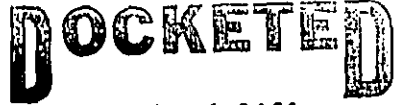


PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

251

1. REPORT DATE: January 12, 2001	2. BUREAU AGENDA NO.: JAN-2001-OSA-0027*
3. BUREAU: Office of Special Assistants	
4. SECTION(S):	5. PUBLIC MEETING DATE: January 24, 2001
6. APPROVED BY: Director: C. W. Davis 7-1827 Supervisor:	
7. PERSONS IN CHARGE: R. H. Albert 7-8108	<div style="text-align: center;">  JAN 31 2001 </div>
8. DOCKET NO.: A-00111016, C-00913256	

9. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) **Short summary of history & facts, documents & briefs**
 (c) **Recommendation**
 (a) Application of Consolidated Rail Corporation for the Abolition of Thirty-One Crossings of the Enola Branch, LC201323, MP 3.5 to MP 27.0, Sub No. 1095X, Harrisburg Division, Lancaster County

Board of Supervisors of Bart Township v. Conrail, *et al.*

(b) By Order entered on October 9, 1997, Consolidated Rail Corporation (Conrail) was ordered to remove the crossing structure at U.S. Route 222 in Providence Township (Crossing No. 16) within one (1) year of the entry date of that Opinion and Order. On October 18, 1999, Conrail requested an extension of time until December 31, 2000, which was granted by Order entered on November 22, 1999. By Petition filed December 8, 2000, Conrail and Norfolk Southern assert that the development of the specifications have proven to be more complex and time consuming than the Parties initially anticipated. Norfolk Southern expects to award the contract to remove the bridge in January 2001 and, therefore, requests a further extension to June 30, 2001.

(c) The Office of Special Assistants recommends that the Commission adopt a proposed draft Opinion and Order, which grants Conrail and Norfolk Southern's Petition consistent with this Opinion and Order.

Order Doc. No. 229860v1

Calendar Doc. No. 230053v1

10. MOTION BY: Commissioner Chm. Quain

Commissioner Brownell - Yes

SECONDED: Commissioner Bloom

Commissioner Wilson - Yes

Commissioner Fitzpatrick - Yes

CONTENT OF MOTION: Staff recommendation adopted.

DOCUMENT
FOLDER

RHO
XT



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

January 26, 2001

A-00111016
C-00913256

SCOTT WASSERKRUG ASST GEN CNSL
CONSOLIDATED RAIL CORPORATION
LEGAL DEPARTMENT 16-A
2001 MARKET ST 2 COMMERCE SQ
P O BOX 41416
PHILADELPHIA PA 19101-1417

DOCKETED

JAN 29 2001

Application of Consolidated Rail Corporation
for the Abolition of Thirty-One Crossings of the
Enola Branch, LC 201323, MP 3.5 to MP 27.0,
Sub. No. 1095X Harrisburg Division,
Lancaster County.

Board of Supervisors of Bart Township
v.
Conrail, et al.

DOCUMENT
FOLDER

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on
January 24, 2001 has adopted an Opinion and Order in the above entitled
proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty,
Secretary

encls
cert. mail
law

See attached list
for additional parties
of record.

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held January 24, 2001

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Aaron Wilson, Jr.
Terrance J. Fitzpatrick

DOCKETED
JAN 29 2001

Application of Consolidated Rail Corporation for the
Abolition of Thirty-One Crossings of the Enola
Branch, LC201323, MP 3.5 to MP 27.0, Sub
No. 1095X, Harrisburg Division, Lancaster County

A-00111016

Board of Supervisors of Bart Township

C-00913256

v.

Conrail, et al.

DOCUMENT
FOLDER

OPINION AND ORDER

BY THE COMMISSION:

Before us for disposition is a Petition to Request a Further Extension of Time (Petition) filed jointly by Consolidated Rail Corporation (Conrail) and Norfolk Southern Railway Corporation (Norfolk Southern) on December 8, 2000. No response in opposition to the Petition has been filed.

