

PENNSYLVANIA PUBLIC UTILITY COMMISSION

A. 98627

Baltimore & Ohio Railroad Company

A. 98628

Erie Lackawanna Railway Company

A. 98629

Lehigh & New England Railway Company

A. 98630

Lehigh Valley Railroad Company

A. 98631

Penn Central Transportation Company

A. 98632

Reading Company

EXTRA COPY

In re: Application of Interstate Energy Company, a Delaware corporation, for an Order or Orders approving the construction, below grade, of its pipeline facilities to cross below the tracks of the various railroads in Upper Chichester Township, Delaware County; Lower Mount Bethel Township, Northampton County; Forks Township, Northampton County; Lower Saucon, Bethlehem and Palmerton Townships, Northampton County; Concord and Thornbury Townships, Delaware County; East Whiteland and East Pikeland Townships, Chester County; East Whiteland Township, Chester County; Richland Township, Bucks County; and Upper Providence and Perkiomen Townships, Montgomery County.

ORDER

BY THE COMMISSION, NOVEMBER 12, 1974:

Those applications by Interstate Energy Company pursuant to Section 409 of the Public Utility Law request that we authorize construction of certain crossings of its proposed pipeline below tracks of Baltimore & Ohio Railroad Company, Erie Lackawanna Railway Company, Lehigh & New England Railway Company, Lehigh Valley Railroad Company, Penn Central Transportation Company and Reading Company along the 83 mile route of the line.

DUPLICATE RECORD,
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

CONFIDENTIAL

Our Order at Application Docket No. 97032 directed, inter alia, that Interstate Energy Company construct its pipeline from Marcus Hook to the vicinity of Martin's Creek in accordance with plans submitted, and further directed that Interstate Energy Company, in its construction operations, comply with our proposed transmission pipeline regulations issued in the form of an Order Nisi, May 17, 1971. Rule 3 of our proposed pipeline regulations states as follows:

**"CONSTRUCTION, ALTERATION OR RELOCATION
OF CROSSINGS.**

Each carrier must comply with the provisions of the Public Utility Law and obtain prior Commission approval for construction, alteration or relocation of each and every crossing of the transmission pipeline and a highway or railroad. A plan for a proposed pipeline crossing or for an alteration of a crossing, where said pipeline crosses a highway or railroad right-of-way when officially approved for the governmental unit or rail carrier responsible for the right-of-way involved, may be submitted by the pipeline carrier requesting Commission approval.

Approval of such plan by the Commission will authorize construction of the crossing unless the Commission chooses to require formal hearing. The pipeline carrier will furnish additional copies of the plan as required for distribution to interested parties and for filing as required."

A field conference was held by this Commission on May 29, 1973 and was attended by a Commission staff engineer, representatives of Interstate Energy Company, Reading Company, and Penn Central Transportation Company, and representatives of the other rail carriers. On the two days following the meeting, inspections were made of the various crossings with railroad representatives present. No objection was offered to the location or to the proposed construction details of any crossing. At the May 29 meeting it was announced

by the Commission representative that, should any party wish to be heard on the matter of the crossings, a hearing would be held in Harrisburg on June 10 and June 11, 1974. Representatives of Penn Central Transportation Company and Reading Company responded affirmatively and hearing was held at Harrisburg, June 11, 1974. Prior to the hearing Lehigh Valley Railroad, Lehigh and New England Railway Company, Erie Lackawanna Railway Company and Baltimore & Ohio Railroad Company advised this Commission that they had no objections to construction proposed by Interstate at their respective crossings.

At the hearing, the instant applications were consolidated for the purpose of hearing and oral argument. Subsequently, Reading Company moved that the hearing be cancelled and the applications be dismissed giving as reasons (1) the applications were premature in that the Commission had not finally granted authority to construct a pipeline, (2) that rules of practice before the Commission had been violated in that all parties had not had 20 days' notice of the hearing, (3) that the Commission does not have jurisdiction to hear this matter, specifically, that the Commission does not have jurisdiction over a crossing of merely a pipeline under a railroad where a highway crossing is not involved.

Penn Central Transportation Company made a similar motion on the same grounds and added that, to the extent that the Regional Railway Organization Act of 1973 may have changed the position of Penn Central as a carrier, the Penn Central Transportation Company seeks a ruling of the Public Utility Commission's position on the Regional Railway Organization Act as it applies to this transaction.

Russell K. Schulze, President of Interstate Energy Company, testified that the company holds a certificate of public convenience issued by this Commission at Docket No. 97032 on February 6, 1973. Mr. Schulze acknowledged that an order had been issued at Complaint Docket No. 19914 directing Interstate Energy Company to cease and desist from all construction of the fuel oil transportation facility until it had obtained and presented to the Commission approvals from the Delaware River Basin Commission and other agencies.

Penn Central Transportation Company placed one witness on the stand, Walter A. Kautz, a senior civil engineer of the company, who testified that basically the Penn Central organization had no engineering objection to the proposed construction, but it had not entered into any agreement covering the five crossings and until such time as it did have an agreement with the Interstate Energy Company, it would not approve the crossings.

Subsequently, applicant's Exhibits A-1 through F-6, blueprint drawings pertaining to the railroad were crossings in question, admitted into evidence.

We shall deal initially with the averrments that these applications are premature. The Commission, at Application Docket No. 97032, found that the granting of the application was necessary and proper for the service, accommodation, convenience and safety of the public, and a certificate of public convenience was issued to IEC evidencing the approval of the said application. It follows that if the service is necessary, the construction to provide the service is necessary, and the timeliness of agreement or application for various construction permits is merely to have such permits in hand before construction starts.

Russell K. Schulze, President of Interstate Energy Company, testified that the company holds a certificate of public convenience issued by this Commission at Docket No. 97032 on February 6, 1973. Mr. Schulze acknowledged that an order had been issued at Complaint Docket No. 19914 directing Interstate Energy Company to cease and desist from all construction of the fuel oil transportation facility until it had obtained and presented to the Commission approvals from the Delaware River Basin Commission and other agencies.

