

Before
PENNSYLVANIA PUBLIC UTILITY COMMISSION

C. 18922 - Pennsylvania Public Utility
Commission vs. Department of Highways.

Docket No. C. 18922

At Pittsburgh, Penna., Wednesday, March 22, 1972

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ENTRY No. _____

Pages 1 To 53

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Before

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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C. 18922 - Pennsylvania Public Utility Commission v. Department of Highways of the Commonwealth of Pennsylvania, Union Railroad Company, City of Duquesne, County of Allegheny, The Bell Telephone Company of Pennsylvania, Carnegie Natural Gas Company, Duquesne Light Company, Equitable Gas Company and Keystone Pipe Line Company - Investigation upon Commission motion for the purpose of determining whether the bridge carrying State Highway Route 736 Extension above the grade of the main line and yard tracks of Union Railroad Company and above Thompson Run in the City of Duquesne, Allegheny County, is dangerous or inadequate in its present condition to accommodate safely the class and volume of highway, pedestrian and railroad traffic currently traversing the crossing; and for the purpose of determining the nature and extent of any required alteration, reconstruction and/or abolition of the crossing, and for the purpose of determining the party or parties that should be required to perform work and bear the cost thereof, and to maintain the crossing upon completion of any improvement found to be necessary.

Initial hearing.

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Stenographic report of hearing held at State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania

Wednesday,
March 22, 1972
at 10:00 o'clock A. M.

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BEFORE: JOHN B. CONLY, ESQUIRE, EXAMINER

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APPEARANCES:

THOMAS DICK, ESQUIRE
North Office Building
Harrisburg, Penna.
For: Penna. Public Utility Commission

WILLIAM C. BETHARDS, ESQUIRE
Room 223, C.A.B. Building
Harrisburg, Penna.
For: PennDOT

RALPH S. SAPP, ESQUIRE
County Law Department
County Office Building
Pittsburgh, Penna.
For: County of Allegheny

NORMAN M. BARTKO, ESQUIRE
1009 Duquesne Blvd.
Duquesne, Penna.
For: City of Duquesne

JAMES R. ORR, ESQUIRE
474 Union Bank Building
Pittsburgh, Penna.
For: Union Railroad Company

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P R O C E E D I N G S

1
2 THE EXAMINER: We will now open the
3 hearing. Are there any counsel present who
4 have not signed the appearance sheet?

5 Let the record show that the follow-
6 ing were given notice of this hearing and
7 are not represented by counsel: Bell
8 Telephone Company of Pennsylvania, Carnegie
9 Natural Gas Company, Duquesne Light Company,
10 Equitable Gas Company. That's all.

11 MR. DICK: The Commission has received a
12 letter from Arco Pipe Line Company which is
13 the owner of the Keystone Pipe Line. They
14 filed Answers to the questions of the
15 Commission, and they state that the company's
16 pipe line passes under the bridge structure
17 and is not connected to or in contact with
18 the bridge at all. The company would perform
19 any maintenance work on their line at that
20 location and bear the entire cost thereof.
21 Arco does not intend to be present today for
22 this hearing.

23 This complaint was instituted by
24 the Commission investigation upon Commission
25 motion on April 2, 1970 as a result of

1 information received from the district
2 engineer of the Department of Highways
3 concerning this bridge called the Thompson
4 Run Bridge carrying State Highway Route 736
5 Extension over and above the tracks of the
6 Union Railroad Company.

7 In the Order of the Commission the
8 Department of Highways was directed to prepare
9 plans for repair and construction of this
10 bridge, and following that the Commission
11 issued an interim order on June 1, 1970 in
12 which it was stated that the plans had been
13 submitted to all parties, that there were no
14 objections to the plans and that the plans
15 are generally acceptable to all parties. I
16 believe today we are going into the cost and
17 into the apportionment of cost. I believe
18 the Department of Transportation is the first
19 party.

20 MR. BETHARDS: I therefore call Mr.
21 Clements, Mr. Examiner.

22 WILLIAM J. CLEMENTS,
23 called as a witness on behalf of the
24 Respondent, being first duly sworn,
25 was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BETHARDS:

1 Q Give your full name.

2 A William J. Clements.

3 Q By whom are you employed, Mr. Clements, and at
4 what address?

5 A Commonwealth of Pennsylvania, Department of
6 Transportation.

7 Q What capacity are you employed by the Department?

8 A Civil engineer in the design bureau.

9 Q Are you duly authorized to testify here today?

10 A Yes.

11 Q Will you please submit into the record a detailed
12 itemized summary of all cost incurred by the
13 Department in furnishing material in performing
14 work or providing services in accordance with the
15 Order of the Commission issued in this proceeding?

