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January 29, 2019

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: **Andrew Broden v. CSX Transportation, Inc., et al.**
Docket No. C-2018-3002326

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matter, please find the Prehearing Conference Memorandum of CSX Transportation, Inc. As evidenced by the attached Certificate of Service, a copy of the Memorandum is being served upon all parties of record.

Thank you.

Sincerely yours,



Benjamin C. Dunlap, Jr.

BCDjr/lp

Enclosure

cc: Administrative Law Judge Eranda Vero (via electronic mail)
All Parties of Record (as noted on Certificate of Service)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Andrew Broden,	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2018-3002326
	:	
CSX Transportation, Inc.;	:	<i>Electronically Filed</i>
City of Philadelphia; and	:	
Pennsylvania Department of	:	
Transportation,	:	
	:	
Respondents	:	

**PREHEARING CONFERENCE MEMORANDUM OF
CSX TRANSPORTATION, INC.**

In accordance with the January 17, 2019, Prehearing Conference Order issued by Administrative Law Judge Eranda Vero, in the above-referenced matter, CSX Transportation, Inc. (“CSXT”), offers the following in response to the specific requests contained therein:

1. It is requested that CSXT’s sole entry on the service list be as follows:

Benjamin C. Dunlap, Jr., Esquire
Nauman, Smith, Shissler & Hall, LLP
800 N. Third Street, 18th Floor
PO Box 840
Harrisburg, PA 17108-0840
Fax: 717-234-1925
Email: bdunlapjr@nssh.com

2. CSXT does not know if the matter can be settled. As a roadway feature, the guiderail should be the responsibility of either the City of Philadelphia (the “City”) or the Department of Transportation (“PennDOT”). Maintenance responsibility for the guiderail was

previously assigned to the Department of Highways (“Department”), PennDOT’s predecessor. Neither of those parties have been willing to accept responsibility to date.

3. CSXT will have written discovery requests and therefore requests a sixty-day period following the Prehearing Conference to conduct discovery.

4. CSXT is amenable to a hearing date in May 2019 as proposed by PennDOT, with written testimony to be provided by all parties in advance of the hearing.

5. CSXT intends to call the following as a witness and reserves the right to call additional or other witnesses as the case develops:

Derek S. Mihaly, P.E.
Project Manager II
CSX Transportation, Inc.
4 Neshaminy Interplex
Trevose, PA 19053
Phone: (215) 218-3391

Mr. Mihaly will offer testimony in response to the Questions and Procedures of the Commission and other matters pertinent to CSXT’s case.

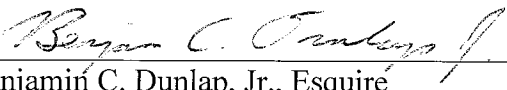
6. The sole issue in this case is which party should be responsible for the current repairs and future maintenance of the roadway guiderail. CSXT has located the Commission Order dated February 10, 1969, in the proceeding docketed to A. 94401, attached hereto as Exhibit A, which assigned maintenance responsibility for the guiderail to the Department in Ordering Paragraph 27 on pages 17-18. The Order also refers on page 4 to the City accepting such maintenance responsibilities as outlined in an agreement between it and the Department dated July 29, 1968, which is Exhibit 5 in that roadway improvement proceeding involving the subject crossing. CSXT is attempting to locate that Exhibit. Based upon that Order, CSXT’s position is that PennDOT, or possibly the City, should be responsible for the guiderail repairs and future maintenance.

As CXST understands the City's position, it thinks that CSXT should be responsible for the guiderails due to the concrete encasements that CSXT constructed around the existing steel column bents in 2010 to reinforcement their structural integrity. The City has stated that the protective barriers were constructed within "the required side clearance of our roadway creating a safety hazard to vehicular traffic." However, the concrete reinforcement encasements were constructed between the sidewalk and the guiderail, which was already in existence. Therefore, the guiderail did not encroach on any operating roadway right-of-way.

Respectfully submitted,

NAUMAN, SMITH, SHISSLER & HALL, LLP

Date: January 29, 2019

By: 
Benjamin C. Dunlap, Jr., Esquire
Nauman Smith Shissler & Hall LLP
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PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application Docket No. A. 94401

In re: Application of DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH OF PENNSYLVANIA - For approval of the alteration of the crossing where State Highway Route 67321 (Welsh Road) crosses below the grade of the track of Reading Company, located in the city of Philadelphia, and the allocation of the costs and expenses incident thereto.

