

DJB

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Consolidated Rail :  
Corporation for the abolition of :  
thirty-one crossings of the Enola :  
Branch, Harrisburg Division, :  
Lancaster County. :

Docket Nos.  
A-00111016

Board of Supervisors of Bart :  
Township :

C-00913256

v.

Consolidated Rail Corporation :  
and the Pennsylvania Department :  
of Transportation and :  
Commissioners of the County of :  
Lancaster, et al. :

DOCKETED

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PREHEARING ORDER NO. 2

The purpose of this Order is to confirm certain procedural rulings made at the prehearing conference on August 29, 1995. This Order is being prepared from my notes. The transcript is not available. In the event this Order differs from the transcript, this Order prevails.

A. Consolidation

By letter dated August 9, 1995, Bart Township submitted a Motion For Consolidation. In its Motion, Bart Township requested that the proceedings pending at Docket No. C-00913256 be consolidated with the Application at Docket No. A-00111016. No party objected. Having reviewed the proceedings at both docket numbers, I found that the cases contained common questions of law and fact. Accordingly, the Motion to Consolidate will be granted below.

DOCUMENT  
FOLDER

B. Alternative Dispute Resolution

Consolidated Rail Corporation (Conrail) and Friends of the Atglen-Susquehanna Trail, Inc. (F.A.S.T.) each submitted a written request that a mediator be appointed for the Application proceeding. Bart Township opposed the request in writing. At the prehearing conference, several representatives of the remaining municipalities also opposed the request. However, each governmental unit which opposed the request was at least amenable to initial discussions with the mediator. Accordingly, the mediator was permitted to proceed and limited to a sixty-day mediation period.

C. Hearing Schedule

The following hearing schedule was discussed and agreed upon by the parties. In order to allow the passage of the sixty-day mediation period, hearing dates were set on November 6, 8 and 9, 1995. Since ten of the crossings are found in Providence Township, the November 8 hearing date has been set aside for those crossings only. In order to accommodate the Public Meeting Schedule of Quarreyville Borough, I designated Quarreyville as the first party to present testimony on November 6, 1995. The remaining parties will be responsible for meeting and determining the order of presentation of witnesses.

In order to facilitate preparations for those hearings, the parties agreed that all prepared, written, direct testimony should be submitted on or before October 13, 1995. I directed the parties to prepare, at a minimum, their written direct testimony in response to the Questions And Procedure which has been promulgated

by the Commission in this case. Those parties which are specifically named in the Questions And Procedure should respond to their particular issues. Since parties have been added after the Questions And Procedure was published, all forms of municipal government should respond to Question 16. All municipal authorities and utility service providers should respond to Questions 22-24. A copy of the Questions And Procedure has been attached to this Order.

All written, prepared, direct testimony should be served in hand on or before October 13 at 4:00 p.m. on all other parties of record and the undersigned. If a party wishes to present additional testimony from interested citizens, taxpayers, landowners, etc., written testimony need not be prepared. However, each party should identify its additional witnesses in writing by giving notice to all other parties and me on or before October 13, 1995 at 4:00 p.m. A copy of an updated service list has been included as an attachment to this Order.

After reviewing the service list, I noted that some of the parties had multiple entries. The time and cost of serving that many individuals is unnecessary. Accordingly, I have limited almost every party to a maximum of two entries, a lead attorney and one administrator. The result was a substantially shorter service list. I urge all parties to check this list. I will allow names to be substituted, provided notice is given to me and all others on the revised list.

The prepared, written direct testimony should be organized such that the questions and answers are presented for each individual crossing. The crossing should be identified by the crossing number, the route or street, the milepost marker and the AAR number. A copy of the Commission's Order containing this information is attached to this Order.

Prior to October 13, 1995, all interrogatories must be answered within the twenty-day period specified in the Commission regulations. After October 13, 1995 (which will be marked by the receipt of all parties' testimonies) the interrogatory response time will be shortened to fifteen days. Copies of interrogatories and their answers should not be sent to me or the file room. Commission regulations require that a copy of notice of sending interrogatories and a notice of answering interrogatories be sent to the file room. While I do not encourage discovery disputes, any motion to compel or for sanctions should include a copy of the interrogatory and the objection thereto.

ORDER

NOW THEREFORE, IT IS ORDERED:

1. That the Motion For Consolidation of the Board of Supervisors of Bart Township with respect to the proceedings at Docket No. A-00111016 and Docket No. C-00913256 is hereby granted.
2. That the parties cooperate with Commission mediators for a sixty-day period to allow an alternative dispute resolution

process to be implemented.