16 A We have a letter dated November 15, 1971 to Mr.
17 K. W. Walker, chief utility engineer, from the
18 district engineer office, district 11-0, to
19 Anthony J. Gaeta, which gives a tabulation of the
20 final cost for the rehabilitative work that was
21 performed on the structure in accordance with the
22 Commission's order, and the plans approved by
23 that Order dated June 1, 1970.
24
25

1 The final cost on this letter are itemized
2 to include cost for the repairs to the structural
3 steel in the amount of \$84,735.35, and also repairs
4 to the concrete piers and abutments for \$74,632.00,
5 and also a cost for resetting the rockers of
6 \$16,000.00 and some miscellaneous bridge repairs
7 of \$14,000.30 for a total cost of \$189,379.35
8 which represents the final costs which were paid
9 to the successful bidder on the project.

10 Q When was the work completed?

11 A The work was completed on April 8, 1971.

12 Q Mr. Clements, will you please state the opinion of
13 the Department as to which party or parties should
14 bear the cost incurred in effecting the repairs
15 to the subject bridge structure, and in what
16 proportions such costs should be allocated thereto,
17 and whether the Department will agree to bear a
18 reasonable portion thereof?

19 A Our records would indicate that the structure was
20 the subject of a proceeding before the Public
21 Service Commission at Complaint Docket No. 6903,
22 and as a result of the proceeding the Public
23 Service Commission issued an order which was
24 dated October 18, 1926. The maintenance by this
25 order was assigned to the County of Allegheny, and

1 with 40 percent of the cost of such maintenance to
2 be reimbursable from the City of Duquesne.

3 There is no record that this order was ever
4 modified by any party, therefore, based on that
5 order it would be the opinion of the Department
6 that the County of Allegheny would be responsible
7 for this maintenance, and that they should reim-
8 burse the Department for the cost of this work and,
9 of course, be reimbursed by the City of Duquesne
10 in accordance with the order.

11 Q As to future maintenance, Mr. Clements, will the
12 Department agree to bear any future maintenance on
13 this bridge and the cost thereof?

14 A No, sir, not on its own initiative. Of course,
15 recognizing the fact that the future maintenance
16 is the responsibility of assigning of future
17 maintenance would be the responsibility of the
18 Public Utility Commission, and the Department
19 would not agree to assume that maintenance at
20 least not without being reimbursed for the deferred
21 maintenance that was performed here.

22 Q Does the Department have any opinion as to which
23 party or parties should be required to share in
24 the maintenance and cost of future maintenance?

25 A The Department has caused to be made a traffic

1 count or a projected traffic count for the
2 structure. We ask the Southwestern Pennsylvania
3 Regional Planning Commission to determine for us
4 the percentage of trips or vehicles using this
5 structure that have their origin and destination
6 within the county, also the percentage of vehicles
7 using this structure that would have their
8 origination destination outside of the county,
9 and also the percentage of vehicles using the
10 structure that would have an origination destina-
11 tion in the county, but the other being outside
12 the county, and they furnished us with the
13 following information, that there are 17,300
14 vehicles using the structure representing an
15 average weekly traffic--average weekday traffic
16 between Monday and Friday. They determined that
17 16,435 of these vehicles had both origination
18 destination inside the County of Allegheny or--
19 that 865 or five percent had origination destina-
20 tion within the county and outside the county and
21 no trips had an origination and destination outside
22 of the county.

23 Q Now, the conclusions of that 1967 survey which you
24 just stated were brought down to date, weren't
25 they?

1 A Yes, sir.

2 Q And they are the conclusion that you stated?

3 A They were based on a actual study of 1967 which
4 was updated. Based on that information the
5 Department would like the Commission to take note
6 when they assign future maintenance responsibility.

7 Q Do you have any further testimony you would like
8 to offer at this time?

9 A No, sir.

10 MR. BETHARDS: Mr. Examiner, I submit
11 the witness for cross-examination.

12 CROSS-EXAMINATION

13 BY MR. SAPP:

14 Q Mr. Clements, what is that Public Service
15 Commission number?

16 A 6903.

17 Q Do you have the date of that order?

18 A October 19, 1926.

19 Q That's before you were born?

20 A Yes, sir.

21 Q That was the horse and buggy days?

22 A No, I don't think it was.

23 Q Do you have a vehicle count as of that date?

24 A No, sir. It is the same bridge that sits there
25 today.

1 Q Still the same bridge, isn't it?

2 A Yes, sir.

3 Q But instead of horse and buggies today there are
4 motor vehicles, is that correct?

5 A Yes, sir.

6 Q Did the Department of Highways from your records
7 do any work on this bridge since 1926?

8 A I don't have that information, but I could obtain
9 that information.

10 MR. BETHARDS: Mr. Examiner, we are
11 willing to make available reports showing
12 whether or not the Department has performed
13 any maintenance work on the bridge on the
14 condition that the county make available the
15 same information as to the maintenance they
16 performed from 1926 up to the present time.

