

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Buhl Building, 3rd Floor
204 Fifth Avenue
Pittsburgh, PA 15222
February 19, 1981

William P. Thierfelder, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17120

Re: Pratt v. B. & O.
C-80041953

Dear Secretary:

It has been brought to my attention that my proposed initial decision in the above case, issued for exceptions on February 13, 1981, neglects to state that Columbia Gas of Pennsylvania filed an answer. The record clearly shows that Columbia Gas of Pennsylvania filed an answer which was docketed April 2, 1980, and all parties of record are so notified by copies of this letter.

LEO 3 10 81

RECEIVED

Very truly yours,

Michael A. Neme

Michael A. Neme
Administrative Law Judge

MAN/rjb

cc:

Benjamin B. Wechsler, Esq.
Ward T. Williams, Chief Counsel
Edward Leymarie, Jr., Esq.
Richard A. Porach, Esq.
Steven B. Garfunkel, Esq.
Stephen L. Feld, Esq.
Richard Harper, Esq.
W. Preston Granbery, Atty.
W. U. Jacoby, Atty.
William D. Frizlen, Atty.
John J. Gallagher, Asst. Counsel

DOCKETED
FEB 23 1981

DOCUMENT
FOLDER

ORIGINAL

Steven B. Garfunkel
Assistant General Attorney



Law Department
Terminal Tower
P. O. Box 6419
Cleveland, Ohio 44101
216 623 2463

February 26, 1981

Mr. William P. Thierfelder
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITIES
COMMISSION

FEB 27 9 37 AM '81

Re: Ralph D. Pratt, State Representative

v.

The Baltimore & Ohio Railroad Company, Department
of Transportation of the Commonwealth of Pennsylvania,
Borough of Ellwood City, Lawrence County,
Pennsylvania Power Company, Western Pennsylvania
Water Company, Columbia Gas of Pennsylvania, Inc.
and The Bell Telephone Company of Pennsylvania.

Docket No. C-80041953

Dear Mr. Thierfelder:

Enclosed for filing with the Commission are the original
and fourteen (14) copies of the Exceptions of The Baltimore
and Ohio Railroad Company in the above-captioned matter.

I hereby certify that a copy of said Exceptions has been
sent to all parties of record.

Very truly yours,

Steven B. Garfunkel

SBG/bjt
Encl.

cc: Parties of Record - SEE ATTACHED LIST



The Chessie System railroads are the C&O, B&O, WM and affiliated lines. Chessie System, Inc. is the parent for the railroads, Chessie Resources, Inc., Western Pocahontas Corp. and The Greenbrier.

Parties of Record:

Ralph D. Pratt, Esquire
602 Capitol Building
Harrisburg, Pa. 17120

Benjamin B. Wechsler, Esquire
1209 State Office Building
Pittsburgh, Pa. 15222

Edward Leymarie, Jr., Esquire
432 Fountain Avenue
Ellwood City, Pa. 16117

Richard A. Porach, Esquire
324 P&LE Terminal Building
Pittsburgh, Pa. 15219

Stephen L. Feld, Esquire
1 East Washington
New Castle, Pa. 16103

Richard A. Harper, Esquire
Courthouse
New Castle, Pa. 16101

John J. Gallagher, Esquire
Pennsylvania Public Utility Commission
631 North Office Building
Harrisburg, Pa. 17120

BEFORE THE
PENNSYLVANIA PUBLIC UTILITIES COMMISSION

FEB 27 9 37 AM '81

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

Ralph D. Pratt, State Representative

vs.

The Baltimore and Ohio Railroad Company,
Department of Transportation of the Commonwealth)
of Pennsylvania, Borough of Ellwood City, Lawrence)
County, Pennsylvania Power Company, Western)
Pennsylvania Water Company, Columbia Gas of)
Pennsylvania, Inc., and The Bell Telephone Company)
of Pennsylvania.)

FEB 27 1981

C-80041953

EXCEPTIONS OF THE BALTIMORE AND OHIO RAILROAD COMPANY

This matter originated by complaint alleging hazardous conditions at three rail/highway crossings within the Borough of Ellwood City - The Second Street Overpass, the Fifth Street Underpass, and the Sixth Street crossing at grade.

