

RESPONDENT

VS

PENN CENTRAL TRANSPORTATION COMPANY, DEPARTMENT OF TRANSPORTATION OF THE COMMONWEALTH OF PENNSYLVANIA, COUNTY OF DELAWARE and SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY

SUBJECT

Alleging that hazardous and inadequate conditions exist at the crossings of Folcroft Avenue and Primos Avenue above the grade of the tracks of Penn Central Transportation Company, in the Borough of Folcroft, Delaware County, and requesting that respondent railroad company undertake immediate repairs to the structures, to determine and post load limits, and take steps necessary to replace the inadequate bridges with modern structures.

COMPLAINT FILED

DATE

1-16-74

BY

John H. Clarke, Jr., Esq.

ANSWER FILED

1-28-74 (Count. of Delaware) Francis P. Desmond, Esq.  
 2-7-74 (Penn Cent. Transp. Co.) Lewin W. Wickes, Comm. Counsel  
 2-19-74 (Pa. Dept. of Transp.) Lionel B. Gummit, Asst. Atty. Gen.

DATE	DESCRIPTION
1-29-74	Motion of SEPTA to strike or dismiss the complaint, or in the alternative, for amplification, together with certificate of service, filed.
3/7/74	Parties forwarded list of questions upon which testimony will be adduced at the hearing to be held April 24, 1974 at Media.
4-29-74	Proof of publication, filed.
4-29-74	Proof of service of copy of complaint, filed.
1-9-75	Parties of record forwarded list of questions upon which testimony will be adduced at the hearing to be held February 25, 1975.
2-24-75	Affidavit of service of copy of complaint, filed.
9-23-76	Petition on behalf of Pa. Dept. of Transportation for an extension of time within which to comply with the Commission's order of May 22, 1975, filed.
10-7-76	Answer of complainant to the petition of Pa. Dept. of Transportation for an extension of time within which to comply with the Commission's order of May 22, 1975, filed.
3-16-77	The Commission at its public meeting of December 1, 1976 directed that hearing be set on Pa. Dept. of Transportation's petition for an extension of time of two years in which to prepare and submit detailed construction plans for the reconstruction of the crossing involved and further directed that prior to said hearing, appropriate interrogatories be issued and served on all parties of record for answer at the hearing and that Consolidated Rail Corp. and National Railroad Passenger Corp. be added as parties respondent in this proceeding.
3-28-77	Parties in interest forwarded list of questions upon which testimony will be adduced at the hearing to be held May 10, 1977.
9-8-77	Letter dated September 6, 1977 from David E. Auerbach with regard to the recent order of the Commission concerning the Primos Avenue Bridge, filed.
11-9-77	Letter dated November 8, 1977 on behalf of Phila. Suburban Water Co. requesting the Commission to advise Pa. Dept. of Transportation that the Company will cooperate in supplying the necessary information concerning its existing facilities and its proposed 18-inch main in connection with PennDOT's preparation of plans as ordered by the Commission, filed.
Hearing Date	Place   Examiner or Comr.   Report Filed   Testimony Filed

Alleging that hazardous and inadequate conditions exist at the crossings of Folcroft Avenue and Primos Avenue above the grade of the tracks of Penn. Central Transportation Company, in the Borough of Folcroft, Delaware County, and requesting that respondent railroad company undertake immediate repairs to the structures, to determine and post load limits, and take steps necessary to replace the inadequate bridges with modern structures.

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3-16-77	The Commission at its public meeting of December 1, 1976 directed that hearing be set on Pa. Dept. of Transportation's petition for an extension of time of two years in which to prepare and submit detailed construction plans for the reconstruction of the crossing involved and further directed that prior to said hearing, appropriate interrogatories be issued and served on all parties of record for answer at the hearing and that Consolidated Rail Corp. and National Railroad Passenger Corp. be added as parties respondent in this proceeding.
3-28-77	Parties in interest forwarded list of questions upon which testimony will be adduced at the hearing to be held May 10, 1977.
9-8-77	Letter dated September 6, 1977 from David E. Auerbach with regard to the recent order of the Commission concerning the Primos Avenue Bridge, filed.
11-9-77	Letter dated November 8, 1977 on behalf of Phila. Suburban Water Co. requesting the Commission to Advise Pa. Dept. of Transportation that the Company will cooperate in supplying the necessary information concerning its existing facilities and its proposed 16-inch main in connection with PennDOT's preparation of plans as ordered by the Commission, filed.

Hearing Date	Place	Examiner or Commr.	Report Filed	Testimony Filed	No.
4-24-74	Media	Casman	4-25-74	5-9-74 (PennDot-1, 2, 3 & 4)	
2-25-75	Media	Pallastrone	4-2-75	3-13-75 (PennDot-1, 5 & 6; Penn Cent. 1; Phil. Sub. Water-W-1 & W-2; & Folcroft-10, 11 & 12)	
5-10-77	Media	Pallastrone	5-23-77	6-23-77 (CX-F-13; PennDOT Ex. 7)	

DATE	REFERENCE	REPORT FILED	DATE	REFERENCE	REPORT FILED
1-30-74	Law Bureau	3-6-74(quest)	11-28-77	Law Bureau	
cc: Transp.			cc: Transp. & ALJ		
5-2-74	Transportation		Pallastrone		
(rev. & recom.)			Law		3-9-78
	Transportation	1-2-75(Quest)			
9-29-76	Transportation	11-4-76			
cc: Law Bureau					
6-28-77	Transportation				
(for rev. & recom.)					

**ACTION** 3-18-74 EXCERPT: On motion, the Commission ratified its telegram order of March 5, 1974; and directed that the matter be scheduled for hearing.

6-25-74 EXCERPT: On motion, the Commission entered an order, sustaining the complaint; directing that Dept. of Transp. within 90 days, prepare and submit to the Commission and parties of record, a preliminary plan and estimate of cost, etc.

12-16-74 EXCERPT: On motion, the Commission ratified the telegram order issued Nov. 22, 1974, etc. and directed that in all respects not inconsistent herewith, the order issued June 25, 1974, remain in full force and effect.

5-13-75 EXCERPT: On motion, the Commission entered an order directing that the Pa. Dept. of Transp. within fifteen months, prepare and submit to the Commission, etc. detailed construction plans, etc. together with detailed estimate of costs.