17 MR. SAPP: In response to counsel's
18 suggestion or in the nature of a request, I
19 would like to state for the County of
20 Allegheny as a fact that in all likelihood
21 that the records of the county would show
22 that this bridge was maintained by the County
23 of Allegheny up to the year of 1961 until
24 such time as it was transferred under the
25 Act of General Assembly No. 615 to the

1 Department of Highways, what is now known as
2 the Department of Transportation.

3 We have not maintained nor seen any
4 costs for this bridge since the time of that
5 transfer.

6 MR. BETHARDS: Mr. Examiner, of course,
7 Act 615 speaks for itself, but I do believe
8 the Act reserves to the Commission the right
9 to act on any existing orders. My offer
10 still stands. We are willing to make avail-
11 able to the Commission the statement of any
12 work that we may have done on the bridge,
13 provided also that the county checks its
14 records and reports or if it has no records
15 that it so state.

16 MR. SAPP: I am willing to do that.
17 Just what dates do you want? I am asking
18 for your records since 1961.

19 MR. BETHARDS: We would like to have the
20 county, Mr. Sapp, check its records from 1950
21 to 1961.

22 MR. SAPP: For what purpose? Will you
23 make an offer on the record?

24 MR. BETHARDS: For the purpose of
25 determining just what the county did in

1 performing maintenance in accordance with the
2 obligations set forth in the Commission's
3 Order.

4 MR. SAPP: Well, we think that is
5 immaterial and irrelevant in this proceeding,
6 however, if we were directed to do so by the
7 Commission, we will certainly do so and we
8 are asking that you be directed to furnish
9 your records of any maintenance on this bridge
10 since the year 1961.

11 MR. BETHARDS: Well, in view of Mr.
12 Sapp's position, Mr. Examiner, I will state
13 for the record that we will furnish the
14 information if ordered to do so by the
15 Commission and on the condition that the
16 Commission orders the county to furnish
17 information from the year 1950 to the year
18 1962.

19 MR. SAPP: I have no other questions,
20 Mr. Examiner.

21 MR. BETHARDS: I would say, Mr. Examiner,
22 in absence of any action of the Commission
23 with respect to the ordering production of the
24 records both from the Department and the
25 county, I reserve the right to issue a

1 subpoena duces tecum. I reserve the right to
2 request the Commission to issue a subpoena
3 against the county requiring the production
4 of its maintenance records covering this
5 bridge from the year 1950 to the year 1962,
6 on January 1 of that year.

7 MR. SAPP: The county renews its
8 objection to the submission of any such
9 testimony in this proceeding.

10 CROSS-EXAMINATION

11 BY MR. DICK:

12 Q Mr. Clements, considering the results of the
13 traffic survey, volume of traffic, and looking at
14 the future projections of traffic, does PennDOT
15 consider that possibly this bridge should be re-
16 placed or reconstructed, or let's say a new
17 structure be built in the future?

18 A We have no plans at this time to replace this
19 route or this structure at this location that I
20 know of on our program.

21 Q There is no foreseeable plans to do anything in
22 this locale?

23 A No, sir, not that I know of.

24 MR. DICK: Thank you, Mr. Clements.

25 THE EXAMINER: Any further questions?

1 MR. ORR: I have none, sir.

2 THE EXAMINER: Thank you, Mr. Clements.

3 (Witness excused.)

4 MR. BETHARDS: The Department rests,
5 Mr. Examiner.

6 MR. SAPP: We can go ahead.

7 RICHARD B. WAUGH,

8 called as a witness on behalf of the
9 Respondent, being first duly sworn,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SAPP:

13 Q Give your full name to the reporter.

14 A Richard B. Waugh.

15 Q What is your occupation?

16 A Engineer with the Allegheny County Works
17 Department.

18 Q Are you authorized to testify here on behalf of
19 the County of Allegheny?

20 A Yes, I am.

21 Q In response to questions and procedures provided
22 by the Public Utility Commission, Question No. 1
23 was: Was the County of Allegheny ordered to
24 perform any work or provide any service pertaining
25 to this improvement?

1 A No, they were not.

2 Q In response to Question No. 2, then, the County of
3 Allegheny has no summary of costs to provide at
4 this hearing?

5 A That is right.

6 Q Will the County of Allegheny assume any portion
7 of the costs to be allocated with regard to the
8 repair of this bridge?