The Initial Decision re-affirms the maintenance responsibility established by the Commission in its 1963 Order in C-17665 as respects the Second Street Overpass and dismisses without prejudice the complaint relating to the Sixth Street at grade crossing. The B&O does not except to these findings. It is that part of the Initial Decision relative to the Fifth Street Underpass to which the B&O excepts.

The Fifth Street Underpass has not been the subject of a previous Commission order. Accordingly, maintenance responsibility for the substructure and superstructure of the railroad bridge was assigned to the B&O and the Pittsburgh and Lake Erie Railroad Company. The Order requires the B&O and the P&LE to clean and paint the Fifth Street Underpass within 120 days after the Order becomes final.

This Order was evidently based on the Finding of Fact, No. 12:

"12. The dingy condition of the walls and ceiling of the Fifth Street Underpass adversely affect the safety and convenience of the traveling public."

It is respectfully submitted that there is no evidence in the record to support this factual finding. There is testimony that the bridge should be painted because it is located in the central business district of Ellwood City (Tr.40-41) and that it is an eyesore (TR72-77). There is, however, no evidence indicating that the present condition of the bridge poses a threat to motorists or pedestrians or that the bridge is structurally unsound. Indeed, the testimony of William Begg and Julius J. Sturman was uncontroverted that the existence of rust and the lack of painting does not substantially affect the load carrying capacity of the structure so as to make it unsafe. The bridge is structurally sound and safe - whether or not it is aesthetically pleasing is not a legitimate concern of the Commission.

The B&O has indicated that the subject bridge is included in its painting program and will be painted according to its priority in the program. It does not believe, however, that the painting of a bridge is the proper subject of a Commission Order absent evidence that painting is necessitated by consideration of public safety. If the B&O is required to paint this bridge, it would necessarily be at the expense of higher priority projects where a need actually exists.

The B&O respectfully requests that the Initial Decision be amended to delete paragraph 9 of the Order under which the B&O and the P&LE are required to paint the Fifth Street Underpass within 120 days after

the Order becomes final. In the alternative, the B&O requests that the completion date be extended from 120 days to one year.

Steven B. Garfunkel

Steven B. Garfunkel
Attorney for The Baltimore
and Ohio Railroad Company
P.O. Box 6419
Cleveland, Ohio 44101



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P. O. BOX 3265, HARRISBURG, PA. 17120

February 27, 1981

IN REPLY PLEASE
REFER TO OUR FILE
C-80041953

William P. Thierfelder, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120

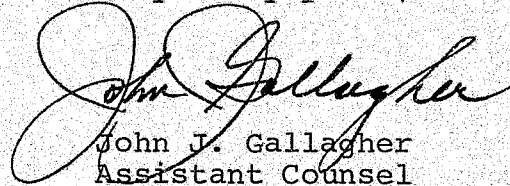
RECEIVED
FEB 27 1981
SECRETARY'S OFFICE
Public Utility Commission

Ralph D. Pratt, State Representative v
The Baltimore and Ohio Railroad Co.,
Department of Transportation of the
Commonwealth of Pennsylvania, Borough
of Ellwood City, Lawrence County,
Pennsylvania Power Co., Western Penn-
sylvania Water Co., Columbia Gas of
Pennsylvania, Inc., and the Bell Tele-
phone Company of Pennsylvania

Dear Secretary Thierfelder:

Enclosed are the original and nine (9) copies of
the Exceptions of the Staff to Initial Decision to be filed
in the above matter.

