

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
NOVEMBER 19, 1980

In re: C-79081404

(See attached list)

Great Bend Township
versus
Consolidated Rail Corporation, Pennsylvania Department
of Transportation, County of Susquehanna, Pennsylvania
Electric Company & Commonwealth Telephone Company

Dear Sir:

At Public Meeting October 16, 1980, the Commission directed that hearing be held in the above referenced proceeding to receive evidence regarding the obligations of Consolidated Rail Corporation assumed by Delaware & Hudson Railway Company under provisions of its sale and transfer, and such other evidence as may be relevant.

Accordingly, this further hearing will be held Monday, December 22, 1980, at 10:00 a.m., in the First Floor Hearing Room, Scranton State Office Building, Scranton.

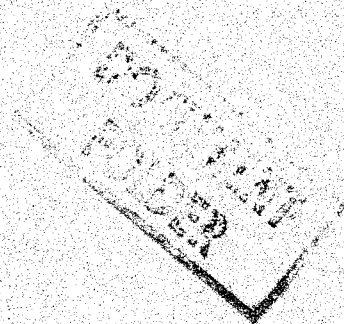
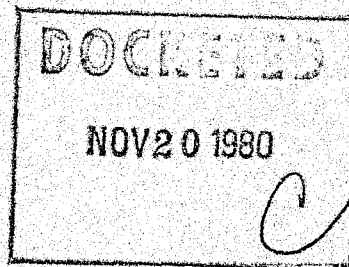
Administrative Law Judge Thomas J. Jones will be the presiding officer in this case. Judge Jones' telephone number is (717) 342-1169. His address is 436 Spruce Street, Scranton, Pennsylvania 18503.

As a reminder, please be advised that three copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

Sincerely,

William Shane, Chief
Administrative Law Judge

cc: Judge Jones
Law Bureau
Bureau of Rail Transportation
Mr. Bramson
Ms. Long
Ms. Lawrence
File Room



Francis X. O'Connor, Esquire
P.O. Box 591
Great Bend, PA 18821

Ward T. Williams, Chief Counsel
Pa. Dept. of Transportation
521 Transportation & Safety Bldg.
Harrisburg, PA 17120

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

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

Richard Herskovitz, Asst. Counsel
Pa. P.U.C. - Law Bureau
P.O. Box 3265
Harrisburg, PA 17120

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

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

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
DECEMBER 4, 1980

In re: C-79081404

(See letter dated November 19, 1980)

Great Bend Township
versus
Consolidated Rail Corporation, Pennsylvania Department
of Transportation, County of Susquehanna, Pennsylvania
Electric Company and Commonwealth Telephone Company

Dear Sir:

This is to advise that the further hearing in the above referenced proceeding scheduled for December 22, 1980, at 10:00 a.m., in the First Floor Hearing Room, Scranton State Office Building, 100 Lackawanna Avenue, Scranton has been postponed to Tuesday, January 6, 1981, at 1:00 p.m., at the same location.

If any party intends to offer prepared written testimony, such testimony must be served upon each participant of record no less than seven (7) days prior to this hearing.

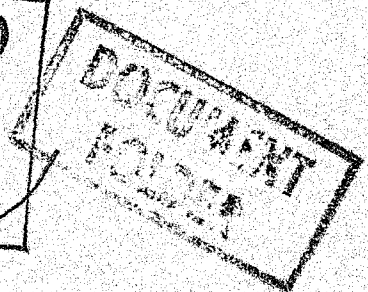
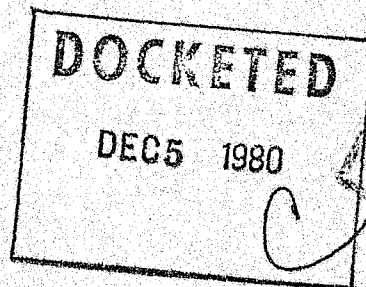
Administrative Law Judge Thomas J. Jones will be the presiding officer in this case. Judge Jones' telephone number is (717) 342-1169. His address is 436 Spruce Street, Scranton, Pennsylvania 18503.

As a reminder, please be advised that three copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

Sincerely,

William Shane, Chief
Administrative Law Judge

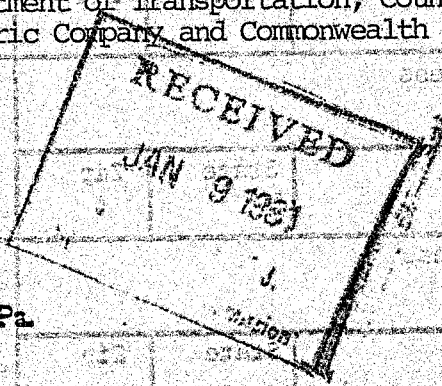
cc: Judge Jones
Law Bureau
Bureau of Rail Transportation
Mr. Bramson
Ms. Long
Ms. Lawrence
File Room



100-10-230

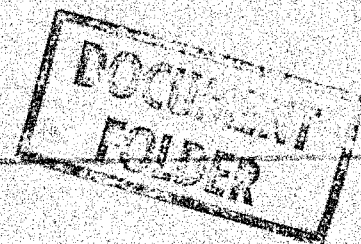
In re: Great Bend Township versus Consolidated Rail Corporation, Pennsylvania Department of Transportation, County of Susquehanna, Pennsylvania Electric Company, and Commonwealth Telephone Company

Pennsylvania
Public Utility Commission
Harrisburg, Pa.



Following are the names of parties or counsel of record, with their post-office address, appearing at the hearing in the above entitled proceeding, held in Scranton, PA

on Tuesday, January 6, 1981.



Please Print Clearly
Incomplete Information May Result in Delay of Process

NAME	ADDRESS			APPEARING FOR
	City	State	Zip	
JOEL EMAZOR	1138 - 16 Penn Center Pittsburgh Pa	Pa	15104	Consolidated Rail Co
John J Gallagher	631 N. Office Bldg HARRISBURG PA	PA	17120	P. U. C TRAI STAFF
George H. Kierberg	40 Beaver St. Albany	N.Y.	12207	Delaware and Hudson Railway Company

Check this box if additional parties or counsel of record appear on back.



Teresa Alia
Reporter

City State Zip
Phila Pa 19130

Address

City State Zip

Address

City State Zip

Address

City State Zip

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City State Zip

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City State Zip

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City State Zip

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City State Zip

POSTAL SERVICE
POST OFFICE BOX 1000
PHILADELPHIA PA 19107

JAN 8 1981



JAN 09 1981

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
JANUARY 8, 1981

In re: C-79081404

(See attached list)

Great Bend Township
versus
Consolidated Rail Corporation, Pennsylvania Department
of Transportation, County of Susquehanna, Pennsylvania
Electric Company and Commonwealth Telephone Company

Dear Sir:

This is to advise that the further hearing in the above referenced proceeding scheduled for January 6, 1981 has been postponed to Tuesday, February 10, 1981, at 2:00 p.m., in the First Floor Hearing Room, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

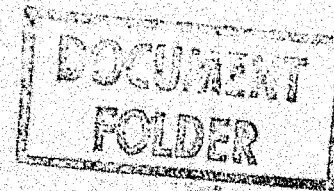
This further hearing is being held in accordance with the Commission's direction, to receive evidence regarding the obligations of Consolidated Rail Corporation assumed by Delaware & Hudson Railway Company under provisions of its sale and transfer, and such other evidence as may be relevant.

If any party intends to offer prepared written testimony, such testimony must be served upon each participant of record no less than seven (7) days prior to this hearing.

Administrative Law Judge Thomas J. Jones will be the presiding officer in this case. Judge Jones' telephone number is (717) 342-1169. His address is 436 Spruce Street, Scranton, Pennsylvania 18503.

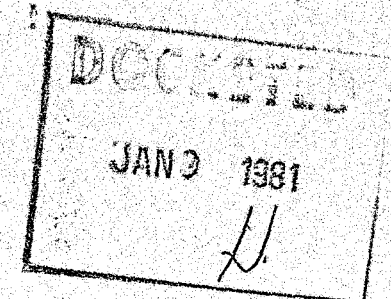
If you intend to file exhibits, please be advised that three copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

Sincerely,



William Shane, Chief
Administrative Law Judge

cc: Judge Jones
Law Bureau
Bureau of Rail Transportation
Mr. Bramson
Ms. Long
Ms. Lawrence
File Room



Francis X. O'Connor, Esquire
P.O. Box 591
Great Bend, PA 18821

Ward T. Williams, Chief Counsel
Pa. Dept. of Transportation
521 Transportation & Safety Bldg.
Harrisburg, PA 17120

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

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

Richard Herskovitz, Asst. Counsel
Pa. P.U.C. - Law Bureau
P.O. Box 3265
Harrisburg, PA 17120

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

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

George H. Kleinberger, General
Attorney
Delaware & Hudson Railway Co.
40 Beaver Street
Albany, New York 12207



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, PA. 17120

February 5, 1981

IN REPLY PLEASE
REFER TO OUR FILE

C-79081404

(see list attached)

Great Bend Township versus Consolidated Rail Corporation,
Pennsylvania Department of Transportation, County of
Susquehanna, Pennsylvania Electric Company and Commonwealth
Telephone Company

Dear Sir:

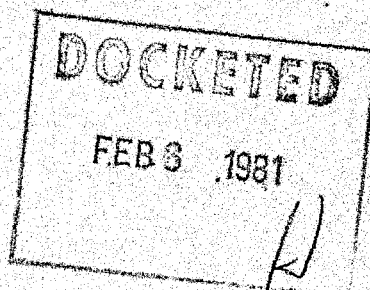
This office has been advised that further hearing at this time in the
above referenced proceeding is premature and, accordingly, the hearing
scheduled for February 10, 1981, at 2:00 p.m., in Scranton, is postponed.

When this hearing is rescheduled, you will be promptly informed of the
time and place.

Sincerely,

William Shane
Chief Administrative Law Judge

ccs:
Judge Jones
Law Bureau
Bureau of Rail Transportation
Mr. Bramson
Ms. Lawrence
Ms. Long
File



Francis X. O'Connor, Esquire
P.O. Box 591
Great Bend, PA 18821

Ward T. Williams, Chief Counsel
Pa. Dept. of Transportation
521 Transportation & Safety Bldg.
Harrisburg, PA 17120

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

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

Richard Herskovitz, Asst. Counsel
Pa. P.U.C. - Law Bureau
P.O. Box 3265
Harrisburg, PA 17120

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

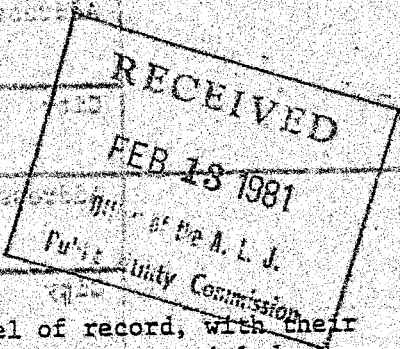
Paul W. Mazza, Vice President
Commonwealth Telephone Company
100 Lake Street
Dallas, PA 18612

George H. Kleinberger, General
Attorney
Delaware & Hudson Railway Co.
40 Beaver Street
Albany, New York 12207

Docket No. C-79081404

In re: Great Bend Township versus Consolidated Rail Corporation,
Pennsylvania Department of Transportation, County of
Susquehanna, Pennsylvania Electric Company and Commonwealth
Telephone Company.

Pennsylvania
Public Utility Commission
Harrisburg, Pa



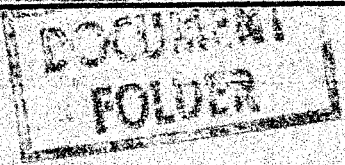
Following are the names of parties or counsel of record, with their
post-office address, appearing at the hearing in the above-entitled
proceeding, held in Scranton, PA

on Tuesday, February 10, 1981

Please Print Clearly
Incomplete Information May Result in Delay of Process

NAME	ADDRESS	APPEARING FOR
	City State Zip	
	City State Zip	
	City State Zip	
	City State Zip	

HEARINGS
ARRANGED
BY
ANNETTE



Check this box if additional parties or
counsel of record appear on back.

Reporter

RAIL

ORIGINAL

MAR 25 8 49 AM '81

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

March 20, 1981

Subject: Great Bend Township, Susquehanna County, Pa.
Atlantic Region, Lehigh Division
LC 6201, WO #46568, PUC No. C-79081404
Repairs to S.W. Wingwall, O.H. Br. 176.25
(File: Br. 176.25-JAS)

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

Dear Mr. Thierfelder:

Attached for consideration of the Commission are three prints of Conrail Plan No. 47726, together with three copies of our estimate of cost for repairs to the southwest wingwall for the above captioned bridge.

This submission is made to comply with Paragraph 2 of the subject Commission Order, entered August 14, 1980.

If there is any additional data you require, please contact this office.

Very truly yours,

J. T. Sullivan
J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

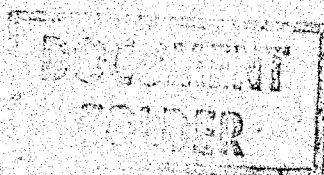
12th Floor

(215) 596-3608

CC: Mr. T.P. Schmidt, Chief Engineer
Delaware and Hudson Railway
40 Beaver Street
Albany, New York 12207

Mr. F.X. O'Connor, Solicitor
Township of Great Bend
310 Main Street
Great Bend, Pennsylvania 18821

Plan and Estimate for each.



ORIGINAL

MAR 25 8 49 AM '81

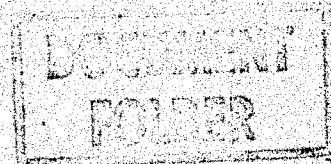
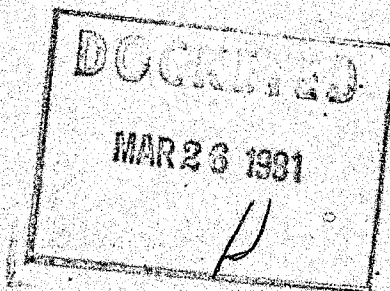
Hallstead, PA, O.H. Bridge 176.25 ML Scranton to Binghamton
Lehigh Division, Atlantic Region (File O.H. Br. 176.25)

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

Estimate of cost to reconstruct a portion of the southwest wingwall of O.H. Bridge 176.25

<u>Item</u>	<u>Quantity</u>	<u>Rate</u>	<u>Amount</u>
Sheet piling in place	600 SF	\$ 25.00	\$ 15,000
Remove broken portion of wing-wall	40 CY	60.00	2,400
Excavation	120 CY	20.00	2,400
Concrete	80 CY	400.00	32,000
Drill dowel holes	41 ea.	15.00	615
Reinforcing steel	3900 lbs.	1.00	3,900
Labor additives	LS		18,625
Material additives	LS		175
Engineering	LS		18,700
Contingencies	LS		9,385
			<u>\$103,200</u>

Office of Chief Engineer
Design and Construction
Conrail
Philadelphia, Pa.
March 18, 1981



OVERSIZE

DOCUMENTS

FRANCIS X. O'CONNOR
ATTORNEY AND COUNSELLOR AT LAW

P.O. BOX 591
MAIN STREET
GREAT BEND, PA. 18821
PHONE 717-879-2534

SUITE 1107
PRESS BUILDING
BINGHAMTON, N.Y. 13901
PHONE 607-722-7214

*Scanned
For handling
Pkt 3/30*

March 25, 1981

Mr. J. T. Sullivan, P.E.
Chief Engineer
Design and Construction
Conrail
12th Floor
15 N. 32nd Street
Philadelphia, PA 19104

Re: Great Bend Township,
Susquehanna County, PA
Atlantic Region
Lehigh Division
LC 6201, WO #46568
PUC No. C-79081404
Repairs to S.W. Wingwall
P.H. Br. 176.25
(File: Br 176-25-JAS)

Dear Mr. Sullivan:

I am in receipt of the copy of the estimate that you have submitted for repair of the Wingwall as stated above.

