the past seven years has been as follows: 1935 none, 1936 9 cars, 1937 4 cars, 1938 none, 1939 5 cars, 1940 3 cars (Exhibit 15).

Homer Rowell conducts a poultry farm in Groveland and last year received 10 carloads of grain at Groveland station. Prior to 1940 he received his grain by truck from Newburyport. He purchases his grain from a dealer in Lawrence and believes that

abandonment of the Georgetown Branch would cause him an added expense of \$750.00 a year to truck his grain from Lawrence. The trucking distance from Lawrence would be 15 miles and from Haverhill 5 miles; his present truck haul from Groveland station is 3 miles, but the witness maintained that there would be an additional cost of \$30.00 per car for an additional trucking haul of only 2 miles from Haverhill if he chooses to receive his traffic at that point rather than to truck it 15 miles from Lawrence (453-468).

Donald C. Elliott is a retail dealer in fuel and ice with a private track at Georgetown. His receipts of coal have been as follows: 1306 tons in 1936, 1309 tons in 1937, 1080 tons in 1938, 1618 tons in 1939, 2023 tons in 1940 (469). He has received some ice by rail when unable to harvest natural ice but normally does not receive or ship ice by rail (31, 470). If the rail line is abandoned, his additional handling and transportation cost would be 50 cents per ton (468-476).

William R. Dewhirst has been in the coal and grain business in Groveland since March, 1940. In that year he received 589 tons of freight and in the first two months of 1941 3 cars or 117 tons. If rail service were abandoned he would probably truck his coal from Beverly or Lynn for a distance of 30 miles at an added expense of \$1.00 per ton, and truck his grain from Haverhill (476-484).

Benjamin Pearson conducts a concern manufacturing snuff in Byfield. Its only carload traffic is inbound shipments of tobacco which have been as follows: 10

cars in 1935, 5 cars in 1936, 10 cars in 1937, 6 cars in 1938, 8 cars in 1939, 9 cars in 1940. In some years these figures are slightly higher than those submitted by the applicant because the latter did not treat overflow lots as separate cars (665). The outbound traffic is entirely in less-carload shipments, 43 per cent of which moved in freight service, 36 per cent by truck and the balance by express and parcel post (484-499).

Harry L. Cole, a resident of Boxford, is associated with the federal Agricultural Committee on Farm Adjustment which has been distributing carload shipments of lime and phosphate to farmers in this area. In 1940 9 cars of these materials were shipped to Groveland, 4 cars to Byfield, and the same amount to Georgetown. The farmers pay only the cost of transportation and handling, and if these lines were abandoned, this traffic would be delivered at stations on nearby rail lines at some extra expense to the farmers on account of increased trucking hauls from other rail stations (555-568).

Passenger Service and Traffic. There has been no passenger service on the Georgetown Branch since 1933 (86). On the Newburyport Branch passenger trains leave Newburyport on week-days at 6.01 and 7.05 A.M., arriving at Boston at 7.43 and 8.36 A.M., respectively; trains leave Boston at 4.58 and 5.28 P.M., arriving at Newburyport at 6.39 and 7.05 P.M., respectively (Exhibit 4). There is no passenger or freight service on Sundays (50). A substantial number of the passengers are commuters to and from Boston and the trains carry many commuters between Boston and the stations on the main line between

Wakefield Junction and Boston, extra cars being picked up and dropped at the junction. The amount of travel to and from stations on the 15 miles of the branch north of Topsfield is indicated by the following data appearing in Exhibit 5:

<i>Week beginning</i>	<i>Average Passengers per Day</i>			
	<i>Trains to Boston</i>		<i>Trains from Boston</i>	
	<i>1300</i>	<i>1308</i>	<i>1311</i>	<i>1315</i>
February 5, 1940	4	21	19	6
May 6	3	14	13	6
August 5	4	19	11	5
November 4	2	20	14	7
February 3, 1941	4	16	15	8

It appears from Exhibit 6 that on August 8, 1940 19 of the 33 passengers traveling on the branch north of Topsfield were using 60-ride monthly tickets; on February 6, 20 of the 37 passengers used 60-ride tickets and 6 passengers used 46-ride pupils' tickets. The average rate per ride for monthly tickets is about a cent per mile, and half that rate for the pupil's ticket (90, 409). There is an abundance of passenger service on the main lines which parallel the branch on either side, and the monthly commutation tickets are good for travel to and from stations on the branch and stations on the main line equally distant from Boston. The branch is roughly paralleled by U. S. Highway No. 1 and there are excellent motor highways throughout the territory (22, 129, 583). Since the branch was built in the 1850's the trend of population has been actually downward. In 1850 the population of Boxford was 982 and in 1940 778; the

present population of Georgetown is 1803 while in 1850 it was 2052 (24).