11-22-76 EXCERPT: On motion, the Commission directed that hearing be set on the petition of Dept. of Transp. for an extension of time in which to prepare and submit detailed construction plans, etc. parties notified by Secretarial letter and a copy of said letter placed in the record folder of the case.

8-30-77 EXCERPT: On motion, the Commission directed that the certified letter order dated August 2, 1977 be ratified.

**ORDERS** 3-5-74 TELEGRAM-ORDER issued as follows: Pa. P.U.C. hereby orders Pa. Dept. of Transportation to immediately build up the shoulder area and install a modern guard fence, etc.

3-18-74 IT IS ORDERED: That the telegram-order of March 5, 1974, be and is hereby ratified; that Dept. of Transp. cooperate with Borough of Folcroft, so that highway traffic will not be unnecessarily impeded or endangered during time of work, etc., and that the complaint be set down for hearing.

6-25-74 IT IS ORDERED: That the complaint be and is hereby sustained; that Dept. of Transp. prepare & submit to Commission and parties, a preliminary plan & estimate of cost, to provide for new bridge, etc.;

Interested Parties	For
John H. Clarke, Jr., Esq.	402 Fidelity-Chester Bldg., Chester, Pa. 19013
Robert W. Carroll, Sec.	Six Penn Center Plaza, Phila., Pa. 19104
R.W. Cunliffe, Dep. Atty. Gen.	Harrisburg, Pa. 17120
H. P. Fronefield, Solicitor	107 W. Third St., Media, Pa. 19063
Edward H. Huss, Staff Coun.	2028 PSFS Bldg., 12 S. 12th St. 19107
Lewin W. Wickes, Comm. Counsel	Six Penn Center Plaza, Phila., Pa. 19104
Lionel B. Gummit, Asst. Atty. Gen.	Capitol Assoc. Bldg., Rm. 239, 7th & Forster Sts., Harrisburg, Pa. 17120
Francis P. Desmond, Esq., Pileggi and Desmond	115 E. Fifth St., Chester, Pa. 19013
Richard C. Tinucci, Solic.	112 E. Fifth St., Chester, Pa. 19013
Charles C. Keeler, Solic.	P.O. Box 647, Media, Pa. 19063
John B. King, V. Pres. & Gen. Counsel	One Parkway, Phila., Pa. 19102
Herbert G. Zahn, Esq.	Harrisburg, Pa. 17120
R.B. Kunkel	One Parkway, Phila., Pa. 19102
	Complainant
	Respondent, Penn Cent. Transp. Co.
	Dept. of Transportation
	County of Delaware
	Phila., Pa.
	SEPTA
	Penn Cent. Transp. Co.
	Dept. of Transp.
	County of Delaware
	Boro. of Sharon Hill
	Boro. of Glenolden
	Bell Tel. Co. of Pa.
	PennDot
	Bell Tele. Co. of Pa.

ORDERS ISSUED (Continued)

11-22-74 Telegram-order directing that the Borough, of Folcroft to immediately post the bridge involved and the approaches thereto for a maximum load limit of 7 tons, and to post and maintain suitable alternate routes for vehicular in excess of 7 tons, filed.

12-16-74 IT IS ORDERED: That the telegram order of 11/22/74 be and is hereby ratified.

5-13-75 IT IS ORDERED: That the Dept. of Transportation within fifteen months prepare and submit to the Commission, etc. detailed construction plans, right-of-way plans and detailed Construction plans for the construction of the highway approaches, etc.

8-2-77 CERTIFIED LETTER ORDER: IT IS ORDERED: That the Borough of Folcroft immediately erect and maintain substantial barricades on each end of the structure involved, etc. That the Dept. of Transportation, prior to reopening the subject bridge to vehicular traffic, remove the existing 7 ton bridge posting signs, and post the bridge and the approaches thereto by installing signs restricting the use of the bridge with signs reading, "BRIDGE RESTRICTED TO PASSENGER AUTOMOBILES ONLY", with said signs to be a minimum of 12 square feet in area, etc. That upon completion of the work ordered performed, the subject bridge be opened to restricted vehicular traffic, etc. That in requesting cooperation from Pa. State Police, a copy of this order will be served upon the Commissioner of Pa. State Police, and that in all respects not inconsistent herewith, the prior orders in this proceeding remain in full force and effect.

10-6-77 IT IS ORDERED: That the petition of Dept. of Transportation of the Commonwealth of Pa. seeking modification of the Commission's order issued May 13, 1975 be and is hereby granted. That numbered Paragraphs 1 and 2 of said order be and are hereby modified, respectively, to read that Dept. of Transportation of the Commonwealth of Pa., on or before September 30, 1978, prepare and submit to the Commission and to each party of record, detailed construction plans, etc. and that Dept. of Transportation, on or before September 30, 1978, prepare and submit to the Commission and to each party of record, right-of-way plans and detailed construction plans, etc. That numbered Paragraph 4 of said order be and is hereby deleted in its entirety. That National Railroad Passenger Corp., within 45 days, perform a detailed inspection of the bridge involved and submit a copy of the inspection report to the Commission and to the parties of record, etc. That in all respects not inconsistent herewith, the prior orders in this proceeding remain in full force and effect.