Very truly yours,


John J. Gallagher
Assistant Counsel

JJG/wm

cc: All Parties
Administrative Law Judge Michael A. Nemeč
William W. Huff, P.E., Bureau of Rail Transportation

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Ralph D. Pratt, State Representative :

v. :

The Baltimore and Ohio Railroad Co., Department of Transportation of the Commonwealth of Pennsylvania, Borough of Ellwood City, Lawrence County, Pennsylvania Power Co., Western Pennsylvania Water Co., Columbia Gas of Pennsylvania, Inc., and The Bell Telephone Company of Pennsylvania :

Complaint Docket
No. 80041953

RECEIVED

FEB 27 1981

SECRETARY'S OFFICE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKETED

FEB 27 1981

EXCEPTIONS TO INITIAL DECISION
AND ORDER OF
ADMINISTRATIVE LAW JUDGE

COMES NOW, the Staff of the Pennsylvania Public Utility Commission, by its attorney John Gallagher, Esquire, and sets forth the following exceptions to the Initial Decision and Order of Administrative Law Judge Michael J. Nemec, in the above-captioned proceeding:

1. Exception is taken to paragraph #2 wherein the administrative law judge orders the B&O Railroad Company at its sole cost and expense to prepare plans for the repair of the top of the abutment on the Second Street overpass. The abutment to which the judge refers is actually a retaining wall which was the subject of a prior Commission order docketed at C. 17665 and dated September 3, 1963. It is staff's position that in accordance with ordering paragraph #22 of that order PennDOT at

its sole cost and expense prepare the plans referred to in paragraph #2 of the administrative law judge's initial decision.

2. Exception is taken to paragraph #3 wherein the B&O Railroad Company is ordered to perform the work as indicated by the proposed plan. As indicated in our first exception it is staff's position that PennDOT has the maintenance responsibility for the retaining wall and therefore should perform the work.

3. Exception is taken to paragraph #5 of the proposed initial decision. It is staff's position that the Borough complete the work proposed in cooperation with the B&O Railroad Company and PennDOT.

4. Exception is taken to paragraph #6A of the proposed initial decision wherein the administrative law judge assigns the future maintenance responsibility for the 5th Street crossing. It is staff's position that since the P&LE Railroad has only one track at this crossing that the B&O Railroad Company should maintain the crossing at its initial cost and expense.

5. Exception is taken to paragraph #6 of the proposed initial decision. It is staff's position that the Borough should additionally maintain the existing drainage systems.

6. Exception is taken to paragraph #9 of the proposed initial decision. It is staff's position that the painting and cleaning of the Fifth Street underpass should be performed by the B&O Railroad at its initial cost and expense.

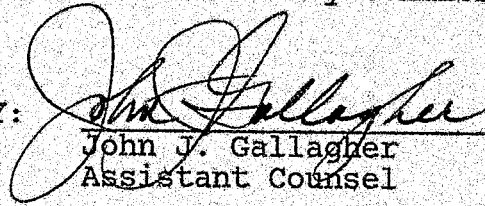
7. It is staff's position that the following paragraph should be added to the administrative law judge's order:

1. P&LE Railroad Company reimburse the B&O Railroad Company 25% of the actual expenses incurred in complying with paragraphs numbered 6A and 9.

Respectfully submitted,

Staff of Pennsylvania
Public Utility Commission

BY:



John J. Gallagher
Assistant Counsel

DATE: February 27, 1981

CERTIFICATE OF SERVICE

I hereby certify that I am this 27th day of February, 1981, serving by first class mail the foregoing document upon the persons listed below:

Ralph D. Pratt, Esquire
3304 Plank Road
New Castle, PA 16105

Richard A. Harper, Solicitor
Lawrence County
506-A First Federal Plaza
New Castle, PA 16101

Stephen L. Feld, Attorney
Pennsylvania Power Company
One East Washington Street
New Castle, PA 16103

W. U. Jacoby, Attorney
Columbia Gas of Pa., Inc.
99 North Front Street
Columbus, Ohio 43215

W. Preston Granbery, Attorney
The Bell Telephone Co. of Pa.
One Parkway, 16th Floor
Philadelphia, PA 19102

William D. Frizlen, Attorney
Western Pa. Water Company
250 Mt. Lebanon Boulevard
Pittsburgh, PA 15234

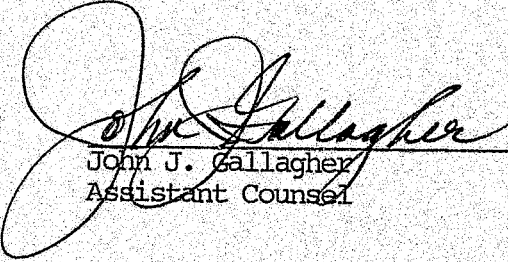
Nick Frisk, Jr., Solicitor
Borough of Ellwood City
113 Fifth Street
Ellwood City, PA 16117