Protestants' testimony with respect to the use of the passenger service at stations other than Topsfield may be summarized as follows: Eleanor Perley, who lives in Georgetown, attends college in Boston and uses the trains regularly during the college terms except when she uses the main line station at North Andover. There is bus service between Haverhill and Georgetown, but if she used the Haverhill station the bus fare would increase her expenses (57). John T. Hill lives in Boxford and attends college in Boston using the trains during the college terms; he believes he would give up college if the Branch were abandoned (64). John J. Galvin, who lives in Byfield, commutes regularly from that station to Boston, but uses the Rowley main line station on his return trip in the evening (68). Franklin C. Roberts, a member of the faculty of Boston University, commutes between Boston and Boxford, occasionally using Andover station on the main line; there are 3 commuters who board the train with him at Boxford, while some of his neighbors in Boxford travel regularly to and from Boston by automobile (71).

Leonard B. Howe testified that he lives in Georgetown, regularly uses Baldpate station commuting to and from Boston, and would be inconvenienced if the Branch were abandoned; he admitted that quite a number of residents of Georgetown regularly travel to and from Boston by automobile (132).

Ellen Welch has commuted regularly between Georgetown and Boston since January, 1940; if the

branch were discontinued she believed she would be obliged to give up her work in Boston. She could travel by train to and from Haverhill and use the bus service, but this would be an added expense (151).

Arthur S. Johnson is a regular commuter between Byfield and Boston. When he takes the morning train there are usually two or three passengers on the train and sometimes none, and about the same number when he leaves the train in the evening (528, 540).

The foregoing is the substance of the testimony of all the witnesses who as passengers patronize the service at the stations on the lines which are the subject of this application. It was stipulated that six residents of Boxford and seven residents of Georgetown, if called, would testify that they travel on the branch regularly or frequently and would be seriously discommoded if the service were abandoned (449). Another witness who has made use of the passenger train service was Mr. Tramer who operates an establishment in Georgetown for the feeding, trading in and exhibition of wild animals. Most of the persons who come to his farm to see his animals come there on Sunday when there is no railroad service. His farm is three miles from the railroad and some of his animals are received in carload baggage-car service; his business was established in 1939, but in that year he received no such shipments and in 1940 only five shipments (111, 195). In 1940 he paid about \$300 in freight charges of which applicant received \$212 (118, 195).

William T. Whiting, a dairy farmer in Byfield, ships some of his milk by truck and the balance by

rail to Melrose. He has used the rail service since May, 1940 because the rate by baggage-car service is 14.3 cents per can whereas the truck rate is 40 cents. He started shipping 2 cans per day and has now increased his shipments to 6 cans; his traffic may possibly reach an even higher figure (196, 542).

On the Newburyport Branch two round trips of passenger service are furnished by trains operating between Newburyport and Boston. Prior to 1925 there were four round trips, the reduction to two trips being an outgrowth of a petition for authority to abandon the entire branch (201, 532-535). The circumstances are described as follows in *Proposed Abandonment by Boston & Maine Railroad*, 105 I.C.C. 68, 74:

“Since the hearing was held the applicant, in cooperation with the interested communities, has undertaken to continue operation of the lines with a reduced train service and plans to effect all possible economies in an endeavor to eliminate or materially reduce the losses from operation. This arrangement has the approval of the chairman and member of the department of public utilities of Massachusetts who sat in the case. Under these circumstances it would appear that further consideration of the instant application is unnecessary. The application will be dismissed without prejudice.”

Passenger Revenues. The monthly tickets used by many of the passengers on the branch are good for travel between Boston and a designated station on the branch and some other designated station equidistant from Boston on one of the parallel main lines, and the passengers may travel to or from either station as they

choose (60, 72, 91, 99). Consequently, the only practicable method of determining the actual travel on the branch as a basis for computing the revenues was to secure from the train conductors daily reports of the points between which each passenger traveled (165). The revenues presented were based on the conductors' reports for 16 weeks spread through the period between January, 1939 and October, 1940 (96, 100, 166). Conductors' daily records were not available for any extended period of years, and the results for the 16 weeks mentioned, with certain adjustments on account of a recent increase in travel, were used for each of the years for which exhibits were submitted. The passenger revenues submitted in the return to the questionnaire were based on the assumption that in case of abandonment north of Topsfield, passenger service would also be discontinued over the 6 miles of line between Danvers and Topsfield. It was stated in answer to question 14 that the revenue from passengers traveling locally on the line between Newburyport and Danvers was \$619.00 and between stations on that section and other portions of applicant's line \$4,752.00, a total from all travel of \$5,371.00. At the hearing it was explained that this figure should be somewhat increased because of an increase in travel since the return to the questionnaire was prepared, and because the average revenue per trip for users of monthly tickets should have been based on an assumed average use of 50 rides instead of the maximum of 60 rides (96). These adjustments would result in increasing the total shown in the return from \$5,371.00 to \$6,567.00 (162). In Exhibit 9, which

