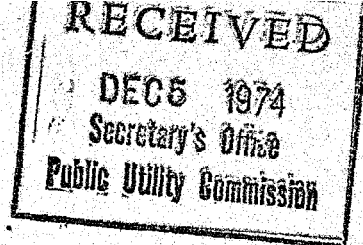


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Before the

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Interstate Energy Company for approval of the construction of the crossings where an 18-inch products pipeline, constructed as proposed, will cross below the grade of the track or tracks of Reading Company at (1) Mile Post 14+53 in East Whiteland Township, Chester County, (2) Mile Post 39.24 in Richland Township, Bucks County and (3) Mile Post 30.01 in Upper Providence Township and at a point 1047 feet north of Railroad Bridge 7/86 in Perkiomen Township, Montgomery County

Docket No. A. 98632

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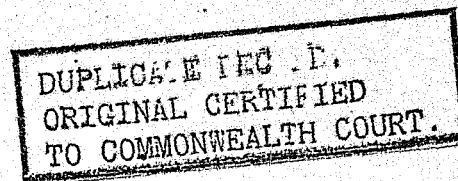
PETITION OF ANDREW L. LEWIS, JR. AND JOSEPH L. CASTLE, TRUSTEES OF THE PROPERTY OF READING COMPANY, DEBTOR FOR REHEARING, RE-ARGUMENT, MODIFICATION AND RESCISSION OF THE COMMISSION'S ORDER OF NOVEMBER 12, 1974

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

And now, this 3rd day of December, 1974, comes Andrew L. Lewis, Jr. and Joseph L. Castle, Trustees of the property of Reading Company, Debtor, by Joseph M. O'Malley, Esquire, Attorney for Reading Company, Debtor, 415 Reading Terminal, Philadelphia, Pa. 19107, and files this Petition for Rehearing, Reargument, Modification and Rescission of Commission's Order of November 12, 1974, and in support thereof respectfully represents:

1. On November 12, 1974, your Honorable Commission adopted an order in the instant application which provided, in part, that "there can be no question as to our jurisdiction over the subject matter of the instant applications." The order states that Section 409 of the Public Utility Law gives the Commission the jurisdiction in this matter. The order

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fails to support this position with statutory authority and in light of the Pennsylvania Supreme Court decision in Delaware River Port Authority v. Pennsylvania Public Utility Commission, 393 Pa. 639 (1958) stating that 409(A) of the Public Utility Law deals with the construction by a certain type of public utility - a utility engaged in the transportation of passengers or property, i.e., a railroad, the order should be rescinded and the application dismissed for lack of jurisdiction.

2. The order summarily dismisses Reading Company's objections to the failure of Applicant to abide by Rule 17 and Rules 31 and 30(B) of the Commission's Rules of Practice. The Order is based on a hearing that was not properly held and therefore, the Order should be rescinded. The Rules of Practice should be complied with and it is not within the province of the Commission to rule after a hearing has been held without proper notice or publication, that the party suffered no harm.

3. The Order should be modified by the deletion of paragraph numbered 11. The Commission in its Order completely avoided the issue of its jurisdiction to condemn Reading Company property prior to approval by Reading Company's Bankruptcy Court. This issue was raised in Reading Company's brief and at oral argument.

4. The Order should be modified by changing paragraph numbered 21 in such a manner as to make the applicant responsible for any and all work necessary to railroad facilities caused by the construction of the pipeline, both during construction and subsequent to construction.

WHEREFORE, petitioners pray that your Honorable Commission rescind the order adopted November 18, 1974 and dismiss the application for lack of jurisdiction. Petitioners are prepared to attend further hearings and argument on the items raised in this petition.

Andrew L. Lewis, Jr. and  
Joseph L. Castle, Trustees  
of the property of Reading  
Company, Debtor

By: Joseph M. O'Malley  
Joseph M. O'Malley  
Attorney for Debtor

Philadelphia, Pa.