3. That all hearings be held and testimony served in accordance with the schedule set forth above.

4. That, after October 13, 1995 the period for answering interrogatories shall be shortened to fifteen days.

  
LOUIS G. COCHERES  
Administrative Law Judge

Dated: September 14, 1995

1. Consolidated Rail Corporation (Conrail) submit testimony as to the exact corporate name of the owner and operator of the rail line involved at the subject rail-highway crossings and state any future planned changes to that entities corporate status.
2. Conrail submit testimony stating the name of the rail line involved in this proceeding, its current status and under what authority has permission been granted, if any, to abandon the subject rail line.
3. Conrail submit testimony describing the rail line's current use by any other entity and describe the terms of the arrangements that permits their use of the right-of-way and the provisions for future use or maintenance responsibility.
4. Conrail submit testimony describing the existing bridge structures, number of spans, principal dimensions, roadway width, vertical and horizontal clearances, between the right-of-way involved herein, including the current general physical condition of the bridge structures and current load-carrying capacity of the highway bridges; and state the date of construction of each structure, the purpose of their construction and the party or parties responsible for their construction.
5. Conrail submit testimony describing the existing crossings involved in this proceeding.
6. Conrail submit testimony as to its present obligation with respect to maintenance of the crossings involved in this proceeding and submit into evidence copies of past orders or actions of this Commission, or its predecessor, which may have dealt with the construction, alteration or reconstruction of the subject crossings.
7. Conrail submit testimony indicating whether, in its opinion, each existing crossing is adequate to accommodate safely the class and volume of traffic normally using the highway at each location, and submit testimony describing the general nature, extent and estimate of costs of all work which it deems necessary or advisable to provide a safe and convenient highway at each location following the rail line removal, and state the reasons therefore.
8. Conrail submit testimony as to what portion of the work it will agree to perform, what portion of the construction costs it will agree to assume, and what portion of the completed improvement it will agree to maintain in the event the Commission orders the crossings abolished and the structures removed in whole or in part, or orders any other improvements at the crossings.
9. Excluding the crossings disposed of in the Commission order adopted, Pennsylvania Department of Transportation (Department) submit testimony as to which crossings involve its highways and describe the general location of each crossing, including the name and termini of each highway involved.
10. Department submit testimony describing in detail the type, width of paving, alignment, grade and general physical condition of its highway approaches to, through and beyond each crossing.

11. Department submit testimony as to the approximate class and volume of vehicular and pedestrian traffic normally using its highway at each crossing and projected future volumes.
12. Department submit testimony regarding the number, location, nature, cause and frequency of any accidents that may have occurred on its highway at each crossing.
13. Department submit testimony indicating whether, in its opinion, each crossing is adequate to accommodate safely the class and volume of traffic normally using its highway at each location, and submit testimony describing the general nature, extent and estimate of costs of all work which it deems necessary or advisable to provide a safe and convenient highway at each location following the rail line removal, and state the reasons therefore.
14. Department submit testimony as to its present obligation with respect to maintenance of the existing bridge structures and submit into evidence copies of past orders or actions of this Commission, or its predecessor, which may have dealt with the construction, alteration or reconstruction of the subject crossing.
15. Department submit testimony as to what work it will agree to perform, what costs it will agree to assume, and what portion of the completed improvement it will agree to maintain in the event the Commission orders the crossings abolished and the structures removed in whole or in part, or orders any other improvements at the crossings.
16. Conestoga Township, Borough of Quarryville, Sudsburg Township, West Sadsbury Township, Bart Township, Eden Township, Providence Township and Mortic Township each submit answers to questions Nos. 9, 10, 11, 12, 13, 14 and 15 as if same were posed to it.
17. Friends of the Atglen Susquehanna Trail, Inc. (FAST) submit testimony that explains under what authority or legislative act FAST is created and submit into the record a copy of its by-laws or charter that governs its functions.
18. FAST submit testimony describing what it perceives to be its function regarding the acquisition and operation of a potential public recreational trail involved herein.
19. FAST submit testimony that describes what sources of funds for the purpose of purchasing and operating a potential recreational trail and disclose any final agreement that commits any government agency or private organization to the establishment of the subject recreational trail.
20. FAST submit testimony indicating whether in its opinion each existing crossing is adequate to accommodate safely the class and volume of traffic using the highway and submit testimony describing the nature, extent and estimated cost of all work which it deems necessary or advisable to provide a safe and convenient highway at each crossing location following the rail line removal and state the reasons therefore.

21. FAST submit testimony as to what portion of the construction costs it will agree to assume and what portion of the completed improvements it will agree to maintain in the event the Commission orders the crossing abolished and the structure removed in whole or in part or orders any other improvements at the crossings.
22. Non-carrier public utility companies, each submit into the record a detailed plan indicating specific location of its current facilities including type of facilities and the need to relocate facilities to accommodate any proposed construction.
23. Non-carrier public utility companies, each identify when its present facilities were installed and under what permission or authority; state the anticipated service life of the existing facilities when they were installed; state the expected service life of the proposed altered or relocated facilities and give comparison of prior existing facilities vs. altered or relocate facilities or to specific increases or decreases in capacity of each.
24. Non-carrier public utility companies each state which estimated items of costs incurred it agrees to bear and which party or parties it suggests should bear the remaining items of costs, with the basis for such suggested assignment of costs.
25. Query whether any of the interested parties, or any other party, desires to submit any additional relevant testimony.

A-00111016 - C-00913256 Parties of Record

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