It would appear to me that there is going to be a major problem, and that is, that the Township, to the best of my knowledge, has no contingency fund for paying any portion of this amount.

Therefore, I would suggest that before this matter proceeds much further, a meeting be set up between Conrail and the Township Commissioners.

Very truly yours,

[Signature]
Francis X. O'Connor, Esq.

DOCUMENT FOLDER

CHIEF ENGINEER

JAS
MAR 30 1981

*TALK, PLS.
SCW
3/30*

PHILAXOS/abst

PUB. IMP.

cc: Mr. William P. Thierfelder, P.U.C.
Mr. Joseph Sienko, Chairman
Great Bend Township

CHIEF ENGINEER

DES. & CONSTR.

MAR 2 1981

PHILADELPHIA

PHILADELPHIA

P.O. BOX 591
MAIN STREET
GREAT BEND, PA. 18821
PHONE 717-879-2534

SUITE 1107
PRESS BUILDING
BINGHAMTON, N.Y. 13901
PHONE 607-722-7214

RECEIVED

MAR 26 1981
March 25, 1981

STATIONERS OFFICE
Commission

Mr. J. T. Sullivan, P.E.
Chief Engineer
Design and Construction
Conrail
12th Floor
15 N. 32nd Street
Philadelphia, PA 19104

Re: Great Bend Township,
Susquehanna County, PA
Atlantic Region
Lehigh Division
LC 6201, WO #46568
PUC No. C-79081404
Repairs to S.W. Wingwall
P.H. Br. 176.25
(File: Br 176-25-JAS)

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Very truly yours,


Francis X. O'Connor, Esq.

FXOC/bst

cc: Mr. William P. Thierfelder, P.U.C.
Mr. Joseph Sienko, Chairman
Great Bend Township

DOCUMENT
FOLDER

ORIGINAL

APR 6 1981

SECRETARY'S OFFICE
Public Utility Commission

April 1, 1981

SUBJECT: Great Bend Township, Susquehanna County, Pennsylvania
Atlantic Region. Lehigh Division, LC 6201
O.H. Bridge 176.25, Repair of S.W. Wingwall
PUC No. C-79081404, WO# 46568. (File: Br. 176.25 - JAS)

Mr. Francis X. O'Connor
Attorney and Counsellor at Law
P.O. Box 591, Main Street
Great Bend, Pennsylvania 18821

Dear Mr. O'Connor:

We are in receipt of your letter dated March 25, 1981 relating to the proposed repair of the subject structure.

We note that a copy of your aforementioned letter was transmitted to the Pennsylvania Public Utility Commission. The Commission will also review our plan and estimate submission and must approve the method of repair before Conrail can proceed with construction.

We will await further instructions from the Commission before proceeding with the project.

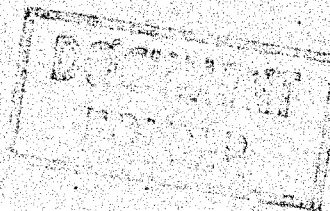
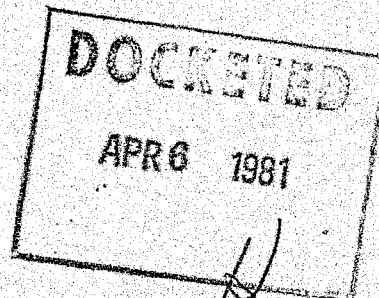
Very truly yours,

J. T. Sullivan
J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

12th Floor

(215) 596-3608

CC: Mr. William P. Thierfelder
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120



April 17, 1981

G-79081404

Mr. J. T. Sullivan, Chief Engineer
Consolidated Rail Corporation
12th Floor, 15 North 32nd Street
Philadelphia, PA 19104

Great Bend Township

v.

Consolidated Rail Corporation, Pennsylvania Department
of Transportation, County of Susquehanna, Pennsylvania
Electric Company and Commonwealth Telephone Company

Dear Mr. Sullivan:

Reference is made to your Plan No. 47726 and estimate of cost, submitted by letter dated March 20, 1981, for the repair of the southwest wingwall of O.H.Br. 176.25, carrying Township Road No. 821 above the tracks of Consolidated Rail Corporation, in Great Bend Township, Susquehanna County.

We have reviewed the aforesaid plan and estimates, and, although we consider that the proposed method of repair will provide a structurally safe wingwall, we are of the opinion that completely satisfactory results can be obtained in a much less sophisticated and expensive manner.

We request you consider alternate repair methods, such as:

- (1) Replacing the top of the wall (gravity type) with concrete dowelled into the existing concrete. We do not believe that buttresses are necessary.
- (2) Retaining the fill with stay-in-place sheet piling, timber cribbing or stone riprap.

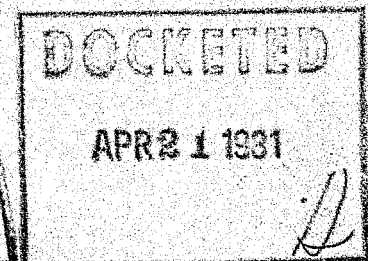
We will be pleased to have a meeting on this matter if you so desire.

Very truly yours,

R. A. Peteritas, Director
Bureau of Rail Transportation

cc: Mr. T. P. Schmidt, Chief Engineer
Delaware and Hudson Railway Company
40 Beaver Street
Albany, NY 12207

Mr. F. X. O'Connor, Solicitor
Township of Great Bend
310 Main Street
Great Bend, PA 18821



CONRAIL

May 11, 1981

SUBJECT: Great Bend Township, Susquehanna County, PA
Atlantic Region, Lehigh Division, LC 6201,
O.H. Br. 176.25, PUC No. C-79081404, Repairs
to S.W. Wingwall, WO# 46568. (File: Br. 176:25-JAS)

Mr. R. A. Peteritas, Director
Bureau of Rail Transportation
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION
MAY 21 11 50 AM '81

Dear Mr. Peteritas:

Please refer to your letter of April 17, 1981 relating to our plan and estimate of cost for repair of the subject structure.

We do not consider it appropriate to rely solely on dowelling the new concrete into the existing 67 year old concrete without the buttresses to assist in transmitting the load. If parties other than Conrail will accept responsibility for the future maintenance of the wall, we will approve the use of dowels without the buttresses.

We see no practical way to protect the roadway while excavating for the new section of wingwall without the use of sheet piling; however, if a contractor can present a more economical method, we would be pleased to check his design.

We will await your instructions before proceeding with the project.

Very truly yours,

J. T. Sullivan
J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

12th Floor

(215) 596-3608

RECEIVED
MAY 21 1981
D

BUREAU OF
MAY 14 1981
RAIL
TRANSPORTATION

May 11, 1981

Page 2

Mr. R. A. Peteritas, Director

CC:

Mr. T. P. Schmidt, Chief Engineer
Delaware and Hudson Railway Co.
40 Beaver Street
Albany, New York 12207

Mr. F. X. O'Connor, Solicitor
Township of Great Bend
310 Main Street
Great Bend, Pennsylvania 18821

MAY 22 9 03 AM
RECEIVED
SECRETARIES OFFICE
PUBLIC UTILITY
COMMISSION

IN REPLY PLEASE
REFER TO OUR FILE

C-79081404

In re:

Great Bend Township

v.

Consolidated Rail Corporation, Pennsylvania Department
of Transportation, County of Susquehanna, Pennsylvania
Electric Company and Commonwealth Telephone Company

By letter dated April 1, 1981, Consolidated Rail Corporation
submitted detailed construction plans and estimate of costs for the
repair of a wingwall on the bridge carrying Township Road No. 821 above
the tracks of Conrail, in Great Bend Township, Susquehanna County.

This is to advise that a meeting will be held on Wednesday,
June 17, 1981, at 10:30 a.m., in the office of the undersigned, in
Room 408, Transportation and Safety Building, Harrisburg, PA, to
discuss matters relating to the method of repair as shown on the
aforesaid plans, and to any alternate method of repair.

Kindly arrange to have a representative present.

Very truly yours,

R. A. Peteritas, P.E., Director
Bureau of Rail Transportation

SECRET
MAY 22 1981

SECRETED
MAY 22 1981
J

Similar Letters - C-79081404

Mr. J. T. Sullivan, Chief Engineer
Consolidated Rail Corporation
12th Floor, 15 North 32nd Street
Philadelphia, PA 19104

Mr. T. P. Schmidt, Chief Engineer
Delaware and Hudson Railway Company
40 Beaver Street
Albany, New York 12207

Mr. F. X. O'Connor, Solicitor
Township of Great Bend
310 Main Street
Great Bend, PA 18821

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17120
JUNE 3, 1981

In re: C-79081404

(See letter dated January 8, 1981)

Great Bend Township
versus

Consolidated Rail Corporation, Pennsylvania Department
of Transportation, County of Susquehanna, Pennsylvania
Electric Company and Commonwealth Telephone Company

Dear Sir:

This is to advise that a further hearing in the above referenced proceeding has been rescheduled to be held Wednesday, July 29, 1981, at 10:00 a.m. in the First Floor Hearing Room, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania.

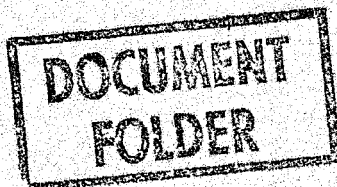
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If any party intends to offer prepared written testimony, such testimony must be served upon each participant of record no less than seven (7) days prior to this hearing.

Administrative Law Judge Thomas J. Jones will be the presiding officer in this case. Judge Jones' telephone number is (717) 961-4818. His address is Room 108, Scranton State Office Building, 100 Lackawanna Avenue, Scranton, Pennsylvania 18503.

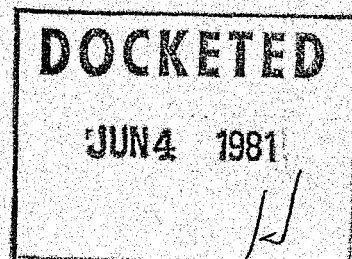
If you intend to file exhibits, please be advised that three copies of all hearing exhibits to be presented into evidence must be submitted to the Reporter and an additional copy should be furnished to the presiding officer and each party of record.

Sincerely,



William Shane, Chief
Administrative Law Judge

cc: Judge Jones
Law Bureau
Bureau of Rail Transportation
Mr. Bramson
Ms. Long
Ms. Lawrence
File Room



ORIGINAL

JUL 6 8
RECEIVED
SECRETARY
PUBLIC UT
COMMISS

June 30, 1981

Subject: Great Bend Township, Susquehanna County, Pa.
O.H. Bridge 176.25, Atlantic Region
Lehigh Division, PUC No. C-79081404
LC 63-6201, WO #46568. (File: Br. 176.25-JAS)

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

Dear Mr. Thierfelder:

In the Commission Order of Docket No. C-79081404, Conrail was ordered to monitor the condition of the subject structure.

Attached for your consideration are three copies of the Conrail Bridge Inspection Report, dated June 4, 1981.

Very truly yours,

J. T. Sullivan
J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

12th Floor

(215) 596-3608



CONSOLIDATED RAIL CORPORATION

ORIGINAL

BRIDGE INSPECTION REPORT

DIV. LEHIGH BRANCH SCRANTON - MAIN LINE BRIDGE NO. 176-25 JUL 6 8 23 AM '81

LOCATION HALLSTEAD O.H. U.G. _____
 TYPE OF BRIDGE T.G. NO. SPANS 1 SPAN NO. _____ LENGTH _____
 NO. TRACKS 2 TRACK NO. _____

A. WAY _____ (TANGENT
 D. WAY TRACK ALIGNMENT (CURVE _____

DATE THIS INSPECTION 5-4-81 ~~6-4-81~~ PUBLIC UTILITY COMMISSION

NOTE: USE SEPARATE SHEET FOR EACH SPAN FOR SPECIAL CONDITIONS.

GENERAL	A B R			ITEM NO.	MASONRY (CONT.)	A B R			ITEM NO.	FLOOR SYSTEM (CONT.)	A B R			
	A	B	R			A	B	R			A	B	R	
Paint () yr			✓	25	Previous Gunite				53	Fir Bm Top Flg	✓	✓		
Clearance Signs				26	Slab				54	Fir Bm Bot Flg	✓	✓		
Highway minimum clearance ()				27	Cleanliness				55	Fir Bm Conn	✓	✓		
PC Insignia					GIRDERS, BEAMS OR TRUSSES	A	B	R	56	Str web				
Load Limit Signs () Tons				28		Top Flg or Chord	✓	✓		57	Str Top Flg			
Fire Protection				29	Bot Flg or Chord	✓	✓		58	Str Bot Flg				
Action under trains				30	Bearing Stiffs	✓	✓		59	Str Conn				
Approach track				31	Web or Diagnls	✓	✓		60	Steel Floor				
Track on bridge				32	Hangers				61	Conc Floor	✓			
				33	Counters				62	Wood Floor				
				34	Rivets *			✓	63	Waterproofing				
				35	Pins				64	Ties				
				36	Cols or bents				65	Tie Sealing				
				37	Sole plates	✓	✓		66	Timber or bar Spacer				
				38	Masonry plates	✓	✓		67	Guard rails				
				39	Shoes	✓	✓		68	Deck hardware				
				40	Rollers	✓	✓		69	Footwalks				
				41	Shims	✓	✓		70	Handrails				
				42	Anchor bolts	✓	✓		71	Drainage				
				43	Wood blocking				72	Cleanliness				
				44	Cleanliness				TRESTLES			A	B	R
					STEEL BRACING	A	B	R	73	Bulkheads				
				45		Top Lat				74	Piles			
				46	Top Lat Pls				75	Sills				
				47	Bot Lat				76	Posts				
				48	Bot Lat Pls				77	Caps				
				49	Sway Frames				78	Corbels				
				50	Portals				79	Stringers				
				51	Towers				80	Cross Brace				
					FLOOR SYSTEM	A	B	R	81	Long Brace				
				52		Fir Bm Web	✓	✓		82	Foundations			
									83	Welds				

EXCISED

DOCUMENT FOLDER

DOCKETED
JUL 6 1981

IMMEDIATE ATTENTION: S.E. WINGWALL CRACKED NEARLY ENTIRE LENGTH 9' DOWN FROM TOP AND PORTION TIPPING IN APPROX. 14". IF THIS FALLS IN IT MAY OBSTRUCT E.B. TRKS THIS HAS BEEN PUSHING 1/2" TO 3/4" THE LAST FOUR YRS. UPON FALLING IN IT MAY LOSE A PORTION OF OVERHEAD HIGHWAY, AS IT ACTS AS A RETAINING WALL FOR HOLDER OF HIGHWAY. SHOULD HAVE ATTENTION.

