

January 4, 1979

C. 20235

Robert W. Cunliffe, Deputy Attorney General
Pennsylvania Department of Transportation
Room 511, Transportation & Safety Building
Harrisburg, Pennsylvania 17120

BOROUGH OF FOLCROFT

v.

PENN CENTRAL TRANSPORTATION COMPANY, DEPARTMENT OF TRANSPORTATION OF
THE COMMONWEALTH OF PENNSYLVANIA, COUNTY OF DELAWARE, SOUTHEASTERN
PENNSYLVANIA TRANSPORTATION AUTHORITY, CONSOLIDATED RAIL CORPORATION
AND NATIONAL RAILROAD PASSENGER CORPORATION

Dear Sir:

Enclosed, herewith, is one(1) Executed and three(3) copies of an
Order issued by the Commission on December 21, 1978, in connection with
the above entitled proceeding.

Kindly acknowledge receipt and service in behalf thereof, using
for that purpose the enclosed form.

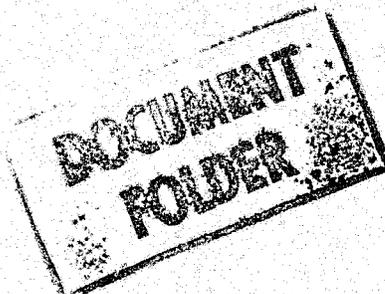
Very truly yours,

C. J. McElwee
Secretary

PLS
Encls.
Return Receipt

See attached similar letter list.

Law Bureau
Office of ALJ
Bureau of Transportation - Rail Division



PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held December 21, 1978

Commissioners Present:

W. Wilson Goode, Chairman
Robert K. Bloom
Louis J. Carter
Helen B. O'Bannon
Michael Johnson

Borough of Folcroft

C. 20235

v.

Penn Central Transportation Company,
Department of Transportation of the
Commonwealth of Pennsylvania, County
of Delaware, Southeastern Pennsylvania
Transportation Authority, Consolidated
Rail Corporation and National Railroad
Passenger Corporation

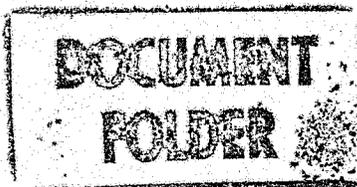
DOCKETED
COMPLAINT DOCKET

JAN 8 1979

ORDER

BY THE COMMISSION:

On January 16, 1974, Borough of Folcroft filed the subject complaint alleging that hazardous and inadequate conditions exist at the crossings where Folcroft Avenue (a borough street), partly in the borough of Folcroft and partly in the borough of Sharon Hill, and where Primos Avenue (State Highway Route 420), partly in the borough of Folcroft and partly in the borough of Glenolden, all in Delaware County, cross above the grade of four electrified tracks of Penn Central Transportation Company (now National Railroad Passenger Corporation), and requesting that respondent railroad undertake immediate repairs to the structures, to determine and post load limits, and take steps necessary to replace the inadequate bridges with modern structures.



Primos Avenue, in the vicinity of the crossing, is graded for an approximate width of 24 feet, with the center portion being paved with bituminous material for a width of 22 feet, with both approaches to the crossing transitioning to meet the bridge cartway width of 16 feet 8 inches. The bridge, constructed in 1891 by The Pennsylvania Railroad Company, is a 5-span structure, totalling 116 feet 9 inches in length, consisting of two nominal 15-foot timber spans on each end of the bridge with the center span over the tracks being a through plate girder span 58 feet in length. The bridge deck is composed of timber planks overlaid with bituminous material between timber curbs. A sidewalk, 5 feet in width, is located outside the girder on the north side of the bridge. The highway approaches, on tangent alignment, have grades that are steep ascending toward the bridge, with the change in grade being accomplished within the length of the bridge.

The Folcroft Avenue bridge, constructed in 1891 by The Pennsylvania Railroad Company, is a single span 62-foot long through plate girder bridge with a timber plank deck overlaid with bituminous material between timber curbs. The bridge cartway width is 15 feet. The highway approaches, paved for a width of 30 feet, are on tangent alignment and have grades that are steep ascending toward the bridge with the change in grade being accomplished within the short length of the bridge.