9 A No, they will not.

10 Q Will the County of Allegheny agree to bear any of
11 the costs, any portion of the costs?

12 A No, they will not.

13 Q Will the County of Allegheny agree in the future
14 to maintain this bridge?

15 A On advice of counsel, the bridge was turned over
16 to the Department of Transportation of the
17 Commonwealth of Pennsylvania in 1962, therefore,
18 the County does not feel that they should pay part
19 of future maintenance cost of this bridge.

20 MR. SAPP: Cross-examine.

21 CROSS-EXAMINATION

22 BY MR. BETHARDS:

23 Q Sir, do you know how much money the County of
24 Allegheny gets from the payment of the liquid
25 fuel tax fund?

1 A No, sir, I do not.

2 Q Do you have any personal knowledge of the
3 maintenance performed by the County of Allegheny
4 on this bridge in the year 1950 to the year 1962?

5 A No, sir.

6 MR. BETHARDS: That's all I have.

7 Thank you.

8 MR. DICK: No questions.

9 MR. SAPP: I want to make a statement
10 for the record. I wish to incorporate by
11 reference the testimony and the exhibits in
12 the proceeding held here yesterday pertaining
13 to the Fleming Bridge at Commission No. 18692
14 heretofore going to the heart of this very
15 issue pertaining to Act No. 615. We also
16 incorporate by reference the exhibits in that
17 case and the testimony therein, and the brief
18 provided therein.

19 MR. DICK: Excuse me. I was not at that
20 hearing.

21 MR. SAPP: That was yesterday.

22 MR. DICK: You are incorporating those
23 exhibits by reference. What exhibits are you
24 talking about?

25 MR. SAPP: Pertaining to Act No. 615.

1 We just can't have these hearings time and
2 time again. We are grinding it out. As a
3 matter of fact, our director couldn't be here
4 today and he has been down here several times
5 with the same and like testimony pertaining
6 to this same and like issue.

7 MR. BETHARDS: May I make this suggestion
8 to you, Mr. Examiner, and also Mr. Sapp.
9 Certainly the legal issue is the same. The
10 Department intends to file a brief on this
11 case today and we requested the right to file
12 a brief on the one yesterday.

13 Couldn't it be stated that that
14 brief will cover the course of the hearing
15 yesterday?

16 MR. SAPP: We are satisfied to go on the
17 record and that's why I am incorporating it,
18 that is, to enable the Commission to make its
19 decision.

20 MR. BETHARDS: I don't see that the
21 exhibits introduced with reference to costs
22 on that bridge are relevant today.

23 MR. DICK: This is what I wanted to go
24 into. What exhibits are we talking about?

25 MR. SAPP: Our exhibits with reference

1 to cost. Our exhibits with reference to the
2 issue of whether or not the bridge has been
3 transferred under Act 615, and whether or not
4 it is a proper responsibility of the Depart-
5 ment of Transportation, maintenance and
6 present cost.

7 THE EXAMINER: Off the record.

8 (Discussion off the record.)

9 THE EXAMINER: Back on the record.

10 MR. DICK: First of all, I would take it
11 that the testimony and the exhibits and the
12 brief which counsel for Allegheny County speaks
13 about are all the testimony and the exhibits
14 of the County alone. I would make an objec-
15 tion to the introduction of the exhibits in
16 this record, and the testimony because I was
17 not present at that hearing. I believe for
18 the introduction of those items they should
19 be presented to me for examination, and then
20 I can make any comment as to their relevancy,
21 but my objection is that I had no opportunity
22 to examine them. They had not been submitted
23 at this hearing to me.

24 MR. BETHARDS: Mr. Examiner, may I make
25 a further statement, please. Now, with

1 regard to the briefs that have been filed in
2 these two proceedings, the one yesterday and
3 the one today, the issue of law in connection
4 with the proceeding yesterday was simply the
5 interpretation of Act 615 of 1961. Today we
6 have that issue and we have an additional
7 issue. This was an old bridge.

8 As I understand the law, the party
9 that has the maintenance responsibility on a
10 particular bridge must prove performance of
11 that obligation up to the time the maintenance
12 responsibility is changed.

13 MR. SAPP: I object to this statement
14 as this is testimony and argumentative, and
15 if counsel is suggesting writing a brief, let
16 him do so. It belongs nowhere under the facts
17 of this proceeding.

18 MR. BETHARDS: It goes to your statement
19 that the brief of yesterday's proceeding be
20 applied to this one.

21 MR. SAPP: It certainly does not. There
22 is no such law.

23 MR. BETHARDS: Well, I object to the
24 motion. I object to the observation stated
25 by Mr. Sapp and I join in Mr. Dick's

1 objection.