Edward O. Bauer, Jr., V. Pres. & Gen. Counsel	2301 Market St., Phila., Pa. 19101	Phila. Elec. Co.
James M. Ballengse, Pres.	762 Lancaster Ave., Bryn Mawr, Pa. 19010	Phila. Sub. Water Co.
David E. Auerbach, Solic. & Monte	Front & Lemon Sts., Media, Pa. 19063	Borough of Folcroft
William M. Posner	One Parkway, Phila., Pa. 19102	Bell Tele. Co. of Pa.
Joseph B. Centifanti	762 Lancaster Ave., Bryn Mawr, Pa. 19019	Phila. Sub. Water Co.
George D. Wenick, Asst. Atty. General	Transp. & Safety Bldg., Hbg., Pa. 17120	Dept. of Transp.
Carl Helmetag, Jr., General Counsel	1138 Six Penn Center Plaza, Phila., Pa. 19104	Penn Central Transp. Co.
Francis P. Desmond, Asst. Solic. c/o Dept. of Public Works	Curran Bldg., Media, Pa. 19063	County of Delaware
Charles C. Keeler, Solic.	107 W. Third St., Media, Pa. 19063	Boro. of Glenolden
Richard C. Tinucci, Solic.	221 N. Olive St., Media, Pa. 19063	Boro. of Sharon Hill
T. H. Maher Cornell, Asst. General Counsel	2301 Market St., Phila., Pa. 19101	Phila. Electric Co.
John G. McKay, Jr., Esq.	762 Lancaster Ave., Bryn Mawr, Pa. 19010	Phila. Suburban Water Co.
Donald R. Powell, Asst. Sec.	Six Penn Center Plaza, Phila., Pa. 19104	ConRail Corp.
A. C. Erickson, Engineer of Construction	560 Suburban Station Bldg., 1617 J. F. Kennedy Blvd., Phila., Pa. 19103	National RR Passenger Corp.
Judith B. Soken, Esq.	2028 PSFS Bldg., 12 S. 12th St., Phila., Pa. 19107	SEPTA
Joseph A. Damico, Jr., Esq.	107 W. Third St., Media, Pa. 19063	Boro. of Glenolden
Joel E. Mazor, Esq.	Six Penn Center Plaza, Phila., Pa. 19104	Consolidated Rail Corp.
Matthew J. Green, Jr., Esq.	532 Suburban Station Bldg., 1617 J. F. Kennedy Blvd., Phila., Pa. 19103	National RR Passenger Corp.
Louis G. Cocheres, Asst. Atty. General	Office of Chief Counsel, Hbg., Pa. 17120	Dept. of Transporta- tion
Daniel H. Brunner, Counsel	955 L'Enfant Plaza North, S.W. Washington, D.C. 20024	National RR Passenger Corp.
A. B. Smythe, P.E. Asst. Chief Engineer, Structures	1617 John F. Kennedy Blvd., Northeast Corridor Phila., Pa. 19103	National RR Passenger Corp.
Raymond F. Scully, Vice Pres. & Gen. Counsel	One Parkway, Phila., Pa. 19102	Bell Telephone Co. of Pa.

ACTION (Continued)

10-6-77. EXCERPT: On motion, the Commission issued an order directing that the petition filed by Pa. Dept. of Transportation, seeking an extension of time to submit detailed plans for the reconstruction of the Primos Avenue crossing be granted; directing that the order of May 13, 1975 be modified to delete the requirement of installing shields on the Primos Ave. bridge; directing that National Railroad Passenger Corp. perform a detailed inspection of said bridge, etc.

4-4-78. EXCERPT: On motion, the Commission directed that Amtrak's petition to modify the commission's order of October 6, 1977 be denied and that all parties of record be notified by Secretarial letter with a copy to be placed in the record folder.

10-28-77 Petition on behalf of National Railroad Passenger Corp. for modification of the Commission's order issued October 6, 1977 together with certificate of service, filed.

1-31-78 Answer on behalf of Pa. Dept. of Transportation to the petition for modification of order of National Railroad Passenger Corp., filed.

4-10-78 The Commission at its Public Meeting held April 4, 1978, denied the petition on behalf of National Railroad Passenger Corporation for modification of the Commission's order issued October 6, 1977.

CHRONOLOGICAL ENTRIES

DATE	CAPTION	DOCKET NO.
	BOROUGH OF FOLCROFT vs. PENN CENTRAL TRANSPORTATION CO., DEPT. OF TRANSPORTATION OF THE COMMONWEALTH OF PA., COUNTY OF DELAWARE and SOUTHEASTERN PA. TRANSPORTATION AUTHORITY	C. 20235
7-20-78	Letter dated July 17, 1978, advising that on June 28, July 12 & 13, 1978, Amtrak performed the close-up inspection of the bridges utilizing its catenary maintenance wire train, filed. [See I-77090282]	
8-29-78	Order issued by Commissioner O'Bannon on August 29, 1978 as follows: IT IS ORDERED: That Pa. Dept. of Transportation immediately post the bridge involved for a maximum load limit of two and one-half tons. That National Railroad Passenger Corp. beginning no later than September 13, 1978, and thereafter at intervals not exceeding one month, perform inspections of the involved bridge and submit a copy of each inspection report to the Commission, Dept. of Transportation and Borough of Folcroft; said report to show any changes in the structure as may affect its load-carrying capability. That a copy of this order be served on the Commissioner of the Pa. State Police, requesting cooperation in regard to the enforcement of the posted weight limit and for such other action and assistance as is appropriate and necessary in the circumstances. That in all respects not inconsistent herewith, the prior orders in this proceeding remain in full force and effect.	
9-14-78	EXCERPT: On motion, the Commission ratified the order dated August 29, 1978 signed by Commissioner O'Bannon, directing PennDOT to post the involved bridge for a maximum load limit of 2-1/2 tons, and directing Amtrak to make monthly inspections of the bridge and directing that a copy of the order be served on the Pennsylvania state police.	
10-2-78	Petition on behalf of Pennsylvania Department of Transportation for modification of the Commission's order issued October 20, 1977 together with certificate of service, filed.	
11-1-78	Answer on behalf of complainant to the Petition filed by Pennsylvania Department of Transportation for modification of Commission order, filed.	
11-21-78	Letter dated November 14, 1978 advising that AMTRAK inspected the bridge carrying Primos Avenue over Amtrak in the Borough of Folcroft; said inspection did not reveal any significant changes in the structure that would affect its load carrying capacity of 2 1/2 tons and that during the inspection, it was noted that vehicles in excess of the posted limit are still using the bridge, submitted in accordance with the Commission order, filed.	
12-21-78	EXCERPT: On motion, the Commission issued an order denying the petition of PennDot for modification of the Commission's order of October 6, 1977.	
12-21-78	IT IS ORDERED: That the petition of Department of Transportation of the Commonwealth of Pennsylvania, filed October 2, 1978 seeking modification of the Commission order issued October 6, 1977 be and is hereby denied. That in all respects the prior orders in this proceeding remain in full force and effect.	
2-9-79	Letter dated February 6, 1979 advising that Amtrak inspected the Primos Ave. bridge on December 7, 1978 and January 31, 1979 and that there were not any significant changes in the structure that would affect its load carrying capacity of 2 1/2 tons, submitted in accordance with a Commission order, filed.	
3-26-79	Letter dated March 22, 1979 advising that Amtrak inspected the Primos Avenue Bridge on March 21, 1979; that the inspection did not reveal any changes to the structure since the previous month's inspection and that no overweight vehicles crossed the bridge during the time it was being inspected, submitted in accordance with a Commission order, filed.	