shows the effect of abandonment and related passenger train economies, *i.e.* discontinuance of passenger service between Danvers and Topsfield, \$3,300.00 or approximately one-half the total of \$6,567.00, is shown as the estimated passenger revenues which would be actually lost to applicant if the abandonment and proposed curtailments of service were carried through (164).

At the hearing, however, protestants insisted that no account should be taken of possible discontinuance of passenger service south of Topsfield. Accordingly, applicant presented testimony showing the passenger revenues based on an assumed continuation of passenger service south of Topsfield. The showing was that taking into account the recent increase in travel and an assumed use of 50 rides of each monthly ticket, the annual revenue from passengers traveling on the Branch to or from stations between Newburyport and Topsfield is \$4,517 (162). In Exhibit 8 is shown an estimate of \$2,300.00—approximately half the last named figure—as the amount of passenger revenue which applicant would lose as a result of abandonment, and \$1,433.00 as an actual mileage prorate to the Newburyport-Topsfield section of the total amount of \$4,517.00 (163, 277). The prorated figure of \$1,433.00 is likewise shown in Exhibits 10 and 17.

In the matter of other passenger train revenues, \$1,513.00 of annual mail revenue would be lost following abandonment, but if the mail revenue were prorated to the line the figure would be \$595 (194, Exhibits 8, 10, 17). In the case of express the loss of the authorization given by the Railway Express

Agency would result in an annual loss of revenue of \$128.00, and no attempt was made to prorate this to the branch (195, 374, Exhibits 8, 10, 17). The total system revenue from shipments of animals to Georgetown in baggage-car service in 1940 was \$212.00 and no prorate of this small amount was attempted (195). Similarly no attempt was made to prorate the present revenue of \$163.00 from milk and \$341.00 from newspapers (197).

Freight Revenues. Applicant's system revenues from freight moving to or from stations on the lines to be abandoned have been as follows:

1935	\$15,590	1938	\$9,662
1936	16,327	1939	11,184
1937	15,336	1940	13,653

The figures for the years prior to 1940 are shown in the return to the questionnaire and for 1940 in Exhibit 14. In the case of carload traffic, applicant's system revenues from the branch traffic were actually determined for each year shown; in the case of less-carload traffic the total and system earnings were determined for 1939 and the proportion of the latter to the former applied to the total charges for each of the other years shown (36, 40).

This revenue may be assigned to the lines in question by the following methods (346, Exhibits 10, 17):

	<i>A</i>	<i>B</i>
1935	\$842	\$1,465
1936	882	1,535
1937	828	1,442
1938	522	908
1939	602	1,051
1940	737	1,283

Under method *A* the revenue is assigned on a mileage prorate using the short-line rate-making mileage; under method *B* on a mileage prorate based on the longest possible haul on the branch with respect to each shipment and the short-line mileage for the over-all distance (37). These methods applied to the 1939 traffic would assign to the branch 5.4 per cent and 9.4 per cent, respectively, of applicant's total revenue from the traffic, and as the traffic varies very little in character from year to year, these ratios were applied to the system revenues from the traffic for the other years shown (40, 200). In exhibits 10 and 17 the freight revenues were assigned to the branch on the basis of 5.4 per cent, which is the sounder and more consistent basis, but it was shown that if the 9.4 per cent basis were used and carried into the final result of the off-branch calculations the effect on the total results shown in exhibits 10 and 17 would be very slight (345).

In the case of the Topsfield traffic, which in case of abandonment would be handled from and to that station from the south instead of from the north over the lines in question, the revenues were as follows:

	<i>System</i>	<i>Prorate</i>
1935	\$10,584	\$1,418
1936	11,755	1,575
1937	12,006	1,609
1938	11,910	1,596
1939	15,473	2,074
1940	13,914	1,863

The prorated figures for the Topsfield traffic were determined by use of the method *B* already explained, *i.e.* by taking the short-line distance for the off-branch

haul and the full branch haul to or from Newburyport, and by applying the ratio of 13.4 per cent thus determined for the year 1939 to the system revenues for the other years (Exhibit 15). It would be impossible to apply method A to the Topsfield traffic because the short-line distance on the branch would be nothing, as Topsfield is at the extreme southern end of the line to be abandoned and the short-line system distance would figure northerly to that point. It is proposed to continue freight service to that point and it would not be practically or logically sound to assign any revenue to the branch on account of Topsfield traffic.