Penn Central Transportation Company placed one witness on the stand, Walter A. Kautz, a senior civil engineer of the company, who testified that basically the Penn Central organization had no engineering objection to the proposed construction, but it had not entered into any agreement covering the five crossings and until such time as it did have an agreement with the Interstate Energy Company, it would not approve the crossings.

Subsequently, applicant's Exhibits A-1 through F-6, blueprint drawings pertaining to the railroad were crossings in question, admitted into evidence.

We shall deal initially with the averments that these applications are premature. The Commission, at Application Docket No. 97032, found that the granting of the application was necessary and proper for the service, accommodation, convenience and safety of the public, and a certificate of public convenience was issued to IEC evidencing the approval of the said application. It follows that if the service is necessary, the construction to provide the service is necessary, and the timeliness of agreement or application for various construction permits is merely to have such permits in hand before construction starts.

Paragraph 1a of our order of February 6, 1973, was primarily directed at the environmental impact statement to be prepared by the Delaware River Basin Commission as being prerequisite to construction.

As to the objection that the formalities of proper notification were not complied with, this also must fail since Reading Company had sufficient actual notice of the date of hearing, appeared at the hearing and has showed no hardship or prejudice falling upon the company resulting therefrom.

Finally, there can be no question as to our jurisdiction over the subject matter of the instant applications. Section 409 of the Public Utility Law clearly states that:

"No public utility, engaged in the transportation of passengers or property, shall without prior order of the commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any such public utility, and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated or abolished." (Emphasis added)

Furthermore, the above quoted Rule 3 of the proposed pipeline regulations further emphasizes the fact that in such cases as now before us where a conflict has arisen between two utilities, the function of the Commission is to protect the public interest and to resolve such conflicts with minimal disturbance by specifying with some particularity the terms and conditions upon which such crossings as herein involved can be made. We, therefore, deny the motions of Penn Central and the Reading Company.

After full consideration of the matter, and things involved we find and determine that the construction of crossings as applied for by Interstate Energy Company at Dockets A. 98627, applying to Baltimore & Ohio Railroad Company; A. 98628, applying to Erie Lackawanna Railway Company; A. 98629, applying to Lehigh & New England Railway Company; A. 98630, applying to Lehigh Valley Railroad Company; A. 98631, applying to Penn Central Transportation Company; and A. 98632, applying to Reading Company are necessary for the service, accommodation, convenience and safety of the public; THEREFORE,

IT IS ORDERED:

1. That the above captioned applications of Interstate Energy Company be and are hereby approved.
2. That plans pertaining to the construction of the various pipeline-railroad crossings and submitted in this record as applicant's exhibits A-1, A-2, A-3, B, C, D, E-1, E-2, E-3, E-4, F-1, F-2, F-4, F-5, and F-6 are hereby approved.
3. That Interstate Energy Company at its sole cost and expense construct the crossings of its pipeline facilities across and below the grade of the track of the Baltimore & Ohio Railroad Company at railroad valuation station 982+12 in Upper Chichester Township, Delaware County.
4. That Interstate Energy Company at its sole cost and expense construct its pipeline facilities across and below the grade of tracks of Erie Lackawanna Railway Company at a point approximately 426 feet southeast of Milepost 96, in Lower Mount Bethel Township, Northampton County.
5. That Interstate Energy Company construct its pipeline facilities across and below the grade of the track of Lehigh & New England Railway Company at a point approximately 1,781 feet west of Milepost 23 in Forks Township, Northampton County.

6. That Interstate Energy Company at its sole cost and expense construct its pipeline facilities across and below the grade of the track of Lehigh Valley Railroad Company at a point 61 feet southeast of Milepost 83 in Lower Saucon Township at Railroad Valuation Station 348+40 in Bethlehem Township and at a point 902 feet south of Railroad Bridge No. EA-84A in Palmer Township all in Northampton County.

7. That the caption of Application Docket No. A. 98631 which reads:

In Re: Application of Interstate Energy Company for an order approving the construction, below grade, of its pipeline facilities across the railroad facilities of the Penn Central Transportation Company at one location in Concord Township and one location in Thornbury Township, Delaware County, and three locations in East Whiteland Township and one location in East Pikeland Township, Chester County.

be amended by deleting the word "three" in the expression three locations in East Whiteland Township, and substituting the word "two", thereby making the amended caption now read:

Application Docket No. A. 98631

In Re: Application of Interstate Energy Company for an order approving the construction, below grade, of its pipeline facilities across the railroad facilities of the Penn Central Transportation Company at one location in Concord Township and one location in Thornbury Township, Delaware County, and two locations in East Whiteland Township and one location in East Pikeland Township, Chester County.

8. That Interstate Energy Company construct its pipeline facilities across and below the grade of tracks of Penn Central Transportation Company at (1) railroad valuation

station 91+82 in Concord Township, Delaware County, (2) at railroad Valuation Station 1088+05 in Thornbury Township, Delaware County, the track of Foote Mineral Company at Railroad Valuation Station 1340+55 in East Whiteland Township, Chester County and at Railroad Valuation Station 1352+95 in East Pikeland Township, Chester County.

9. That Interstate Energy Company at its sole cost and expense construct its pipeline facilities crossing below the grade of the tracks of Reading Company at (1) Milepost 14+53 in East Whiteland Township, Chester County, (2) Milepost 39.24 in Richland Township, Bucks County, (3) Milepost 30.01 in Upper Providence Township, Montgomery County and (4) a point 1047 feet north of Railroad Bridge 7/86 in Perkiomen Township, Montgomery County.

10. That Interstate Energy Company and Baltimore & Ohio Railroad Company, Erie Lackawanna Railway Company, Lehigh & New England Railway Company and Lehigh Valley Railroad Company, in cooperation with each other where appropriate, submit to this Commission for approval all pertinent agreements drawn up with respect to the various crossings, and that no construction shall be started on the crossings and the aforesaid agreements shall not take effect until approval of this Commission has been obtained, said agreements being consistent with the provisions of this order.

