

ORIGINAL

BEFORE THE FEB 29 2 31 PM '80

PENNSYLVANIA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

GREAT BEND TOWNSHIP	:	
v.	:	Docket No.
CONSOLIDATED RAIL CORPORATION,	:	
PENNSYLVANIA DEPARTMENT OF TRANSPORTATION AND	:	C-79081404
COUNTY OF SUSQUEHANNA	:	

EXCEPTIONS OF THE STAFF OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
TO INITIAL DECISION

The Pennsylvania Public Utility Commission staff (Staff) takes exception to the proposed Initial Decision of Administrative Law Judge Jones in the captioned matter as follows:

1. Exception is taken to ordering paragraph 2 of the Initial Decision wherein Consolidated Rail Corporation (Conrail) was directed, at its initial cost and expense, and within six (6) months of the date of service of the order, to prepare and submit detailed plans for the reconstruction of the southeast wing wall.

Although the Staff has no objection to the particular party ordered to do the work nor the work itself, it does take exception to the six month time period. It is the position of the Staff that a detailed plan need not consist of more than two or three sheets. On numerous occasions, this Commission has ordered detailed plans for total, multi-span

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bridges to be submitted within the same six month time frame. The detailed plan is to apply to only one wing wall of a one-span steel bridge.

The scope of the problem is defined and narrow. Commission Staff witness, W. W. Huff, P.E. advised that, in his opinion, no engineering study was necessary, (N.T. 53) but rather "the condition of the concrete in the lower part of the wing wall" was all that need be determined prior to doing the remedial work. (N.T. 53)

Secondly, the condition of the wing wall is such that the upper portion of the wing wall could give away at any time. (Initial Decision, pg. 13, N.T. 51). The Administrative Law Judge further discussed the potential hazard in leaving the wing wall unrepaired:

"There is, however, a potential danger, since the wing wall acts as a retaining wall which holds in place the embankment upon which the highway approach to the bridge was built. If the wing wall were to fail because of the crack, the embankment could erode, and the roadway surface would sink or collapse. This would constitute a definite threat to public safety. (Initial Decision, pg. 13)

Clearly, the wing wall is in danger of failing. The scope of the ordered work (i.e. submit a detailed plan for the reconstruction of the wing wall) is minor. Therefore, in view of the existing potential hazard and minor nature of preparing a plan to repair the wing wall, the Staff requests the Commission to reduce the time period in which Conrail is to complete this plan from six (6) months to three (3) months.

2. Exception is taken to ordering paragraph 3 and 10 of the Initial Decision wherein Conrail was directed to reconstruct the wing wall in accordance with the detailed plan on or before December 31, 1981.

Again the Staff takes no exception to the particular party ordered to do the work nor the work itself. However, the Staff again objects to the unnecessarily long period of time given Conrail to complete the work.

Even assuming this Commission gives the Railroad six (6) months to prepare the detailed plans, (as ordered in the Initial Decision) it certainly should not require an additional 16⁺ months to do the necessary work. A review of the evidence indicates that this work is nothing more than minor reconstruction of one portion of the subject bridge. Conrail's own engineer testified as follows:

Q Could you tell us the general nature of the work that might be necessary?

A The general nature would be to remove the section of the wing wall above the fracture and to place dowels in the base and then place a reinforced concrete segment generally in design of the original plans. (N.T. 24-25)

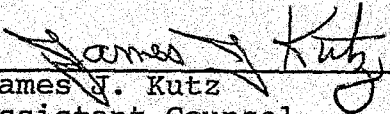
To allow 16 months for this modest amount of work is unreasonably long. As discussed earlier, failure of the wing wall could occur anytime, and such failure could cause damage or subsidence to the roadway. This Commission has ordered total reconstruction or rehabilitation of entire structures within the same time frame as that currently

granted to Conrail here. Yet the extent of work involved in the latter instance is negligible when compared to the former. Although the record does not contain evidence on the issue of how long the repairs would take, the Staff respectfully requests the Commission to rely upon their expertise; and trained staff of technicians, in determining that 16 months is indeed an unnecessarily long time period. It is the position of the Staff that given three (3) months to prepare a detailed plan, and given an additional month for Commission review and approval of said plans, there is no reason why Conrail cannot comfortably complete the ordered work on or before December 31, 1980 rather than December 31, 1981. If for some unforeseen or excusable reason, the work cannot be completed by the earlier date, Conrail can petition this Commission for an extension of time. However, if one reviews the testimony of record, there appears no sound reason why this minor, but important, remedial work cannot be completed by the end of December, 1980.