No C-I
in AFE

ORDER

(withdrawing)
Flagman's inst.
Proposed reconstruction
of some structure
in the center
is cancelled
3/11/52

BY THE COMMISSION, FEBRUARY 10, 1969:

State Highway Route 67321 in the city of Philadelphia extends in a general northeasterly direction, a distance of 4.675 miles from an intersection with State Highway Route 67294 (Academy Road) to the line dividing the counties of Philadelphia and Montgomery.

Department of Highways of the Commonwealth of Pennsylvania proposes to reconstruct a portion of Section 2 of State Highway Route 67321 (known locally as Welsh Road) located between its intersection with the northwesterly terminus of State Highway Route 67297 (Grant Street) and Alton Street.

At or about State Highway Survey Station 158+98, approximately 1600 feet northwest of the intersection of State Highway Route 67321 (Welsh Road) and Bustleton Avenue (State Highway Route 67322), Welsh Road crosses below the grade of two tracks of the New York Short Line of Reading Company.

In this proceeding, the department seeks Commission approval of the alteration of the above-mentioned crossing and the allocation of the costs and expenses incident thereto.

The average daily volume of traffic on Welsh Road at the crossing, below grade, consists of 10,000 motor vehicles and it is anticipated that in 1987 this average will increase to 38,000 motor vehicles. Reading Company operates 18 freight train movements daily over its tracks at the crossing at a speed not in excess of 45 miles an hour.

EXHIBIT A

The bridge carrying the tracks of Reading Company over and above Welsh Road was built in 1905. The bridge is a three-span through-plate girder structure supported on concrete abutments and steel column bents and provides a vertical clearance of about 13 feet 9 inches between the underside of the structure and roadway surface and provides an opening for vehicular traffic between the near faces of the steel bent piers of about 49 feet.

Drawings prepared by the applicant and admitted at the hearing held October 30, 1968, as Department of Highways' Exhibit No. 1, are seven sheets authorizing the condemnation of right of way for the project. These drawings show that all property required for the construction of the improvement has been condemned except the area between Stations 156+00 and 166+00, the portion of the project to which we are limiting our jurisdiction as a railroad-highway crossing project.

The department's Exhibit No. 2 is a set of 11 sheets of drawings for the construction of the proposed project. The plan shows that it is proposed to reconstruct and widen the existing paved approaches and roadway through the underpass from 24 feet to 48 feet. **The immediate approaches to and roadway under the structure will be paved between concrete curbs and standard steel guard rail will be installed to protect the existing steel bent piers.** The area between the curbs and abutments will be paved with plain cement concrete to provide sidewalks about 16 feet in width. A vertical clearance of 14 feet will be provided between the underside of the bridge and the roadway surface. The plan shows that it will be necessary to relocate city storm and sanitary sewers to permit construction of the project.

The cost of constructing the portion of the improvement within the area of the Commission's jurisdiction is estimated by the department at \$343,700 and is summarized as follows:

	<u>City Portion</u>	<u>State Portion</u>	<u>Total</u>
Grading		\$108,370	\$108,370
Paving		66,355	66,355
Drainage		55,075	55,075
Sidewalks		1,719	1,719
Curbs	\$5,073	4,826	9,899
Guard rail		2,390	2,390
City water mains	40,538		40,538
Miscellaneous	265	5,056	5,321
Lump sum and roadside development		22,833	22,833
Engineering and contingencies	<u>4,500</u>	<u>26,700</u>	<u>31,200</u>
Total	\$50,376	\$293,324	\$343,700

Funds used to defray the cost of the project will be part State and part City.

The department, at its initial cost and expense, will construct the entire crossing project in accordance with its Exhibit No. 2 and estimated to cost \$343,700. The department has entered into an agreement with and agrees to pay Philadelphia Gas Works 50 per cent of its costs incurred in relocating and adjusting its facilities at the crossing and requests that it be permitted to pay these costs without Commission certification. The applicant requests that Philadelphia Electric Company and The Bell Telephone Company of Pennsylvania be required, at their sole cost and expense, to furnish all material and do all work required to relocate their respective facilities located in public right of way. The department agrees, under an agreement with Philadelphia Electric Company, to pay the costs incurred by the company in relocating its transmission tower presently located on private property in the northwesterly sector of the crossing.