11. That in accord with the provisions of Section 409 of the Public Utility Law, 1937, P.L. 1053, as amended, and supplemented, P.S. 1179, the following-described properties be and are hereby severally taken and appropriated for the purpose of the improvement in accordance with the plans attached hereto, and that numbered Paragraph 5 of this

order, together with a copy of said plans for each respective county, shall be recorded by the Recorders of Deeds of Montgomery, Chester, Bucks and Delaware County, and shall 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 Interstate Energy Company, applicant herein. E-1, E-2, E-3, E-4, F-1, F-2, F-4, F-5 and F-6.

12. That the easements taken herein are subsurface easements only, limited to the purpose of permitting the placing of an underground pipe below the tracks of the railroads and that nothing herein may be construed as changing the rights and privileges of the railroad carriers to occupy and to maintain their tracks and facilities on and above the surface of the ground at the respective crossings.

13. That Trustees of Reading Company at the cost and expense of Interstate Energy Company furnish and maintain such watchmen and flagmen as may be necessary to protect its operations during the time the crossings are being constructed across and below its tracks in accordance with this order.

14. That Trustees of Reading Company, at its initial cost and expense, furnish such engineering services as may be required to insure the safety of its facilities which may be affected by the design and construction of the pipeline-railroad crossings and furnish any necessary construction inspectors to observe the progress of the work during the time the crossings are being constructed across and below its tracks.

15. That Trustees of Penn Central Transportation Company at the cost and expense of Interstate Energy Company furnish and maintain such watchmen and flagmen as may be necessary to protect its operations during the time the crossings are being constructed across and below its tracks in accordance with this order.

16. That Trustees of Penn Central Transportation Company, at its initial cost and expense, furnish such engineering services as may be required to insure the safety of its facilities which may be affected by the design and construction of the pipeline-railroad crossings and furnish any necessary construction inspectors to observe the progress of the work during the time the crossings are being constructed across and below its tracks.

17. That Interstate Energy Company, Reading Company and Penn Central Transportation Company cooperate so that in the construction of the crossings the operations and facilities of the companies will not be endangered or unnecessarily impeded.

18. That any relocation, changes in, or removal of any adjacent structures, equipment or other facilities of any public utility other than Reading Company and Penn Central Transportation Company located within the limits of these crossings and of this Commission's jurisdiction which may be required as incidental to the execution of the project be made by said utility at the cost and expense of Interstate Energy Company and in such manner as will not interfere with construction of the crossings and said relocated or changed facilities thereafter be maintained by the respective utility.

19. That Interstate Energy Company pay all compensation for damages, if any, due to the owners for property taken, injured or destroyed by reason of the construction of the crossings in accordance with this order.

20. That the pipeline railroad crossings be fully completed in a manner satisfactory to this Commission on or before December 31, 1975 and that on or before said date Baltimore & Ohio Railroad Company, Erie Lackawanna Railway Company, Lehigh & New England Railway Company, Lehigh Valley Railroad Company, Reading Company, Penn Central Transportation Company and Interstate Energy Company each report to this Commission the dates of actual completion of its respective portion of the work.

21. That upon completion of the pipeline-railroad crossing projects Interstate Energy Company at its sole cost and expense furnish all material and do all work necessary to maintain, in a manner satisfactory to this Commission, its pipeline and other facilities incident to the crossings constructed within the boundaries of the railroad right-of-way.

22. That upon completion of the pipeline railroad crossing projects the Baltimore & Ohio Railroad Company, Erie Lackawanna Railway Company, Lehigh & New England Railway Company, Lehigh Valley Railroad Company and Penn Central Transportation Company and Reading Company each at its sole cost and expense maintain its tracks, wirelines and other railroad facilities at the crossings.

23. That Interstate Energy Company pay the Trustees of Reading Company, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost incurred by said company in furnishing

material and in performing work in accordance with numbered paragraph 13 of this order.

24. That Interstate Energy Company pay the Trustees of Penn Central Transportation Company, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost incurred by said company in furnishing material and in performing work in accordance with numbered Paragraph 15 of this order.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) George I. Bloom

Chairman

ATTEST:

Secretary

ORDER ADOPTED: November 12, 1974.

ORDER ENTERED:

PENNSYLVANIA PUBLIC UTILITY COMMISSION

A. 98627

Baltimore & Ohio Railroad Company

A. 98628

Erie Lackawanna Railway Company

A. 98629

Lehigh & New England Railway Company

A. 98630

Lehigh Valley Railway Company

A. 98631

Penn Central Transportation Company

✓ A. 98632

Reading Company

EXTRA COPY

In re: Application of Interstate Energy Company, a Delaware corporation, for an Order or Orders approving the construction, below grade, of its pipeline facilities to cross below the tracks of the various railroads in Upper Chichester Township, Delaware County; Lower Mount Bethel Township, Northampton County, Forks Township, Northampton County, Lower Saucon, Bethlehem and Palmerton Townships, Northampton County; Concord and Thornbury Townships, Delaware County; East Whiteland and East Pikeland Townships, Chester County; East Whiteland Township, Chester County; Richland Township, Bucks County; and Upper Providence and Perkiomen Townships, Montgomery County.

ORDER

BY THE COMMISSION, NOVEMBER 12, 1974:

Those applications by Interstate Energy Company pursuant to Section 409 of the Public Utility Law request that we authorize construction of certain crossings of its proposed pipeline below tracks of Baltimore & Ohio Railroad Company, Erie Lackawanna Railway Company, Lehigh & New England Railway Company, Lehigh Valley Railway Company, Penn Central Transportation Company and Reading Company along the 83 mile route of the line.

DUPLICATE RECORD,
ORIGINAL CERTIFIED
TO COMMONWEALTH COURT.

Our Order at Application Docket No. 97032 directed, inter alia, that Interstate Energy Company construct its pipeline from Marcus Hook to the vicinity of Martin's Creek in accordance with plans submitted, and further directed that Interstate Energy Company, in its construction operations, comply with our proposed transmission pipeline regulations issued in the form of an Order Nisi, May 17, 1971. Rule 3 of our proposed pipeline regulations states as follows:

"CONSTRUCTION, ALTERATION OR RELOCATION OF CROSSINGS.