DESCRIBE UNDER REMARKS LOCATION OF LOOSE RIVETS. USE BACK OF THIS FORM FOR SKETCHES OR NOTES.
 A - GOOD CONDITION
 B - NOT HAZARDOUS - NOTE ANY CHANGE NEXT INSPECTION.
 R - PUT ON REPAIR PROGRAM

SIGNED R.E. Ives INSPECTOR
 REVIEWED _____ SUPVR. B. & B.
 NOTED _____ DIVN. ENGR.

CONRAIL

ORIGINAL

July 23, 1981

Subject: Great Bend Township, Susquehanna County, Pa.
O.H. Bridge 176.25, Atlantic Region
Lehigh Division, PUC No. C-79081404
LC 63-6201, WO #46568. (File: Br. 176.25-JAS)

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

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION
JUL 27 8 50 AM '81

Dear Mr. Thierfelder:

In the Commission Order of Docket No. C-79081404, Conrail was ordered to monitor the condition of the subject structure.

Attached for your consideration are three copies of the Conrail Bridge Inspection Report, dated June 26, 1981.

Very truly yours,

J. T. Sullivan
J. T. Sullivan, P.E.
Chief Engineer
Design & Construction

12th Floor

(215) 596-3608

DOCUMENT
FOLDER

CONSOLIDATED RAIL CORPORATION

DOCKETED

BRIDGE INSPECTION REPORT

JUL 27 1981

DIV. LEHIGH BRANCH SCRANTON - MAIN LINE BRIDGE NO. 176.25

LOCATION HALLSTEAD O.H. U.G.

TYPE OF BRIDGE T.G. NO. SPANS 10 SPAN NO. 10 LENGTH 88'

NO. TRACKS 2 TRACK NO. _____

TRACKWAY _____ (TANGENT)

D. DWAY TRACK ALIGNMENT (CURVE) _____

LAST INSPECTION 5-9-71 DATE THIS INSPECTION 6-26-81

NOTE: USE SEPARATE SHEET FOR EACH SPAN FOR SPECIAL CONDITIONS.

DOCUMENT FOLDER

GENERAL	A B R			ITEM NO.	MASONRY (CONT.)	A B R			ITEM NO.	FLOOR SYSTEM (CONT.)	A B R		
	A	B	R			A	B	R			A	B	R
Paint () yr			✓	25	Previous Gunite				53	Fir Bm Top Flg			
Clearance Signs				26	Slab				54	Fir Bm Bot Flg			
Highway minimum clearance ()				27	Cleanliness				55	Fir Bm Conn			
PC Insignia					GIRDERS, BEAMS OR TRUSSES	A	B	R	56	Str web			
Load Limit Signs () Tons				28		Top Flg or Chord	✓			57	Str Top Flg		
Fire Protection				29	Bot Flg or Chord	✓			58	Str Bot Flg			
Action under trains				30	Bearing Stiffs	✓			59	Str Conn			
Approach track				31	Web or Diagns	✓			60	Steel Floor			
Track on bridge				32	Hangers	✓			61	Conc Floor			
				33	Counters				62	Wood Floor			
STREAM CONDITIONS	A	B	R	34	Rivets*			✓	63	Waterproofing			
Paving through bridges				35	Pins				64	Ties			
Sheet piling protection				36	Cols or bents				65	Tie Sealing			
Scour (Distance top of rail to bed of stream)				37	Sole plates	✓			66	Timber or bar Spacer			
Rip rap				38	Masonry plates	✓			67	Guard rails			
Fender System				39	Shoes	✓			68	Deck hardware			
				40	Rollers	✓			69	Footwalks			
MASONRY	A	B	R	41	Shims	✓			70	Handrails			
Abutment N or E	✓			42	Anchor bolts	✓			71	Drainage			
Abutment S or W		✓		43	Wood blocking				72	Cleanliness			
Backwalls	✓			44	Cleanliness								
Wingwalls	✓				STEEL BRACING	A	B	R	73	Bulkheads			
Timber back walls		✓		45	Top Lat				74	Piles			
Piers				46	Top Lat Pls				75	Sills			
Pedestals				47	Bot Lat				76	Posts			
Arches				48	Bot Lat Pls				77	Caps			
Parapet Walls				49	Sway Frames				78	Corbels			
Pointing				50	Portals				79	Stringers			
				51	Towers				80	Cross Brace			
					FLOOR SYSTEM	A	B	R	81	Long Brace			
				52	Fir Bm Web	✓			82	Foundations			
									83	Welds			

CONRAIL-LEHIGH DIV.
BETHLEHEM, PA.
JUN 29 1981

IMMEDIATE ATTENTION: S.E. WINGWALL CRACKED NEARLY ENTIRE LENGTH 9' DOWN FROM TOP AND PORTION TIPPING IN APPROX. 14". IF THIS FALLS IN IT MAY OBSTRUCT E.B. TR.
TRKS THIS HAS BEEN PUSHING 1/2" TO 3/4" THE LAST FOUR YRS. UPON FALLING IN IT MAY
LOSE A PORTION OF OVERHEAD HIGHWAY, AS IT ACTS AS A RETAINING WALL FOR
SLIDER OF HIGHWAY. SHOULD HAVE ATTENTION.

DESCRIPTION OF DAMAGE: SEE REMARKS

INSPECTOR: R.E. IYES

REVIEWED: _____

NOTED: _____

INSPECTOR: _____

SUPVR. B. & B. _____

DIVN. ENGR. _____

Docket No. C-79081404

In re: Great Bend Township versus Consolidated Rail Corporation, Pennsylvania Department of Transportation, County of Susquehanna, Pennsylvania Electric Company and Commonwealth Telephone Company

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SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

Pennsylvania
Public Utility Commission
Harrisburg, Pa

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AUG 03 1981
Office of the Secretary
Public Utility Commission

Following are the names of parties or counsel of record, with their post-office address, appearing at the hearing in the above entitled proceeding, held in Scranton, PA

on Wednesday, July 29, 1981

DOCUMENT
FOLDER

Please Print Clearly
Incomplete Information May Result in Delay of Process

NAME

ADDRESS

APPEARING FOR

HERBERT G. ZAHN

522 TRANSP & SAFETY BLDG

PENNDOT

City HSBG State PA Zip 17120

JOEL E. MAZOR

1138 G. REW CENTER

City Parkersburg State PA Zip 26104

CONSOLIDATED RAIL CORP.

George H. Kieribogus

40 Beaver Street

Delaware and Hudson Railway Company

City Albany State N.Y. Zip 12201

Barry J. Grossman

P.O. Box 3261

PUC TRAIL STAFF

City Harrodsburg State PA Zip 17120

Check this box if additional parties or counsel of record appear on back.

Kathleen P. Monck
Reporter

RECEIVED *file*
AUG 14 1981 C-79081404
Roc

FRANCIS X. O'CONNOR
ATTORNEY AND COUNSELLOR AT LAW

SECRETARY'S OFFICE
Public Utility Commission
PRESS BUILDING
BINGHAMTON, N.Y. 13901
PHONE 607-722-7214

P.O. BOX 591
MAIN STREET
GREAT BEND, PA. 18821
PHONE 717-879-2534

August 12, 1981

ORIGINAL

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

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

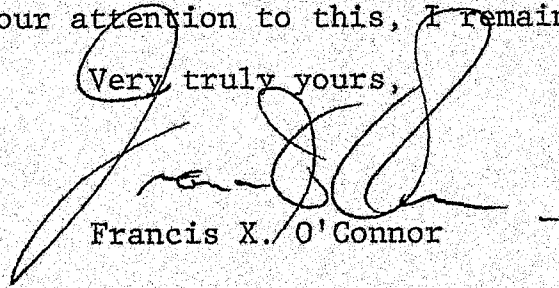
Dear Mr. Theirfelder:

Please be advised that I wish to file a Motion for a new Hearing with the P.U.C. on this matter, since we have gotten a private contractor to bid on the matter and the bid has come in approximately 1/3 of what ConRail has indicated it would cost.

Would you kindly send me the necessary forms that I will need to file this request for new Hearing, in light of the recently discovered evidence.

Thanking you for your attention to this, I remain,

Very truly yours,



Francis X. O'Connor

FXOC: sr

DOCKETED
AUG 17 1981
A

DOCUMENT
FOLDER

CONRAIL

ORIGINAL

#C- 79081404

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COMMISSION

AUG 17 9 20 AM '81

August 13, 1981

SUBJECT: Great Bend Township, Susquehanna County,
Pennsylvania - O.H. Bridge 176.25,
Eastern Region, Lehigh Division,
LC 63-6201, WO# 44568
(File: Br. 176.25 - JAS)

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

Dear Mr. Thierfelder:

Attached for consideration of the Commission are three (3) prints of Conrail Plan No. 47726 together with three copies of our revised estimate of cost for repairs to eliminate subsidence of the south approach roadway at the subject location.

The revised estimate is a result of a meeting held in Harrisburg on June 17, 1981 with members of the Commission Engineering staff and members of Conrail Engineering staff.

At the aforementioned meeting, the Commission suggested that the temporary sheet piling utilized in the original repair scheme could be driven behind the wingwall, as shown on the attached plans, and left in place permanently. This would satisfactorily retain the roadbed; however, it would not prevent future failure of the broken portion of wingwall which could fall and obstruct train movements.

In the interest of economy to all concerned, we believe this alternative repair method can be utilized; however, the wingwall should be continued to be observed and, if conditions warrant, the broken portion should be removed.

Very truly yours,
J.T. Sullivan
J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

12th Floor
(215) 596-3608

DOCUMENT
FOLDER

BUREAU OF
AUG 17 1981
RAIL
TRANSPORTATION

August 13, 1981

Page 2

Mr. William P. Thierfelder

CC:

Mr. T. P. Schmidt, Chief Engineer
Delaware and Hudson Railway
40 Beaver Street
Albany, New York 12207

CC:

Mr. F. X. O'Connor, Solicitor
Township of Great Bend
310 Main Street
Great Bend, Pennsylvania 18821

Plan and estimate for each.

Hallstead, PA. O.H. Bridge 176.25 M.L. Scranton to
Binghamton, Lehigh Division, Atlantic Region
(File: O.H. Br. 176.25 - WMW)

Estimate of cost to support roadway at southwest corner
of bridge by driving permanent sheet piling behind
southwest wingwall

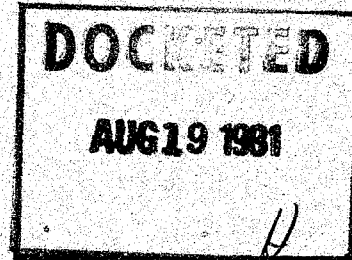
<u>Item</u>	<u>Quantity</u>	<u>Rate</u>	<u>Amount</u>
Steel Sheet Piling	600 SF	\$ 10.00	\$ 6,000
Drive Sheet Piling	600 SF	9.50	5,700
Guard Rail	10 LF	15.00	150
Install Guard Rail	10 LF	20.00	200
Engineering			2,000
Labor Additives			4,135
Material Additives			305
Contingencies			<u>1,850</u>
			\$ 20,340

AUG 17 9 20 AM '81

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SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

Office of Chief Engineer
Design and Construction
Conrail
Philadelphia, PA

July 16, 1981



ORIGINAL TRACINGS, OR REPRODUCTIONS THEREOF, ON
TRANSPARENT MYLAR OR SIMILAR MATERIAL OF ALL DESIGN,
FIELD AND SHOP DRAWINGS PREPARED FOR THE WORK,
CORRECTED TO SHOW "AS BUILT" CONDITIONS, SHALL BE
FORWARDED TO AND REMAIN THE PROPERTY OF CONRAIL.
DRAWINGS SHALL BE NOT LARGER THAN 24 INCHES BY 36
INCHES. DRAFTING AND LETTERING TECHNIQUES SHALL
BE IN ACCORDANCE WITH THE NATIONAL MICROGRAPHICS
ASSOCIATION STANDARDS.

STEEL SHEET PILING SHALL CONFORM TO THE
REQUIREMENTS OF A.S.T.M. SPECS. A-328

AUG 17 9 20 AM '81

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PUBLIC UTILITY
COMMISSION

DOCKETED
AUG 19 1981

DOCUMENT
FOLDER

Estimated Quantities:

Concrete: 80 Cu. Yds.

Reinf. Steel: 3900 lbs.

Excavation: 120 Cu. Yds.

Sheet Piling: 600 S.F.

Note 'A' Δ

Loose Concrete To Be Removed. Front Face Of
Wall Restored With Concrete. Use Epoxy Bonding
Agent To Secure New Concrete to Existing
Concrete.

Note 'B' Δ

Remove Hollow Spalled Surface Concrete
And Repair As Per Note 'A'.

signature

PROJECT TITLE:

LEHIGH DIV. M.L. SCRANTON TO
BINGHAMTON

OH BR. 176.25

HALLSTEAD PA.

DRAWING TITLE:

WINGWALL
REPAIRS

des: WKT	dr: WKT
ck: RAC	tr:
DATE: 3-19-81	

PLAN NUMBER:

47726

DRAWING NUMBER:

1 OF 1

Hallstead, PA. O.H. Bridge 176.25 M.L. Scranton to
Binghamton, Lehigh Division, Atlantic Region
(File: O.H. Br. 176.25 - WMW)

Estimate of cost to support roadway at southwest corner
of bridge by driving permanent sheet piling behind
southwest wingwall

<u>Item</u>	<u>Quantity</u>	<u>Rate</u>	<u>Amount</u>
Steel Sheet Piling	600 SF	\$ 10.00	\$ 6,000
Drive Sheet Piling	600 SF	9.50	5,700
Guard Rail	10 LF	15.00	150
Install Guard Rail	10 LF	20.00	200
Engineering			2,000
Labor Additives			4,135
Material Additives			305
Contingencies			<u>1,850</u>
			\$ 20,340

AUG 17 9 20 AM '81

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SECRETARYS OFFICE
PUBLIC UTILITY
COMMISSION

Office of Chief Engineer
Design and Construction
Conrail
Philadelphia, PA

July 16, 1981

EXTRA COPY

Hallstead, PA. O.H. Bridge 176.25 M.L. Scranton to
Binghamton, Lehigh Division, Atlantic Region
(File: O.H. Br. 176.25 - WMW)

Estimate of cost to support roadway at southwest corner
of bridge by driving permanent sheet piling behind
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<u>Item</u>	<u>Quantity</u>	<u>Rate</u>	<u>Amount</u>
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Material Additives			305
Contingencies			<u>1,850</u>
			\$ 20,340

AUG 17 9 20 AM '81

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SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

Office of Chief Engineer
Design and Construction
Conrail
Philadelphia, PA

July 16, 1981

EXTRA COPY

C-79081404

In re:

Great Bend Township

v.