# READING COMPANY

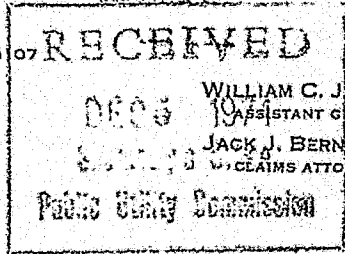
ANDREW L. LEWIS, JR. AND JOSEPH L. CASTLE, TRUSTEES

LAW DEPARTMENT

READING TERMINAL, PHILADELPHIA, PA. 19107

ALFRED W. HESSE, JR.  
VICE PRESIDENT—LAW

LOCKWOOD W. FOGG, JR.  
GENERAL COUNSEL



JOEL E. MAZOR

JOSEPH M. O'MALLEY  
GENERAL ATTORNEYS

December 4, 1974  
File: G-16463

Application of Interstate Energy Company for approval of the construction of the crossings where an 18-inch products pipeline, constructed as proposed, will cross below the grade of the track or tracks of Reading Company at (1) Mile Post 14+53 in East Whiteland Township, Chester County, (2) Mile Post 39.24 in Richland Township, Bucks County and (3) Mile Post 30.01 in Upper Providence Township and at a point 1047 feet north of Railroad Bridge 7/86 in Perkiomen Township, Montgomery County.

Docket No. A. 98632

*Rec'd*

PETITION OF ANDREW L. LEWIS, JR. AND JOSEPH L. CASTLE, TRUSTEES OF THE PROPERTY OF READING COMPANY, DEBTOR, FOR REHEARING, REARGUMENT, MODIFICATION AND RESCISSION OF THE COMMISSION'S ORDER OF NOVEMBER 12, 1974

Mr. Will Ketner, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, Pa. 17120

Dear Sir:

I am enclosing for filing with the Commission, the original and two copies of Petition of Andrew L. Lewis, Jr. and Joseph L. Castle, Trustees of the property of Reading Company, Debtor, for rehearing, reargument, modification and rescission of the Commission's Order of November 12, 1974.

I hereby certify that I have this date served a copy of said Petition upon the counsel of record in this matter by first class mail.

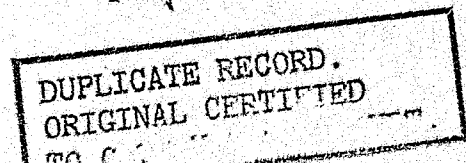
Very truly yours,

*Joseph M. O'Malley*  
Joseph M. O'Malley

JMO:bw  
Encs.

*ER*

cc: with copy of Petition, to:



Peter Platten, Esq., Ballard, Spahr, Andrews & Ingersoll,  
Land Title Building, Philadelphia, Pa. 19110.

David A. McCormick, Esq., Penn Central, Six Penn Center Plaza,  
Philadelphia, Pa. 19104

RECEIVED  
DEC 1 1974  
Public Utility Commission

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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 Pike-land Townships, Chester County; East Whiteland Township, Chester County; Richland Township, Bucks County; and Upper Providence and Perkiomen Townships, Montgomery County.

: DOCKET NOS. A.  
: 98627  
: 98628  
: 98629  
: 98630  
: 98631  
: 98632

DUPLICATE RECORD,  
ORIGINAL CERTIFIED  
PENNSYLVANIA COMMONWEALTH COURT.

MOTION OF INTERSTATE ENERGY COMPANY  
TO DISMISS THE PETITIONS OF  
READING COMPANY, DEBTOR AND  
OF PENN CENTRAL TRANSPORTATION COMPANY, DEBTOR

Comes now Interstate Energy Company, by its attorney, Peter Platten, Esquire, and moves this Honorable Court to dismiss the Petition of Reading Company, Debtor and of Penn Central Transportation Company, Debtor in the above captioned cause, each said Petition being variously styled as a Petition for Rehearing, Reargument, Modification and Rescission for the following reasons:

DOCKETED  
APPLICATION DOCKET  
DEC 26 1974  
ENTRY No: *Am*

1. Each Petition patently lacks any averment respecting or justifying the reopening of the record to receive any evidence. Neither Petitioner avers the existence of any evidence now which it wishes to present that was not available

during the time of the field and testimonial hearings. Neither Petition avers any fact at all relevant to this proceeding that would indicate any change in the situation of the parties or of the issues involved since the record was closed. City of Arnold v. Pennsylvania Public Utility Commission, 192 Pa. Super. Ct. 476 (1960); Crooks v. Pennsylvania Public Utility Commission, 1 Pa. Cmwlth. Ct. 583 (1971); Bucks County Board of Commissioners et al. v. Pennsylvania Public Utility Commission, 11 Cmwlth. Ct. 487, 499 (1973).

The denomination of each Petition as including a Petition for Rehearing is entirely spurious and misleading as in fact the substance of neither Petition asserts any matter comprehended within a petition for rehearing authorized by Section 1006 of the Public Utility Law, 66 PS §1396, see Arnold, Crooks and Bucks County, supra, and other cases annotated thereunder.

2. To the extent that each Petition deals with the legal aspects of the jurisdictional issue decided adversely to each railroad, neither Petition asserts a new rationale and the case authority cited is patently inapposite as it concerned a non-transportation public utility, an electric public utility, whereas here the Applicant is a transportation public utility crossing the facilities of another transportation public utility - the railroad.

3. Reading Company renews its argument about lack of a full 20 days notice of the hearing. It offers no point in support thereof that was not made to this Honorable Commission in brief and at oral argument.

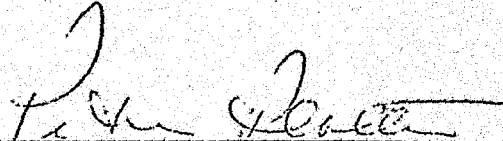
4. Each Petitioner seeks modification of the Order of November 12, 1974, because of an asserted failure on behalf of this Honorable Commission to take cognizance of its bankruptcy status. This position assumes that this Honorable Commission, through the Applicant can, may, and will ignore the proper means to place the matter of the condemnations before the respective bankruptcy court or otherwise flaunt the authority of each such court - a suggestion completely without foundation.

5. Reading asks that paragraph 21 (and Penn Central asks that paragraph 22) be modified so as to make Applicant responsible for any and all work necessary to railroad facilities caused by the construction of the pipeline, both during and subsequent to construction. Applicant will not assume responsibility for performing any work on railroad facilities; any such work necessitated by the construction of the pipeline should be performed by the railroad. Applicant will agree to pay the reasonable cost thereof as and when certified by this Honorable Commission. However, neither railroad asserted either at the field or testimonial hearings, that any crossing of its facilities by Applicant's pipeline would entail

any work to be performed on its railroad facilities - and no such assertion is made in respect of any crossing involved in the instant petitions.

WHEREFORE, Applicant Interstate Energy Company prays this Honorable Commission to dismiss each Petition.

And it will ever pray.



---

Peter Platten  
Attorney for Interstate  
Energy Company

Of Counsel:

Ballard, Spahr, Andrews & Ingersoll  
1035 Land Title Building  
Philadelphia, Pennsylvania 19110