Each carrier must comply with the provisions of the Public Utility Law and obtain prior Commission approval for construction, alteration or relocation of each and every crossing of the transmission pipeline and a highway or railroad. A plan for a proposed pipeline crossing or for an alteration of a crossing, where said pipeline crosses a highway or railroad right-of-way when officially approved for the governmental unit or rail carrier responsible for the right-of-way involved, may be submitted by the pipeline carrier requesting Commission approval.

Approval of such plan by the Commission will authorize construction of the crossing unless the Commission chooses to require formal hearing. The pipeline carrier will furnish additional copies of the plan as required for distribution to interested parties and for filing as required."

A field conference was held by this Commission on May 29, 1973 and was attended by a Commission staff engineer, representatives of Interstate Energy Company, Reading Company, and Penn Central Transportation Company, and representatives of the other rail carriers. On the two days following the meeting, inspections were made of the various crossings with railroad representatives present. No objection was offered to the location or to the proposed construction details of any crossing. At the May 29 meeting it was announced

by the Commission representative that, should any party wish to be heard on the matter of the crossings, a hearing would be held in Harrisburg on June 10 and June 11, 1974. Representatives of Penn Central Transportation Company and Reading Company responded affirmatively and hearing was held at Harrisburg, June 11, 1974. Prior to the hearing Lehigh Valley Railroad, Lehigh and New England Railway Company, Erie Lackawanna Railway Company and Baltimore & Ohio Railroad Company advised this Commission that they had no objections to construction proposed by Interstate at their respective crossings.

At the hearing, the instant applications were consolidated for the purpose of hearing and oral argument. Subsequently, Reading Company moved that the hearing be cancelled and the applications be dismissed giving as reasons (1) the applications were premature in that the Commission had not finally granted authority to construct a pipeline, (2) that rules of practice before the Commission had been violated in that all parties had not had 20 days' notice of the hearing, (3) that the Commission does not have jurisdiction to hear this matter, specifically, that the Commission does not have jurisdiction over a crossing of merely a pipeline under a railroad where a highway crossing is not involved.

Penn Central Transportation Company made a similar motion on the same grounds and added that, to the extent that the Regional Railway Organization Act of 1973 may have changed the position of Penn Central as a carrier, the Penn Central Transportation Company seeks a ruling of the Public Utility Commission's position on the Regional Railway Organization Act as it applies to this transaction.

Russell K. Schulze, President of Interstate Energy Company, testified that the company holds a certificate of public convenience issued by this Commission at Docket No. 97032 on February 6, 1973. Mr. Schulze acknowledged that an order had been issued at Complaint Docket No. 19914 directing Interstate Energy Company to cease and desist from all construction of the fuel oil transportation facility until it had obtained and presented to the Commission approvals from the Delaware River Basin Commission and other agencies.

Penn Central Transportation Company placed one witness on the stand, Walter A. Kautz, a senior civil engineer of the company, who testified that basically the Penn Central organization had no engineering objection to the proposed construction, but it had not entered into any agreement covering the five crossings and until such time as it did have an agreement with the Interstate Energy Company, it would not approve the crossings.

Subsequently, applicant's Exhibits A-1 through F-6, blueprint drawings pertaining to the railroad were crossings in question, admitted into evidence.

We shall deal initially with the averments that these applications are premature. The Commission, at Application Docket No. 97032, found that the granting of the application was necessary and proper for the service, accommodation, convenience and safety of the public, and a certificate of public convenience was issued to IEC evidencing the approval of the said application. It follows that if the service is necessary, the construction to provide the service is necessary, and the timeliness of agreement or application for various construction permits is merely to have such permits in hand before construction starts.

Paragraph 1a of our order of February 6, 1973, was primarily directed at the environmental impact statement to be prepared by the Delaware River Basin Commission as being prerequisite to construction.

As to the objection that the formalities of proper notification were not complied with, this also must fail since Reading Company had sufficient actual notice of the date of hearing, appeared at the hearing and has showed no hardship or prejudice falling upon the company resulting therefrom.

Finally, there can be no question as to our jurisdiction over the subject matter of the instant applications. Section 409 of the Public Utility Law clearly states that:

"No public utility, engaged in the transportation of passengers or property, shall without prior order of the commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any such public utility, and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated or abolished." (Emphasis added)

Furthermore, the above quoted Rule 3 of the proposed pipeline regulations further emphasizes the fact that in such cases as now before us where a conflict has arisen between two utilities, the function of the Commission is to protect the public interest and to resolve such conflicts with minimal disturbance by specifying with some particularity the terms and conditions upon which such crossings as herein involved can be made. We, therefore, deny the motions of Penn Central and the Reading Company.

After full consideration of the matter, and things involved we find and determine that the construction of crossings as applied for by Interstate Energy Company at Dockets A. 98627, applying to Baltimore & Ohio Railroad Company; A. 98628, applying to Erie Lackawanna Railway Company; A. 98629, applying to Lehigh & New England Railway Company; A. 98630, applying to Lehigh Valley Railroad Company; A. 98631, applying to Penn Central Transportation Company; and A. 98632, applying to Reading Company are necessary for the service, accommodation, convenience and safety of the public; THEREFORE,

IT IS ORDERED:

1. That the above captioned applications of Interstate Energy Company be and are hereby approved.

2. That plans pertaining to the construction of the various pipeline-railroad crossings and submitted in this record as applicant's exhibits A-1, A-2, A-3, B, C, D, E-1, E-2, E-3, E-4, F-1, F-2, F-4, F-5, and F-6 are hereby approved.

3. That Interstate Energy Company at its sole cost and expense construct the crossings of its pipeline facilities across and below the grade of the track of the Baltimore & Ohio Railroad Company at railroad valuation station 982+12 in Upper Chichester Township, Delaware County.