Following hearing held April 24, 1974, this Commission issued an order on June 25, 1974 sustaining the borough's complaint and determining that the existing Primos Avenue bridge, posted for a maximum load limit of 7 tons, should be replaced with a new, modern structure. The order directed Pennsylvania Department of Transportation, within 90 days from

date of service of the order to prepare and submit preliminary plans and cost estimates for the reconstruction of the Primos Avenue crossing and the approaches thereto.

Upon notification from Penn Central Transportation Company that an analysis of the load-carrying capability of the Folcroft Avenue bridge, located approximately 900 feet northwardly of the Primos Avenue crossing, revealed that certain structural members of the bridge were insufficient in strength to safely accommodate a vehicle weighing in excess of 7-1/2 tons, the Commission issued a telegram order on November 22, 1974, directing the borough of Folcroft to post the bridge for a maximum load limit of 7 tons, and further directing Pennsylvania Department of Transportation to post and maintain suitable detour routes for vehicles weighing in excess of 7 tons.

Following receipt of the preliminary plans and estimate of costs on October 28, 1974, from Pennsylvania Department of Transportation, for the reconstruction of the Primos Avenue crossing, further hearing was held February 25, 1975, after which this Commission issued an order on May 13, 1975, and entered May 22, 1975, directing that Pennsylvania Department of Transportation, having agreed so to do, within 15 months from date of service of the order, to prepare and submit detailed construction and right-of-way plans providing for the reconstruction of said bridge. At the February 25, 1975 hearing, a witness for PennDOT testified that the department had been unable to post a detour for vehicles weighing in excess of 7 tons, due to the weight restrictions on neighboring bridges.

On September 23, 1976, Pennsylvania Department of Transportation filed a petition seeking an extension of time of 2 years in which to prepare and submit the detailed construction and right-of-way plans for the reconstruction of the Primos Avenue crossing. In its petition the department averred that, since its preliminary plans contained numerous inaccuracies and, since it had updated its design standards and procedure, the department must resurvey the entire project area and possibly make a line change and, as such, an additional 2 years would be required to complete the detailed construction and right-of-way plans.

At Public Meeting held November 26, 1976, this Commission directed that hearing be set on the aforesaid petition of PennDOT. Hearing was held May 10, 1977. Included in PennDOT's testimony at the hearing was a statement that the department had the funding for the design of the Primos Avenue improvement, a part of which would come from the Federal Government, but it did not have the funds for the construction of the improvement.

Upon being notified by Borough of Folcroft, on July 27, 1977, that the Primos Avenue bridge was in a seriously hazardous condition due to the existence of large pot-holes in the bridge deck's bituminous wearing surface, this Commission issued a certified letter order on August 2, 1977 directing, inter alia, that the bridge be closed to all vehicular traffic; that PennDOT immediately repair the bridge deck wearing surface; and that upon completion of the repair work the bridge be opened to passenger vehicles only.

By order issued October 6, 1977, and entered October 20, 1977, this Commission stated that it was not convinced that PennDOT had made a determined effort to expedite the much needed Primos Avenue crossing improvement; however, the Commission granted the department an extension of time until September 30, 1978 in which to prepare and submit the detailed construction and right-of-way plans for the reconstruction of said crossing. The order further directed National Railroad Passenger Corporation to perform a detailed inspection of the Primos Avenue bridge and to submit a report of its recommendations regarding the weight restrictions that should be placed on the bridge and any repairs necessary to maintain said restrictions.

Upon being notified by National Railroad Passenger Corporation that its analysis of the structural members of the Primos Avenue bridge, several of which were severely deteriorated, revealed that the bridge should be rated for an H-2.3 (2.3 ton) loading, the Commission issued an emergency order on August 29, 1978 directing Pennsylvania Department of Transportation to immediately post the bridge for a maximum load limit of 2-1/2 tons, and directing National Railroad Passenger Corporation to perform monthly inspections of the bridge.