Department of Highways (on behalf of the Commonwealth of Pennsylvania) and the city of Philadelphia have entered into an agreement, dated July 29, 1968, and admitted as Department of Highways' Exhibit No. 5. This agreement, inter alia, provides for certain specific contributions by the city to the total construction cost for the installation, alteration, relocation, replacement, changing, and adjusting city owned utilities, including the city operated water facilities together with the

construction of curbs and sidewalks on certain highways in the north-westerly section of the city which includes the portion of State Highway Route 67321 involved in this proceeding.

The department, upon completion of the project, will maintain the roadway between curbs. The department requests that the city be required to maintain the curbs, sidewalks, and all its city owned and operated facilities.

The department proposes to construct the project in three stages so as to maintain highway traffic during construction. However, in event temporary routes are required, the department will establish and maintain the detours over state highways.

It will not be necessary for this Commission to lay out and establish any new highways or to vacate any existing highways to permit the construction of the project. However, it will be necessary for us to appropriate certain properties for the purpose of the improvement. Descriptions of these properties were prepared by the applicant and admitted as Department of Highways' Exhibit No. 4. The department agrees to assume the initial cost and be made responsible for the payment of property damages, exclusive of railroad company operating right of way, which are estimated at \$31,500. The department suggests that the carrier release damages for any of its operating right of way taken.

The city of Philadelphia has no objection to the construction of the project as proposed by the department and will accept such construction and maintenance responsibilities as outlined in the City-State agreement executed on July 29, 1968.

Reading Company has no objection to the construction of the project in accordance with the department's plans. The company will not be required to perform any work to permit construction of the improvement. It will, however, be necessary for the carrier to provide flagmen, watchmen, and construction inspectors to protect its facilities and operations during construction. The company will provide these services

for which it requests reimbursement as well as for its expenditures for preliminary engineering.

The Bell Telephone Company of Pennsylvania will be required to lower an underground duct line running from Station 156+88 to a Philadelphia Electric Company pole on the north side of the highway and to transfer a telephone cable running along the north side of the highway between Stations 160+50 and 163+10 to relocated poles of the electric company. These items of work, together with recasting a manhole on the east side of the crossing, will cost an estimated \$300. These facilities are on public right of way and the company requests that it be reimbursed for these costs. The telephone company proposes to install additional ducts extending from the manhole located at Station 158+55 to Station 165+50. This work will cost an estimated \$3,000 and, since it will be a plant betterment, the company will bear this cost.

Philadelphia Gas Works, Division of United Gas Improvement Corporation, will be required to relocate 780 feet of a 12-inch high pressure gas main due to the change in the gradient of the highway. The gas main extends in the north side of the existing highway and the cost of relocating the pipe is estimated at \$27,000. The gas company requests that it be reimbursed by the Commonwealth in accordance with its agreement with the Commonwealth of Pennsylvania.

The cost of relocating the Philadelphia Electric Company's tower supporting 66,000-volt and 132,000-volt wires, previously mentioned, is estimated at \$35,020. It will cost an estimated \$28,000 for the electric company to relocate aerial wire lines extending along the northside of and in the right of way of State Highway Route 67321 crossing both over and under the bridge carrying the tracks of the railroad company. The company avers that the construction of the project will require it to rearrange distribution facilities on the north side of Grant Avenue east of the area of the Commission's jurisdiction. This work, it estimates, will cost \$25,000.

Philadelphia Electric Company requests that it be reimbursed for all costs incurred in relocating and adjusting its facilities presently located on public right of way including the costs of the facilities beyond our jurisdiction. It is the contention of the company that the relocations will not benefit the company or its customers and therefore it should not be required to pay any costs.

Upon full consideration of the matters and things involved, we find and determine that the alteration of the above-described crossing in the city of Philadelphia is necessary and proper for the service, accommodation, convenience, or safety of the public, THEREFORE,

IT IS ORDERED:

1. That the application be and is hereby approved.
2. That the crossing in the city of Philadelphia, approximately 1600 feet northwest of the intersection of State Highway Route 67322 (Bustleton Avenue) where State Highway Route 67321 (Welsh Road) crosses below the grade of two tracks of Reading Company, be altered in accordance with the plan, consisting of seven sheets, admitted at the hearing held October 30, 1968, as Department of Highways' Exhibit No. 1, which plan is attached hereto, made part hereof, and is hereby approved.
3. That the roadway construction plan consisting of 11 sheets, providing for the construction of the project admitted at the hearing held October 30, 1968, as Department of Highways' Exhibit No. 2 be and is hereby approved, except insofar as it may relate to the division of work, the deletion of work, or to the allocation of the costs and expenses incident to the construction and maintenance of the project.