Consolidated Rail Corporation, Pennsylvania Department
of Transportation, County of Susquehanna, Pennsylvania
Electric Company and Commonwealth Telephone Company

By letter dated August 13, 1981, Consolidated Rail Corporation submitted detailed construction plans and estimate of costs (copies of which were forwarded to you) for a proposed method of preventing the subsidence of the south approach roadway at the crossing where Township Road No. 821 crosses above the grade of the tracks of Consolidated Rail Corporation (operated by Delaware and Hudson Railway Company), in Great Bend Township, Susquehanna County.

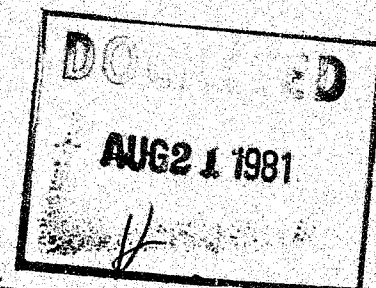
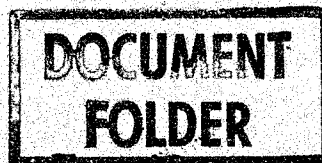
The method of proposed repair is identified on the aforementioned plans as Stage I Construction.

If we do not receive any response on this matter from you by August 31, 1981, we will assume that you have no objection to the proposed work, identified as Stage I Construction.

Very truly yours,

R. A. Peteritas, P.E., Director
Bureau of Rail Transportation

cc: Mr. J. T. Sullivan, Chief Engineer
Consolidated Rail Corporation
12th Floor, 15 North 32nd Street
Philadelphia, PA 19104



SIMILAR LETTERS

Mr. T. P. Schmidt, Chief Engineer
Delaware and Hudson Railway Company
40 Beaver Street
Albany, New York 12207

Dear Mr. Schmidt:

Mr. F. X. O'Connor, Solicitor
Township of Great Bend
310 Main Street
Great Bend, PA 18821

Dear Mr. O'Connor:



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

August 24, 1981

IN REPLY PLEASE
REFER TO OUR FILE

C-79081404

SEE ATTACHED SERVICE LIST

In re: Great Bend Township versus Consolidated
Rail Corporation, Pennsylvania Department of
Transportation, County of Susquehanna, Pennsyl-
vania Electric Company and Commonwealth Telephone
Company

Gentlemen:

The transcript of testimony taken in the above
entitled proceeding indicates that the parties will file briefs.

In accordance with the Commission's Rules of Practice,
main briefs shall be filed within fifteen (15) days after the date
of this letter and reply briefs, if any, shall be filed within ten
(10) days thereafter. However, if briefs are not received within
the allotted time, they shall not be accepted for filing, except
by special permission of the presiding officer.

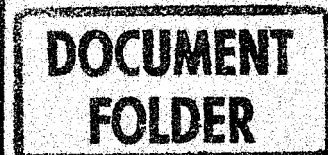
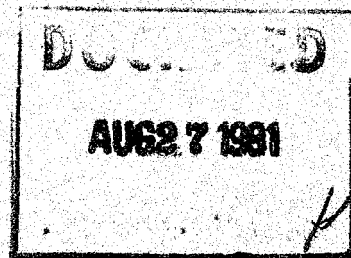
An original and nine (9) copies of each main brief
and reply brief, brief on exceptions, or other brief, shall be
filed with the Commission, % the New Filing Section, Secretary's
Bureau, Room B-18, North Office Building, Harrisburg, Pennsylvania
17120. A copy must be served on the presiding Administrative Law
Judge and three copies on each party of record.

Very truly yours,

Thomas J. Jones
Administrative Law Judge

TJJ/rmm

cc Stephanie Lyons - ALJ Staff
File



CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by first class mail on the parties listed below:

Francis X. O'Connor, Esquire
P. O. Box 591
Great Bend, Pennsylvania 18821

Ward T. Williams, Chief Counsel
Pa. Department of Transportation
521 Transportation & Safety Building
Harrisburg, Pennsylvania 17120

Herbert G. Zahn, Esquire
522 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
Court House
Montrose, Pennsylvania 18801

Richard Herskovitz, Assistant Counsel
Pa. P.U.C. - Law Bureau
P. O. Box 3265
Harrisburg, Pennsylvania 17120

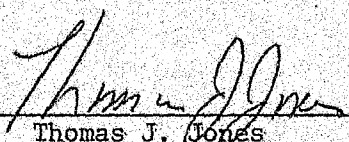
Barry J. Grossman, Esquire
G-31 North Office Building
Harrisburg, Pennsylvania 17120

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

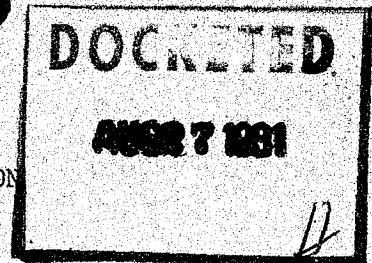
Paul W. Mazza, Vice President
Commonwealth Telephone Company
100 Lake Street
Dallas, Pennsylvania 18612

George H. Kleinberger, General Attorney
Delaware & Hudson Railway Company
40 Beaver Street
Albany, New York 12207

August 24, 1981
Date


Thomas J. Jones
Administrative Law Judge

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION



Great Bend Township

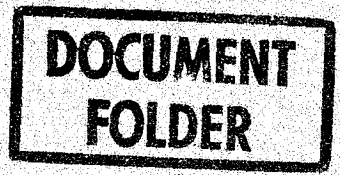
v.

Consolidated Rail Corporation, Pennsylvania
Department of Transportation, County of
Susquehanna, Pennsylvania Electric Company
and Commonwealth Telephone Company

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C-79081404

ORDER



On September 16, 1980 Consolidated Rail Corporation (Conrail) filed a Petition with the Commission, requesting modification of the Commission's Order adopted March 28, 1980 which did approve the Initial Decision of the Administrative Law Judge except as to shorten the time from six months to three months wherein Conrail was to prepare and submit to all parties of record and to the Commission for review and approval detailed plans for the reconstruction of the southwest wing wall so as to eliminate the horizontal crack and the spalling condition of the concrete in the wing wall of the bridge carrying Township Route 821 above the grade of the tracks of Conrail in the Township of Great Bend, Susquehanna County, Pennsylvania. The Commission, being concerned with the safety of the travelling public, did reduce by three months the time Conrail was to submit such plans according to the Initial Decision submitted by the Administrative Law Judge and to complete the bridge repair on or before July 1, 1981. Said Petition as filed by Conrail requests a modification of the Order to substitute either another party to this proceeding or the Delaware & Hudson Railway Company (D&H) for Conrail with respect to the allegations imposed by Ordering Paragraph Number 2 of said Order as entered by the Commission on August 14, 1980.

The Commission, by Order adopted October 16, 1980 and entered October 24, 1980, made the following additional Order in these proceedings:

"IT IS ORDERED:

1. That the petition of ConRail is hereby denied without prejudice and with the right to pursue rights it may have under the September 8, 1980 sale and transfer to Delaware & Hudson.
2. That Delaware & Hudson Railway Company is hereby ordered to show cause why it should not be joined as a party to these proceedings.
3. That Delaware & Hudson Railway Company is hereby directed to show cause why it should not be determined to be a concerned and interested party responsible for performing the obligations imposed upon Conrail, either alone or jointly with ConRail, under order of the Commission entered August 14, 1980, and otherwise determined to be a concerned and interested party in these proceedings under Section 2702(c) of the Public Utility Code.
4. That this matter be remanded to the Office of Administrative Law Judges for the purpose of conducting a hearing for receipt of evidence regarding the obligations of Conrail assumed by Delaware & Hudson under provisions of the September 8, 1980 sale and transfer discussed in this order and such other evidence material and relevant to a determination of the proper party or parties, as concerned and interested parties, in accordance with Section 2702(c) of the Public Utility Code, 66 Pa. C.S.A. 2702(c).
5. That ConRail is hereby directed to serve a copy of its petition on Delaware & Hudson."

Pursuant to the Commission Order, the Office of Administrative Law Judges promptly did schedule hearings in the matter, which were periodically continued at the request of the parties for various reasons.

A hearing was scheduled and held on July 29, 1981 at the Scranton State Office Building, Scranton, Pennsylvania. Representatives of Great Bend Township, after notice, elected not to attend the hearing. The record now having closed, the matter is with the Administrative Law Judge to render an Initial Decision to the Commission on Remand.

On August 14, 1981 the Commission received a Motion in a letter from Francis X. O'Connor, Esquire, solicitor for Great Bend Township, requesting that another new hearing be scheduled in the matter for the reason he has been

advised that the Township has received a bid from a private contractor to perform the work at approximately one-third the cost as indicated by Conrail in its submission of plans and cost studies. As stated, Great Bend elected not to attend and participate in the hearing on July 29, 1981.

At that hearing, it was ascertained and developed on the record from the testimony of the witness of Conrail that the Commission did direct a re-evaluation of the estimate of cost, as previously submitted by Conrail, and a meeting was held at the Commission offices in Harrisburg with Conrail representatives and Commission staff personnel, which, as a result of said meeting, changes are to be made in the plans and cost estimates for the repair. The witness for Conrail stated that, by reason of the meeting with staff members of the Commission, the cost estimate as revised would now be less than \$103,000. On cross-examination, he stated it would be less than half, and quoting from the testimony, (R. 12, 13), "considerably less than half."

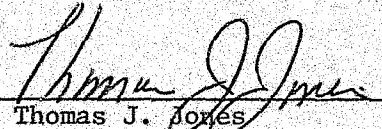
Great Bend had ample notice and time to offer any additional testimony it desired at the July 29, 1981 hearing. To now further delay the final orders and decisions in this matter would unduly delay a matter that is of the extreme importance to the safety of the travelling public. The Commission has recognized this, and the Township has recognized this. The Commission was also aware that the initial cost estimate as submitted by Conrail was high and conferred with Conrail representatives in order to adjust the cost estimates. Conrail is submitting to the Commission and to all parties of record the revised plans and cost estimates. Further delay should not be considered in these proceedings.

THEREFORE,

IT IS ORDERED:

That the Motion and request of Great Bend Township for an additional hearing in these proceedings at C-79081404 is denied. The record, having closed,

shall now remain closed.



Thomas J. Jones
Administrative Law Judge

August 25, 1981
Date

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by first class mail on the parties listed below:

Francis X. O'Connor, Esquire
P. O. Box 591
Great Bend, Pennsylvania 18821

Ward T. Williams, Chief Counsel
Pa. Department of Transportation
521 Transportation & Safety Building
Harrisburg, Pennsylvania 17120

Herbert G. Zahn, Esquire
522 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
Court House
Montrose, Pennsylvania 18801

Richard Herskovitz, Assistant Counsel
Pa. P.U.C. - Law Bureau
P. O. Box 3265
Harrisburg, Pennsylvania 17120

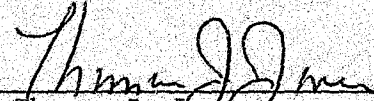
Barry J. Grossman, Esquire
G-31 North Office Building
Harrisburg, Pennsylvania 17120

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

George H. Kleinberger, General Attorney
Delaware & Hudson Railway Company
40 Beaver Street
Albany, New York 12207

August 25, 1981
Date


Thomas J. Jones
Administrative Law Judge

RAIL

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RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

August 27, 1981

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

Re: Complaint Docket 79081404, Susquehanna County

Dear Mr. Thierfelder:

Enclosed for filing on behalf of Consolidated Rail Corporation are the original and nine copies of its Brief in the captioned matter.

I hereby certify that I served three copies upon the Administrative Law Judge and each party of record.

Very truly yours,

Joel E. Mazor/ket
Joel E. Mazor
General Attorney

JEM/klt
Enclosures

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

Great Bend Township	:	
	:	
v.	:	COMPLAINT DOCKET
	:	
Consolidated Rail Corporation,	:	
Pennsylvania Department of	:	No. 79081404
Transportation, County of	:	
Susquehanna, Pennsylvania	:	
Electric Company and Common-	:	
wealth Telephone Company	:	

BRIEF OF
CONSOLIDATED RAIL CORPORATION

I. HISTORY OF THE CASE

The instant proceeding was commenced by a Complaint filed August 23, 1979, alleging a crack in one of the wing walls in the bridge carrying a Township Road over Conrail's tracks in Great Bend Township, Susquehanna County. The bridge was constructed pursuant to order of the Public Service Commission at Application Docket 321, but the Commission's order did not assign maintenance responsibility for the bridge.

Answers were filed and a hearing was held November 1, 1979 before Honorable Thomas J. Jones, Administrative Law Judge. Under date of January 29, 1980, the Judge issued a proposed Initial Decision. Exceptions were filed only by Commission Trial Staff.

By order adopted August 14, 1980, the Commission adopted the decision of the Administrative Law Judge with one modification,

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and as a result, Conrail was ordered to prepare plans for reconstruction of the southwest wing wall and, after approval of the plans, complete the repairs.

The Township is required to reimburse Conrail for 50% of the cost of repairs. Conrail was ordered to maintain the entire bridge, except for the bituminous roadway wearing surface, with the Township to maintain the surface.

On September 8, 1980, Conrail entered into an agreement with Delaware & Hudson Railway Company for sale of the line of railroad involved, and D&H was granted immediate trackage rights to operate over the line. The agreement of sale has been approved by the Interstate Commerce Commission, but settlement has not been had.

Subsequently, on September 15, 1980, Conrail filed a Petition for Modification of the Commission's Order of August 14, 1980, seeking to have D&H substituted for Conrail with respect to its obligations under that order and by Order to Show Cause, entered October 24, 1980, the Commission directed D&H to show cause why it should not be determined to be a concerned party responsible for performing the obligations imposed on Conrail, either alone or jointly with Conrail. Hearing was held July 29, to make that determination, and the parties requested leave to file briefs.

II. STATEMENT OF QUESTIONS INVOLVED

Should not D&H be substituted for Conrail with respect to the obligations imposed on Conrail by the Commission's order entered August 14, 1980?

III. ARGUMENT

The essential facts are not in dispute. At the initial hearing, it was revealed that Conrail operated but two freight trains per week over the involved line of railroad. D&H, on the other hand, now operates 6 trains per day and Conrail none. (N.T. 27^{*/}).