C-202

# CHRONOLOGICAL ENTRIES

CAPTION

DOCKET NO.

DATE	CAPTION	DOCKET NO.
	BOROUGH OF FOLCROFT VS. PENN CENTRAL TRANSPORTATION COMPANY, DEPARTMENT OF TRANSPORTATION OF THE COMMONWEALTH OF PENNSYLVANIA, COUNTY OF DELAWARE AND SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY	C. 20235
5-16-79	Letter dated May 14, 1979 on behalf of AMTRAK advising that the bridge involved was inspected on May 3, 1979 and the condition of the bridge has not noticeably changed since the last inspection, submitted in accordance with a Commission order, filed.	
6-18-79	Letter dated June 14, 1979 advising that Amtrak has replaced certain deteriorated stringer seat angles noted in the inspection report submitted to the Commission on March 1, 1979, etc., filed.	
8-7-79	Letter dated August 3, 1979 on behalf of AMTRAK advising that the bridge involved was inspected on August 1, 1979. The inspection did not reveal any changes in the condition of either structure with the exception of the new angles beneath certain stringers of the Folcroft Ave. bridge, submitted in accordance with a commission order, filed.	
10-9-79	Letter dated September 26, 1979 on behalf of National Railroad Passenger Corporation containing the monthly inspection report in accordance with the Commission's order, filed.	
1-11-80	Letter dated January 9, 1980 from AMTRAK advising that the subject bridge was inspected on January 3, 1980, etc.	
2-14-80	Letter dated February 11, 1980 from Amtrak advising that the subject bridge was inspected on February 8, 1980, etc.	
4-16-80	Letter dated April 11, 1980 from AMTRAK advising that the subject bridge was inspected on April 10, 1980, etc.	
8-4-80	Amtrak advised that subject bridge was inspected on July 25, 1980, etc.	
10-29-80	Amtrak filed report of inspection held 10-13-80 in accordance with Commission's Order.	
2-17-81	Amtrak filed report of inspection of bridge made on 2-9-81 in accordance with order.	
7-20-81	Amtrak's report of inspection made on 6-26-81, filed.	
10-5-81	Amtrak filed report of inspection made on 9-18-81 as required.	
11-5-81	Amtrak filed report of inspection made on 10-23-81 in accordance with order.	
12-28-81	Amtrak's letter to PennDot requesting cooperation in closing the subject road and setting the detour as necessary.	
4-26-82	Joseph Pastuszek filed letter questioning why the Oak Lane Bridge over the Railroad in Glenoldon has never been replaced.	
4-26-82	Ltr to Mr. Pastuszek regarding information relative to proceeding,	

NOTE: SEE RULES PRINTED ON PAGE 4 OF THIS FORM

**COMPLAINT**

BEFORE

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BOROUGH OF FOLCROFT

COMPLAINT DOCKET

VS.  
PENN CENTRAL TRANSPORTATION COMPANY,  
PENNSYLVANIA DEPARTMENT OF TRANSPORTATION,  
County of Delaware and Southeastern Pennsylvania Transportation Authority  
PENNSYLVANIA PUBLIC UTILITY COMMISSION:

No. 20235

1. The name and address of complainant are Borough of Folcroft, 1555

Baltimore Avenue, Folcroft, Delaware County, Pennsylvania

2. The name and address of complainant's attorney are John H. Clark, Jr., attorney,  
402 Fidelity-Chester Bldg., Chester, Pa. 19013.

3. Respondent utility is Penn Central Transportation Company, 30th and Market  
Streets, Philadelphia, Pennsylvania. The Pennsylvania Department of  
Transportation is an additional respondent, under section 409, in that  
the Primos Avenue bridge carries a state highway.

4. (This paragraph to contain a succinct statement of the subject matter of the complaint).

Bridges maintained by respondent utility at Primos Avenue and at Folcroft Avenue, over railroad tracks, in the borough of Folcroft provide dangerous and inadequate crossings which require reconstruction and alteration in that:

- a. The surface cartways on both bridges are inadequately maintained, with severe potholes, creating not only a danger of property damage to auto tires and springs, but also a danger of automobiles being forced out of control;
- b. Approach roadway guard fences are inadequate, and provide no real protection against vehicles dropping onto the tracks;
- c. Load limits are either inadequately posted or inadequately ascertained, and are not reliable as to accuracy;
- d. Cartways are too narrow and have objectionable grades, creating an extreme risk of head-on collision, especially where trucks or busses are involved.

RECORD HOLDER

DOCKETED  
COMPLAINT DOCKET  
JAN 23 1974  
ENTRY No. *H*

RECEIVED  
JAN 15 1974  
84-01111-1111

Solicitor

Signature of Complainant

by:

*[Handwritten signature]*  
Borough of Folcroft

Wherefore complainant prays that respondent may be required to answer the above allegations and that upon a final hearing the Commission will make such order in the premises as may seem meet.

- a. Respondent utility should be required immediately to repave its cartway at both bridges, and replace approach fences with fences providing adequate protection against the exceptional risk which exists at both the Folcroft Avenue and Primos Avenue bridges of vehicles going off the bridges onto the tracks;
- b. Respondent utility should be required immediately to determine and post load limits on both the Primos Avenue and Folcroft Avenue bridges;
- c. Respondent utility should be required, at the earliest possible date, to replace both the Primos Avenue and the Folcroft Avenue bridges with bridges which are wider and which do not have such grades as to prevent safe visibility.

5. (This paragraph to contain a succinct statement of the relief sought).

AFFIDAVIT (Natural Person)

COMMONWEALTH OF PENNSYLVANIA }  
..... County } ss:

....., being duly sworn (affirmed) according to law, deposes and says that the facts set forth (are true and correct; or are true and correct to the best of his knowledge, information and belief and he expects to be able to prove the same at the hearing hereof).

.....  
Signature of Affiant

Sworn and subscribed before me this  
..... day of ..... 19.....

My Commission Expires .....

.....  
Signature of Official Administering Oath

AFFIDAVIT (Corporation)

COMMONWEALTH OF PENNSYLVANIA }  
DELAWARE ..... County } ss:

Florence Ricci ..... being duly sworn (affirmed) according to law, deposes and says that ~~he~~ <sup>she</sup> is Secretary ..... of Borough of Folcroft .....; that he is authorized to and does make this affidavit for it; and that the facts set forth above (are true and correct; or are true and correct to the best of his knowledge, information and belief and he expects the said Borough of Folcroft ..... to be able to prove the same at the hearing hereof).