Nicholas S. Yovanovic, Attorney
The Baltimore & Ohio Railroad Co.
P.O. Box 6419
Cleveland, Ohio 44101

Herbert G. Zahn, Asst. Atty. General
Pa. Dept. of Transportation
521 Transportation & Safety Bldg.
Harrisburg, PA 17120

Gordon E. Neuenschwander, Vice Pres.
Pittsburgh & Lake Erie Railroad Co.
324 P&LE Terminal Building
Pittsburgh, PA 15219

Administrative Law Judge Michael Nemec
Pennsylvania Public Utility Commission
Third Floor, Buhl Building
204 Fifth Avenue
Pittsburgh, PA 15222


John J. Gallagher
Assistant Counsel

ORIGINAL

THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY

GORDON E. NEUENSCHWANDER
EXECUTIVE VICE PRESIDENT
& GENERAL COUNSEL

G. EDWARD YURCON
ASSISTANT GENERAL COUNSEL

RICHARD A. PORACH
ATTORNEY

324 P&LE TERMINAL BUILDING
PITTSBURGH, PA. 15219
PHONE (412) 261-3201

February 26, 1981

William P. Thierfelder, Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17120

RECEIVED
SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION
MAR 2 8 36 AM '81

Re: Ralph D. Pratt, State Representative v. The
Baltimore and Ohio Railroad Company, et al.

No. C-80041953

Dear Mr. Thierfelder:

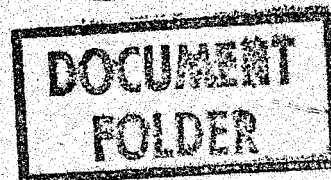
Enclosed please find an original and fourteen copies of Respondent, The Pittsburgh and Lake Erie Railroad Company's Exceptions to the Initial Decision of Administrative Law Judge Michael A. Nemeo in the above captioned matter.

Very truly yours,

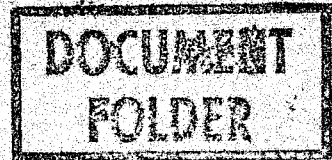


Richard A. Porach

RAP:tsw



cc: All parties of record.



BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

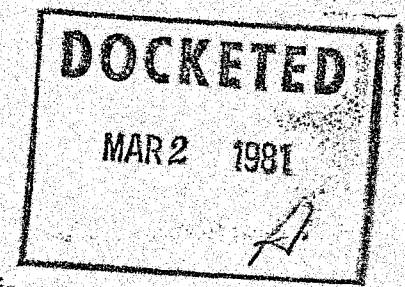
Ralph D. Pratt, State Representative :

v. :

The Baltimore and Ohio Railroad Co.,
Department of Transportation of
the Commonwealth of Pennsylvania,
Borough of Ellwood City, Lawrence
County, Pennsylvania Power Co.,
Western Pennsylvania Water Co.,
Columbia Gas of Pennsylvania, Inc.,
The Bell Telephone Company of
Pennsylvania, and The Pittsburgh
and Lake Erie Railroad Company. :

: C- 80041953

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SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION
MAR 2 8 36 AM '81



EXCEPTIONS OF RESPONDENT,
THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY

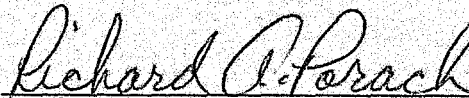
COMES NOW Respondent, The Pittsburgh and Lake Erie
Railroad Company, hereinafter referred to as "P&LE," by its
attorney, Richard A. Porach, Esq., and sets forth the following
Exceptions to the Initial Decision of Administrative Law Judge
Michael A. Nemeo in the above captioned proceeding:

P&LE takes exception to Findings of Fact No. 12, which
states "The dingy condition of the walls and ceiling of the
Fifth Street underpass adversely affect the safety and convenience
of the travelling public." P&LE submits that there is no evidence
of record to indicate that the unpainted condition of the said
Fifth Street underpass adversely affects the safety and convenience
of the travelling public. There is no evidence of record to in-
dicate structural inadequacies in the Fifth Street underpass

resulting from a lack of paint. Rather, the testimony of record indicates that the Fifth Street underpass is structurally sound and safe. Since the Fifth Street underpass is adequate and safe for the travelling public, there should be no Order to paint it.

