

## Abandonment of Part of Route.

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### I.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO, TONAWANDA AND NIAGARA FALLS ELECTRIC RAILROAD COMPANY, UNDER SECTION 103 OF THE RAILROAD LAW, FOR APPROVAL OF A DECLARATION OF ABANDONMENT OF A PORTION OF ITS ROUTE.

June 5, 1900.

This application, under section 103 of the Railroad Law, by the Buffalo, Tonawanda and Niagara Falls Electric Railroad Company, a street surface railroad company, was filed with this Board on January 13, 1900. It asks, under section 103 of the Railroad Law, for the approval of this Board of a declaration of abandonment of that portion of its railroad:

“ Beginning on Webster street in the city of North Tonawanda, running thence over the Erie canal and Tonawanda creek to Main street in the village of Tonawanda, Erie county, New York; thence along Main street to Fletcher street; thence along Fletcher street to Hamilton street (so called); thence along lands called Hamilton street to lands called Sixth avenue; thence along lands called Sixth avenue to the Two Mile Creek road; thence along Two Mile Creek road to and over a private right-of-way in the town of Tonawanda, Erie county, New York, to O’Neil street; thence along O’Neil street to a point about two hundred fifty feet northeasterly of the junction of said O’Neil street (so called) with Tonawanda street.”

The proceedings required by section 103 of the Railroad Law have been taken by the applicant. The portion of its route proposed to be abandoned, it deems no longer necessary for the successful operation of its road and convenience of the public in consequence of a contract by which it has a right to use the route or portion of the route of the Buffalo and Niagara Falls Electric Railway, Buffalo and Lockport Railway, and Crosstown Street Railway Company of Buffalo, street surface railroads. A public hearing, after public notice, was given by the Board in the city of Buffalo, on January 25, 1900. Morris Cohn, Jr., appeared for the applicant. John Cunneen appeared for the town of Tonawanda, in opposition. W. B. Simpson appeared for the vil-

lage of Tonawanda and for the Citizen's committee of Tonawanda, in opposition. Willis H. Tennant appeared for property owners in opposition. Charles W. Sickman appeared for property owners in opposition. Michael Nellany, a property owner, appeared in opposition. William F. Strasmere appeared in opposition. A. F. Premus appeared for the city of North Tonawanda. Without the taking of evidence, the hearing was adjourned until Friday, January 26, 1900, and took place on that day. The Board inspected the portion of the railroad proposed to be abandoned, which is about five and one-half miles in length, from North Tonawanda to Buffalo, passing through the village and town of Tonawanda.

After careful consideration of the evidence, the Board is of the opinion that it should approve the declaration of abandonment of the portion of the route named. It is for the most part through a section of country which was farming land and where there are now practically no dwellings or buildings. Its gross receipts during the period from June 9, 1899, to January 23, 1900, were \$1,975.66, while the cost of operation was \$4,227.48. Its average daily receipts for November, 1899, were \$3.955; for December, 1899, \$2.847; and for January, 1900, \$2.57. It serves no public necessity or convenience. The public travel between Tonawanda and Buffalo is over other lines. A portion of it is in the built up portion of the village of Tonawanda, but even here the public do not patronize it. The owners of the lands through which it runs object to its abandonment, and while the Board has carefully considered and appreciates the position of these land owners in the matter, the fact remains that the public do not use the railroad and it seems to the Board that the proposition of abandonment is one squarely within the meaning of section 103 of the Railroad Law.

There are some questions raised in opposition, as to the right of the applicant to abandon this portion of its route in view of municipal franchises which it has received and in view of donations of land and money which it has received. So far as these may be matters of contract, this Board cannot determine them.

The Board being of the opinion that the application should be granted, it is

Ordered, That said application be and it is hereby granted, and that the approval of this Board of the declaration of abandonment of that portion of the route of the Buffalo, Tonawanda and Niagara Falls Electric Railroad Company named above shall be endorsed upon the declaration of abandonment adopted by the directors and stockholders, as provided by section 103 of the Railroad Law.