.....  
Signature of Affiant

Sworn and subscribed before me this  
14th day of January 1974

My Commission Expires .....

.....  
Signature of Official Administering Oath

**RULES**

The Rules of Practice contain the following provisions:

**APPEARANCES BY ATTORNEYS (Rule 4)**

Every attorney appearing before the Commission shall be a member of the Bar in good standing and shall be authorized to practice before a court of record of the Commonwealth of Pennsylvania. When an attorney, not a member of the Bar of a court of record of Pennsylvania, shall desire to enter an appearance, he shall be associated with a member of the Pennsylvania Bar. Failure so to conform will constitute ground for refusal of permission to appear before the Commission.

**FORMAL COMPLAINTS (Rules 25 to 30 Inclusive)**

(A) **CONTENT:**—Each formal complaint shall be divided into numbered paragraphs and shall set forth (1) Name and address of the complainant and the name and address of complainant's attorney, if any; (2) Name and address of the respondent complained against and the nature and character of its business; (3) The interest of the complainant in the subject matter; (4) The act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of any law which the Commission has jurisdiction to administer or of any regulation or order of the Commission, with specific reference to the section of the statute or particular regulation or order of the Commission involved; (5) A clear statement of the relief sought.

(B) **EXECUTION; JOINDER OF CAUSES AND PARTIES:**—Each formal complaint shall be in writing and shall be subscribed and verified; (1) By the party filing such complaint or by one of the parties if there be more than one; (2) By an authorized officer of the party filing the complaint if the party be a corporation or association. The form of the affidavit shall be as prescribed in Rule 7 of these rules. Complaints against rates and service shall not be included in the same document. Two or more grounds of complaint involving the same purpose, subject or state of facts may be included in one complaint, but shall be separately stated, and numbered. Two or more complainants may join in one complaint if their causes of complaint are against the same respondent, involve substantially the same purposes and subjects and are predicated upon like sets of facts.

(C) **FILING; SERVICE:**—An original and three copies of each complaint shall be filed and, in case more than one respondent is named, an additional copy shall be filed for each additional respondent. The Commission will serve a copy of the complaint upon each respondent together with a notice to satisfy the complaint or answer the same in writing, within ten (10) days after such service. Complaints by a public utility or other person or corporation subject to the public utility law against any regulation or order of the Commission, which the complainant is or has been required to observe or carry into effect, shall be substantially in the form above described and reference shall be made to the particular regulation or order or part thereof complained against and shall quote the pertinent portions thereof.

(D) **FORM AND EXECUTION; CONTENT; FILING AND SERVICE:**—Every answer shall be in writing and shall be subscribed and verified in the form stated in Rule 7 by the party filing such answer or by one of the parties if there is more than one or if the party is a partnership, or by an authorized officer of the party filing the answer if the party be a corporation or association. The answer shall set forth in paragraphs numbered to correspond with the complaint, the facts upon which respondent relies and shall specifically admit or deny the material allegations of the complaint. An original and two copies of each answer shall be filed. Proof of service of one copy of each answer upon each complainant or his attorney shall be attached to such answer.

**ANSWERS TO COMPLAINTS (Rule 34 to 36 Inclusive)**

**MOTIONS TO STRIKE OR DISMISS OR FOR AMPLIFICATION (Rule 37 to 39 Inclusive)**

(B) Any party deeming a pleading insufficient in form may file with the Commission a motion to strike. Any party deeming a pleading insufficient in substance, or desiring to question the jurisdiction of the Commission, may file with the Commission a motion to dismiss. Any party deeming the allegations of fact in any pleading to be so insufficiently averred that adequate answer to the pleading is impossible, may file with the Commission a motion for amplification of the specific allegations deemed insufficient. An original and two copies of each motion to strike or to dismiss or for amplification shall be filed. Proof of service of a copy of the motion upon each party of record or record shall be attached to such motion.

**HEARINGS (Rule 40 to 45 Inclusive)**

(F) **PRELIMINARY STATEMENTS, EVIDENCE, CONTINUANCE, CORRECTIONS OF TRANSCRIPT:**—At any initial hearing all persons entering an appearance shall state for the record (before any testimony shall be received) their names, addresses, and for whom they appear. The presiding official may require or allow a factual statement of the scope of any pleading or the position of any party in the case.

All written pleadings and all Commission orders in a case shall constitute a part of the record without formal offer. Facts admitted by the adverse party of record or by testimony, exhibits or in writing need not be proved. Copies of each exhibit shall be submitted in sufficient number to provide one copy for each party and three copies for Commission use.

Only under exceptional circumstances will requests for continuance of a hearing be considered unless submitted at least five (5) days prior to the hearing date. No correction of any transcript of testimony shall be made except upon: (a) written request within fifteen (15) days after the transcript has been filed with the Commission, such request being accompanied by proof of service upon all parties of record; or (b) upon written stipulation by all parties of record filed within twenty (20) days after the transcript has been filed with the Commission.

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
HARRISBURG

In re Complaint of  
Borough of Folcroft

vs.

Penn Central Transportation Company, Department  
of Transportation of the Commonwealth of Pennsyl-  
vania, County of Delaware and Southeastern  
Pennsylvania Transportation Authority

Complaint Docket

No. 20235.....

19.74

TO

Robert W. Carroll, Secretary  
Penn Central Transportation Company  
Six Penn Center Plaza  
Philadelphia, Pennsylvania 19104

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission.

You are hereby required to satisfy the said complaint or to answer the same in writing, duly verified by affidavit, within.....TWENTY.....days from the date hereof.

In Witness Whereof, PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused its seal to be hereunto attached, duly attested by its Secretary, this.....SEVENTEENTH.....day of.....JANUARY....., 1974.

ATTEST:

.....  
WILL KETNER

Secretary

NOTE:—Attention is called to Rule.....of the RULES OF PRACTICE before the Pennsylvania Public Utility Commission, reprinted on the reverse hereof.

Enclosure

Certified Mail  
Receipt Requested

AMH:jg

SIMILAR NOTICES: See attached

DOCKETED  
COMPLAINT DOCKET  
JAN 23 1974  
NY No.....