History of the Proceedings

By Order entered on October 9, 1997, Conrail was ordered to remove the crossing structure at U.S. Route 222 in Providence Township (Crossing No. 16) within one (1) year of the entry date of that Opinion and Order. On June 1, 1999, the subject rail line was conveyed to Pennsylvania Lines, LLC, a wholly owned subsidiary of Conrail. Norfolk Southern has the right to operate on the lines owned by Pennsylvania Lines, LLC.

Conrail could not proceed with the aforementioned work until a stay condition, imposed by the Surface Transportation Board, which prevented Conrail from performing demolition of Crossing No. 16 was lifted on August 13, 1999. Furthermore, Conrail's authority to perform work at any crossing was uncertain due to various requests for a supersedeas filed by the Friends of the Atglen-Susquehanna Trail, Inc. The Pennsylvania Supreme Court denied all requests for supersedeas on June 28, 1999.

On October 18, 1999, Conrail requested an extension of time until December 31, 2000, within which to remove the crossing structure at Crossing No. 16. By Opinion and Order entered on November 22, 1999, the Commission granted Conrail's Motion for Extension of Time, finding that Conrail had diligently pursued the project. Norfolk Southern has been working with the Pennsylvania Department of Transportation (PennDOT) to develop specifications for the bridge removal.¹

¹ Norfolk Southern is carrying out the subject removal project on behalf of Conrail.

Conrail and Norfolk Southern jointly request an extension of time until June 30, 2001, to complete the crossing removal and related work ordered in paragraph No. 92 of the Commission's Opinion and Order entered on October 9, 1997, as modified by the Opinion and Order entered on November 22, 1999.

Discussion

We note that Section 1.15(a)(1) of our Regulations, 52 Pa. Code §1.15(a)(1), governs petitions for extension of time within which to comply with an Order of the Commission. That Section provides, in pertinent part, as follows:

Except as otherwise provided by statute, whenever under this title or by order of the Commission, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Commission, the presiding officer or other authorized person, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

In the Petition before us, Conrail and Norfolk Southern assert that they have been diligently pursuing the project consistent with the direction of the Commission. It is represented that Norfolk Southern has been working with PennDOT to develop specifications for the bridge removal. The Parties submit that the specifications have proven to be more complex and time consuming than the Parties originally anticipated. (Petition, p. 3).

Additionally, Norfolk Southern submits that it did not receive the necessary specifications for the removal of the subject bridge from PennDOT until late

September 2000. As a result, Norfolk Southern further asserts that there was not adequate time for it to complete the demolition work by the December 31, 2000 deadline, as ordered by this Commission deadline of December 31, 2000. Norfolk Southern represents that it expects to award the contract to remove the bridge in January 2001. (Petition, p. 3).

Under the circumstances, Conrail and Norfolk Southern have requested an extension of time until June 30, 2001, to complete the crossing removal and related work ordered by our Order of October 9, 1997, as amended. Conrail and Norfolk Southern have represented that neither PennDOT nor Providence Township oppose the request for a further extension of time. (Petition, p. 4).

Based on our review of the instant Petition, in light of the record as developed in this proceeding, we conclude that it is consistent with the public interest and safety to accede to the request of Conrail and Norfolk Southern for a further extension of time. Accordingly, the Petition will be granted; **THEREFORE,**

IT IS ORDERED:

1. That the Petition to Request a Further Extension of Time filed on December 8, 2000, requesting an extension of time until June 30, 2001, within which to comply with the Order entered October 9, 1997, as amended, is granted, consistent with this Opinion and Order.

2. That, in all other respects not inconsistent herewith, the Order of October 9, 1997, as amended, shall remain in full force and effect.

THE COMMISSION,

James J. McNulty
James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: January 24, 2001

ORDER ENTERED: **JAN 26 2001**