The revenue which might be lost as a result of abandonment would not be large, as the coal and grain which predominate is long-haul traffic and would probably be received at nearby stations on other lines. In the aggregate the total freight revenues which might be lost were estimated at not more than 50 per cent of the less carload and 10 per cent of the carload traffic, and the total revenue loss at not exceeding \$2,000 annually (37, Exhibits 8, 9).

Expenses. In the return to the questionnaire the following figures were given for maintenance of way expenses:

1935	\$6,300
1936	13,790
1937	15,790
1938	11,890
1939	20,890
1940	13,299 (figures for year in Exhibit 17)

These figures are based on an estimate of signal expenses for protecting grade crossings and an allocation of the actual cost of labor and materials for a maintenance section which includes the lines from Newburyport to Danvers and from Georgetown to Groveland (353, 369). The actual maintenance section includes somewhat more trackage than the lines in question, *i.e.* the additional mileage between Topsfield and Danvers, and an assignment of the expense for the total section to the lines in question was made on a mileage basis (212, 245, 251, 353, Exhibit 11). The result is shown in the foregoing figures and gives an average maintenance expense for the 20 miles in question for the past six years of \$13,660, or \$683 per mile (177-181). The railroad is considerably behind in its tie renewals on these lines and in the opinion of the Division Engineer there is consequent under-maintenance (247). Consequently, the average normal figure to be expected was estimated as \$15,233 — *i.e.* \$16,000 minus the allowance made on account of the assumed discontinuance of passenger service between Danvers and Topsfield, giving an average figure for normal maintenance of \$761 per mile (175, 182, 267).

The savings from discontinuance of passenger service were stated in the return to the questionnaire as \$20,060. As in the case of other items, this was based on the assumption that following abandonment passenger service would also be discontinued between Topsfield and Danvers and that a round trip of service would be discontinued between Danvers and Boston. If, however, as protestants insist, this

proceeding must be determined on the assumption that following abandonment there will be no other changes in service, the actual passenger train expenses would be increased by \$757.00 annually (184, 419, Exhibit 8). This would result from the fact that if passenger service were continued south of Topsfield, it would be necessary to house the locomotives at Salem and back the two passenger trains in the morning in a dead-head movement from Salem to Topsfield and repeat that operation in the evening (184). If the passenger train expense were determined on a mileage apportionment of the total expense of the trains involved, \$14,386 would be assigned to the branch service north of Topsfield, basing the expense on the operations of 1940 (185, Exhibit 17).

In the case of freight train expenses, it is shown in the return to the questionnaire and in Exhibit 8 that the actual annual saving would be \$4,950 (186). If, however, the freight expenses are assigned to the branch on a mileage basis that item of expense would be \$8,058 (Exhibit 17). The comparable figure was shown in Exhibit 10 as \$8,818, but was reduced in Exhibit 17 to reflect minor adjustments such as the absence of service on holidays and side trips on the Essex Branch (348-350). The figures for both freight and passenger train expenses include only the items of wages, fuel, and locomotive repairs (187).

In the return to the questionnaire and in Exhibits 8, 10 and 17, the annual cost of station and crossing protection is shown as \$4,070. This is the actual wages of an agent and assistant agent at Georgetown,

a caretaker at Byfield and a caretaker at Topsfield (188, 314).

At Newburyport the Railroad maintains a signal tower which could be closed if the passenger and freight trains operating on the branch were discontinued and their movements across the main line at that point eliminated (188, 426). This would result in an annual saving in wages of tower operators of \$4,550, the figure of \$4,295 in the return to the questionnaire being exclusive of pay-roll taxes. In Exhibit 17 this figure is shown as \$2,244, which is an allocation to the branch of 39.6 per cent of the total wages of the towermen based on the proportion of switch and signal moves at the tower on account of the branch train operations to the total moves (428). An allocation based on train movements, as suggested by protestants, would not be proper, as most of the movements are by main line trains which require no tower protection (358, 438-444).