Therefore, P&LE submits that numbered paragraph 9 of the proposed Initial Order of Administrative Law Judge Michael A. Nemec should be deleted in its entirety.

Respectfully submitted,



Richard A. Porach
Attorney for Respondent, The Pittsburgh
and Lake Erie Railroad Company.

CERTIFICATE OF SERVICE

I, Richard A. Porach, Esq., do certify that I did serve on this 26th day of February, 1981, a copy of the Exceptions of Respondent, The Pittsburgh and Lake Erie Railroad Company, to the Initial Decision and Order of Administrative Law Judge Michael A. Nemec, on the following parties:

Hon. Michael A. Nemec
Administrative Law Judge
Third Floor Buhl Building
204 Fifth Avenue
Pittsburgh, PA 15222

Ralph D. Pratt, Esq.
602 Capitol Building
Harrisburg, PA 17120

Benjamin B. Wechsler, Esq.
1209 State Office Building
Pittsburgh, PA 15222

Edward Leymarie, Jr., Esq.
432 Fountain Avenue
Ellwood City, PA 16117

Steven B. Garfunkel, Esq.
Box 6419, Terminal Tower
Cleveland, Ohio 44111

Stephen L. Feld, Esq.
1 East Washington
New Castle, PA 16103

Richard A. Harper, Esq.
Courthouse
New Castle, PA 16101

John J. Gallagher, Esq.
Pa. Public Utility Commission
631 North Office Building
Harrisburg, PA 17120


Richard A. Porach

ORIGINAL

RALPH D. PRATT, ESQUIRE, MEMBER
10TH DISTRICT
328 MAIN CAPITOL BUILDING
HARRISBURG, PENNSYLVANIA 17120
PHONE: (717) 787-2647

3304 PLANK ROAD
NEW CASTLE, PENNSYLVANIA 16105
(412) 658-8000



**HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG**

March 4, 1981

COMMITTEES

APPROPRIATIONS
BUSINESS AND COMMERCE,
MINORITY CHAIRMAN,
SUB-COMMITTEE ON BANKING
AND SAVINGS AND LOAN
ASSOCIATIONS

RECEIVED

MAR 5 1981

SECRETARY'S OFFICE
Public Utility Commission

William P. Thierfelder, Secretary
Public Utility Commission
Commonwealth of Pennsylvania
P. O. Box 3265
Harrisburg, Pennsylvania 17120

Re: Ralph D. Pratt, State Representative
v.
The Baltimore & Ohio Railroad Company, et al
No. C-80041953

Dear Mr. Thierfelder:

Enclosed please find for filing an original and fourteen copies of Complainant, Ralph D. Pratt, State Representative's Exception to the Initial Decision of Administrative Law Judge Michael A. Nemec in the above-captioned matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ralph D. Pratt".

RALPH D. PRATT
Member - 10th District

RDP:km

cc: All Parties of Record

RECEIVED
MAY 1981
POWER

RECEIVED

MAR 5 1981

SECRETARY'S OFFICE
Public Utility Commission

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Ralph D. Pratt, State Representative :

v. :

The Baltimore and Ohio Railroad Co.,
Department of Transportation of
the Commonwealth of Pennsylvania,
Borough of Ellwood City, Lawrence
County, Pennsylvania Power Co.,
Western Pennsylvania Water Co.,
Columbia Gas of Pennsylvania, Inc.,
The Bell Telephone Company of
Pennsylvania, and The Pittsburgh
and Lake Erie Railroad Company :