D&H intends to continuously operate the line of railroad N.T. 28), but Conrail, if the sale is not consummated, intends to abandon the line (N.T. 17).

It is clear from the Exhibits that during its term of use pending transfer of title, "D&H shall have the sole right of maintaining and operating the Line of Railroad, and shall pay all costs in connection therewith" (Conrail Exhibit No. 2, Section VII C.).

Further, the order of the Interstate Commerce Commission, introduced by D&H as an Exhibit, which approved the sale, states in part, "By contrast, DH will be better able to compete as a

^{*/} References are to pages in Official Transcript.

result of this transaction. Its running times will decline by 1 1/2 hours and its operating costs will be reduced."

(underscoring ours)

Finally, we will address the problem posed by D&H counsel in his "summation" (N.T. 36-40). He takes the position that Conrail's petition for modification of the Commission's order of August 14, 1980, was not timely filed, since it was filed more than 15 days after entry of that order. Since the involved agreement of sale, which was the basis of that petition, was not executed until September 8, 1980, the petition could not have been filed within the 15-day mandate of Section 703(f) of the Public Utility Law.

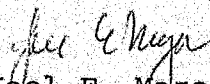
However, under Section 703(g), the Commission may, at any time, after notice and after opportunity to be heard, rescind or amend any order made by it. There was, of course, in this case, such notice and opportunity to be heard. All petitioner need do, under long established law, is show facts that were not available at the time of original hearing, or changed circumstances. In the instant case, Conrail has done both.

IV. CONCLUSION

Only D&H receives benefit from the separated crossing. It is the only operator and will be the only operator, even if the sale does not consummate. Its obligation to perform maintenance

under that agreement is clear, and the benefits clearly spelled out in the I.C.C. order approving the sale. For all these reasons, D&H should assume all the costs in connection with repair of the wing wall and future maintenance previously assigned to Conrail.

Respectfully submitted,


Joel E. Mazor
1138 Six Penn Center
Philadelphia, Pa. 19104

Counsel for
Consolidated Rail Corporation



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

September 4, 1981

IN REPLY PLEASE
REFER TO OUR FILE

Honorable Thomas J. Jones
Administrative Law Judge Office
Pa. Public Utility Commission
100 Lackawanna Avenue
Scranton, PA 18503

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

Dear Judge Jones:

Please be advised that the Commission Trial Staff will not file a brief in the above-captioned matter.

Very truly yours,

Richard S. Herskovitz
Assistant Counsel

RSH/wm

cc: All Parties
File Room

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DELAWARE AND HUDSON RAILWAY COMPANY

ALBANY, NEW YORK 12207



Dependable Transportation Since 1823

GEORGE H. KLEINBERGER

Corporate Counsel

September 10, 1981

Pennsylvania Public Utility
Commission
c/o New Filing Section
Secretary's Bureau
Room B-18
North Office Building
Harrisburg, Pennsylvania 17120

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION
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RE: GREAT BEND TOWNSHIP v. CONSOLIDATED RAIL CORPORATION,
ET AL. - COMPLAINT DOCKET NO. 79081404

Gentlemen:

Enclosed herewith, for filing, are the original and nine (9) copies of the main brief of Delaware and Hudson Railway Company in the above captioned proceeding. I am, by this letter, requesting special permission of the presiding officer to file at this time on the ground that I was on vacation during the period of August 24-30, 1981.

I hereby certify that I have served one (1) copy of the enclosed brief upon the presiding Administrative Law Judge and three (3) copies thereof upon each party of record.

Very truly yours,

George H. Kleinberger

cc: w/encl.
Hon. Thomas J. Jones
All Parties of Record



Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Great Bend Township

v.

Consolidated Rail Corporation,
Pennsylvania Department of
Transportation, County of
Susquehanna, Pennsylvania
Electric Company and Common-
wealth Telephone Company

COMPLAINT DOCKET

No. 79081404

BRIEF
OF

DELAWARE AND HUDSON RAILWAY COMPANY

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George H. Kleinberger
40 Beaver Street
Albany, New York 12207
(518) 462-7662

Attorney for

Delaware and Hudson
Railway Company

DUE DATE: September 8, 1981

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Great Bend Township	:	
	:	
v.	:	COMPLAINT DOCKET
	:	
Consolidated Rail Corporation,	:	No. 79081404
Pennsylvania Department of	:	
Transportation, County of	:	
Susquehanna, Pennsylvania	:	
Electric Company and Common-	:	
wealth Telephone Company	:	

BRIEF
OF
DELAWARE AND HUDSON RAILWAY COMPANY

TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:
STATEMENT OF THE CASE

This brief is in support of the position of Delaware and Hudson Railway Company (D&H) that D&H should not be joined as a party to these proceedings and that it should not be determined to be a concerned and interested party responsible for performing the obligations imposed upon Consolidated Rail Corporation (Conrail), either alone or jointly with Conrail, under order of the Commission entered August 14, 1980, and otherwise determined to be a concerned and interested party in these proceedings under Section 2702(c) of the Public Utility Code,

The above captioned complaint was filed with the Commission on September 6, 1979. It alleged that respondents had failed to properly maintain a bridge carrying Township Road 821 over and above Conrail's tracks in Great Bend Township, Susquehanna County. The complaint alleged that the southwest wing wall of the bridge had a shearing and horizontal crack and that a spalling of the wall had occurred.

After a hearing on November 1, 1979, the Administrative Law Judge, in his Initial Decision of January 29, 1980, directed that the bridge be repaired and directed Conrail, inter alia, to bear 50% of the repair costs. These portions of the Initial Decision were sustained by the Commission's order entered August 14, 1980.

By Agreement of Sale dated September 8, 1980 Conrail agreed to convey and D&H agreed to acquire the line of railroad over which the subject bridge passes. Thereafter, under date of September 15, 1980, Conrail filed its Petition to Modify the Commission's Order of August 14, 1980 seeking to have D&H substituted for Conrail's obligations under the last mentioned order. By order entered October 24, 1980 D&H was (1) ordered to show cause why it should not be joined as a party to these proceedings, and (2) directed to show cause why it should not be determined to be a concerned and interested party responsible for performing

the obligations imposed upon Conrail, either alone or jointly with Conrail, under order of the Commission entered August 14, 1980, and otherwise determined to be a concerned and interested party in these proceedings under Section 2702(c) of the Public Utility Code. A hearing on the Order to Show Cause was held in Scranton on July 29, 1981.

SUMMARY OF ARGUMENT

1. D&H Had No Opportunity to be Heard - D&H should not be determined to be a concerned and interested party responsible for performing any portion of Conrail's obligations under the Commission's order entered August 14, 1980 since D&H was not a party to this proceeding when those obligations were imposed.

2. D&H as Not a Concerned Party. As title to the line of railroad which passes under the Township Road 821 bridge has not passed from Conrail to D&H, D&H should not be determined to be a concerned and interested party responsible for performing any obligation which may be imposed upon Conrail in this proceeding.

3. Police Power. It would be an unreasonable and arbitrary exercise of the police power of the Commonwealth to require D&H to contribute toward any of the costs and expenses incident to the reconstruction of the southwest wing wall of the Township Road 821 bridge.

4. Subsidation of Motor-Carrier Competition. To require D&H to contribute toward the costs and expenses of reconstructing the Township Road 821 bridge southwest wing wall would effectively require D&H to subsidize its motor carrier competition.

5. Volume of Rail v. Non-Rail Traffic. The small amount of rail traffic at this crossing, compared with the substantial amount of motor vehicle traffic does not justify allocating any of the costs of reconstructing the wing wall of said crossing to D&H.

6. Absence of Benefit to the Railroad. The proposed reconstruction of the Township Road 821 bridge southwest wing wall, while presumably benefiting the general public, will be of virtually no benefit to D&H.

ARGUMENT

D&H Had No Opportunity to Be Heard

Section 703(f) of the Public Utility Code provides that after an order has been made by this Commission any party may, within 15 days after service of the order, apply for a rehearing and that, if the application is granted, the Commission may affirm, rescind, or modify its original order.

D&H, however, had no opportunity to apply for rehearing within the 15 day period as it was not a party to this proceeding at that time. If D&H had been a party, it most assuredly would have applied for a rehearing following any order of this Commission directing it to pay 50% of the wing wall reconstruction costs. However, even if D&H were now to be made a party to this proceeding, it could not apply for a rehearing since the 15 day period has expired. Moreover, this Commission cannot waive the 15 day period since it is statutory. Therefore, the injustice of making D&H a party to the proceeding at this stage is apparent.

Additionally, D&H should not be determined to be a concerned and interested party responsible for performing any portion of Conrail's obligations under the Commission's order entered August 14, 1980 since D&H was not a party to this proceeding when those obligations were imposed. Section 2704, Subdivision (a) of the Public Utility Code clearly provides that crossing construction and alteration costs shall be borne by the public utilities or municipal corporation concerned, or by the Commonwealth, as the Commission may determine, but only after due notice and hearing.

It is a fundamental principal of constitutional law that both notice and hearing are essential requisites of due process.

See Pittsburgh Press Co. v. Pittsburgh Comm. on Human Relations, 4 Pa. Comwlth 448, 287 A.2d 161 (1972) and Armour Transportation Co. v. Pennsylvania P.U.C., 10 A.2d 86 (Pa. S. Ct. 1939). Furthermore the requirement of due process of law applies to administrative as well as to judicial proceedings. See Pittsburgh Press Co. v. Pittsburgh Comm. on Human Relations, supra, Armour Transportation Co. v. Pennsylvania P.U.C., supra, Pennsylvania State Chamber of Commerce v. Torquato, 386 Pa. 306, 125 A.2d 755 (1956), and Fusaro v. Pennsylvania P.U.C., 34 Pa. Comwlth 14, 382 A.2d 794 (1978).

A situation somewhat analogous to the instant proceeding arose in White v. Old York Road Country Club, 318 Pa. 346, 178 Atl.3 (1935). There a local board of adjustment, after hearing, approved the erection of a gasoline station. Thereafter, a non-resident of the township, who did not take part in the hearing intervened in a bill in equity to enjoin erection of the proposed station. The non-resident intervenor's complaint was that the erection of a gasoline station so close to his property took from him a substantial property right by greatly depreciating the value of his property. Affirming that the bill in equity was properly instituted the Court held that:

It is not the act of the board that is here complained of; it is the act of the defendants in erecting an instrumentality which will destroy the property of complainant High without an opportunity to be heard; "where substantial property rights are impaired, it must be predicated on notice and opportunity to be heard." (Cases cited)

Similarly analogous is In re McGuigan's Estate, 349 Pa. 581, 37 A.2d 717 (1944) which involved an appeal by the surety of a removed guardian from a judgment entered against it on the audit of the account of the removed guardian. There the lower court surcharged the guardian. Thereafter, the surety first entered the litigation by petitioning, inter alia, that the surcharge be vacated. The Court reversed the judgment against the surety, on the ground that the surety was not a party to the proceedings and the court below had no jurisdiction over it.

In the present proceeding, as to D&H, there was no hearing, nor can there truly be one now because of the 15 day limitation previously mentioned. To illustrate the potential injustice, the Order entered August 14, 1980 adopted, for example, the Administrative Law Judge's findings, in his Initial Decision of January 29, 1980, that failure of the top portion of the wing wall would cause the embankment to wash out from under the highway approach and allow the roadway to sink. Perhaps, if D&H had participated in the original hearing it would have produced incontrovertible proof leading to a finding that nothing

of this sort would have occurred. We will never know, however, because D&H was not offered the due notice and opportunity to be heard required by Section 2704, Subdivision (a) of the Public Utility Code.

D&H as Not a Concerned Party

As previously mentioned, negotiations between D&H and Conrail thus far, have resulted in an Agreement of Sale dated September 8, 1980 (Sale Agreement), under which Conrail has agreed to convey and D&H has agreed to acquire a line of railroad which extends from Scranton, Pennsylvania to Binghamton, New York and which passes under the Township Road 821 bridge.

Conrail's Petition to Modify the Commission's Order of August 14, 1980, subscribed on September 15, 1980, alleges in part, in Paragraph 2, that, "On September 8, 1980, the line of railroad underneath the structure which was the subject matter of the captioned complaint was sold and transferred to Delaware and Hudson Railway Company." This allegation is incorrect in that by the Sale Agreement Conrail merely agreed to sell to D&H and D&H merely agreed to purchase from Conrail the previously mentioned line of railroad extending from Scranton, Pennsylvania to Binghamton, New York. However, no closing, has, as yet, taken place, and, accordingly, title has not yet passed from Conrail to D&H.

Pending the closing and passing of title, D&H is using the subject line of railroad under a "term of use" provided for in the Sale Agreement. The Sale Agreement further provides that during the "term of use" D&H shall pay all costs in connection with maintaining and operating the subject line of railroad. There is no language anywhere in subject agreement spelling out responsibility for reconstruction costs. Thus, if for any reason D&H's temporary "term of use" is not succeeded by a transfer of title, imposition now upon D&H of any Township Road No. 821 bridge wing wall reconstruction costs would clearly be inequitable and inappropriate. Therefore, as between Conrail and D&H, D&H should, in fairness and equity, not be required by this Commission to contribute to the costs of reconstructing a structure whose alleged deterioration occurred prior to D&H's operation thereunder and to its acquisition of title thereto.

Police Power

Section 2704(a) of the Public Utility Code provides that it is the responsibility of this Commission to determine the proper proportions of the reconstruction costs. However, while an order of this Commission requiring that the Township Road 821 bridge southwest wing wall be reconstructed and allocating the costs thereof lies within the police power of the Commonwealth,

the United States Supreme Court has held, in Nashville, Chattanooga & St. Louis Ry. v. Walters, 294 U.S. 405 (1935), that the police power is subject to the constitutional limitation that it may not be exerted arbitrarily or unreasonably.

In the Nashville case, supra, the railroad was ordered by the Tennessee State Highway Commission to construct and pay one-half of the costs for an underpass where a proposed new State highway would cross its main line. The Tennessee statute, unlike the Pennsylvania statute, required a flat percentage basis and did not permit the Commission to consider any other facts. Notwithstanding the statute, however, the Court held that the state court erred in refusing to consider whether the facts relied upon by the railroad established as arbitrary and unreasonable the imposition upon it of one-half the cost of the underpass. In discussing the application of the police power to the case there at bar, the Court held, Justice Brandeis writing, that:

It is true that the police power embraces regulations designed to promote public convenience or the general welfare, and not merely those in the interest of public health, safety and morals. Chicago, B. & Q. R. Co. v. Illinois ex rel. Drainage Commissioners, 200 U.S. 561, 592. And it was stipulated that "in light of modern motor vehicular traffic anything which slows up that traffic is an inconvenience.