The off-branch expenses for freight and passenger service, respectively, have been assigned on the basis of applicant's system operating ratios which have been as follows (199, 207, 276):

	<i>Operating Ratios</i>	
	<i>Freight</i>	<i>Passenger</i>
1935	60%	117%
1936	65	115
1937	63	107
1938	69	115
1939	58	113
1940	58	116

Application of these ratios and use of the actual or assigned revenues and costs already explained produces the following results shown in Exhibit 17:

	<i>Revenues</i>		<i>Expenses</i>		<i>System Deficit</i>
	<i>Branch</i>	<i>Total</i>	<i>Branch</i>	<i>Total</i>	
1935	\$3,339	\$22,089	\$35,058	\$48,620	\$26,531
1936	3,379	22,826	42,548	57,231	34,405
1937	3,325	21,835	44,548	58,014	36,179
1938	3,019	16,161	40,648	51,549	35,388
1939	3,099	17,683	49,648	60,347	42,664
1940	3,609	21,264	42,057	54,702	33,438

The only appreciable difference between these figures taken from Exhibit 17 and those shown in Exhibit 10 is that the annual deficit for each is approximately \$3,000 less by reason of prorating the wages of the towermen at Newburyport rather than taking the actual saving, and reducing the freight train expenses by \$760 on account of the absence of holiday service and the side trips on the Essex Branch. In both exhibits the freight revenues were prorated to the branch on the 5.4 per cent basis, but if the 9.4 per cent basis were used the net result would not be very different. Use of the latter basis would require reassignment of the off-branch revenues and expenses and the effect on the net annual deficits shown in Exhibit 10 would be reduced by only the following amounts: 1935 \$375; 1936 \$426; 1937 \$388; 1938 \$266; 1939 \$261; 10 months of 1940 \$269 (346-348). As Exhibit 17 modifies Exhibit 10 only with respect to the two items referred to above, *i.e.* wages of towermen and freight train expenses, the effect of the use of the 9.4 per cent for freight revenue allocations would similarly reduce the deficits shown in Exhibit 17 by substantially the same small amounts.

In none of the figures submitted was any account taken of any but out-of-pocket expenses. The only taxes included were pay-roll taxes — *i.e.* retirement

and unemployment taxes, and nothing was included for injuries to persons or property, use of engine terminal facilities at any point (425), superintendence, general overhead or capital costs (197).

With respect to the Georgetown Branch, operation from the west end via Bradford near Haverhill on the main line would not be warranted. The distance from Bradford to Georgetown is 6 miles and it is proposed to abandon the 4.5 miles between Georgetown and Paper Mill, including Groveland station. Between Groveland and Paper Mill, a distance of 1.5 miles, there has been no operation for six years because of a damaged bridge (430). It would cost \$7,500 to restore the bridge to serviceable condition and a total of \$17,160 to put the line in condition for freight operation from the westerly end (433, 500). This is due not only to the necessity of restoring the bridge and 1.5 miles of track which has received no maintenance during the past five years, but because it would also be necessary to put the balance of 4.5 miles of the line in condition for operation of a heavier type of freight engine than the Haverhill switcher which has been operating from the westerly end to Paper Mill and the type of locomotive which has operated over the 3 miles between Georgetown and Groveland on the easterly end (446). Because of applicant's agreement with its employees, the present operations of the Haverhill switcher could not be extended from Paper Mill to Georgetown, and if Groveland and Georgetown were to be served from the westerly end it would be necessary for the local freight on the main line to run down the branch from Bradford involving

use of a K-8 type of locomotive which is heavier than the B-15 type now in use (432-436, 505, 573). Operation of the local freight from Bradford to Georgetown three days a week would cost \$3,118 annually for train expenses (577, 585). In 1940 81 carloads were handled at Georgetown and 72 cars at Groveland, 65 of which were anthracite coal and 21 road tar; in 1939 the cars at these stations were 68 and 55 respectively, the road tar amounting to only 9 cars (Exhibit 15).

The value of the track materials to be salvaged on the 20 miles of line included in the application is estimated at \$40,800 (578, page 3 of return to questionnaire).

ARGUMENT

I. PROTESTANTS' OWN TESTIMONY DISCLOSES THAT THE SERVICE ON THESE LINES RESULTS IN A SUBSTANTIAL DEFICIT.

The only suggestions that the applicant is deluded by a false idea that the lines in question are operated at a deficit are to be found in protracted cross-examination of applicant's witnesses and in the testimony of Mr. Dow, expert for the Commonwealth of Massachusetts. The significant fact, however, is that after these efforts are examined they actually confirm the showing of the applicant that these lines are operated at a substantial deficit. This is particularly true of the observations of Mr. Dow so far as the record permits any comprehension and analysis of them. He did not reduce his deductions to the form of an exhibit and his hurried commentary is in many respects impossible to follow or to apply in reaching any conclusion from them. So far as the form of his presentation permits, an effort will be made to analyze his observations.