2 MR. SAPP: There is no evidentiary
3 objection, here, Mr. Examiner, and the personal
4 presence of counsel at any case or hearing or
5 otherwise is not essential in determining
6 whether or not the evidence, whether there
7 are like issues involved.

8 MR. DICK: Mr. Examiner, it may be the
9 view of Mr. Sapp as counsel that there are
10 like issues or similar issues. Each counsel
11 here could make a different determination
12 whether there are similar issues involved in
13 both cases, but I cannot take it on the state-
14 ment of counsel from Allegheny County.

15 THE EXAMINER: Do we have other counsel
16 in the hearing room who wish to be heard in
17 this matter? Any further observations on
18 this question?

19 Off the record.

20 (Discussion off the record.)

21 THE EXAMINER: Back on the record.

22 The motion of Attorney Sapp,
23 counsel for Allegheny County, is denied and
24 exception is noted, and the matter is
25 referred to the Commission for early disposi-

1 tion.

2 You may proceed.

3 MR. DICK: I believe the City of
4 Duquesne will be next.

5 VINCENT F. MANNELLA,
6 called as a witness on behalf of the
7 Respondent, being first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. BARTKO:

11 Q Will you state your name for the record, please.

12 A Vincent F. Mannella.

13 Q What position do you hold with the City of
14 Duquesne?

15 A I am consulting engineer for the City of Duquesne.

16 Q In connection with the repair work done to the
17 Thompson Run Bridge, was any work ordered to be
18 done by the Commission by the City of Duquesne?

19 A Not to my knowledge, no, sir.

20 Q Did in fact the City of Duquesne perform any work
21 on that bridge?

22 A No.

23 Q Does the City of Duquesne today have any estimate
24 of cost to submit?

25 A Yes, we have no cost because we expended no monies.

1 Q What is the City of Duquesne's position with
2 regard to sharing any proportionate cost of the
3 expense of repairing this bridge?

4 A The City of Duquesne cannot spend any monies, any
5 monies to contribute to the repair of this bridge
6 simply because they haven't the financial capacity
7 to do so.

8 Q With regard to future maintenance, what is the
9 City of Duquesne's position?

10 A That the City of Duquesne will not spend any
11 future monies for maintenance of the bridge.
12 The City of Duquesne believes it is not the
13 responsibility of the City of Duquesne and should
14 rest solely with the Department of Transportation.

15 MR. BARTKO: Cross-examine.

16 MR. SAPP: No questions.

17 CROSS-EXAMINATION

18 BY MR. BETHARDS:

19 Q I take it, sir, that if the Commission orders the
20 City of Duquesne to perform future maintenance
21 on the bridge, the City would comply with the
22 order?

23 A I can't speak for the acts of city council of
24 tomorrow, but as of right now I have to say that
25 since we have received none, we don't anticipate

1 any. I think the city council is law-abiding and
2 will obey the law of the Commonwealth.

3 Q Do you know what reimbursement the City of
4 Duquesne made to the County of Allegheny for
5 county maintenance performed on this bridge?

6 MR. SAPP: Objected to as irrelevant,
7 immaterial and incompetent.

8 THE EXAMINER: Objection is overruled.
9 Proceed.

10 THE WITNESS: No, sir. I have no idea
11 of any reimbursement from the city to the
12 county.

13 MR. BETHARDS: May I ask counsel for
14 the city if the city is willing to check its
15 records and report to the Commission as to
16 reimbursements made by the city to the County
17 of Allegheny for maintenance work performed
18 by the county?

19 MR. SAPP: When?

20 MR. BETHARDS: From the years 1950 to
21 the year 1962.

22 MR. SAPP: Objected to as incompetent,
23 irrelevant and immaterial.

24 MR. BARTKO: Are you making a ruling on
25 that? I am waiting for a ruling from the

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Examiner.

THE EXAMINER: Off the record.

(Discussion off the record.)

THE EXAMINER: Back on the record.

MR. BARTKO: It is the City of Duquesne's position that if there is any dispute between anybody as to who is responsible for the repairs on this bridge, it is evident that it is between PennDOT and the County of Allegheny, and the City of Duquesne has no responsibility at all with regard to the present repair work or the future repair work and as to any repairs between the years 1950 to 1962, and any possible reimbursement by the city, we can consider that irrelevant to the issue actually being presented to the Examiner here today.

MR. BETHARDS: It certainly goes to the issue, Mr. Examiner, of whether or not the county performed its maintenance. Therefore, I would reserve the right, Mr. Examiner, to request the petition to issue against the City of Duquesne a subpoena duces tecum for providing the production of its maintenance records regarding maintenance, reimbursement

1 monies paid by the city to the county from
2 the years 1950 to the year 1962, January 1.