In other words, eliminating a grade crossing, as in the case at bar, facilitates the speed of motor vehicular traffic, in accordance with public demands." But when particular individuals are singled out to bear the cost of advancing the public convenience, that imposition must bear some reasonable relation to the evils to be eradicated or the advantages to be secured. Compare Hadacheck v. Los Angeles, 239 U.S. 394; Miller v. Schoene, 276 U.S. 272. While moneys raised by general taxation may constitutionally be applied to purposes from which the individual taxed may receive no benefit, and indeed, suffer serious detriment; St. Louis & Southwestern Ry. v. Nattin, 277 U.S. 157, 159; Memphis & Charleston Ry. v. Pace, 282 U.S. 241, 246; so-called assessments for public improvements laid upon particular property owners are ordinarily constitutional only if based on benefits received by them. (Emphasis supplied).

In the present case, D&H witness Schultz testified at the July 29, 1981 hearing that it is the public, not the railroad which makes the overwhelming use of the crossing; and that while there are only a handful of rail movements over the crossing a week there are undoubtedly hundreds of motor vehicle movements over the crossing per day (Transcript 7/29/81, Pages 25 and 26). The fundamental fact is that the rail carrier's sole relationship to the structure is that it happens to operate a railroad underneath it. Little or no benefit will accrue to

the rail carrier from the reconstruction of same. Accordingly, the rail carrier should not be assessed any of the costs thereof.

Subsidation of Motor Carrier Competition

In the Nashville case, supra, the Court, in discussing what constituted a reasonable allocation of costs, found that "Separation of grades serves to intensify the motor competition and to further deplete rail traffic. The avoidance thereby made possible of traffic interruptions incident to crossing at grade is now of far greater importance to the highway users than it is to the railroad crossed, For the rail operations are few; those of motor vehicles very numerous." (Emphasis supplied).

The Court went on to comment that;

Practically all vehicles moving upon (the separated crossing) will directly or indirectly compete for traffic with the Railway. Buses will operate over the new highway in regular scheduled movements in the same way as passenger trains. Trucks, some of them 70 feet in length and many weighing with load as much as 50,000 pounds, operated by common carriers, by contract carriers and by private concerns, will compete for the most profitable classes of freight. The competition besides reducing the volume of traffic will compel reduction of rates,

While the Railway, the sufferer from the construction of the new highway, is burdened with one-half the cost of the underpass, the owners of trucks and buses and others, who

are beneficiaries of its construction, are immune from making any direct contribution toward the cost.
(Emphasis supplied).

It goes almost without saying that trucks undoubtedly use the Township Road 821 bridge and that trucks are in direct competition with railroads. D&H submits that it would be patently and unarguably arbitrary and unreasonable to require D&H to subsidize its competitors by being required to contribute a major share of the cost of reconstructing a wing wall of a bridge which those competitors would use.

Volume of Rail v. Non-Rail Traffic

In City of Gainesville v. Southern Railway Co., 423 F.2d 588 (5th Cir. 1970) the Court held that the costs of crossing protection should be allocated on the basis of equity, benefit, and degree of danger caused by the railroad. "The elements of reasonableness and fairness in the allocation of costs in addition to the reasonableness of the requirement of installing the signaling device itself must be considered by the court." (Emphasis the Court's).

As indicated above, the benefit criterion clearly throws the financial responsibility to someone other than D&H, since the major beneficiary of the reconstruction will be the traveling public and not the railroad. As to danger, there is absolutely no danger whatsoever being caused by the railroad, since the existing crossing is a separated structure with the result that

the rail and highway traffic never meet. Conversely, in the light of all of the testimony concerning the wing wall's physical condition the danger, if any, is being wholly caused by the highway and not at all by the railroad. In its general commentary upon what constitutes reasonableness, the Court, in the Nashville case, supra, pointed out that in that case only 6 trains were operated over the crossing every 24 hours. Similarly, in the instant case, only 6 trains are operated over the crossing every 24 hours (Transcript 7/29/81, Page 27). Clearly, therefore it is the traveling public which creates the real danger. As stated again by the Court in the Nashville case, supra, "It is the railroad which now requires protection from the dangers incident to motor transportation." In the instant case, the highway creates 100% of the danger, and hence, the rehabilitation costs should be allocated accordingly.

Financial Condition of D&H

At the hearing of July 29, 1981 D&H witness Schultz testified that D&H is operating under budgetary restraints of the utmost austerity; that such austerity results from the fact that D&H suffered ordinary losses of \$8,697,000 and \$9,216,000 for the years 1979 and 1980 respectively and suffered a further \$5,947,000 ordinary loss in the first five months of 1981; and that it is therefore readily apparent that D&H simply does not have the funds with which to contribute to the costs of a crossing

reconstruction project which primarily benefits the traveling public. (Transcript 7/29/81, Page 26). In Pennsylvania R.R. Co. v. Driscoll, 330 Pa. 97 (1938) the Court, in commenting on the time between 1911 and 1938, said that "The span of years has marked revolutionary changes in transportation... Competition today from the different modes of transportation has resulted in a great depletion of revenues to rail carriers..." If these comments were valid in comparing the time span between 1911 and 1938, how much more valid they are when applied to the time span between 1915, when the bridge was apparently constructed (See Initial Decision, Page 2), and 1981. In an incredibly prophetic vein, the Court further held that:

The public is entitled to an efficient system of transportation, and if one portion of its elements is overloaded with expense to the detriment of other parts, the natural result must follow, a breakdown in the system to the great disadvantage of the entire public. This important consideration should never be overlooked. Today the railroad transportation system of America, faced with automotive competition, has reached the point where its financial position is precarious. This fact must be considered in determining the relative cost to appellee of compliance. To impose a drastic, heavy burden upon the railroads at this time, may react inimically to the public's interest and to the interest of railroad employees as well.

Notwithstanding D&H's financial picture, and of particular significance when faced with the prospect of being required to contribute 50% of the cost of reconstructing a structure of minimal benefit to itself, is the fact that D&H is the only railroad which is at all capable of affording rail access to and from New England in competition with quasi-nationalized Conrail. That competition is specifically directed by Congress in Section 206(a)(5) of the Regional Rail Reorganization Act of 1973 (Title 45 U.S.C. §716(a)(5)) which provides that;

The final system plan shall be formulated in such a way as to effectuate the following goals:

- (5) The retention and promotion of competition in the provision of rail and other transportation services in the region; (Note: The "region" includes Pennsylvania and the New England states (See Title 45 U.S.C. §702(15))).

D&H is struggling to remain competitive, as called for by the statute, and to meet its cash flow requirements, thereby continuing to provide the utmost service possible to the shipping public, including that portion of the shipping public which lives and operates businesses and industries in the Commonwealth of Pennsylvania. In view of its financial position, and the circumstance of its being the only rail alternative to Conrail

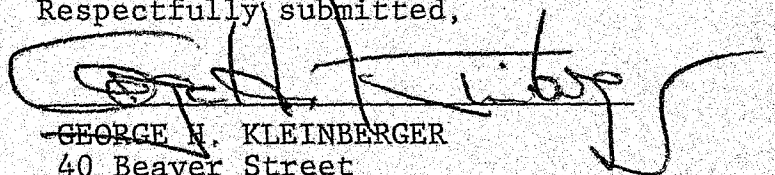
for access to and from New England, it would be the very antithesis of the public interest referred to in the Driscoll case, supra, for D&H to be required to subsidize the reconstruction of a crossing separation structure of minimal benefit to itself and to the rail shipping public which it serves.

CONCLUSION

In the light of all of the foregoing, both as to law and to fact, none of the costs and expenses of reconstructing the southwest wing wall of the Township Road 821 bridge; located in Great Bend Township, Susquehanna County, should be allocated to D&H.

In further light of all of the foregoing, D&H should not be joined as a party to these proceedings nor should it be determined to be a concerned and interested party for performing the obligations imposed upon Conrail, either alone or jointly with Conrail under order of the Commission entered August 14, 1980 or otherwise determined to be a concerned or interested party in these proceedings under Section 2702 Subdivision (c) of the Public Utility Code.

Respectfully submitted,



GEORGE N. KLEINBERGER
40 Beaver Street
Albany, New York 12207
(518) 462-7662

CONRAIL

ORIGINAL

OCT 19 9 52 AM '81

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

October 15, 1981

Subject: Great Bend Township, Susquehanna County, Pennsylvania
O.H. Bridge 176.25, Eastern Region, Lehigh Division
PUC No. C-79081404, LC 63-6201, WO #46568.
(File: Br. 176.25 - JAS)


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

Dear Mr. Thierfelder:

In the Commission Order of Docket No. C-79081404, Conrail was ordered to monitor the condition of the subject structure.

Attached for your consideration are three copies of the Conrail Bridge Inspection Report dated August 19, 1981.

Very truly yours,


J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

Room 1200

(215) 596-3608

DOCUMENT
FOLDER

CONSOLIDATED RAIL CORPORATION

ORIGINAL

BRIDGE INSPECTION REPORT

DIV. LEHIGH BRANCH SCRANTON-M. LINE BRIDGE NO. 176.25
 LOCATION HALLSTEAD O.H. U.G. _____
 TYPE OF BRIDGE T.G. NO. SPANS 1 SPAN NO. _____
 NO. TRACKS 2 TRACK NO. _____
 WATERWAY _____ ITANGENT
 ROADWAY TRACK ALIGNMENT (CURVE _____)
 OTHER _____
 DATE LAST INSPECTION 7-27-81 DATE THIS INSPECTION 8-19-81
 NOTE: USE SEPARATE SHEET FOR EACH SPAN FOR SPECIAL CONDITIONS.

RECEIVED
 SECRETARY'S OFFICE
 PUBLIC UTILITY
 COMMISSION

ITEM NO.	GENERAL				ITEM NO.	MASONRY (CONT.)				ITEM NO.	FLOOR SYSTEM (CONT.)					
		A	B	R			A	B	R			A	B	R		
1	Paint () yr			<input checked="" type="checkbox"/>	25	Previous Gunite				53	Fir Bm Top Flg	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
2	Clearance Signs				26	Slab				54	Fir Bm Bot Flg	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
3	Highway minimum clearance ()				27	Cleanliness				55	Fir Bm Conn	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
4	PC Insignia				GIRDERS, BEAMS OR TRUSSES			A	B	R	56	Str web				
5	Load Limit Signs () Tons				28	Top Flg or Chord	<input checked="" type="checkbox"/>				57	Str Top Flg				
6	Fire Protection				29	Bot Flg or Chord	<input checked="" type="checkbox"/>				58	Str Bot Flg				
7	Action under trains				30	Bearing Stiffs	<input checked="" type="checkbox"/>				59	Str Conn				
8	Approach track				31	Web or Diagnls	<input checked="" type="checkbox"/>				60	Steel Floor				
9	Track on bridge				32	Hangers	<input checked="" type="checkbox"/>				61	Conc Floor				
					33	Counters					62	Wood Floor				
	STREAM CONDITIONS	A	B	R	34	Rivets*			<input checked="" type="checkbox"/>		63	Waterproofing				
10	Paving through bridges				35	Pins					64	Ties				
11	Sheet piling protection				36	Cols or bents					65	Tie Sealing				
12	Scour (Distance top of rail to bed of stream)				37	Sole plates	<input checked="" type="checkbox"/>				66	Timber or bar Spacer				
13	Rip rap				38	Masonry plates	<input checked="" type="checkbox"/>				67	Guard rails				
14	Fender System				39	Shoes	<input checked="" type="checkbox"/>				68	Deck hardware				
	MASONRY	A	B	R	40	Rollers	<input checked="" type="checkbox"/>				69	Footwalks				
15	Abutment N or E	<input checked="" type="checkbox"/>			41	Shims	<input checked="" type="checkbox"/>				70	Handrails				
16	Abutment S or W		<input checked="" type="checkbox"/>		42	Anchor bolts	<input checked="" type="checkbox"/>				71	Drainage				
17	Backwalls	<input checked="" type="checkbox"/>			43	Wood blocking					72	Cleanliness				
18	Wingwalls		<input checked="" type="checkbox"/>		44	Cleanliness					TRESTLES			A	B	R
19	Timber back walls				STEEL BRACING			A	B	R	73	Bulkheads				
20	Piers				45	Top Lat					74	Piles				
21	Pedestals				46	Top Lat Pls					75	Sills				
22	Arches				47	Bot Lat					76	Posts				
23	Parapet Walls				48	Bot Lat Pls					77	Caps				
24	Pointing				49	Sway Frames					78	Corbels				
					50	Portals					79	Stringers				
					51	Towers					80	Cross Brace				
					FLOOR SYSTEM			A	B	R	81	Long Brace				
					52	Fir Bm Web	<input checked="" type="checkbox"/>				82	Foundations				
											83	Welds				

ENCASED
 DOCUMENTED
 OCT 23 1981
 DOCUMENT FOLDER

FOR IMMEDIATE ATTENTION: SE. Wingwall CRACKED NEARLY ENTIRE LENGTH 9' DOWN FROM TOP AND TOP PORTION IS PUSHING IN APPROX. 14". IF THIS PORTION FALLS IN IT MAY OBSTRUCT E.B. TK. THIS HAS BEEN PUSHING 1/2" TOP A YEAR FOR THE LAST 4 YEARS. UPON FALLING IN IT MAY LOSE A PORTION OF OVER-HEAD HIGHWAY AS IT ACTS AS A RETAINING WALL FOR SHOULDER OF HIGHWAY SHOULD HAVE ATTENTION.

NOTE: *DESCRIBE UNDER REMARKS LOCATION OF LOOSE RIVETS. USE BACK OF THIS FORM FOR SKETCHES OR NOTES.
 A - GOOD CONDITION
 B - NOT HAZARDOUS - NOTE ANY CHANGE NEXT INSPECTION.
 .. PUT ON REPAIR PROGRAM

SIGNED RE IVCS INSPECTOR
 REVIEWED _____ SUPVR. B. & S.
 NOTED _____ DIVN. ENGR.

October 21, 1981

IN REPLY PLEASE
REFER TO OUR FILE

G-79081404

Mr. J. T. Sullivan, P.E., Ch. Eng.
Consolidated Rail Corporation
15 North 32nd Street
Philadelphia, PA 19104

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

Dear Mr. Sullivan:

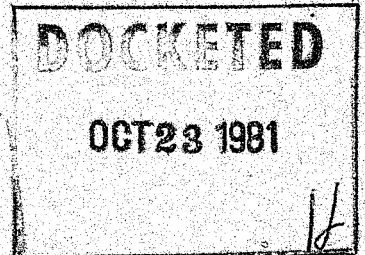
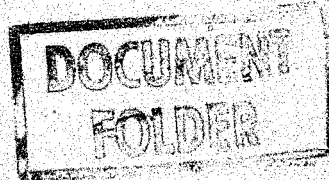
The Commission, at the Public Meeting held September 25, 1981, approved the alternate method of wingwall repair shown as Stage I construction on Conrail's revised plans submitted August 13, 1981, in the above entitled proceeding.