4. That in accord with the provisions of Section 409 of the Public Utility Law 1937, P.L. 1053, as amended and supplemented, 66 P.S. 1179, the following described properties be and are hereby severally taken and appropriated for the purpose of the construction of the improvement in accordance with the approved plan attached hereto and that numbered paragraph 4 of this order, together with a copy of the said plan, shall be recorded by the Recorder of Deeds of Philadelphia County and be indexed under the name or names of the record owners of said properties, grantor(s), and to the Commonwealth of Pennsylvania, grantee, at the sole cost and expense of the Department of Highways, applicant herein.

1. New York Short Line - Reading Company, record owner
Reading Terminal
Philadelphia, Pennsylvania 19107

ALL THOSE CERTAIN tracts of land situated in the city of Philadelphia, bounded and described as follows, to wit:

TRACT NO. 1

Beginning at a point on the northerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the northerly legal right-of-way line of said route and the westerly required limit of slope line distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line of said route at or about Station 158+60 thereof; thence in a northeasterly direction along said slope line to a point distant seventy-seven and two hundred eight thousandths (77.208) feet northeasterly and measured at right angles from the construction center line at or about Station 158+40 thereof; thence in a southeasterly direction along said slope line to a point distant seventy-six and two hundred five thousandths (76.205) feet northeasterly and measured at right angles from the construction center line at or about Station 157+50 thereof; thence in a southeasterly direction along said slope line to a point distant sixty-eight and six hundred eighty-five thousandths (68.685) feet northeasterly and measured at right angles from the construction center line at or about Station 157+00 thereof; thence in a southeasterly direction along said slope line to a point and intersection with the southerly property line of Reading Company distant fifty-six and four hundred seventy-seven thousandths (56.477) feet northeasterly and measured at right angles from the construction center line at or about Station 156+04.57 thereof; thence in a southwesterly direction along said company's property line to a point and intersection with the northerly legal

right-of-way line of said route distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 156+05.61 thereof; thence in a northwesterly direction along said legal right-of-way line to a point and place of beginning and containing one hundred sixteen thousandths (0.116) of an acre of land, more or less.

TRACT NO. 2

Beginning at a point on the southerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the southerly legal right-of-way line of said route and the southerly required limit of slope line distant fifty and one hundred thirty-five thousandths (50.135) feet southwesterly and measured at right angles from the construction center line of said route at or about Station 159+37 thereof; thence in a westerly direction along said slope line to a point and intersection with the easterly easement line of Philadelphia Electric Company distant seventy-one and one hundred seventy-seven thousandths (71.177) feet southwesterly and measured at right angles from the construction center line at or about Station 159+97 thereof; thence in a northeasterly direction along said company's easement line to a point and intersection with the southerly legal right-of-way line of said route distant fifty and one hundred thirty-five thousandths (50.135) feet southwesterly and measured at right angles from the construction center line at or about Station 159+90.9 thereof; thence in a southeasterly direction along said legal right-of-way line to a point and place of beginning and containing thirteen thousandths (0.013) of an acre of land, more or less.

TRACT NO. 3

Beginning at a point on the northerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the northerly legal right-of-way line of said route and the easterly easement line of Philadelphia Electric Company distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 159+47.20 thereof; thence in a northeasterly direction along said company's easement line to a point and intersection with the northerly required limit of slope line distant sixty-five and three hundredths (65.03) feet northeasterly and measured at right angles from the construction center line at or about Station 159+42.38 thereof; thence in a southeasterly direction along said required easement line to a point and intersection with the northerly legal right-of-way line of said route distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 159+30 thereof; thence in a northwesterly direction along said legal right-of-way line to a point and place of beginning and containing three thousandths (0.003) of an acre of land, more or less.

The above three tracts of land containing one hundred thirty-two thousandths (0.132) of an acre of land, more or less, are portions of real estate which became legally vested in New York Short Line - Reading Company by deed of W. Huss dated November 28, 1906 and recorded December 14, 1906 in Deed Book WSV 763, page 328, in City Hall at Philadelphia.