Dated: December 16, 1974

BALLARD, SPAHR, ANDREWS & INGERSOLL

LAND TITLE BUILDING  
PHILADELPHIA, PA. 19110

215 LOCUST 7-5615

CABLE: BALLARD

December 16, 1974

ALLEN HUNTER WHITE  
DANIEL MILLER  
D. ALEXANDER WIELAND  
COUNSEL

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E. CALVERT CHESTON  
FREDERIC L. BALLARD  
RICHARDSON BLAIR  
WILLIAM S. RAWLS  
ROBERT R. BATT  
FRANCIS BALLARD  
NORMAN H. BROWN  
STANLEY W. ROOT, JR.  
JOSEPH P. FLANAGAN, JR.  
OLIVER CALDWELL BIDDLE  
QUINCY O. MCKEE  
TYSON W. COUGHLIN  
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ROBERT E. McQUISTON  
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H. DAVID PRIOR  
GERALD T. BRAUNER  
LEONARD C. HOMER  
ALAN S. FELLHEIMER  
THOMAS J. O'NEILL  
JULIAN RUNNE  
ROBERT J. FIELDS  
JOSEPH T. ROWAN  
CARL H. FRIDY  
J. DOUGLAS ROLLOW, III  
RICHARD L. SHERMAN

H. OBER HESS  
SHERWIN T. MCDOW  
CHARLES S. JACOBS  
M. CARTON DITTMANN, JR.  
BOYO L. SPAHR, JR.  
THOMAS G. B. EBERT  
HENRY N. PLATT, JR.  
PETER PLATTEN  
JOHN J. TINAGLIA  
CHARLES I. THOMPSON, JR.  
BRUCE L. CASTOR  
JOHN O. KARNS  
PETER M. MATTOON  
WILLIAM Y. WEBB  
LILA G. SIMON  
BENJAMIN R. NEILSON  
THEODORE J. MARTINEAU  
MICHAEL CHURCHILL  
JOHN R. McCARRON  
JOHN M. GARDNER  
FREDERIC W. CLARK  
KENNETH J. LEVIN  
RICHARD Z. FREEMANN, JR.  
WILLIAM H. RHEINER  
LISA J. HOLZSAGER  
JOHN V. BONNEAU  
LAWRENCE J. KRAMER  
WILLIAM J. NUTT  
J. KENNETH CRONEY  
THEODORE W. MASON  
JUDY F. BERKMAN  
MICHAEL LEHR  
REGINA O. THOMAS

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DEC 18 1974

Sec. of State

Public Utility Commission

Mr. Will Ketner  
Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 1916  
Philadelphia, Pennsylvania 19110

Re: Application of Interstate Energy Company,  
Docket Nos. A. 98631 and 98632

Dear Mr. Ketner:

Enclosed please find an original and two copies of the Motion of Interstate Energy Company to Dismiss the Petitions of Reading Company, Debtor and of Penn Central Transportation Company, Debtor.

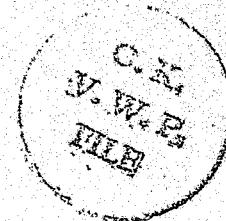
I certify I have forwarded a copy to all counsel of record.

Sincerely,

*Peter Platten*  
Peter Platten

PP/amw  
Enclosures

cc: Philip R. Mann, Esq.  
David A. McCormick, Esq.  
Joseph M. O'Malley, Esq.



DUPLICATE RECORD.  
ORIGINAL CERTIFIED  
TO COMMONWEALTH COURT.

RECORD  
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OVERSIZE

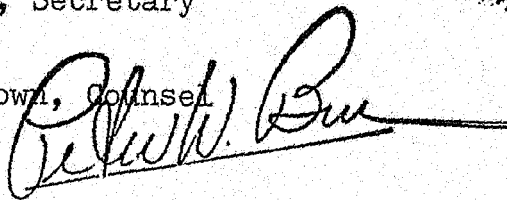
DOCUMENTS

March 14, 1975

SUBJECT: Appeal No. 2364  
Application Docket No. 98632

TO: Will Ketner, Secretary

FROM: Peter W. Brown, Counsel



In re: Appeal of Reading Company  
No. 311 C. D. 1975  
Commonwealth Court of Pennsylvania

It is the intention of the Law Bureau to certify the record in the above captioned case to the Commonwealth Court of Pennsylvania. Please forward a complete set of the original file for certification. We will assume the Secretary's office has a complete second file.

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1975 MAR 14 PM 12:54  
SECRETARY'S OFFICE  
PUBLIC UTILITY  
COMMISSION