Very truly yours,


Jerry Rich
Secretary

cc: All Parties of Record
Law Bureau - Richard Herskovitz & Barry J. Grossman
Rail Transportation
Elaine Deichmiller

JEL:bjc



OVERSIZE

DOCUMENTS

RAIL

ORIGINAL

Nov 9 9 42 AM '81

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

November 6, 1981

Secretary
Pennsylvania Public Utility Commission
Box 3265
Harrisburg, Pa. 17120

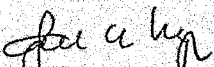
Re: C. 79081404, Susquehanna County (MPCB 78)

Dear Sir:

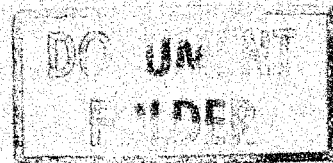
I enclose for filing with the Commission on behalf of Consolidated Rail Corporation a petition for extension of time in this matter.

I hereby certify that copies of the petition have been sent to all parties of record.

Very truly yours,


Joel E. Mazor
General Attorney

JEM:CV
Encl.



ORIGINAL

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nov 9 8 42 AM '81

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

Great Bend Township :
:
v. :
:
Consolidated Rail Corporation, :
Pennsylvania Department of :
Transportation, County of :
Susquehanna, Pennsylvania :
Electric Company, and Common- :
wealth Telephone Company :

Complaint Docket
No. C-79081404

DOCKETED
NOV 10 1981
B

PETITION FOR
EXTENSION OF TIME

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

The petition of Consolidated Rail Corporation, one of
the respondents herein, respectfully represents:

1. The name and address of petitioner are: Consolidated
Rail Corporation, Six Penn Center Plaza, Philadelphia, Pa. 19104.

2. The name and address of attorney for the petitioner
are: Joel E. Mazor, 1138 Six Penn Center Plaza, Philadelphia,
Pa. 19104.

3. By letter order dated October 21, 1981, petitioner
was advised that the Commission at its public meeting held
September 25, 1981, approved the alternate method of wingwall
repair shown as Stage I construction on Conrail's revised plans
submitted August 13, 1981 in the above-entitled proceeding.

4. On July 29, 1981, hearing was held on the petition of
Consolidated Rail Corporation for the Delaware & Hudson
Railway Co. to show cause why it should not be joined as a party

DO NOT
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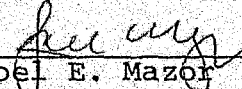
to the proceeding and, further, why it should not be responsible either in place of or along with Consolidated Rail Corporation for the work ordered by the Commission and the costs allocated by the Commission in the captioned matter.

5. Until such time as the Commission renders a decision on the petition to show cause, and in view of the fact that the plan as revised by Conrail was just recently approved, it would be impossible for Conrail to complete the work ordered within the timeframe previously required by the Commission.

WHEREFORE, petitioner respectfully requests that your Commission at this time issue an order extending time for the completion of the work, regardless of who is ultimately ordered to perform such work, to October 31 of 1982.

CONSOLIDATED RAIL CORPORATION

By



Joel E. Mazor
1138 Six Penn Center
Philadelphia, Pa. 19104

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF PHILADELPHIA : SS

Joel E. Mazor, being duly sworn according to law, deposes and says that he is General Attorney for Consolidated Rail Corporation; that he is authorized to and does make this affidavit for it; that the facts set forth in the foregoing Petition are true and correct.

Joel E. Mazor

Sworn to and subscribed
before me this 6th day
of November, 1981.

Rosemary C. Williams
Notary Public

ROSEMARY C. WILLIAMS
Notary Public, Phila., Phila. Co.
My Commission Expires May 2, 1983

RAIL

ORIGINAL

Oct 30 8 33 AM '81

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

October 28, 1981

Subject: Great Bend Township, Susquehanna County, Pennsylvania
O.H. Bridge 176.25, Eastern Region, Lehigh Division
PUC No. C-79081404, LC 63-6201, WO #46568.
(File: Br. 176.25 - JAS)

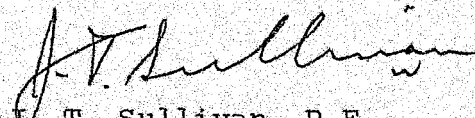
Mr. Jerry Rich
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120

Dear Mr. Rich:

In the Commission Order of Docket No. C-79081404, Conrail was ordered to monitor the condition of the subject structure.

Attached for your consideration are three copies of the Conrail Bridge Inspection Report dated September 23, 1981.

Very truly yours,



J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

Room 1200

(215) 596-3608

DOCUMENT
FOLDER

CONSOLIDATED RAIL CORPORATION

ORIGINAL

BRIDGE INSPECTION REPORT

DIV. LEHIGH
 LOCATION HALLSTEAD
 TYPE OF BRIDGE T.G.

BRANCH SCRANTON-McKLINE BRIDGE NO. 176.25
 O.H. U.G.
 NO. SPANS 1 SPAN NO. _____
 NO. TRACKS 2 TRACK NO. _____

OCT 30 8 33 AM '81

RECEIVED
 SECRETARY'S OFFICE
 PUBLIC UTILITY
 COMMISSION

DOCUMENT
 FOLDER

WATERWAY _____ (TANGENT TRACK ALIGNMENT (CURVE _____)
 ROADWAY
 OTHER _____
 DATE LAST INSPECTION 8-19-81 DATE THIS INSPECTION 9-23-81

NOTE: USE SEPARATE SHEET FOR EACH SPAN FOR SPECIAL CONDITIONS.

ITEM NO.	GENERAL	A B R			ITEM NO.	MASONRY (CONT.)	A B R			ITEM NO.	FLOOR SYSTEM (CONT.)	A B R		
		A	B	R			A	B	R			A	B	R
1	Paint () yr			<input checked="" type="checkbox"/>	25	Previous Gunite				53	Fir Bm Top Flg			
2	Clearance Signs				26	Slab				54	Fir Bm Bot Flg			
3	Highway minimum clearance ()				27	Cleanliness				55	Fir Bm Conn			
4	PC Insignia					GIRDERS, BEAMS OR TRUSSES	A	B	R	56	Str web			
5	Load Limit Signs () Tons				28	Top Flg or Chord	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	57	Str Top Flg			
6	Fire Protection				29	Bot Flg or Chord	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	58	Str Bot Flg			
7	Action under trains				30	Bearing Stiffs	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	59	Str Conn			
8	Approach track				31	Web or Diagns	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	60	Steel Floor			
9	Track on bridge				32	Hangers	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	61	Conc Floor			
					33	Counters				62	Wood Floor			
					34	Rivets *			<input checked="" type="checkbox"/>	63	Waterproofing			
					35	Pins				64	Ties			
10	Paving through bridges				36	Cols or bents				65	Tie Sealing			
11	Sheet piling protection				37	Sole plates	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	66	Timber or bar Spacer			
12	Scour (Distance top of rail to bed of stream _____)				38	Masonry plates	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	67	Guard rails			
13	Rip rap				39	Shoes	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	68	Deck hardware			
14	Fender System				40	Rollers	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	69	Footwalks			
					41	Shims	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	70	Handrails			
					42	Anchor bolts	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	71	Drainage			
					43	Wood blocking				72	Cleanliness			
					44	Cleanliness								
						STEEL BRACING	A	B	R					
15	Abutment N or S	<input checked="" type="checkbox"/>			45	Top Lat				73	Bulkheads			
16	Abutment S or N		<input checked="" type="checkbox"/>		46	Top Lat Pls				74	Piles			
17	Backwalls	<input checked="" type="checkbox"/>			47	Bot Lat				75	Sills			
18	Wingwalls			<input checked="" type="checkbox"/>	48	Bot Lat Pls				76	Posts			
19	Timber back walls				49	Sway Frames				77	Caps			
20	Piers				50	Portals				78	Corbels			
21	Pedestals				51	Towers				79	Stringers			
22	Arches									80	Cross Brace			
23	Parapet Walls									81	Long Brace			
24	Pointing				52	Fir Bm Web	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	82	Foundations			
										83	Welds			

DOCKETED
 OCT 30 1981
 N.

CON RAIL-LEHIGH DIV
 SCRANTON, PA.
 SEP 24 1981
 DIVISION ENGINEER

ON IMMEDIATE ATTENTION: S.E. Wingwall CRACKED NEARLY ENTIRE LENGTH 9' DOWN FROM TOP AND TOP PORTION IS PUSHING IN APPROX. 14". IF THIS PORTION FALLS REMARKS IN IT MAY OBSTRUCT E.B. TK. THIS HAS BEEN PUSHING 1/2" TO 1" A YEAR FOR THE LAST 4 YEARS. UPON FALLING IN IT MAY LOSE A PORTION OF OVERHEAD HIGHWAY AS IT ACTS AS A RETAINING WALL FOR SHOULDER OF HIGHWAY SHOULD HAVE ATTENTION.

NOTE: *DESCRIBE UNDER REMARKS LOCATION OF LOOSE RIVETS. USE BACK OF THIS FORM FOR SKETCHES OR NOTES.

A - GOOD CONDITION
 B - NOT HAZARDOUS - NOTE ANY CHANGE NEXT INSPECTION.
 R - PUT ON REPAIR PROGRAM

SIGNED RE IVCS INSPECTOR
 REVIEWED _____ SUPVR. B. & B.
 NOTED _____ DIVN. ENGR.

REPAIR DETERIORATING SECTION OF CONC. SIDEWALK IN S.E. CORNER
WHICH IS APPROX. 3' SQUARE.

PATCH BLACK TOP ON SIDEWALKS. (POOR)

THE FIRST PART OF JUNE A HOLE DEVELOPED IN S. END OF W.
CONC. SIDEWALK AND UNDER 12"X16" TIMBER WHEEL GUARDS, HOLE
IS APPROX. 12"X18" WHICH WAS PATCHED TEMPORARILY WITH
BOARDS 6-4-81.

SIDEWALK SHOULD HAVE ATTENTION.

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

December 17, 1981

IN REPLY PLEASE
REFER TO OUR FILE
C-79081404

Jerry Rich, Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120

RECEIVED

DEC 17 1981

Great Bend Township

v.

Consolidated Rail Corporation, Pennsylvania
Department of Transportation, County of
Susquehanna, Pennsylvania Electric Company
and Commonwealth Telephone Company

SECRETARY'S OFFICE
Public Utility Commission

Dear Secretary Rich:

Enclosed for filing please find Trial Staff's Answer in Opposition
to Peitition of Consolidated Rail Corporation For Extension of Time.

Copies of this Answer have been served to the parties listed on
the attached Certificate of Service.

Sincerely yours,

Richard S. Herskovitz
Richard S. Herskovitz
Assistant Counsel

RSH/ck

Enclosures

**DOCUMENT
FOLDER**

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

DEC 17 1981

Great Bend Township

v.

Consolidated Rail Corporation,
Pennsylvania Department of Transporta-
tion, County of Susquehanna, Pennsylvania;
Electric Company, and Commonwealth
Telephone Company

SECRETARY'S OFFICE
Public Utility Commission

No. G-79081404

ANSWER OF COMMISSION TRIAL STAFF IN
OPPOSITION TO PETITION OF CONSOLIDATED RAIL CORPORATION
FOR EXTENSION OF TIME

Commission Trial Staff (Staff) opposes the Petition of Consolidated Rail Corporation (Conrail) For Extension of Time in the above-captioned matter for the following reasons:

1. The southeast wingwall of the subject bridge is severely deteriorated and presents a hazardous condition for both rail and highway users in that the wingwall may collapse during the spring thaw or heavy spring rains.
2. The potential for collapse of the wingwall is recognized by Conrail in its inspection report dated September 23, 1981, and received by the Commission October 30, 1981. The report recommends that the wingwall be given attention.
3. Conrail was directed to repair the wingwall on or before July 1, 1981 by Commission order entered August 14, 1980.
4. The condition of the wingwall is such that repairs should be performed as soon as possible (at least no later than April 1, 1982) by Conrail.
5. Although a petition by Conrail requesting it be relieved of its obligations under the August 14, 1980 order because of the transfer of the involved line of railroad from Conrail to the Delaware & Hudson Railroad Company (D & H) is still pending before the Commission, repair of the wingwall should not be delayed

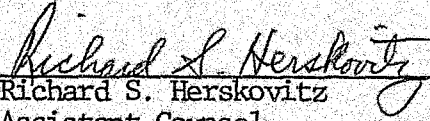
DOCUMENT
FOLDER

DOCKETED
DEC 18 1981
B

until a decision is entered on the petition. Should the Commission ultimately transfer Conrail's responsibility to D & H, provision can be made at that time as to whether Conrail should be reimbursed by D & H for the repair work.

WHEREFORE, Commission Trial Staff requests the Commission to issue an order denying Conrail's Petition For Extension of Time to October 31, 1982, and directing Conrail to perform the required work on or before April 1, 1982.

Respectfully submitted,


Richard S. Herskovitz
Assistant Counsel
Pennsylvania Public Utility Commission

DATE: December 17, 1981

COMMONWEALTH OF PENNSYLVANIA

:

SS

COUNTY OF DAUPHIN

:

William W. Huff, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Answer in Opposition to Petition For Extension of Time are true and correct to the best of his knowledge, information and belief.

William W. Huff

William W. Huff

Sworn to and subscribed

before me this 11th day

OF December, 1981.

Carol J. Barnes

Notary Public
CAROL J. BARNES, NOTARY PUBLIC
HARRISBURG, DAUPHIN COUNTY
MY COMMISSION EXPIRES APR. 2, 1984
Member, Pennsylvania Association of Notaries

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by first class mail on the parties listed below:

Francis X. O'Connor, Esquire
P.O. Box 591
Main Street
Great Bend, Pennsylvania 18821

Herbert G. Zahn, Assistant Counsel
Pa. Department of Transportation
522 Transportation & Safety Building
Harrisburg, Pennsylvania 17120

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

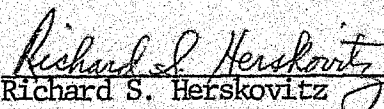
Robert Dean, Esquire
Solicitor, County of Susquehanna
Courthouse
Montrose, Pennsylvania 18801

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

George H. Kleinberger, General Attorney
Delaware & Hudson Railway Company
40 Beaver Street
Albany, New York 12207

Thomas J. Jones
Administrative Law Judge
436 Spruce Street
Scranton, Pennsylvania 18503


Richard S. Herskovitz
Assistant Counsel

December 23, 1981

Subject: Great Bend Township, Susquehanna County, Pennsylvania
O.H. Bridge 176.25, Eastern Region, Lehigh Division,
PUC No. C-79081404, LC 63-6201, WO #46568.
(File: Br. 176.25 - JAS)

Mr. Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120

Dear Mr. Rich:

In the Commission Order of Docket No. C-79081404, Conrail was ordered to monitor the condition of the subject structure.

Attached for your consideration are three copies of the Conrail Bridge Inspection Report dated November 18, 1981.