2. Krewstown Properties Inc., record owner
1616 Walnut Street
Philadelphia, Pennsylvania 19103

ALL THAT CERTAIN tract of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in city of Philadelphia, bounded and described as follows, to wit:

Beginning at a point on the southerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the southerly legal right-of-way line of said route and the southerly required limit of slope line distant fifty and one hundred thirty-five thousandths (50.135) feet southwesterly and measured at right angles from the construction center line of said route at or about Station 165+17 thereof; thence in a southeasterly direction along said legal right-of-way line to a point and intersection with the westerly easement line of Philadelphia Electric Company distant fifty and one hundred thirty-five (50.135) feet southwesterly and measured at right angles from the construction center line at or about Station 160+69.28 thereof; thence in a southwesterly direction along said company's easement line to a point and intersection with the southerly required limit of slope line distant ninety-three and five hundred eighty-nine thousandths (93.589) feet southwesterly and measured at right angles from the construction center line at or about Station 160+83.36 thereof; thence in a northwesterly direction along said required slope line to a point distant ninety-five and seven hundred fifty-eight thousandths (95.758) feet southwesterly and measured at right angles from the construction center line at or about Station 161+00 thereof; thence in a northwesterly direction along said required limit of slope line to a point distant eighty-seven and seven hundred thirty-six thousandths (87.736) feet southwesterly and measured at right angles from the construction center line at or about Station 163+00 thereof; thence in a northwesterly direction along said required slope line to a point distant eighty-two and seven hundred twenty-three thousandths (82.723) feet southwesterly and measured at right angles from the construction center line at or about Station 164+00 thereof; thence in a northwesterly direction along said required limit of slope line to a point and place of beginning and containing three hundred thirty eight thousandths (0.338) of an acre of land, more or less.

The above tract of land is a portion of real estate which became legally vested in Krewstown Properties Inc. by deed of Leo Posel dated August 15, 1960 and recorded December 2, 1960 in Deed Book CAB 1516, page 581, in City Hall at Philadelphia.

3. Philadelphia Electric Company, record owner
1000 Chestnut Street
Philadelphia, Pennsylvania 19103

ALL THOSE CERTAIN tracts of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in city of Philadelphia, bounded and described as follows, to wit:

TRACT NO. 1

Beginning at a point on the northerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the northerly legal right-of-way line of said route and the westerly easement line of Philadelphia Electric Company distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 160+36.79 thereof; thence in a northeasterly direction along said company's easement line to a point and intersection with the northerly required limit of slope line for said route distant ninety-eight and five hundred eighty-six thousandths (98.586) feet northeasterly and measured at right angles from the construction center line at or about Station 160+21.1 thereof; thence in a southeasterly direction along said required slope line to a point distant ninety-six and two hundred fifty-nine thousandths (96.259) feet northeasterly and measured at right angles from the construction center line at or about Station 160+00 thereof; thence in a southeasterly direction along said required slope line to a point distant seventy-four and twenty hundredths (74.20) feet northeasterly and measured at right angles from the construction center line at or about Station 159+50 thereof; thence in a southeasterly direction along said required slope line to a point and intersection with the easterly easement line of Philadelphia Electric Company distant sixty-five and three hundredths (65.03) feet northeasterly and measured at right angles from the construction center line at or about Station 159+42.38 thereof; thence in a southwesterly direction along said company's easement line to a point and intersection with the northerly legal right-of-way line of said route distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 159+47.20 thereof; thence in a northwesterly direction along said legal right-of-way line to a point and place of beginning and containing seventy-one thousandths (0.071) of an acre of land, more or less.

TRACT NO. 2

Beginning at a point on the southerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the southerly legal right-of-way line of said route and the westerly easement line of Philadelphia Electric Company distant fifty and one hundred thirty-five thousandths (50.135) feet southwesterly and measured at right angles from the construction center line of said route at or about Station 160+69.28 thereof; thence in a southeasterly direction along said legal right-of-way line to a point and intersection with the easterly easement line of Philadelphia Electric Company distant fifty and one hundred thirty-five thousandths (50.135) feet southwesterly and measured at right angles from the construction center line at or about

Station 159+90.9 thereof; thence in a southwesterly direction along said company's easement line to a point and intersection with the southerly required limit of slope line of said route distant seventy-one and one hundred seventy-seven thousandths (71.177) feet southwesterly and measured at right angles from the construction center line at or about Station 159+97 thereof; thence in a westerly direction along said required slope line to a point distant eighty-nine and twenty-four hundredths (89.24) feet southwesterly and measured at right angles from the construction center line at or about Station 160+50 thereof; thence in a northwesterly direction along said required slope line to a point and intersection with the westerly easement line of Philadelphia Electric Company distant ninety-three and five hundred eighty-nine thousandths (93.589) feet southwesterly and measured at right angles from the construction center line at or about Station 160+83.36 thereof; thence in a northeasterly direction along said company's easement line to a point and place of beginning and containing sixty-two thousandths (0.062) of an acre of land, more or less.