4. That Interstate Energy Company at its sole cost and expense construct its pipeline facilities across and below the grade of tracks of Erie Lackawanna Railway Company at a point approximately 426 feet southeast of Milepost 96, in Lower Mount Bethel Township, Northampton County.

5. That Interstate Energy Company construct its pipeline facilities across and below the grade of the track of Lehigh & New England Railway Company at a point approximately 1,781 feet west of Milepost 23 in Forks Township, Northampton County.

6. That Interstate Energy Company at its sole cost and expense construct its pipeline facilities across and below the grade of the track of Lehigh Valley Railroad Company at a point 61 feet southeast of Milepost 83 in Lower Saucon Township at Railroad Valuation Station 348+40 in Bethlehem Township and at a point 902 feet south of Railroad Bridge No. EA-84A in Palmer Township all in Northampton County.

7. That the caption of Application Docket No.

A. 98631 which reads:

In Re: Application of Interstate Energy Company for an order approving the construction, below grade, of its pipeline facilities across the railroad facilities of the Penn Central Transportation Company at one location in Concord Township and one location in Thornbury Township, Delaware County, and three locations in East Whiteland Township and one location in East Pikeland Township, Chester County.

be amended by deleting the word "three" in the expression three locations in East Whiteland Township, and substituting the word "two", thereby making the amended caption now read:

Application Docket No. A. 98631

In Re: Application of Interstate Energy Company for an order approving the construction, below grade, of its pipeline facilities across the railroad facilities of the Penn Central Transportation Company at one location in Concord Township and one location in Thornbury Township, Delaware County, and two locations in East Whiteland Township and one location in East Pikeland Township, Chester County.

8. That Interstate Energy Company construct its pipeline facilities across and below the grade of tracks of Penn Central Transportation Company at (1) railroad valuation

station 91+82 in Concord Township, Delaware County, (2) at railroad Valuation Station 1088+05 in Thornbury Township, Delaware County, the track of Foote Mineral Company at Railroad Valuation Station 1340+55 in East Whiteland Township, Chester County and at Railroad Valuation Station 1352+95 in East Pikeland Township, Chester County.

9. That Interstate Energy Company at its sole cost and expense construct its pipeline facilities crossing below the grade of the tracks of Reading Company at (1) Milepost 14+53 in East Whiteland Township, Chester County, (2) Milepost 39.24 in Richland Township, Bucks County, (3) Milepost 30.01 in Upper Providence Township, Montgomery County and (4) a point 1047 feet north of Railroad Bridge 7/86 in Perkiomen Township, Montgomery County.

10. That Interstate Energy Company and Baltimore & Ohio Railroad Company, Erie Lackawanna Railway Company, Lehigh & New England Railway Company and Lehigh Valley Railroad Company, in cooperation with each other where appropriate, submit to this Commission for approval all pertinent agreements drawn up with respect to the various crossings, and that no construction shall be started on the crossings and the aforesaid agreements shall not take effect until approval of this Commission has been obtained, said agreements being consistent with the provisions of this order.

11. That in accord with the provisions of Section 409 of the Public Utility Law, 1937, P.L. 1053, as amended, and supplemented, P.S. 1179, the following-described properties be and are hereby severally taken and appropriated for the purpose of the improvement in accordance with the plans attached hereto, and that numbered Paragraph 5 of this order, together with a copy of said plans for each respective county, shall be recorded by the Recorders of Deeds of Montgomery, Chester, Bucks and Delaware County, and shall 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 Interstate Energy Company, applicant herein.

Reading Company, Property Owner

(Tract No. 1)

ALL THAT CERTAIN tract of land situated in East Whiteland Township, Chester County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide, containing 0.0368 acres, as shown on Plat IEC-A9-9-55R, dated August 7, 1972, with latest revision July 25, 1974, across the railroad right-of-way of the Reading Company's Philadelphia and Chester Branch in East Whiteland Township, Chester County, Pennsylvania, the centerline of said permanent right-of-way crossing the centerline of the single railroad track at Valuation Station 767+21 and also being 521 feet westerly from the center of Township Road 470, the said pipeline right-of-way being described as follows;

BEGINNING at a point on the south railroad right-of-way line, said point being 25 feet south of, measured at right angles, from railroad Valuation Station 767+46.43, thence N 13° E, across said railroad right-of-way, a distance of 53.42 feet to a point on the north railroad right-of-way line, said point being 25 feet north of, measured at right angles, from railroad Valuation Station 767+27.63, thence N 82° 23' E, along said railroad right-of-way, a distance of 32.06 feet to a point, thence S 13° W, across railroad right-of-way, a distance of 53.42 feet to a point on the south railroad right-of-way, thence S 82° 23' W, along said right-of-way, a distance of 32.06 feet to the point of beginning.

The above described permanent right-of-way and easement herein granted is intended to convey a continuous thirty (30) foot wide strip from the south railroad right-of-way line to the north railroad right-of-way line.

(Tract No. 2)

ALL THAT CERTAIN tract of land situated in Richland Township, Bucks County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide, containing 0.0462 acres as shown on Plat IEC-A9-23-42R, dated February 28, 1973, across the railroad right-of-way of The Reading Company, the centerline of which crosses the railroad right-of-way centerline at Railroad Valuation Station 2071+95 and 357 feet northwest of the centerline of the railroad Bridge No. 39/17 over Morgan's Creek and approximately 3339 feet southeast of Fairview Road crossing and described as follows;

BEGINNING at a point on the southwest railroad right-of-way line, said point being 33 feet, southwesterly of and measured at right angles from railroad right-of-way centerline Station 2072+04.36, thence N 53° 54' E, across said railroad right-of-way a distance of 67.04 feet to a point on the north-east right-of-way line, thence S 26° E, along said right-of-way line a distance of 30.48 feet to a point, thence S 53° 54' W, across said railroad right-of-way a distance of 67.04 feet to a point on the southwest railroad right-of-way line, thence N 26° W, along said right-of-way a distance of 30.48 feet to the point of beginning.