Very truly yours,

J. T. Sullivan
J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

Room 1200

(215) 596-3608

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SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION
DEC 29 11 06 AM '81

DOCUMENT
FOLDER

CONSOLIDATED RAIL CORPORATION

BRIDGE INSPECTION REPORT

DIV. LEHIGH BRANCH SCRANTON-M. LINE BRIDGE NO. 176-25
 LOCATION HALSTEAD O.H. ✓ U.G. _____
 TYPE OF BRIDGE T.G. NO. SPANS 1 SPAN NO. _____ LENGTH 88'
 NO. TRACKS 2 TRACK NO. _____
 WATERWAY _____ (TANGENT ✓)
 ROADWAY ✓ TRACK ALIGNMENT (CURVE _____)
 OTHER _____
 DATE LAST INSPECTION 11-23-21 DATE THIS INSPECTION 11-18-21
 NOTE: USE SEPARATE SHEET FOR EACH SPAN FOR SPECIAL CONDITIONS.

**DOCUMENT
FOLDER**

ITEM NO.	GENERAL	A B R			ITEM NO.	MASONRY (CONT.)	A B R			ITEM NO.	FLOOR SYSTEM (CONT.)	A B R		
		A	B	R			A	B	R			A	B	R
1	Paint () yr			✓	25	Previous Gunite				53	Fir Bm Top Flg			✓
2	Clearance Signs				26	Slab				54	Fir Bm Bot Flg			✓
3	Highway minimum clearance ()				27	Cleanliness				55	Fir Bm Conn			✓
4	PC Insignia					GIRDERS, BEAMS OR TRUSSES	A	B	R	56	Str web			
5	Load Limit Signs () Tons				28		Top Flg or Chord	✓			57	Str Top Flg		
6	Fire Protection				29	Bot Flg or Chord	✓			58	Str Bot Flg			
7	Action under trains				30	Bearing Stiffs	✓			59	Str Conn			
8	Approach track				31	Web or Diagns	✓			60	Steel Floor			
9	Track on bridge				32	Hangers	✓			61	Conc Floor			✓
					33	Counters				62	Wood Floor			
	STREAM CONDITIONS	A	B	R	34	Rivets *			✓	63	Waterproofing			
10	Paving through bridges				35	Pins				64	Ties			
11	Sheet piling protection				36	Cols or bents				65	Tie Sealing			
12	Scour (Distance top of rail to bed of stream _____)				37	Sole plates	✓			66	Timber or bar Spacer			
13	Rip rap				38	Masonry plates	✓			67	Guard rails			
14	Fender System				39	Shoes	✓			68	Deck hardware			
	MASONRY	A	B	R	40	Rollers	✓			69	Footwalks			
15	Abutment N or S	✓			41	Shims	✓			70	Handrails			
16	Abutment S or N		✓		42	Anchor bolts	✓			71	Drainage			
17	Backwalls	✓			43	Wood blocking				72	Cleanliness			
18	Wingwalls			✓	44	Cleanliness					TRESTLES	A	B	R
19	Timber back walls					STEEL BRACING	A	B	R	73	Bulkheads			
20	Piers				45	Top Lat				74	Piles			
21	Pedestals				46	Top Lat PIs				75	Sills			
22	Arches				47	Bot Lat				76	Posts			
23	Parapet Walls				48	Bot Lat PIs				77	Caps			
24	Pointing				49	Sway Frames				78	Corbels			
					50	Portals				79	Stringers			
					51	Towers				80	Cross Brace			
						FLOOR SYSTEM	A	B	R	81	Long Brace			
					52	Fir Bm Web	✓			82	Foundations			
										83	Welds			

ENCLOSURE

DEC 1 1921

CONSOLIDATED RAIL CORP.
 DIVISION
 NOV 20 1921

FOR IMMEDIATE ATTENTION: S.E. Wingwall CRACKED NEARLY ENTIRE LENGTH 9' DOWN FROM TOP AND TOP PORTION IS PUSHING IN APPROX. 14". IF THIS PORTION FALLS IN IT MAY OBSTRUCT E.R. TR. THIS HAS BEEN PUSHING 1/2" TO 1" A YEAR FOR THE LAST 4 YEARS. UPON FALLING IN IT MAY LOSE A PORTION OF OVER-HEAD HIGHWAY AS IT ACTS AS A RETAINING WALL FOR SHOULDER OF HIGHWAY SHOULD HAVE ATTENTION.

NOTE: *DESCRIBE UNDER REMARKS LOCATION OF LOOSE RIVETS. USE BACK OF THIS FORM FOR SKETCHES OR NOTES.

A - GOOD CONDITION
 B - NOT HAZARDOUS - NOTE ANY CHANGE NEXT INSPECTION.
 R - PUT ON REPAIR PROGRAM

SIGNED RE IVCS INSPECTOR
 REVIEWED _____ SUPVR. B. & S.
 NOTED _____ DIVN. ENGR.

1. <u>REPORT DATE:</u>	October 7, 1980	2. <u>BUREAU AGENDA NO.:</u>	OCT-80-OSA-138*
3. <u>BUREAU:</u>	Office of Special Assistants		
4. <u>SECTION(S):</u>		5. <u>PUBLIC MEETING DATE:</u>	October 16, 1980
6. <u>APPROVED BY:</u>			
Director:	W.T. Hawke (7-1827)		
Supervisor:			
7. <u>MONITOR:</u>	J. Noel		
8. <u>PERSON IN CHARGE:</u>			
9. <u>DOCKET NO:</u>	C-79081404		
10. (a) <u>CAPTION</u> (abbreviate if more than 4 lines)			
(b) Short summary of history & facts, documents & briefs			
(c) Recommendation			

(a) GREAT BEND TOWNSHIP V. CONSOLIDATED RAIL CORPORATION,
ET AL.

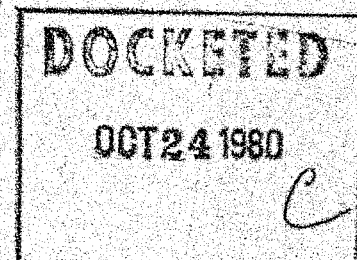
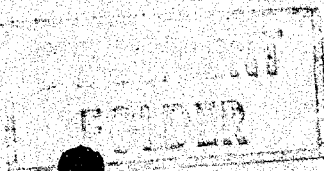
(b) Consolidated Rail Corporation filed a petition with the Commission on September 16, 1980, requesting amendment of Commission Order entered August 14, 1980 by substituting Delaware & Hudson Railway Company, or another party, with respect to Paragraph 2 of the August 14, 1980 Order which directed ConRail to prepare plans within three (3) months and complete the bridge repair work on or before July 1, 1981. ConRail states that the line of railroad underneath the bridge was sold and transferred to Delaware & Hudson on September 8, 1980.

(c) The Office of Special Assistants recommends: (i) that the Commission deny the petition of ConRail without prejudice, (ii) that the Commission order Delaware & Hudson to show cause why it should not be made a party to these proceedings and why it should not be determined to be a concerned party in these proceedings, (iii) that this matter be remanded for further hearings, (iv) that ConRail be ordered to serve a copy of its petition on Delaware & Hudson, and (v) that the Commission adopt the draft order.

mr

11. <u>MOTION BY:</u> Commissioner Johnson	Commissioner Chm. Shanaman - Yes
	Commissioner Taliaferro - Yes
<u>SECONDED:</u> Commissioner Cawley	Commissioner

CONTENT OF MOTION: Staff recommendation adopted.



1. <u>REPORT DATE:</u>	2. <u>BUREAU AGENDA NO.</u>
September 11, 1981	SEP-81-TR-340R
3. <u>BUREAU:</u>	Rail Transportation
4. <u>SECTION(S):</u>	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u>	September 25, 1981
Director: Peteritas 3-5941	Supervisor:
7. <u>MONITOR:</u>	Comm. Johnson
8. <u>PERSON IN CHARGE:</u>	Beemer 7-5189
9. <u>DOCKET NO:</u>	G-79081404

10. (a) CAPTION (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs
 (c) Recommendation

(a) GREAT BEND TOWNSHIP v. CONSOLIDATED RAIL CORPORATION, ET AL.

(b) By order adopted March 28, 1980, Conrail was directed to submit detailed plans for the reconstruction of the southwest wingwall of the bridge carrying Township Road 821 above the tracks of Conrail, in Great Bend Township, Susquehanna County.

On March 20, 1981, Conrail submitted the aforesaid plans; said plans providing for the wingwall to be reconstructed in accordance with the order. The cost of the work was estimated by Conrail at \$103,200.

On June 17, 1981, Commission Staff engineers held a meeting with Conrail to discuss less expensive methods of retaining the roadway embankment than that shown on Conrail's plans.

On August 13, 1981, Conrail submitted revised plans showing an alternate method of preventing the subsidence of the roadway embankment. The alternate method, identified as Stage I Construction on the plans, does not provide for the reconstruction of the wingwall as directed by

(Continued on next page)

11. MOTION BY: Commissioner Johnson	Commissioner Chm. Shanaman - Yes
SECONDED: Commissioner Cawley	Commissioner Taliaferro - Yes
	Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

**DOCUMENT
FOLDER**

DOCKETED
OCT 7 1981

H

the order of March 28, 1980. The cost of the alternate method is estimated by Conrail to be \$20,340. Copies of the plans were sent to Great Bend Township and Delaware & Hudson Railway Company. Neither party has advised that it objects to the repair as shown on the revised plans.

(c) The Bureau of Rail Transportation recommends that the Commission approve the alternate method of repair shown as Stage I Construction on Conrail's revised plans submitted August 13, 1981.

RAIL

ORIGINAL

JAN 11 9 02 AM '82

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PUBLIC UTILITY
COMMISSION

January 8, 1982

SUBJECT: Great Bend Township, Susquehanna County,
Pennsylvania - O.H. Bridge 176.25, Eastern
Region, Lehigh Division, PUC No. C-79081404,
LC 63-6201, WO# 46568 (File: Br. 176.25-JAS)

Mr. Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120

Dear Mr. Rich:

In the Commission Order of Docket No. C-79081404, Conrail was ordered to monitor the condition of the subject structure.

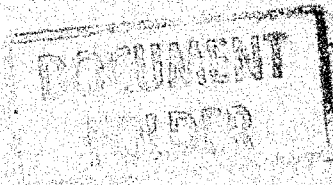
Attached for your consideration are three copies of the Conrail Bridge Inspection Report dated December 22, 1981.

Very truly yours,

J. T. Sullivan
J. T. Sullivan, P.E.
Chief Engineer
Design and Construction

12th Floor

(215) 596-3608



CONSOLIDATED RAIL CORPORATION

ORIGINAL

BRIDGE INSPECTION REPORT

DIV. Lehigh BRANCH Scranton - M. Line BRIDGE NO. 176.25

LOCATION Hollister O.H. _____ U.G. _____

TYPE OF BRIDGE T.G. NO. SPANS 1 SPAN NO. 9 TRACK NO. 02 LENGTH 88'

NO. TRACKS 2 DATE THIS INSPECTION 12/22/81

WATERWAY _____ (TANGENT) _____ (CURVE) _____

ROADWAY TRACK ALIGNMENT _____

OTHER _____

DATE LAST INSPECTION _____

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PUBLIC UTILITY
COMMISSION

NOTE: USE SEPARATE SHEET FOR EACH SPAN FOR SPECIAL CONDITIONS.

ITEM NO.	GENERAL	A B R			ITEM NO.	MASONRY (CONT.)	A B R			ITEM NO.	FLOOR SYSTEM (CONT.)	A B R		
		A	B	R			A	B	R			A	B	R
1	Paint () yr			✓	25	Previous Gunite				53	Fir Bm Top Flg	✓		
2	Clearance Signs				26	Slab				54	Fir Bm Bot Flg	✓		
3	Highway minimum clearance ()				27	Cleanliness				55	Fir Bm Conn	✓		
4	PC Insignia					GIROERS, BEAMS OR TRUSSES	A	B	R	56	Str web			
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19	Timber back walls			✓		STEEL BRACING	A	B	R	73	Bulkheads			
20	Piers				45	Top Lat				74	Piles			
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22	Arches				47	Bot Lat				76	Posts			
23	Parapet Walls				48	Bot Lat Pls				77	Caps			
24	Pointing				49	Sway Frames				78	Corbels			
					50	Portals				79	Stringers			
					51	Towers				80	Cross Brace			
						FLOOR SYSTEM	A	B	R	81	Long Brace			
					52	Flr Bm Web	✓			82	Foundations			
										83	Welds			

ENCASED

FOR IMMEDIATE ATTENTION: (18) S.E. Wingwall cracked nearly entire length 9' down from top portion is pushing in 14".

REMARKS: Should have Attention

JAN 12 1982

NOTE: *DESCRIBE UNDER REMARKS LOCATION OF LOOSE RIVETS. USE BACK OF THIS FORM FOR SKETCHES OR NOTES.

A - GOOD CONDITION
B - NOT HAZARDOUS - NOTE ANY CHANGE NEXT INSPECTION.
R - PUT ON REPAIR PROGRAM

SIGNED _____ INSPECTOR
REVIEWED _____ SUPVR. B. & B.
NOTED _____ DIVN. ENGR.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, Pa. 17120

January 25, 1982

IN REPLY PLEASE
REFER TO OUR FILE

C-79081404

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

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

To Whom It May Concern:

Enclosed is a copy of a proposed Initial Decision prepared by Administrative Law Judge Thomas J. Jones.

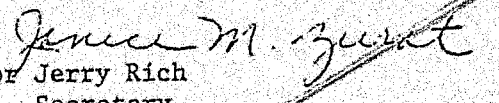
An original and nine (9) copies of exceptions to the decision, if any, must be filed in the Secretary's Office and a copy to each party of record within 15 days of the date of this letter.

Replies to the exceptions, if any, must be filed within 20 days of the date of this letter.

Exceptions should be clearly labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)". Do NOT label exceptions as a "Brief" or "Brief on Exceptions".

All timely filed exceptions and replies thereto will be attached to the decision for consideration at Public Meeting. Late filed exceptions and late filed replies will not be attached.

Very truly yours,


for Jerry Rich
Secretary

fao

Enclosures

Certified Mail

Receipt Requested

cc: ALJ Jones / Bigelow / Bureau of Rail Transportation / Mr. Bramson / OSA /
Chairman / Commissioners

See Similar letter list Attached.

Similar letters to:

Ward T. Williams, Chief Counsel
Pennsylvania Department of Transportation
521 Transportation and Safety Building
Harrisburg, Pennsylvania 17120

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

Robert Dean, Esquire
Solicitor, County of Susquehanna
Courthouse
Montrose, PA 18801

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

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

George H. Kelinberger, General Attorney
Delaware & Hudson Railway Company
40 Beaver Street
Albany, New York 12207

Richard Herskovitz, Assistant Counsel
Pa. P.U.C., Law Bureau
P. O. Box 3265
Harrisburg, PA 17120