The above two tracts of land containing one hundred thirty-three thousandths (0.133) of an acre of land, more or less, are portions of real estate which became legally vested in Philadelphia Electric Company by deed of H. C. Forbes dated August 19, 1925 and recorded August 19, 1925 in Deed Book JMH 2186, page 128; by deed of W. A. Klaus dated August 19, 1925 and recorded August 19, 1925 in Deed Book JMH 2159, page 303; by deed of E. N. Remington dated August 19, 1925 and recorded August 19, 1925 in Deed Book JMH 2186, page 125; by deed of J. F. Shaw dated August 19, 1925 and recorded August 19, 1925 in Deed Book JMH 2187, page 158; and by deed of J. F. Shaw dated August 19, 1925 and recorded August 19, 1925 in Deed Book JMH 2159, page 285, all in City Hall at Philadelphia.

4. David H. Sinclair and Mae G., his wife,
record owners
1527 Grant Avenue
Philadelphia, Pennsylvania 19115

ALL THAT CERTAIN tract of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in city of Philadelphia, bounded and described as follows, to wit:

Beginning at a point on the northerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the northerly legal right-of-way line of said route and the westerly property line distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line of said route at or about Station 161+46.43 thereof; thence in a northeasterly direction along said property line to a point and intersection with the northerly required limit of slope line for said route distant one hundred five and seven hundred ninety-one thousandths (105.791) feet northeasterly and measured at right angles from the construction center line at or about Station 161+37.35 thereof; thence in a southeasterly direction along said required slope line to a point distant one hundred seven and two hundred eighty-nine thousandths (107.289) feet northeasterly and measured at right angles from the construction center line at or about Station 161+00 thereof; thence in a southeasterly direction along said required slope line to a point and intersection with the

easterly property line distant ninety-eight and five hundred eighty-six thousandths (98.586) feet northeasterly and measured at right angles from the construction center line at or about Station 160+21.10 thereof; thence in a southwesterly direction along said property line to a point and intersection with the northerly legal right-of-way line of said route distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 160+36.79 thereof; thence in a northwesterly direction along said legal right-of-way line to a point and place of beginning and containing one hundred forty thousandths (0.140) of an acre of land, more or less.

The above tract of land is a portion of real estate which became legally vested in David H. Sinclair and Mae C., his wife, by deed of H. E. Wenker dated July 12, 1954 and recorded July 15, 1954 in Deed Book MLS 714, page 23, in City Hall at Philadelphia.

5. Dellmont A. Pooley, Jr. and Rita Mae,
record owners
1505 Grant Avenue
Philadelphia, Pennsylvania 19115

ALL THAT CERTAIN tract of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in city of Philadelphia, bounded and described as follows, to wit:

Beginning at a point on the northerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the northerly required right-of-way line of said route and the westerly property line distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 164+50.85 thereof; thence in a northeasterly direction along said property line to a point and intersection with the northerly required limit of slope line distant seventy-four and three hundred eighty-six thousandths (74.386) feet northeasterly and measured at right angles from the construction center line at or about Station 164+46.90 thereof; thence in a southeasterly direction along said required slope line to a point distant eighty-three and two hundred twenty-four (83.224) feet northeasterly and measured at right angles from the construction center line at or about Station 163+50 thereof; thence in a southeasterly direction along said required slope line to a point distant ninety-five and two hundred fifty-six thousandths (95.256) feet northeasterly and measured at right angles from the construction center line at or about Station 163+00 thereof; thence in a southeasterly direction along said required slope line to a point distant one hundred three and two hundred seventy-eight thousandths (103.278) feet northeasterly and measured at right angles from the construction center line at or about Station 162+00 thereof; thence in a southeasterly direction along said required slope line to a point and intersection with the easterly property line distant one hundred five and seventy-nine hundredths (105.79) feet northeasterly and measured at right angles from the construction center line at or about Station 161+37.35 thereof; thence in a southwesterly direction along said property line to a point and intersection with the northerly legal right-of-way line of said route distant fifty and one hundred

thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 161+46.43 thereof; thence in a northwesterly direction along said legal right-of-way line to a point and place of beginning and containing two hundred ninety-four thousandths (0.294) of an acre of land, more or less.