As a result of his calculations, Mr. Dow arrived at an expense prorated to the branch of \$32,745, and this subtracted from the revenue of \$15,481 assigned by him to the branch produced a branch deficit of \$17,246. Applying the operating ratio to the off-branch freight revenue produced an off-branch expense of \$13,755, an off-branch net of \$12,480 and a system deficit of \$4,784 (635). It might be sufficient for applicant's purposes to drop the matter at

this point, but as Mr. Dow's conclusions are unsound in so many respects some analysis of them will be made.

In the matter of wages of the station forces and crossing tenders of \$4,070 which would be saved by abandonment, he suggests that the entire expense could be eliminated or at least reduced to \$1,800 a year (611, 624). He admitted, however, that the present labor agreements would permit no such reduction in forces (649), and in the absence of any suggestions from him as to whether the communities served would be satisfied with such a curtailment, whether the train service could be maintained with no employees at any station, or how the labor organizations could be induced to change their agreements, his observations on this point may be passed over.

Mr. Dow suggested that the saving of \$4,550 in wages of the towermen at Newburyport be disregarded (608), while applicant believes that the entire saving should be assigned to the branch, or if prorated should be assigned on the basis of switch and signal moves, the proportion thus assigned to the branch being 39.6 per cent of the total weekday wages or \$2,244 (428, Exhibit 17). So far as the elimination of the entire tower expense is concerned, all the freight and passenger operations of the branch trains involve crossing the main-line tracks at Newburyport and if these cross-over operations are discontinued there would be no more need of a tower at Newburyport than at any other main-line station (438). While the witness intimated that the branch trains do not require the protection of the signal

tower, he qualified his remarks with the statement that "I am not qualified to testify as to the degree of safety in getting that train across the main line" (610). In the light of this qualification, no weight can be given to his intimation that none of the tower expense should be assigned to the branch in the face of the fact that protection of the movements of the branch trains is the only occasion for the operation of the tower.

His approach to the matter of maintenance of way expenses is disclosed by his preliminary remark that "In attempting to reduce the estimated figure for a normal year's maintenance, \$15,233, I cannot qualify as an engineer, nor as an expert" (614). In spite of this disclosure of his mental approach and lack of qualifications, he ventured the opinion that no fair estimate of the maintenance expenses to be anticipated can be based on anything less than a cycle of material renewals over a long period (614). In the matter of rail renewals this suggestion would lead to no reduction in applicant's figures, as it has charged very little for that item during the past six years — in fact, of the maintenance items charged to the line during that period approximately 60 per cent were labor expenses, leaving only a charge to materials of some \$200 a mile (Exhibit 11). Applicant's Division Engineer testified that there is undermaintenance on the lines and the estimate that the average actual expense of \$13,659 should be increased to \$15,233 for normal maintenance is not excessive. In the return to the questionnaire the estimate of annual normal maintenance is shown as \$16,000, but this assumed

a discontinuance of passenger service between Topsfield and Danvers; disregarding the latter element the normal maintenance is estimated as \$15,233 (175). So far as the actual maintenance expenses are concerned, applicant believes that in the light of the Commission's knowledge and experience in matters of this kind it will find the actual average of \$13,660, or \$683 per mile (Exhibit 17), to be entirely reasonable for a line which must be maintained for the daily operation of a freight train and four passenger trains. Mr. Dow finally appeared not to disagree with this figure (612), although applicant believes that the estimate of \$15,233 for normal maintenance is more significant.

From the standpoint of savings, Mr. Dow conceded that the savings in freight and passenger train expenses would be substantially as shown in Exhibit 8 — *i.e.* an added expense of \$757 for passenger expenses and a saving of \$4,950 in freight expenses. By reducing the maintenance of way expenses by \$1,452 and disregarding any savings in the wages of station forces or towermen he arrived at a total saving of \$18,064 as against applicant's figure of \$28,046 (626, Exhibit 8).

With respect to prorated expenses as distinguished from savings, in the return to the questionnaire and in Exhibit 8, applicant submitted a figure of \$4,950 as the actual savings in freight train expenses; on a prorated basis the figure was shown as \$8,818 in Exhibit 10, which was reduced to \$8,058 in Exhibit 17 because of adjustments on account of the absence of service on holidays and the side trips of the train