Respectfully submitted,

Staff of Pennsylvania Public
Utility Commission

BY:


James J. Kutz
Assistant Counsel

DATE: February 29, 1980

CERTIFICATE OF SERVICE

I hereby certify that I am this 29th day of February, 1980, serving by first class mail the EXCEPTIONS OF THE STAFF OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION TO INITIAL DECISION upon the parties listed below:

Francis X. O'Connor, Esquire
P.O. Box 591
Great Bend, Pennsylvania 18821
(for Great Bend Township)

Robert W. Cunliffe, Deputy Attorney General
Pennsylvania Department of Transportation
521 Transportation & Safety Building
Harrisburg, Pennsylvania 17120

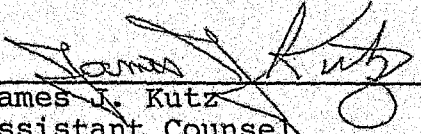
Joel E. Mazor, Commerce Counsel
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

Robert Dean, Solicitor
County of Susquehanna
Courthouse
Montrose, Pennsylvania 18801

W. A. Verochi, President
Pennsylvania Electric Company
1001 Broad Street
Johnstown, Pennsylvania 15907

Paul W. Mazza, Vice President
Commonwealth Telephone Company
100 Lake Street
Dallas, Pennsylvania 18612

Administrative Law Judge Thomas J. Jones
Pennsylvania Public Utility Commission
436 Spruce Street
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James J. Kutz
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SECRET
PUBLIC UTILITY
COMMISSION

March 17, 1980

Mr. William P. Thierfelder
Secretary
Pennsylvania Public
Utility Commission
P.O. Box 3265
Harrisburg, PA 17120

Re: Great Bend Township
v.
Consolidated Rail Corp.,
et al.
Your File: C-79081404

Dear Mr. Thierfelder:

A copy of your recent decision regarding Great Bend Township and Conrail has been reviewed by the Great Bend Township supervisors. We note a very limited time to make exceptions to the report. Kindly advise us if it is too late to make any exceptions to the report.

We note the exceptions that were filed indicate an extreme lack of time being shown to be necessary by Judge Jones.

There is also an undue burden placed upon the Township, inasmuch as the Township has no funds whatsoever to pay for reconstruction of any bridge.

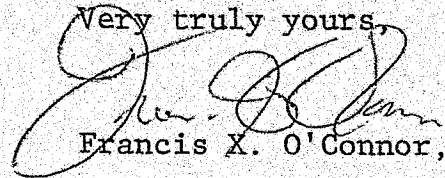
It would be suggested that Judge Jones allow this matter to go up for public bid and not place it solely at the whim of Conrail to get it done at their expense, and then charge the Township half of what Conrail feels it costs them.

The next obvious question is, since the Township cannot afford to pay for reconstruction of this bridge, what alternative does your commission leave us.

**DOCUMENT
FOLDER**

Kindly inform me as soon as possible how I might go about filing exceptions to this report at this date and time.

Very truly yours,



Francis X. O'Connor, Esq.

FXOC/bsw

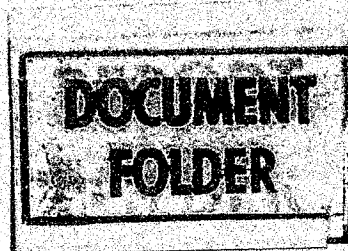
SUBJECT: Requested deadline extension Great Bend Twp. v Conrail
 C. 79081404

TO: Francis X O'Connor

FROM: Bill Shane Chief Administrative Law Judge

It is too late to file exceptions to ALJ Jones
 decision. The deadline was 2/29/80 and the
 decision will be on the Agenda for the next
 Commission meeting

cc: File
 cc Partes



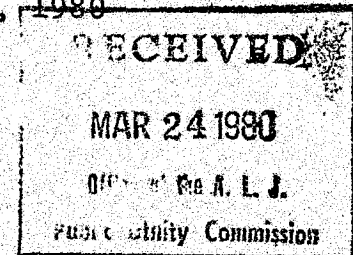
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FRANCIS X. O'CONNOR
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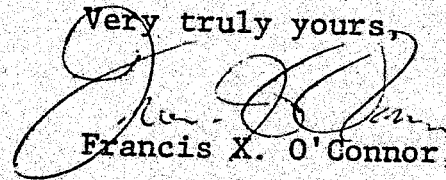
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Kindly inform me as soon as possible how I might go about filing exceptions to this report at this date and time.

Very truly yours,



Francis X. O'Connor, Esq.

FXOC/bsw

August 14, 1980

C-79081404

Francis X. O'Connor, Esquire
Attorney for Great Bend Township
P. O. Box 591, 310 Main Street
Great Bend, PA 18821

Great Bend Township
v.
Consolidated Rail Corporation, et al.

Dear Sir:

This is to advise you that an order has been adopted by the Commission in Public Meeting on March 28, 1980, in the above entitled proceeding.

A copy of this order has been enclosed for your records.

Very truly yours,

William P. Thierfelder
Secretary

ts
Enclosure
Certified Mail
Return Requested

See similar letter dated February 14, 1980.