The above tract of land is a portion of real estate which became legally vested in Dellmont A. Pooley, Jr. and Rita Mae by deed of H. E. Wenker dated September 25, 1953 and recorded October 1, 1953 in Deed Book MLS 503, page 471, in City Hall at Philadelphia.

6. Magnolia Construction Corporation, record owner
2700 Knorr Street
Philadelphia, Pennsylvania 19149

ALL THAT CERTAIN tract of land, together with all buildings, structures or parts thereof of any description or use whatsoever, erected or located thereon, situated in city of Philadelphia, bounded and described as follows, to wit:

Beginning at a point on the northerly side of Legislative Route 67321 (Welsh Road), said point being at the intersection of the northerly legal right-of-way line of said route, the easterly legal right-of-way line of North East Avenue and the northerly required slope line of said route distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 165+60.44 thereof; thence in a northeasterly direction along said required slope line to a point distant sixty-five and one hundred seventy-six thousandths (65.176) feet northeasterly and measured at right angles from the construction center line at or about Station 165+50 thereof; thence in a southeasterly direction along said required slope line to a point distant seventy-one and one hundred ninety-two thousandths (71.192) feet northeasterly and measured at right angles from the construction center line at or about Station 165+00 thereof; thence in a southeasterly direction along said required slope line to a point distant seventy-four and twenty hundredths (74.20) feet northeasterly and measured at right angles from the construction center line at or about Station 164+50 thereof; thence in a southeasterly direction along said required slope line to a point and intersection with the easterly property line distant seventy-four and three hundred eighty-six thousandths (74.386) feet northeasterly and measured at right angles from the construction center line at or about Station 164+46.90 thereof; thence in a southwesterly direction along said property line to a point and intersection with the northerly legal right-of-way line of said route distant fifty and one hundred thirty-five thousandths (50.135) feet northeasterly and measured at right angles from the construction center line at or about Station 164+50.85 thereof; thence in a northwesterly direction along said legal right-of-way line to a point and place of beginning and containing forty-nine thousandths (0.049) of an acre of land, more or less.

The above tract of land is a portion of real estate which became legally vested in Magnolia Construction Corporation by deed of H. E. Wenker dated March 29, 1954 and recorded April 1, 1954 in Deed Book MLS 633, page 437; and by deed of C. Lazrow dated March 29, 1954 and recorded June 4, 1954 in Deed Book MLS 680, page 507, all in City Hall at Philadelphia.

5. That Reading Company furnish any watchmen and flagmen required to protect its facilities and operations during the time work is in progress under and adjacent to its tracks to furnish any necessary construction inspectors to observe the progress of work and to furnish any required engineering services.

6. That The Bell Telephone Company of Pennsylvania furnish all material and do all work required to make any temporary and permanent alterations, relocations or removals of its aerial and underground facilities required to permit the construction of the crossing project in accordance with the approved plans.

7. That Philadelphia Gas Works furnish all material and do all work necessary to relocate its 12-inch high pressure gas main required to permit the construction of the crossing project in accordance with the approved plans.

8. That Philadelphia Electric Company furnish all material and do all work required to make any temporary or permanent alterations, relocations, or removal of its aerial and underground facilities located within public right of way and required to permit the construction of the crossing project in accordance with the approved plans.

9. That any relocation of, changes in, or removal of any adjacent structures, equipment, or other facilities of any public utility, other than Reading Company, The Bell Telephone Company of Pennsylvania, Philadelphia Gas Works, and Philadelphia Electric Company as hereinabove provided, located within the limits of any highway within the limits of this Commission's jurisdiction which may be required as incidental to the execution of the improvement, be made by said public utility, at its sole cost and expense, and in such manner as will not interfere with the construction of the project.

10. That any relocation of, changes in, or removal of any adjacent structures, equipment, or other facilities of any public utility, other than Reading Company, located beyond the limits of any highway within the limits of this Commission's jurisdiction which may be required as

incidental to the execution of the improvement, be made by said public utility in such manner as will not interfere with the construction of the project.

11. That Department of Highways, at its initial cost and expense, furnish all material and do all work necessary to effect the vacation, relocation, removal, or demolition of any nonutility structures, including occupied dwellings, located upon property required for the construction of the project in accordance with this order.