on the Essex Branch. Mr. Dow reduced the figure of \$8,818 in Exhibit 10 to \$6,627 (650) by recalculating certain of applicant's figures which were on a "savings" basis. In applicant's testimony it was explained that a prorate of the freight expenses would assign to the branch on a weekly basis \$104.83 for wages of train and enginemen, \$45.22 for fuel and \$19.54 for locomotive repairs, a weekly total of \$169.59, or an annual total of \$8,818 (388). This resulted from a prorate on the basis of train miles. Mr. Dow stated that he used a weekly wage expense of \$82.50 based on the estimated "saving" in wages (650), which of itself reduced the applicant's prorated figure of \$104.83 by an amount equivalent to \$1,161 on an annual basis. He took a figure of 18.09 (record reads incorrectly 18.9) cents per mile for locomotive repairs and 20 cents for fuel and by applying these to the run of the freight train on the branch of 19.7 miles produced a daily expense for those items of \$7.49, or \$44.94 per week (651), by comparison with applicant's figure for these items of \$64.76, resulting in a difference on an annual basis of some \$1,100. This figure added to the difference in wage expenses mentioned above accounts for his reduction in applicant's annual freight train expenses by some \$2,200 (652). The applicant's testimony was that the cost of fuel prorated to the run of the freight train on the branch amounts to \$45.22 a week (388). On the basis of Mr. Dow's branch miles of 19.7 a day (651) this results in a cost of fuel per mile of 38.4 cents and the record discloses no basis for his figure of 20 cents a mile. If he had used the correct figure per mile for

fuel there would not have been the difference of \$1,100 a year. The error in his calculation of wage expenses results from using figures derived from an actual saving as a basis for calculating a prorated expense. The result is a hybrid figure of \$6,627 which is below the true prorated figure of \$8,058 shown in Exhibit 17, but above the actual "savings" figure of \$4,950 shown in Exhibit 8.

In the matter of passenger train expenses, in view of the position taken by protestants the applicant does not insist upon consideration of the figure of \$20,060 shown in the return to the questionnaire, which was based on the contemplated discontinuance of passenger service between Danvers and Topsfield and a reduction in service between Danvers and Boston. A prorate of the passenger train expenses to the line would assign \$14,386 to the branch (Exhibits 10, 17), and if the prorating method is to be applied to other items consistency requires that it be applied to this one (323-325). With respect to this item, Mr. Dow reduced applicant's figure from \$14,386 to \$12,247 (633), but as he ventured no explanation of his calculations, no analysis of them is possible.

While no doubt Mr. Dow felt that the result of his efforts to reduce the savings justified his labors in that direction, it was in the matter of increasing the revenues of the branch to \$15,481 that he secured a more striking result and claimed a reduction in the deficit on the savings basis to \$2,583 (626). This result, however, was arrived at only by an extraordinary manipulation of the revenue figures. For example, in the matter of passenger revenues, these

were shown in applicant's exhibits 8, 10 and 17 as \$1,433, but were increased 10 per cent by Mr. Dow to \$1,576, because applicant's witness testified that there had recently been an increase in travel by that percentage (625). In the figures in applicant's exhibits, however, an adjustment had already been made for the increase in travel, so that Mr. Dow's adjustment is an improper duplication of that factor (653).

Coming to the more important matter of freight revenues the witness suggested that there should be credited to the lines in question some \$2,000 on account of the freight moving to Topsfield (617). This traffic, however, except for the small amount of less carload shipments, will continue to move to Topsfield over another route following abandonment, and while the allocation of \$2,000 would have little effect in balancing the deficit from operations of these lines, there is no justification for treating it as something which may properly be attributed to the branch. From this Mr. Dow launched into a sweeping claim that in assigning freight revenues to these lines, they should be given an allowance of 100 arbitrary miles on the assumption that something like this was allowed applicant in its divisions with its western connections and was approved or suggested in *New Haven Railroad Reorganization*, 224 I.C.C. 723 and in *Eastern Class Rate Investigation*, 164 I.C.C. 314 (617).

Examination of the reports in those cases, however, does not disclose where the witness found any warrant for his claim. In the report in the latter case there is no discussion of divisions, while in the New

Haven case the expenses allocated to the line under consideration included taxes, return on investment and general expenses, which is an entirely different situation from the one presented here. Moreover, on cross-examination Mr. Dow admitted that as to the two principal commodities moving to these lines, *viz.*: coal and grain, he did not know whether any arbitrary mileage was allowed the applicant or other New England lines (640). It should be kept in mind also that it is wholly unsound to suggest that in an abandonment proceeding revenue should be assigned to a branch line on the same basis as the divisions allowed an independent carrier which must meet all its capital and other obligations, unless expenses are assigned to the branch on a similar basis. As the only expenses assigned to the branch by the applicant are actual direct out-of-pocket costs, no assignment of revenues should be made on a basis which assumes that it has been charged with general and capital expenses. In short, Mr. Dow's only observations on the matter of revenue assignments are unsound and there is no reason to consider the revenues on any other basis than that presented by the applicant.