The above described permanent right-of-way and easement herein granted is intended to convey a continuous thirty (30) foot wide strip across original 66 foot wide railroad right-of-way, symmetrically centered about a centerline at R.R. Station 2071+95 with an angle of 79° 54' with the track at the point, and recorded in the northeast quadrant.

(Tract No. 3)

ALL THAT CERTAIN tract of land situated in Upper Providence Township, Montgomery County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide, containing 0.1233 acres, as shown on Plat IEC-B9-13-1R, dated January 18, 1974 with latest revision May 23, 1974, across the railroad right-of-way of the Reading Company's Main Line at Railroad Valuation Station 1589+15 and Mile Post 30.10 in Upper Providence Township, Montgomery County, Pennsylvania, said right-of-way being described as follows:

BEGINNING at a point on the curved northwesterly railroad right-of-way line, having a radius of 498.69 feet, said point being forty-five feet, more or less, southwesterly around said curve from its beginning, thence N 58° 47' E, across said

railroad right-of-way, a distance of 174.75 feet, more or less, to a point on easterly railroad right-of-way, thence southerly along said railroad right-of-way a distance of 34.56 feet to a point, thence S 58° 47' W, across said railroad right-of-way, a distance of 185.45 feet, more or less, to a point on said northwesterly railroad right-of-way, thence northerly around said curved right-of-way a distance of 40.61 feet to a point of beginning.

The above described permanent right-of-way and easement herein granted is intended to convey a continuous thirty (30) foot wide strip across the entire railroad right-of-way from the common line between the railroad and Commonwealth of Pennsylvania on the westerly side to a common line between the railroad and Eastern Real Estate Company, the centerline of said permanent pipeline right-of-way crossing the centerline of the northbound mainline with an angle of 60° 15', tangent to the curve and measured in the northeast quadrant, and said same centerline of right-of-way intersects the railroad baseline at their Station 1589+15.

And in addition to the permanent pipeline right-of-way, two parcels of temporary right-of-way as described as follows:

1. An area twenty (20) feet wide, being northwest of, parallel to and contiguous with the permanent right-of-way and extending easterly between the westerly railroad right-of-way line, for a distance of 60 feet, more or less, to the bottom of a large ditch.
2. An area twenty (20) feet wide, being southeast of, parallel to and contiguous with the permanent right-of-way and extending easterly about 67 feet from the westerly railroad right-of-way line to the bottom of a large ditch. Both parcels of temporary right-of-way containing a total of 0.0606 acres, more or less.

Said temporary right-of-way to be used as additional working area for the purpose of construction and installation of the pipeline and upon completion of the pipeline system shall forthwith cease and terminate and be of no further force or effect.

(Tract No. 4)

ALL THAT CERTAIN tract of land situated in Perkiomen Township, Montgomery County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide, containing 0.0467 acres as shown on Plat IEC-A9-15-4R, dated July 23, 1974, across the railroad right-of-way of the Reading Company's Perkiomen Branch at Mile Post 8.10 and also 1283 feet north of railroad Bridge No. 7/86 and at a point where the centerline of said 30 foot wide pipeline right-of-way crosses the centerline of the railroad's single track at Valuation Station 427+77 and with an angle of 62° 15', measured in the northeast quadrant, and more fully described as follows:

BEGINNING at a point on the west railroad right-of-way line, said point being 25 feet, measured at right angles from the centerline of said single track at Valuation Station 427+80.8, thence N 60° 26' E, across said railroad right-of-way, a distance of 67.80 feet to a point on the east railroad right-of-way, said point being 35 feet east of, measured at right angles, from Valuation Station 428+12.37 in center of track, thence S 1° 49' E, along said right-of-way a distance of 33.90 to a point, thence S 60° 26' W, across said railroad right-of-way, a distance of 67.80 feet to a point on the west railroad right-of-way, thence N 1° 49' W, along west railroad right-of-way line, a distance of 33.90 feet to the point of beginning.

The above described permanent right-of-way and easement herein granted is intended to convey a continuous thirty (30) foot wide strip from entry on west right-of-way line to exit on the east right-of-way line.

Penn Central Transportation Company, Property Owner

(Tract No. 1)

ALL THAT CERTAIN tract of land situated in Concord Township, Delaware County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide, containing 0.0537 acres as shown on Plat IEC-B9-3-62R, dated August 23, 1972, with revision July 11, 1974, across the railroad right-of-way of Penn Central Transportation Company's Octoraro Branch, at a point where the centerline of said 30 foot wide right-of-way crosses the centerline of a single track at railroad Valuation Station 91+82+, and 1173 feet, more or less, east of railroad Mile Post 20 and also 0.49 miles west of Chester Heights, Delaware County, Pennsylvania, said right-of-way being described as follows:

BEGINNING at a point on the southerly railroad right-of-way line, said point being 10.0 feet, more or less, easterly from the intersection of said southerly right-of-way line with the property line of Mark Wilcox, Jr., thence N 16° 51' W, 10 feet northeast of and parallel to the nearest of two existing Transco Gas pipelines, a distance of 78.88 feet, more or less, to a point on the northerly railroad right-of-way line, thence southeasterly along existing railroad right-of-way a distance of 32.91 feet to a point, thence S 16° 51' E a distance of 77.33 feet more or less, to a point on the southerly railroad right-of-way line, thence northwesterly along said railroad right-of-way line a distance of 32.30 feet, more or less, to the point of beginning.

The above described permanent right-of-way and easement herein granted is intended to convey a continuous 30 foot wide strip from the southerly railroad right-of-way line to the northerly railroad right-of-way line.