C - 80041953

EXCEPTIONS
FOLLOW

DOCKETED
MAR 6 1981
C

EXCEPTIONS OF COMPLAINANT,
RALPH D. PRATT, STATE REPRESENTATIVE

COMES NOW Complainant, Ralph D. Pratt, State Representative,
hereinafter referred to as "Pratt," and sets for the following Exeptions
to the Initial Decision of Administrative Law Judge Michael A. Nemeč
in the above-captioned proceeding:

Pratt takes exception to Findings of Fact No. 14, which states
"Repairs to the Sixth Street crossing were in progress at the time of
the hearing in this case and no information has been provided as to the
condition of the crossing as of completion of the repairs." Pratt refers
to the Administrative Law Judge's "Summary of Testimony" in the Initial
Decision at Page 4 wherein witness Gregory Ferrese of the Borough of Ellwood

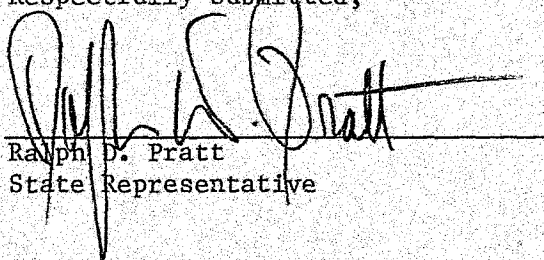
City provided data on accidents and traffic for the Sixth Street crossing and at Page 5 wherein witness George Hulick, Jr., testified for the Borough of Ellwood City describing the Sixth Street at-grade crossing as he had experienced it. Mr. Hulick testified that in driving across the crossing one must go slowly because of irregularities. At Page 7 of the Initial Decision under "Summary of Testimony," Mr. William Begg of B & O Railroad stated that the unevenness at Sixth Street will be corrected by the present repairs. Also, at Page 7, Julius J. Sturman of P & LE, testified that P & LE owns and maintains three sets of tracks at the Sixth Street crossing but that no work was necessary within the limits of its responsibility.

The evidence clearly illustrates a need for improvements at the Sixth Street crossing by the testimony of witnesses as set forth above. No evidence was provided as to when any presently pending improvement work being done by any of the parties will be completed and the result of same. In fact, some minor improvements were made by B & O Railroad at the time of the hearing on August 14, 1980. However, no further work was done by B & O Railroad nor was any work done by P & LE Railroad.

Therefore, Findings of Fact No. 14 is without basis and is in conflict with the Administrative Law Judge's context regarding the Sixth Street crossing under "Discussion" at Page 10 of the Initial Decision. Further, Complainant herein maintains that Paragraph No. 10 of the Order

of Administrative Law Judge Michael A. Nemeo is without foundation and should be modified to order Respondents B & O Railroad and P & LE Railroad to submit plans to improve the Sixth Street crossing within 90 days followed by the actual improvement work by both Respondents within 120 days thereafter.

Respectfully submitted,



Ralph D. Pratt
State Representative

CERTIFICATE OF SERVICE

I, Ralph D. Pratt, State Representative, do certify that I did serve on this 4th day of March, 1981, a copy of the Exceptions of Complainant, Ralph D. Pratt, State Representative, to the Initial Decision and Order of Administrative Law Judge Michael A Nemec, on the following parties:

Hon. Michael A. Nemec
Administrative Law Judge
Third Floor Buhl Building
204 Fifth Avenue
Pittsburgh, Pennsylvania 15222

Richard A. Porach, Esq.
324 P & LE Terminal Building
Pittsburgh, Pennsylvania 15219

Benjamin B. Wechsler, Esq.
1209 State Office Building
Pittsburgh, Pennsylvania 15222

Edward Leymarie, Jr., Esq.
432 Fountain Avenue
Ellwood City, Pennsylvania 16117

Steven B. Garfunkel, Esq.
Box 6419, Terminal Tower
Cleveland, Ohio 44111

Stephen L. Feld, Esq.
1 East Washington Street
New Castle, Pennsylvania 16103

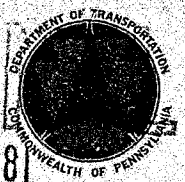
Richard A. Harper, Esq.
Courthouse
New Castle, Pennsylvania 16101