The application of his method should also be examined. He took the total system freight revenues from the branch traffic in 1939 of \$11,184 shown on page 9 of the return to the questionnaire and added the Topsfield revenue of \$15,472, giving a total for the year of \$26,656. He then assumed that all the traffic was received at applicant's Mechanicville, N. Y. gateway near Albany and had an average haul of 200 miles from that point to the branch and 13

miles on the branch. He then credited the branch with 100 constructive miles, giving a total prorating mileage of 313 miles of which the 113 miles assigned to the branch would be 36 per cent; this percentage was applied to the system revenue of \$26,656, producing an assignment of freight revenues to the branch of \$9,596 (619). As already pointed out, such an assignment of arbitrary mileage to a branch line is not warranted, at least unless the branch is also charged with a proportion of overhead and capital expenses, and it could not be justified on the theory that applicant may receive some such arbitrary mileage in its own divisions since Mr. Dow did not know whether that is the fact (641-643). Nor is there any justification for including the Topsfield traffic since rail service to that point will be continued if the branch is abandoned. If it is included, of course, an increase in expenses must be made for the cost of handling that traffic off the branch, which in the case of the 1939 revenue of \$15,472 would be 58 per cent — the freight operating ratio for that year — of 64 per cent — the off-branch prorate — of \$15,472, or \$5,743.

The witness also increased the freight revenues for 1939 by 28 per cent, because the revenues for 1940 had increased to that extent (625). This increase, however, was based only on the traffic to and from the stations to be abandoned, whereas, if the Topsfield revenues are included, as the witness insisted, the increase in system freight revenues from the branch traffic between 1939 and 1940 was from \$26,657 to \$27,567 or *only 3.4 per cent.* (Topsfield

figures shown on page 4 of Exhibit 15; for other stations for 1939 on page 9 of return to questionnaire and for 1940 in Exhibit 14.) The final result of his entire calculations was a net for the system on branch traffic of \$12,480, and a deficit for the branch of \$17,264 (635). In view of the latter figure it would serve no purpose of the applicant to analyze his figures further, it being already shown that in certain important respects they are incorrect or unsound. If certain obvious errors were corrected the result would be an even greater deficit for the branch than his figure of \$17,264 and would substantially increase his admitted system deficit of \$4,784 from the total handling of branch traffic. This is clear from the single fact that his conclusions are based on an assumed increase in the system freight revenue for 1939 by 28 per cent, whereas the actual increase was only 3.4 per cent, the difference being an erroneous increase of about \$6,000. In short, protestants' expert admitted a deficit from the branch operations whether the expenses are computed on a prorated or savings basis; when his revenue allocations are properly reduced, the deficit is a substantial one.

II. THERE IS NO PUBLIC DEPENDENCE ON THESE LINES WHICH REQUIRES CONTINUANCE OF OPERATION.

The extent of the use of the freight and passenger service on these lines has already been summarized (ante pp. 3-11), and need not be repeated. No doubt some passengers and patrons of the freight service will

be inconvenienced by abandonment, but with only from 4 to 15 miles separating the main lines which are on either side of the branch, by no stretch of the imagination can it be claimed that the "public convenience and necessity" require continued operation (84, 583). The passengers who now use the branch already use the frequent service on one or other of the main lines, traveling to or from the main line stations in their automobiles. Similarly freight can be readily trucked to or from stations on the main lines, doubtless at somewhat increased expense, but transportation service would not be lacking and the communities on the branch will encounter no difficulty in shipping or receiving freight. The Newburyport Branch is roughly paralleled by a portion of U. S. Highway No. 1 and there are improved highways throughout the entire territory (22). The population of the territory is actually less than it was when the branch was built nearly a century ago, and there is no actual or prospective industrial development which requires any more railroad service than is afforded by the nearby main lines. An application for authority to abandon the entire Newburyport Branch was filed in 1925, but was withdrawn to see if a reduction in passenger service would result in making the line self-sustaining (366, ante p. 11). This record shows, however, that the experiment has been a failure, and these communities have no right to demand continuance of a service which they do not need or support. The Commission is well aware that the passenger travel on a line of this character is unprofitable, particularly where much of it is on commutation tickets based on a

rate of one cent per mile and pupil's tickets at only half that rate. Nor can there be any question that carload traffic which has declined from an average of 234 cars in the three years 1935-1937 to an average of only 140 cars in the years 1938-1940 (Exhibit 15) cannot possibly sustain 20 miles of railroad at the present-day level of operating costs. Regardless of methods of apportioning revenues and expenses, this amount of traffic will not support these lines and in the circumstances appearing here the absence of any public need for the service requires that this application be granted.

Respectfully submitted,

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

May 10, 1941.

CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of May, 1941, I served the foregoing document upon all parties of record in this proceeding by mailing a copy thereof properly addressed to each other party.

W. A. COLE.