3 THE EXAMINER: We did not get an answer
4 to the request.

5 MR. BETHARDS: Counsel said that he
6 wouldn't produce the records.

7 MR. BARTKO: I have answered that it
8 was irrelevant to the issues being presented
9 here today and in effect refuse to voluntarily
10 offer that evidence.

11 THE EXAMINER: All right. Proceed.

12 MR. BARTKO: With regard to the subject
13 matter of the lawsuit involved in this case,
14 and in a very recent order issued by the
15 Commission at Application Docket 93166 dated
16 February 22, 1972, just last month, involving
17 the Duquesne-McKeesport Bridge in which Act
18 615 again came into question and which
19 incidentally touched upon some old orders of
20 the Commission dated way back on April 26,
21 1962 at Docket No. 5472, and June 17, 1935,
22 Complaint No. 737.

23 Even in view of those old orders,
24 the Commission in this February, 1972 order
25 placed the responsibility for the replacement

1 and repair work of the McKeesport Bridge upon
2 the state and not upon the county.

3 This particular case in turn makes
4 reference, I believe, to the Sewickley Bridge,
5 and the appeal that was taken in that case
6 up to the Superior Court and the decision was
7 rendered against the position of the
8 Pennsylvania Department of Transportation by
9 the Pennsylvania Superior Court at 218
10 Pennsylvania Superior Court, Page 792. That
11 is a very recent decision rendered in the
12 latter part of 1971.

13 MR. DICK: Is it the position of counsel
14 for the City of Duquesne that the Commission
15 could not impose costs upon it?

16 MR. BARTKO: That is correct.

17 MR. DICK: The Commission is powerless?

18 MR. BARTKO: I am not saying that. I am
19 saying in view of the law involved in these
20 proceedings that the Commission cannot.

21 MR. BETHARDS: I think, sir, that this is
22 a matter that should be argued in briefs. I
23 think that there is an additional issue
24 involved here. Under Act 615 it reserved to
25 the Commission the right to use its own

1 discretion on proceedings previously
2 instituted before the Commission in continuing--
3 and what the Commission's discretion led to
4 in that case does not mean, sir, that the
5 Commission's discretion will be the same in
6 this case.

7 MR. BARTKO: Well, the City of Duquesne's
8 position is this, that this decision involved
9 very similar factual background, and in our
10 opinion the law is so clear after having been
11 reviewed by the Superior Court of Pennsylvania
12 that the City of Duquesne should not even be
13 put in the position of having to be here
14 today to argue its position, and that the
15 law is so clear that it should be followed
16 by the Pennsylvania Department of
17 Transportation, period.

18 MR. SAPP: Bravo.

19 MR. BETHARDS: The Department most
20 certainly did not agree with that statement.
21 There is a different section of Act 615 of
22 1961 involved here today, and also there is
23 an additional issue, but I will argue that
24 more fully, Mr. Examiner, in my brief.

25 MR. BARTKO: No further statement, Mr.

1 Examiner.

2 CROSS-EXAMINATION

3 BY MR. DICK:

4 Q Mr. Mannella, are you familiar with the Order from
5 this Commission at Complaint Docket 6903 which had
6 to do with this bridge?

7 A When was that dated?

8 Q That was dated October 19, 1926.

9 A No, sir.

10 Q At this Complaint Docket, the complaint was brought
11 about by the City of Duquesne concerning the
12 Thompson Run Bridge, and in the determination of
13 the Commission it was ordered in paragraph 15 that
14 the entire bridge including piers and abutments
15 shall be maintained by the County of Allegheny,
16 the City of Duquesne shall pay to said county
17 40 percent of all expenditures made for maintenance
18 of said bridge with the exception of paving thereon.
19 So that the city had a responsibility for the
20 cost of maintenance on this bridge. Of course,
21 looking at the position of your counsel I would
22 say up to 1961 or--

23 MR. BARTKO: That is our position.

24 BY MR. DICK:

25 Q But you have no knowledge at this point of any

1 contribution you have made?

2 A No, sir, I do not. No, I haven't checked the
3 record.

4 Q You haven't checked the record as yet?

5 A No, I have not.

6 Q Is this bridge located entirely in the City of
7 Duquesne?

8 A Yes.

9 Q Does it serve as a main artery for traffic in
10 Duquesne?

11 A Well, the categoric "yes" is not correct. Yes,
12 with qualifications. It serves a main artery for
13 the City of Duquesne as well as a greater portion
14 of the Monongahela Valley. We are not alone in
15 the use of this road or this bridge.