Other crossings, all above grade, of the involved line of railroad in the subject vicinity, together with their weight restrictions are as follows:

<u>Highway</u>	<u>Location</u>	<u>Weight Restriction</u>
Ashland Avenue	1500 feet south of Primos Avenue crossing	7 tons
Sharon Avenue (State Highway Route 23072)	3200 feet north of Primos Avenue crossing	15 tons
Calcon Hook Road (State Highway Route 23073)	5000 feet north of Primos Avenue crossing	7 tons

Due to the weight restrictions of the aforementioned bridges, PennDOT has been unable to provide a suitable detour for vehicles weighing in excess of 15 tons. The detour established by the department follows a long, circuitous route, a portion of which lies within the city of Philadelphia.

This matter is presently before us upon petition, filed October 2, 1978, by Pennsylvania Department of Transportation seeking modification of our order issued October 6, 1977 in this proceeding, by granting the department an additional extension of time of 2 years in which to prepare and submit the detailed construction and right-of-way plans for the reconstruction of the Primos Avenue bridge and the highway approaches thereto.

In its petition the department avers that, because of its dire financial position; because many of its employees have been furloughed, including its bridge design engineers who had been working on the subject ordered plans; because it is financially unable to replace or recall the aforesaid bridge design engineers or to hire independent consulting engineers for said work, PennDOT will not be able to comply with the provisions of the October 20, 1977 order requiring plan completion on or before September 30, 1978. PennDOT further avers that it hopes it will be able to complete the required plans and cost estimates on or before September 30, 1980; said plans currently being in the preliminary stage of design.

On November 1, 1978, the Commission received from the borough of Folcroft, an Answer to the petition filed by the department. In its Answer, the borough avers that the reason the project has not proceeded

is solely that the department chooses not to proceed and, that if there is a legitimate excuse, the department should have brought this to the Commission's attention earlier.

The borough also states that the department should have taken the necessary steps for financing the project after the Commission's order was issued on June 25, 1974, and it denies that the department will complete plans for the improvement by September 30, 1980. On the contrary, the borough claims that the department will continue to delay the project as long as possible. Therefore, it requests that the Commission deny the department's request.

Upon full consideration of the petition submitted by the department, the Answer by the borough of Folcroft, and the existing record, we determine that the instant petition, seeking a time extension for submission of plans and cost estimates until September 30, 1980, should be denied.

Initially, we find that the department's time extension petition is premised on its lack of funds. However, the department on September 23, 1976 sought a two year time extension on the preparation of plans and cost estimates, and on October 6, 1977, the Commission approved the department's request. Nonetheless, the Commission stated that it was not convinced that the department had made a determined effort to expedite the completion of the project. The department's instant petition does not dispel the Commission's earlier finding.

We further find that the petition sets forth no newly discovered evidence or material change in conditions or circumstances, since issuance of the Commission's order of October 6, 1977.

Additionally, the record shows that there are currently restrictive weight limitations placed on neighboring bridges and that the department is unable to provide a reasonable detour for vehicles weighing in excess of fifteen (15) tons, which would not be overly circuitous and long.

Accordingly, we conclude that a further delay in the implementation of the improvement will impose an unjustifiable burden on the traveling public.

We further conclude that the department has failed to allege such new evidence or material change in circumstances which would warrant the Commission's modification of its October 6, 1977 order. Furthermore, the Commission's statutory duty to effectuate the prevention of accidents and the promotion of the safety of the public, will be compromised by permitting further delay in the completion of this project; THEREFORE,

IT IS ORDERED:

1. That the prayer of petition of Department of Transportation of the Commonwealth of Pennsylvania, filed October 2, 1978, seeking modification of our order issued October 6, 1977 at C. 20235, be and is hereby denied.
2. That in all respects our prior orders in this proceeding remain in full force and effect.

BY THE COMMISSION,

C. J. McElwee

C. J. McElwee
Secretary

(SEAL)

ORDER ADOPTED: December 21, 1978

ORDER ENTERED: JAN 4 1979