John L. Gallagher, Esq.
Public Utility Commission
Commonwealth of Pennsylvania
631 North Office Building
Harrisburg, Pennsylvania 17120


Ralph D. Pratt

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Harrisburg, Pennsylvania 17120
Office of Chief Counsel

ORIGINAL



MAR 10 10 53 AM '81

March 4, 1981

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SECRETARY'S OFFICE
PUBLIC UTILITY
COMMISSION

IN REPLY REFER TO

William P. Thierfelder, Secretary
Pennsylvania Public Utility Commission
North Office Building
Harrisburg, Pennsylvania

Re: Complaint Docket C-80041953
Lawrence County

Dear Mr. Thierfelder:

Enclosed for filing with the Commission are the original and nine (9) copies of Answer to PUC Staff Exceptions to Initial Decision and Order of Administrative Law Judge on behalf of the Pennsylvania Department of Transportation, in the above-captioned matter.

I hereby certify that a copy of said Answer has been sent to all parties of record and Administrative Law Judge, Michael Nemeč.

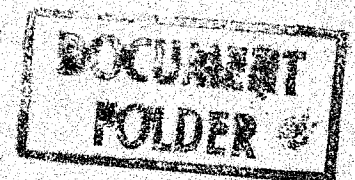
Very truly yours,

A handwritten signature in dark ink, appearing to read "Herbert G. Zahn", is written over the typed name.

Herbert G. Zahn
Attorney for Pennsylvania
Department of Transportation
(717) 787-5931

220/HGZ:rmm
Enclosures

cc: K. W. Walker, P.E. (Attn.: A. Velter)
District #1-0
Parties of Record - Pages 2 & 3



PARTIES OF RECORD

Ralph D. Pratt, Esquire
3304 Plank Road
New Castle, Pennsylvania 16105

Richard A. Harper, Solicitor
Lawrence County
506-A First Federal Plaza
New Castle, Pennsylvania 16101

Stephen L. Feld, Esquire
Pennsylvania Power Company
One East Washington Street
New Castle, Pennsylvania 16103

W. U. Jacoby, Esquire
Columbia Gas of Pennsylvania, Inc.
99 North Front Street
Columbus, Ohio 43215

W. Preston Granbery, Esquire
The Bell Telephone Company of Pennsylvania
One Parkway, 16th Floor
Philadelphia, Pennsylvania 19102

William D. Frizlen, Esquire
Western Pennsylvania Water Company
250 Mt. Lebanon Boulevard
Pittsburgh, Pennsylvania 15234

Nick Frisk, Jr., Solicitor
Borough of Ellwood City
113 Fifth Street
Ellwood City, Pennsylvania 16117

Nicholas S. Yovanovic, Esquire
The Baltimore & Ohio Railroad Company
P. O. Box 6419
Cleveland, Ohio 44101

Gordon E. Neuenschwander, Vice President
Pittsburgh & Lake Erie Railroad Company
324 P&LE Terminal Building
Pittsburgh, Pennsylvania 15219

William Thierfelder
C-80041953

-3-

March 4, 1981

PARTIES OF RECORD

Administrative Law Judge Michael Nemeč
Pennsylvania Public Utility Commission
Third Floor, Buhl Building
204 Fifth Avenue
Pittsburgh, Pennsylvania 15222

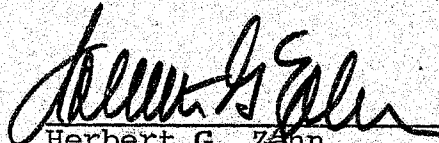
John J. Gallagher, Assistant Counsel
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, Pennsylvania 17120

bridge, the repairs should be made by the Baltimore and Ohio Railroad Company (See P.U.C. C-17665, dated September 3, 1963. Paragraph 19). This position is taken by the wordings of Paragraph 2 of the Initial Decision which states:

". . . for the repair of the top of the abutment which provides support for the hand railing on the Second Street overpass"

Our opinion is that the overpass is the bridge and the word "abutment" should have been "bridge".

Respectfully submitted,



Herbert G. Zann
Attorney for Pennsylvania
Department of Transportation