16 Q Does this bridge connect part of the city with
17 steel industries?

18 A Yes.

19 Q Do those industries employ people who live in the
20 City of Duquesne?

21 A I would say this is conjecture on my part.

22 Q All right.

23 A That probably the greater percentage of the
24 employees of the mills are from outside the City
25 of Duquesne. The total employment is what I am

1 having reference to.

2 Q Is this bridge and the road utilized by the people
3 of the City of Duquesne to go from one section to
4 another?

5 A On that, no.

6 Q Have you yourself ever used this bridge?

7 A Sure.

8 Q Many times?

9 A Yes, sir.

10 Q Does the police department, the fire department
11 and other agencies of the city utilize this bridge?

12 A Yes, sir.

13 Q School buses utilize this bridge, if you know?

14 A That would be real questionable. I don't know.
15 Perhaps not.

16 Q What bridge is it? Is it Kennywood Park into
17 the city?

18 A That's right beyond that.

19 Q Mr. Mannella, are you familiar with a letter sent
20 to the Commission addressed to the chairman, Mr.
21 Bloom, from Andrew Valco, councilman, to the City
22 of Duquesne, Department of Public Parks and
23 Property dated April 21, 1970?

24 A No, sir.

25 Q Now, referring to this letter, if I may read.

1 "Dear Mr. Bloom:

2 "As you are aware, the City of Duquesne has
3 a major problem in regards to the Thompson Run
4 Bridge. If possible, can you please submit to me
5 when you anticipate the repair of such bridge, and
6 also when you plan to draw plans for the proposed
7 new bridge which council has gone on record on
8 being in favor of. We anticipate that the
9 construction of new housing by the Redevelopment--

10 MR. SAPP: Mr. Examiner, I am going to
11 object to the further introduction of that
12 letter.

13 THE EXAMINER: Take a look at the letter.
14 Off the record.

15 (Discussion off the record.)

16 THE EXAMINER: Back on the record.

17 MR. SAPP: Mr. Examiner, I am going to
18 object to the further introduction of that
19 letter because it is not relevant to the
20 issue being discussed here today.

21 MR. DICK: Mr. Examiner, I want to show
22 the concern of the City of Duquesne for this
23 bridge and how important it is to the city
24 and for its people.

25 THE EXAMINER: From what file are you

1 reading?

2 MR. DICK: This should be in the
3 correspondence file.

4 THE EXAMINER: The objection is over-
5 ruled, sir. Exception noted.

6 BY MR. DICK:

7 Q --by the Redevelopment Authority of Allegheny
8 County on a parcel of ground located at the
9 southern end of the Thompson Run Bridge. If the
10 proposed new bridge will in any way in regard to
11 the bridge approach affect this new development,
12 I would like to know of any problem which might
13 be incurred.

14 "Very truly yours,
15 "Andrew Valco, Councilman."

16 MR. BARTKO: Is that letter presently
17 in the PUC files?

18 MR. DICK: The correspondence file of
19 this case.

20 MR. BARTKO: So you already have that
21 letter. I assume that the Commission is
22 aware of the contents.

23 MR. DICK: Well, if our files show the
24 concern of the city and the witness that you
25 have presented is showing sort of a disconcern

1 as to any contribution toward the bridge and
2 the interest of the city--

3 MR. BARTKO: I think that the fact is
4 that elected officials of the City of
5 Duquesne are concerned about the condition of
6 this bridge and this is commendable.

7 That shows they have an interest
8 of their constituents and to try to use a
9 letter of that type against the interests of
10 the City of Duquesne--

11 MR. DICK: The letter is not intended to
12 be used against the City of Duquesne. It is
13 being used to show to the witness who is here
14 that the City of Duquesne through its elected
15 officials are concerned or were concerned
16 about having the bridge repaired, and now
17 you have presented through your witness the
18 statement of the city saying that they do not
19 wish to do anything to contribute towards
20 this bridge.

21 MR. BARTKO: I am going to object to
22 the introduction of that telegram in evidence.

23 MR. DICK: The telegram you are speaking
24 about is the one I showed you addressed to
25 the chairman of the Public Utility Commission

1 from the mayor of the City of Duquesne, Frank
2 Kopriver.

3 MR. BARTKO: Yes, that is the telegram.

4 MR. DICK: That is dated April 13, 1970.

5 Mr. Examiner, I have showed to
6 counsel for the City of Duquesne a telegram
7 which was sent by the mayor of Duquesne dated
8 April 13, 1970, to George Bloom, Chairman of
9 the Commission, and the counsel has made an
10 objection to my introducing it or reading it
11 into evidence.