12. That Department of Highways, at its initial cost and expense, furnish all material and do all work necessary to establish and maintain any detours that may be required to accommodate properly highway traffic during the time the project is being constructed.

13. That Department of Highways, at its initial cost and expense, furnish all material and do all work necessary to complete the remainder of the railroad-highway crossing project in accordance with the approved plans, including the construction of the items of work listed on the City-Commonwealth agreement dated July 29, 1968 as shown on the approved plans.

14. That the crossing project be completed in a manner satisfactory to this Commission on or before March 1, 1972, and that on or before said date The Bell Telephone Company of Pennsylvania, Philadelphia Gas Works, Philadelphia Electric Company, and Reading Company each report to this Commission the date of actual completion of its respective portion and, at the earliest practicable time subsequent to said date of completion, submit to this Commission a detailed statement of the actual cost incurred by it in furnishing material and in performing work in compliance with this order.

15. That Department of Highways cooperate with Reading Company so that in the construction of the railroad-highway crossing project the operation of the facilities of the company will not be endangered or unnecessarily impeded.

16. That during the time the project is being constructed under and adjacent to its tracks, Reading Company cooperate with Department of Highways and conduct its operations in the vicinity of the crossing in a safe manner and under control.

17. That Reading Company pay any money to which it may be entitled as compensation for damages for any of its operating right-of-way property taken, injured, or destroyed by reason of the construction of the crossing project in accordance with this order.

18. That Department of Highways, at its initial cost and expense, pay all compensation for damages due to the owners, exclusive of Reading Company, as hereinabove provided, for property taken, injured, or destroyed by reason of the construction of the crossing project in accordance with this order.

19. That Department of Highways pay Reading Company a sum or sums of money equal to the actual cost of watchman and flagman services rendered by said company to protect its operations and facilities contingent solely upon the work and operations of Department of Highways and/or its contractors during the time work is in progress under and adjacent to its tracks and to pay the company a sum or sums of money equal to the actual cost of engineering and of inspectors provided to observe the progress of work.

20. That exclusive of any betterment to its facilities, Department of Highways pay The Bell Telephone Company of Pennsylvania, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to 50 per cent of the actual cost of material furnished and work performed by said company in compliance with numbered paragraph 6 of this order.

21. That exclusive of any betterment to its facilities, Department of Highways pay Philadelphia Gas Works a sum or sums of money equal to 50 per cent of the actual cost of material furnished and work performed by said company in compliance with numbered paragraph 7 of this order.

22. That exclusive of any betterment to its facilities, Department of Highways pay Philadelphia Electric Company, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to 50 per cent of the actual cost of material furnished and work performed by said company in compliance with numbered paragraph 8 of this order.

23. That city of Philadelphia pay Department of Highways a sum or sums of money equal to the actual amount due the department under the terms of the agreement, dated July 29, 1968, pertaining to the construction of the improvement.

24. That upon completion of the construction of the railroad-highway crossing project and its opening to public use, each noncarrier utility, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its respective facilities within the limits of the project.

25. That upon completion of the construction of the railroad-highway crossing project and its opening to public use, Reading Company, at its sole cost and expense, furnish all material and do all work required thereafter to maintain its tracks and other facilities located upon its right of way.

26. That upon completion of the construction of the project and its opening to public use, city of Philadelphia, at its sole cost and expense, furnish all material and do all work required to maintain any of its facilities altered or relocated to permit the construction of the improvement, to maintain all curbs and sidewalks constructed in accordance with this order and to furnish electrical power for lighting any street lighting facilities installed on the approaches to the crossing.

27. That upon completion of the construction of the railroad-highway crossing project and its opening to public use Department of Highways, at its sole cost and expense, furnish all material and do all

work required to maintain the roadway between curbs and to maintain the steel guard rail installed to protect the steel bent piers.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) George I. Bloom

Chairman

ATTEST:

/s/ J. W. Reinhard

Secretary

(SEAL)

CERTIFICATE OF SERVICE

I, Linda D. Plantz, an employee of the law firm of Nauman, Smith, Shissler & Hall, LLP, hereby certify that I have served a true and correct copy of the foregoing Prehearing Conference Memorandum to the following of record via electronic mail, as noted, and First Class Mail as follows:

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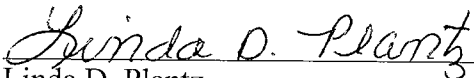
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Date: January 29, 2019


Linda D. Plantz