(Tract No. 2)

ALL THAT CERTAIN tract of land situated in Thornbury Township, Delaware County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide, containing 0.1067 acres, as shown on Plat IEC-B9-5-81R, dated August 30, 1972, with latest revision July 10, 1974, across the railroad right-of-way of Penn Central Transportation Company's West Chester Branch at Valuation Station 1088+05+, located 979 feet east of Mile Post 22/6 and at a point 1.41 miles west of station of Glen Mills, Thornbury Township, Delaware County, Pennsylvania, said right-of-way being described as follows;

BEGINNING at a point on the southerly right-of-way of said railroad, said point of entry being 10 feet northeasterly of, measured at right angles, from the nearest of two Transco pipelines, thence N 16° 40' W, parallel to and 10 feet north-east of, the nearest of two Transco pipelines a distance of 133.60 feet, more or less, to a point on the northwesterly railroad right-of-way line, thence northeasterly, along said railroad right-of-way line, a distance of 40.06 feet to a point, thence S 16° 40' E a distance of 176.4 feet to a point on the southerly right-of-way of said railroad, thence N 78° 12' W, along said railroad right-of-way, a distance of 34.12 feet to the point of beginning.

The above described permanent right-of-way and easement herein granted is intended to convey a continuous thirty (30) foot wide strip from entry on southern right-of-way line to exit on the northwesterly right-of-way line.

(Tract No. 3)

ALL THAT CERTAIN tract of land situated in East Whiteland Township, Chester County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide, containing 0.288 acres, as shown on Plat IEC-B9-8-46R, dated March 30, 1973 with latest revision July 10, 1974, across two separate sections of the Penn Central Transportation Company's right-of-way situated near Glen Lock in East Whiteland Township, Chester County, Pennsylvania, and described as follows;

BEGINNING at a point on the south railroad right-of-way line of the first of the two sections, said point being 243.8 feet easterly from the East and West Whiteland Township line, thence N 14° 30' W a distance of 303 feet, more or less, to a point on the north railroad right-of-way line of the first two sections, said point being 500.3 feet easterly from the center-line of Highway 29, as measured along the common boundary between the railroad and Fizzano Brothers, Inc., property, thence easterly, along said railroad right-of-way line and property line of Fizzano Brothers, a distance of 30.4 feet to a point, thence S 14° 30' E a distance of 303 feet, more or less, to a point of the said south railroad right-of-way line, thence westerly, along said right-of-way, a distance of 30.4 feet to the point of beginning.

For the second section of 30 foot wide permanent pipeline right-of-way, begin at a point on the south railroad right-of-way and north property line of Fizzano Brothers, Inc.,

property, said point being 470 feet easterly from the center of Highway 29, as measured along said railroad right-of-way, thence N 14° 30' W a distance of 115 feet, more or less, to a point on the north railroad right-of-way of said second section, said point being 120.9 feet northeasterly, measured also said railroad right-of-way, from a 3/4" iron pin marking a curved property line corner of Charles Tabas, et al, property, thence easterly along said railroad right-of-way a distance of 30.06 feet to a point, thence S 14° 30' E a distance of 115 feet, more or less, to a point on the south railroad right-of-way line, thence westerly along said railroad right-of-way a distance of 30.06 feet to the point of beginning.

The above described permanent right-of-way and easement herein granted is intended to convey a continuous thirty (30) foot wide strip from the point of entry on the most southerly railroad right-of-way line to the final point of exit on the most northerly railroad right-of-way, excepting that tract of land owned by Fizzano Brothers, Inc., and lying between the two separate sections of railroad right-of-way, the west line of said permanent pipeline right-of-way being ten (10) feet east of and parallel to an existing Atlantic (formerly Keystone) pipeline.

And in addition to the permanent right-of-way, a twenty foot wide strip of temporary right-of-way, being easterly of, parallel to and contiguous with the easterly edge of the permanent right-of-way and extending 170 feet northerly from most southerly railroad right-of-way line, and more specifically described as follows;

BEGINNING at the point of intersection of the most southerly railroad right-of-way line with the easterly line of the above described 30 foot permanent pipeline right-of-way, thence N 14° 30' W, along said easterly line of the permanent right-of-way, a distance of 170 feet to a point, thence N 75° 30' E a distance of twenty (20) feet to a point, thence S 14° 30' E a distance of 173 feet, more or less, to a point on the most southerly railroad right-of-way, thence westerly, along said right-of-way a distance of 20.27 feet to the point of beginning and containing 0.079 acres.

(Tract No. 4)

ALL THAT CERTAIN tract of land situated in East Whiteland Township, Chester County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide (excepting a small portion that falls outside of the railroad property) and containing 0.5069 acres as shown on Plat IEC-B9-54R, dated July 24, 1974, across and longitudinally with a portion of Penn Central Transportation Company's Phoenixville Branch right-of-way situated in East Whiteland Township, Chester County, Pennsylvania and more specifically described as follows;

BEGINNING at a point on the west right-of-way, said point being 703 feet, more or less, southerly of the center of

Swedesford road, as measured along said west right-of-way line, thence N 16° 59' E, a distance of 215.59 feet to an angle point, thence N 6° 34' E, a distance of 176.57 feet to an angle point, thence N 13° 43' E, a distance of 315.63 feet to a point in the center of Swedesford Road, thence S 85° 02' E, along said center of Swedesford Road, a distance of 30.35 feet to a point, said point being 26.47 feet westerly along center of road from the east railroad right-of-way line, thence S 13° 43' W, a distance of 318.37 feet to an angle point, thence S 6° 34' W, a distance of 52 feet, more or less, to a point on said railroad right-of-way, thence N 81° 23' W, along said railroad right-of-way, a distance of 8.5 feet to an iron rod marking a corner on the railroad right-of-way line, thence along a curving to the left railroad right-of-way line, having a radius of 5046 feet, a distance of 178.00 feet to a point, thence S 16° 59' W, a distance of 303.41 feet to a point on the west railroad right-of-way line, thence northerly, along a curving to the right railroad right-of-way line, having a radius of 5106 feet, a distance of 139.34 feet to the point of beginning.

And in addition to the above described permanent right-of-way, a 20 foot wide strip of temporary right-of-way, said strip being easterly of, parallel to and contiguous with the easterly side of the permanent right-of-way and extending the full length of the permanent right-of-way, excepting that portion that falls outside of the railroad right-of-way limits and containing a net 0.3016 acres.

Said temporary right-of-way to be used as additional working area for the purpose of construction and installation of the pipeline and upon completion of the pipeline system shall forthwith cease and terminate and be of no further force or effect.