RECORD  
FOLDER

( over )

## RULE

## COMPLAINTS—FORM

(a) All complaints must be by petition sworn to by the complainant. If complainant is a corporation or association, a duly authorized officer may execute the complaint. No particular form is required; the Commission will, upon request, furnish blank forms.

## CONTENTS

(b) The complaint must set forth the name and address of the complainant, and of his attorney, if any, the name and address of the public utility complained against, and the nature and character of its business; a concise statement of all the material facts upon which the complaint is founded; if a violation of any statute or ruling or order of the Commission is complained of, a reference to the section of the statute or particular ruling or order of the Commission must appear.

## ADDITIONAL COPIES

(c) In addition to the original verified complaint three copies thereof shall be furnished and in case more than one public utility is named as respondent, an additional copy for each additional respondent.

## SERVICE

(d) A copy of the complaint will be forwarded by the Commission to each of the public utilities complained against, accompanied by a notice from the Commission calling upon each such utility to satisfy the complaint or answer the same, in writing under oath, within such time as may be specified in said notice.

## ANSWER

(e) The answer, duly verified, must specifically admit or deny the material allegations of the complaint, and must clearly set forth the facts upon which respondent relies. Three copies of the answer shall be filed with the original, and one copy served by the respondent on the adverse party personally or by registered mail and due proof of such service filed with the Commission.

## MOTIONS TO STRIKE OR DISMISS OR FOR AMPLIFICATION

(f) Any party deeming a pleading insufficient in form may file with the Commission a motion to strike. Any party deeming a pleading insufficient in substance, or desiring to question the jurisdiction of the Commission, may file with the Commission a motion to dismiss. Any party deeming the allegations of fact in any pleading to be so insufficiently averred that adequate answer to the pleading is impossible, may file with the Commission a motion for amplification of the specific allegations deemed insufficient. An original and two copies of each motion to strike or dismiss or for amplification shall be filed. Proof of service of a copy of the motion upon each party of record shall be attached to such motion.

## HEARINGS

(g) If, from a consideration of the complaint and answer, or otherwise, the Commission determines that reasonable ground exists for investigating the complaint and that a hearing is necessary, a time and place for hearing will be fixed and notice thereof given to the complainant and the respondent.

## EVIDENCE

(h) The complainant must establish by evidence the facts alleged in the petition unless the respondent admits the same, except where the burden of proof is imposed by law upon the public utility complained against. Verified copies of all documents may be substituted for originals which have been offered in evidence.

## PARTIES

Whenever complaint is made that any grade crossing is dangerous and should be abolished, or that any overhead crossing, subway or underpass is dangerous or inadequate and requires reconstruction, relocation, alteration or abolition, any township, borough, city or county concerned shall be named as a party and shall be given due notice by the Secretary of all hearings of such complaint.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: COMPLAINT OF :  
BOROUGH OF FOLCROFT :  
VS. : Complaint Docket  
No. 20235  
1974  
PENN CENTRAL TRANSPORTA- :  
TION COMPANY, DEPARTMENT :  
OF TRANSPORTATION OF THE :  
COMMONWEALTH OF PENNSYL- :  
VANIA, COUNTY OF DELAWARE :  
AND SOUTHEASTERN PENNSYL- :  
VANIA TRANSPORTATION AUTH- :  
ORITY :

RECEIVED  
1974 JAN 23 11:04  
COMMUNICATIONS SECTION

ANSWER OF  
COUNTY OF DELAWARE

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Comes now the County of Delaware, by its Attorney, and files the following answers to the above-captioned Complaint:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied. The County of Delaware is without knowledge or sufficient information concerning the degree of disrepair of said cartways and approaches; the adequacy of load limit postings or the inadequateness of the crossing, in general.
5. Admitted. If a dangerous condition exists, the parties responsible therefor should correct the same.

RECORD  
FOLDER

DOCKETED  
COMPLAINT DOCKET  
FEB 1 1974  
ENTRY No. ....

Respectfully submitted,  
County of Delaware

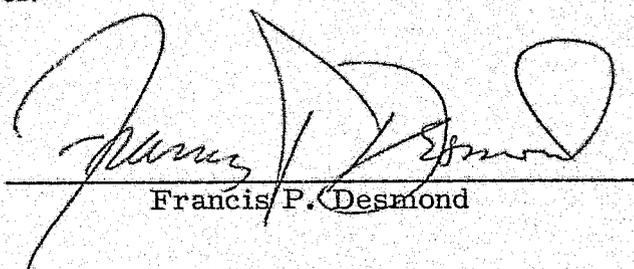
By Francis P. Desmond  
Francis P. Desmond, Attorney

COMMONWEALTH OF PENNSYLVANIA:

SS.

COUNTY OF DELAWARE :

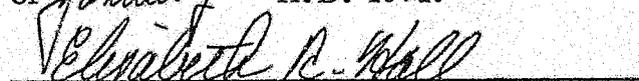
FRANCIS P. DESMOND, being duly sworn according to law, deposes and says that he is Attorney for the County of Delaware in this proceeding; is authorized to file this affidavit on its behalf, and that the facts contained herein are true and correct to the best of his knowledge, information and belief.

  
Francis P. Desmond

Sworn to and subscribed

before me this *20th* day

of *January* A.D. 1974.

  
Elizabeth A. Wall

NOTARY PUBLIC  
Chester, Del. Co.  
My Commission Expires  
February 25, 1974

CERTIFICATE OF SERVICE

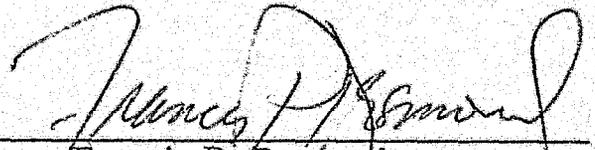
I hereby certify that I have this day served the parties to this proceeding with a copy of the attached Answer by placing the same in the mail, postage prepaid, addressed as follows:

John H. Clark, Jr., Esquire  
402 Fidelity-Chester Building  
Chester, Pennsylvania

Edward H. Huss, Esquire  
SEPTA  
2028 PSFS Building  
12 South 12th Street  
Philadelphia, Pennsylvania

Department of Transportation  
Legal Bureau  
Harrisburg, Pennsylvania 17120

Penn-Central Transportation Company  
Penn-Center Building  
Legal Department  
Philadelphia, Pennsylvania



Francis P. Desmond  
Asst. County Solicitor  
County of Delaware

January 25, 1974

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: COMPLAINT OF :  
BOROUGH OF FOLCROFT :  
VS. : Complaint Docket  
No. 20235  
PENN CENTRAL TRANSPORTATION :  
COMPANY, DEPARTMENT OF : 1974  
TRANSPORTATION OF THE :  
COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF DELAWARE AND :  
SOUTHEASTERN PENNSYLVANIA :  
TRANSPORTATION AUTHORITY :

RECEIVED  
74 FEB 7 AM 8:25  
PENNSYLVANIA'S OFFICE  
PUBLIC UTILITY  
COMMISSION

ANSWER OF  
PENN CENTRAL TRANSPORTATION COMPANY

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Comes now the Penn Central Transportation Company,  
by its Attorney, and files the following answers to the  
above-captioned Complaint:

1. Admitted.
2. Admitted.
3. Admitted.
4. The allegations of Paragraph 4 of the Complaint  
are conclusory and therefore denied.
5. Relief sought is of no benefit to respondent  
Penn Central Transportation Company and should be denied.

Respectfully submitted,  
Penn Central Transportation Company

By

Lewin W. Wickes  
Lewin W. Wickes

RECORD  
FOLDER

DOCKETED  
CO. . . . . KET  
FEB 12 1974  
ENTRY No. . . . .

VERIFICATION

COMMONWEALTH OF PENNSYLVANIA :  
: SS.  
COUNTY OF PHILADELPHIA :

J. T. SULLIVAN, being duly sworn, deposes and says that he is Chief Engineer for the Trustees of the property of Penn Central Transportation Company, Debtor, and is duly authorized by the Trustees to make and verify the above Answer on their behalf, and that the statements contained in said Answer are true and correct to the best of his knowledge, information and belief.

J. T. Sullivan  
J. T. Sullivan

Sworn to and subscribed  
before me this 5<sup>th</sup> day  
of February, 1974

Charles E. Casel, Jr.

Notary Public, Philadelphia, Philadelphia Co.  
My Commission Expires July 14, 1975

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

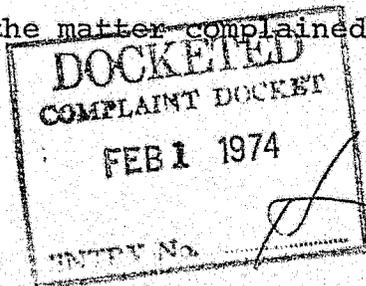
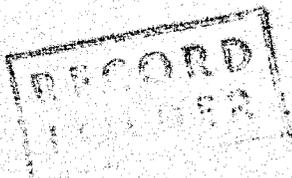
BOROUGH OF FOLCROFT : COMPLAINT DOCKET NO.  
20235  
VS. :  
: :  
PENN CENTRAL TRANSPORTATION : 1974  
COMPANY, DEPARTMENT OF TRANS- :  
PORTATION OF THE COMMONWEALTH :  
OF PENNSYLVANIA, COUNTY OF :  
DELAWARE AND SOUTHEASTERN :  
PENNSYLVANIA TRANSPORTATION :  
AUTHORITY :

MOTION TO STRIKE OR DISMISS, OR  
IN THE ALTERNATIVE, FOR  
AMPLIFICATION

TO THE PENNSYLVANIA PUBLIC UTILITIES COMMISSION:

Comes now, the Southeastern Pennsylvania Transportation Authority (SEPTA), pursuant to Rules 37 and 38 of the Rules of Practice of the Commission, and moves that the Complaint against it be dismissed, or, in the alternative, that the Complainant be required to allege facts on which SEPTA could be found to have any liability in the matter complained of. In support of its Motion, SEPTA respectfully represents as follows:

1. The Complaint fails to allege facts on which any liability of SEPTA in the matter complained of could be based.



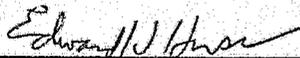
2. The bridges at Primos Avenue and at Folcroft Avenue over the Penn Central Transportation Company railroad tracks in the borough of Folcroft are not presently and have not been in the past the responsibility of SEPTA. SEPTA neither maintains nor operates any facilities at that location, rather, the responsibility for maintaining the bridges lies with the respondent Penn Central Transportation Company.

WHEREFORE, respondent SEPTA prays that this Commission dismiss this Complaint as to SEPTA.

Respectfully submitted,

SOUTHEASTERN PENNSYLVANIA  
TRANSPORTATION AUTHORITY

BY



---

Edward H. Huss  
Attorney

CERTIFICATE OF SERVICE

Complaint Docket No. 20235

In Re: Borough of Folcroft

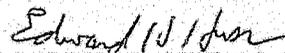
vs.

Penn Central Transportation Company,  
Department of Transportation of the  
Commonwealth of Pennsylvania, County  
of Delaware and Southeastern Penn-  
sylvania Transportation Authority

I hereby certify that I have this date served a copy of the foregoing Motion to Strike or Dismiss, or in the Alternative, for Amplification on all parties of record in the above captioned proceeding by mailing such copy via First Class Mail, Postage Prepaid, dated at Philadelphia, Pennsylvania this 28th day of January 1974.

SOUTHEASTERN PENNSYLVANIA  
TRANSPORTATION AUTHORITY

BY



Edward H. Huss  
Attorney

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION  
HARRISBURG 17120



Legal Bureau

IN REPLY REFER TO

February 15, 1974

Will Ketner, Secretary  
Pennsylvania Public Utility Commission  
North Office Building  
Harrisburg, Pennsylvania 17120

Re: County of Delaware  
Complaint Docket No. 20235

Dear Mr. Ketner:

Enclosed for filing with the Commission are the original and two (2) copies of the Answer of the Department of Transportation of the Commonwealth of Pennsylvania to the above-captioned Complaint.

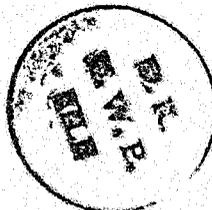
I hereby certify that copies of this Answer were served on this date on all parties of record.