(Tract No. 5)

ALL THAT CERTAIN tract of land situated in East Pikeland Township, Chester County, bounded and described as follows, to wit:

A permanent right-of-way and easement thirty (30) feet wide containing 0.0898 acres as shown on Plat IEC-B9-13-123R, dated July 24, 1974, across the railroad right-of-way of the Penn Central Transportation Company's Schuylkill Branch at their Mile Post 30.29 in East Pikeland Township, Chester County, Pennsylvania, the centerline of said 30 foot permanent right-of-way crossing the railroad right-of-way baseline at Valuation Station 1348+78 and with an angle 85° 43' measured in the northeast quadrant, said crossing also being 1.88 miles south of Spring City and more specifically described as follows;

BEGINNING at a point on the West railroad right-of-way line, said point being 90 feet west of, measured at right angles, from railroad Valuation Station 1348+86.3 on the railroad baseline, thence N 80° 26' E, across said railroad right-of-way, a distance of 130.36 feet, more or less, to a point on the east railroad right-of-way line, said point being 40 feet east of, measured at right angles, from railroad Valuation

Station 1348+96.04, thence S 5° 17' W, along said railroad right-of-way a distance of 30.08 feet to a point, thence S 80° 26' W, across railroad right-of-way, a distance of 130.36 feet to a point on the west railroad right-of-way line, thence N 5° 17' W, along railroad right-of-way, 30.08 feet to a point of beginning.

The above described permanent right-of-way and easement herein granted is intended to convey a continuous thirty (30) foot wide strip from the west railroad right-of-way line to the east railroad right-of-way line.

And in addition to the permanent pipeline right-of-way, two parcels of temporary right-of-way as described as follows:

1. An area fifteen (15) feet wide, being north of, parallel to and contiguous with the permanent right-of-way and extending easterly 63 feet from the west railroad right-of-way line.
2. An area fifteen (15) feet wide, being south of, parallel to and contiguous with the permanent right-of-way and extending easterly 63 feet from the west railroad right-of-way line. Both parcels of temporary right-of-way containing a total of 0.0868 acres, more or less.

Said temporary right-of-way to be used as additional working area for the purpose of construction and installation of the pipeline and upon completion of the pipeline system shall forthwith cease and terminate and be of no further force or effect.

12. That the easements taken herein are subsurface easements only, limited to the purpose of permitting the placing of an underground pipe below the tracks of the railroads and that nothing herein may be construed as changing the rights and privileges of the railroad carriers to occupy and to maintain their tracks and facilities on and above the surface of the ground at the respective crossings.

13. That Trustees of Reading Company at the cost and expense of Interstate Energy Company furnish and maintain such watchmen and flagmen as may be necessary to protect its operations during the time the crossings are being constructed across and below its tracks in accordance with this order.

14. That Trustees of Reading Company, at its initial cost and expense, furnish such engineering services as may be required to insure the safety of its facilities which may be affected by the design and construction of the pipeline-railroad crossings and furnish any necessary construction inspectors to observe the progress of the work during the time the crossings are being constructed across and below its tracks.

15. That Trustees of Penn Central Transportation Company at the cost and expense of Interstate Energy Company furnish and maintain such watchmen and flagmen as may be necessary to protect its operations during the time the crossings are being constructed across and below its tracks in accordance with this order.

16. That Trustees of Penn Central Transportation Company, at its initial cost and expense, furnish such engineering services as may be required to insure the safety of its facilities which may be affected by the design

and construction of the pipeline-railroad crossings and furnish any necessary construction inspectors to observe the progress of the work during the time the crossings are being constructed across and below its tracks.

17. That Interstate Energy Company, Reading Company and Penn Central Transportation Company cooperate so that in the construction of the crossings the operations and facilities of the companies will not be endangered or unnecessarily impeded.

18. That any relocation, changes in, or removal of any adjacent structures, equipment or other facilities of any public utility other than Reading Company and Penn Central Transportation Company located within the limits of these crossings and of this Commission's jurisdiction which may be required as incidental to the execution of the project be made by said utility at the cost and expense of Interstate Energy Company and in such manner as will not interfere with construction of the crossings and said relocated or changed facilities thereafter be maintained by the respective utility.

19. That Interstate Energy Company pay all compensation for damages, if any, due to the owners for property taken, injured or destroyed by reason of the construction of the crossings in accordance with this order.

20. That the pipeline railroad crossings be fully completed in a manner satisfactory to this Commission or or before December 31, 1975 and that on or before said date Baltimore & Ohio Railroad Company, Erie Lackawanna Railway Company, Lehigh & New England Railway Company, Lehigh Valley Railway Company, Reading Company, Penn Central Transportation Company and Interstate Energy Company each report to this Commission the dates of actual completion of its respective portion of the work.

21. That upon completion of the pipeline-railroad crossing projects Interstate Energy Company at its sole cost and expense furnish all material and do all work necessary to maintain, in a manner satisfactory to this Commission, its pipeline and other facilities incident to the crossings constructed within the boundaries of the railroad right-of-way.

22. That upon completion of the pipeline railroad crossing projects the Baltimore & Ohio Railroad Company, Erie Lackawanna Railway Company, Lehigh & New England Railway Company, Lehigh Valley Railroad Company and Penn Central Transportation Company and Reading Company each at its sole cost and expense maintain its tracks, wirelines and other railroad facilities at the crossings.

23. That Interstate Energy Company pay the Trustees of Reading Company, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost incurred by said company in furnishing material and in performing work in accordance with numbered paragraph 13 of this order.

24. That Interstate Energy Company pay the Trustees of Penn Central Transportation Company, when and as certified by Pennsylvania Public Utility Commission, a sum or sums of money equal to the actual cost incurred by said company in furnishing material and in performing work in accordance with numbered Paragraph 15 of this order.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

(signed) George I. Bloom
Chairman

ATTEST:

Secretary

ORDER ADOPTED: November 12, 1974
ORDER ENTERED: NOV 18 1974