Very truly yours,

*Lionel B. Gunnit*  
Lionel B. Gunnit  
Assistant Attorney General

Enclosures: 3  
LBG:mb

RECORD  
FOLDER



SECRETARY'S OFFICE  
PUBLIC UTILITY  
COMMISSION

FEB 19 AM 11:07

RECEIVED

Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BOROUGH OF FOLCROFT :  
vs. : COMPLAINT DOCKET  
PENN CENTRAL TRANSPORTATION COMPANY, DEPARTMENT :  
OF TRANSPORTATION OF THE COMMONWEALTH OF PENN- : NO. 20235  
SYLVANIA, COUNTY OF DELAWARE AND SOUTHEASTERN :  
PENNSYLVANIA TRANSPORTATION AUTHORITY :

ANSWER OF THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

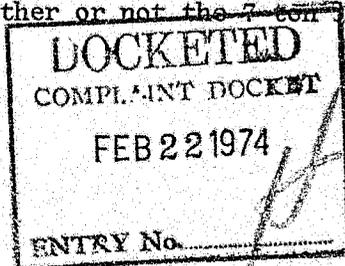
NOW COMES, the Pennsylvania Department of Transportation, acting through its undersigned Attorney, and makes answer to the Commission's Order dated January 17, 1974, as follows:

1. Admitted.
2. Admitted.
3. Admitted.
- 4a. An on site examination of the area indicates there are potholes.

The Department is without enough knowledge at this time to determine whether these potholes could cause damage to auto tires and springs and cause automobiles to be forced out of control.

4 b. Approach roadway guard fences are of wooden posts and cables and if properly maintained would provide adequate protection.

4 c. Load limit signs appear on both approaches on Primose Avenue indicating a safe load of 7-tons. The Department is without knowledge at this time to indicate whether or not the 7-ton limit is adequate and proper.



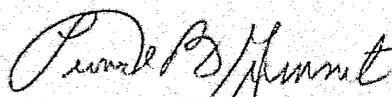
4d. The cartway on Primose Avenue Bridge appears to be relatively narrow based on today's standards.

4e. Folcroft Avenue is not a Legislative Route and, therefore, the Department is without knowledge at this time to supply answers with regard to this street.

5a., 5b. and 5c. The Department believes that it is the best interest of all concerned that the Commission schedule a field conference with regard to these roads as soon as possible.

WHEREFORE, the Department requests your Honorable Commission to schedule such field conferences and/or hearings as are necessary to determine the issues involved.

Respectfully submitted,



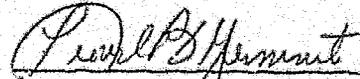
Lionel B. Gurnit  
Assistant Attorney General

COMMONWEALTH OF PENNSYLVANIA :

SS

COUNTY OF DAUPHIN :

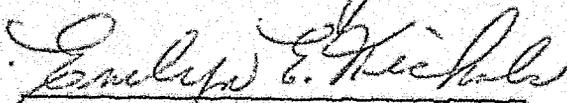
Before me, the undersigned officer, personally appeared  
Lionel B. Gummit , Assistant Attorney General, who, being duly sworn  
according to law, deposes and says that he is authorized to and does make  
this affidavit on behalf of the Commonwealth of Pennsylvania, Department of  
Transportation, and that the averments contained and set forth in the fore-  
going Answer are true and correct to the best of his knowledge, information  
and belief.



Lionel B. Gummit  
Assistant Attorney General  
Pennsylvania Department of  
Transportation

Sworn and subscribed before me this

15 day of February, 1974.



~~Margaret I. Albright~~, Notary

My Commission expires:

EVELYN E. NICHOLS, Notary Public  
Harrisburg, Dauphin Co., Pa.  
My Commission Expires March 3, 1975

C 20235



western union

3/5/74

Telefax

CALL LETTERS HNF

3/1/74

CHARGE TO Public Utility Commission

Book of 5 - Page 1

Hon. J. G. Kassab, Secretary, Pa. Dept. of Transportation,  
 Transportation & Safety Bldg., Harrisburg, Pa. 17120  
 J. T. Sullivan, Chief Engineer, Penn Central Transportation Co.,  
 6 Penn Center Plaza, Philadelphia, Pa. 19104  
 John H. Clarke, Jr., Solicitor, Borough of Folcroft, 402 Fidelity-  
 Chester Bldg., Chester, Pa. 19013  
 Francis P. Desmond, Solicitor, County of Delaware, 115 East  
 Fifth Street, Chester, Pa. 19013  
 Edward H. Huss, Attorney, Southeastern Pennsylvania Transportation  
 Authority (SEPTA), Rm. 2028, 12 S. 12th St., Philadelphia, Pa.

BY INSPECTION DURING A FIELD CONFERENCE ON FEBRUARY 28, 1974 HELD  
 IN REGARDS TO COMPLAINT 20235, FILED BY FOLCROFT BOROUGH, IT WAS

SENDING BLANK

Send the above message, subject to terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER-DO NOT FOLD

WU 1269 (R9/69)



western union

3/5/74

Telefax

CALL LETTERS HNF

3/1/74

CHARGE TO Public Utility Commission

P. 2

DETERMINED THAT THE PAVEMENT HAS BEEN UNDERMINED AND THE GUARD  
 FENCE DEFECTIVE ON THE WEST SIDE OF THE SOUTH APPROACH TO THE  
 STATE HIGHWAY ROUTE 420 (PRIMOS AVENUE) BRIDGE ABOVE THE GRADE  
 OF PENN CENTRAL TRANSPORTATION COMPANY'S TRACKS IN THE BOROUGH  
 OF FOLCROFT, DELAWARE COUNTY, THEREBY CAUSING A HAZARDOUS  
 CONDITION FOR THE TRAVELLING PUBLIC. ACCORDINGLY, PENNSYLVANIA  
 PUBLIC UTILITY COMMISSION HEREBY ORDERS PENNSYLVANIA DEPARTMENT  
 OF TRANSPORTATION TO IMMEDIATELY BUILD UP THE SHOULDER AREA AND  
 INSTALL A MODERN GUARD FENCE IN THE AREA HEREINBEFORE DESCRIBED.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Will Ketner, Secretary

SENDING BLANK

Send the above message, subject to terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER-DO NOT FOLD

WU 1269 (R9/69)

FILE RECOR  
 FOLDER

DOCKETED  
 COMPLAINT DOCKET  
 MAR 20 1974  
 ENTRY No. ....

GIR  
 KELLY  
 RKB  
 CARTER