12 MR. BARTKO: Here again, sir, we have an
13 interested public servant trying to represent
14 the people of the City of Duquesne, and
15 realizing that there was a dangerous condition
16 and now to introduce this into evidence, this
17 telegram, for the purpose of being against
18 the interest of the City of Duquesne is really
19 inconsistent. I just can't understand it.

20 MR. DICK: I am not attempting to
21 introduce this telegram into the record
22 against the interest of the City of Duquesne.
23 In fact, the telegram speaks of great concern
24 for this bridge as it relates to the lifeblood
25 of the City of Duquesne, and it is complimentary

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to the elected officials.

THE EXAMINER: I think we have two motions. Mr. Bartko, first, as to the letter from Mr. Valco and to the telegram.

MR. BARTKO: I think you ruled on that one, I believe. Now we are on the telegram.

MR. DICK: Although I have no read the telegram.

THE EXAMINER: Motion is denied.
Exception noted to Mr. Bartko.

MR. DICK: Reading from the telegram which stated, Mr. Examiner: "Dear Mr. Bloom: Report is in your department today concerning Thompson Run Bridge in Duquesne, Duquesne Place Bridge. This bridge not only divides Duquesne but it is the lifeblood of our valley. We have no detour that is acceptable to heavy traffic in and out of our steel mills so it is imperative that the decision is made immediately to repair and to look who is at fault for permitting the bridge to deteriorate as badly as it has. We need help and are depending on a fast decision to correct the situation. Please keep us informed. Signed Frank Koprivier, Jr., Mayor

1 of the City of Duquesne.

2 MR. BARTKO: It is interesting to note
3 that this telegram makes reference to this
4 bridge as being of importance to the lifeblood
5 of the valley and not just reference to the
6 City of Duquesne in particular, and the
7 Monongahela Valley stretches quite a distance
8 so that all the industries from Pittsburgh on
9 up to the valley past Clairton have a vital
10 interest in having this bridge in an operating
11 condition.

12 MR. DICK: I would take it that the main
13 part of the valley is in the County of
14 Allegheny.

15 MR. BARTKO: Correct.

16 MR. DICK: County of Allegheny is a
17 party here today.

18 That's all I have.

19 THE EXAMINER: Any further questions of
20 Mr. Mannella?

21 MR. BARTKO: No questions.

22 MR. BETHARDS: Nothing further, sir.

23 THE EXAMINER: Thank you, Mr. Mannella.

24 (Witness excused.)

25 THE EXAMINER: Who is the next witness?

1 MR. DICK: The Union Railroad.

2 THE EXAMINER: Well, we will take a
3 brief recess for the benefit of the reporter.

4 (Short recess taken.)

5 THE EXAMINER: Back on the record.

6 MR. ORR: Mr. Danks.

7 ALFRED C. DANKS,

8 called as a witness on behalf of the
9 Respondent, being first duly sworn,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. ORR:

13 Q Give your full name to the reporter.

14 A Alfred C. Danks.

15 Q Where do you live?

16 A I live at 2123 Chalfont Street, Wilmington.

17 Q By whom are you employed?

18 A Union Railroad Company.

19 Q In what capacity?

20 A Engineer--bridges and buildings.

21 Q Are you a graduate engineer?

22 A I am.

23 Q Are you authorized to speak on behalf of the
24 Union Railroad Company in this proceeding?

25 A Yes, sir, I am.

1 Q On behalf of the Union Railroad Company, will you
2 submit into the record a detailed itemized
3 summary of all costs incurred by it in furnishing
4 material in performing work or in providing
5 services in accordance with any order of the
6 Commission issued at this proceeding?

7 A The Union Railroad provided labor and material to
8 protect its high voltage power lines along the
9 northerly side of pier 1 to provide safe working
10 conditions for the contractor. This protection
11 required approximately 40 man-hours of electricians'
12 labor as well as material costing about \$25.00.
13 No charge will be made for this work.

14 To assure safety of railroad operations
15 regular inspections of the work were made by the
16 Union Railroad Company's bridge inspector. These
17 inspections for which no charge will be made
18 required approximately 400 man-hours.

19 Flagman service was provided as requested by
20 the contractor. All charges for this service have
21 been paid in full by the contractor. The total
22 amount was \$7,087.78.

23 Q The Union Railroad Company has been asked to
24 submit testimony and/or exhibits in full
25 explanation of its summary of costs including but

1 not limited to an accounting of the work and
2 materials expended in the repair of the subject
3 bridge structure, final quantities and prices and
4 any other information and/or costs pertinent
5 thereto.

6 Will you answer that question?

7 A The Union Railroad has no costs for which it
8 expects to be reimbursed.

9 Q In the opinion of the Union Railroad Company, which
10 party or parties should bear the costs incurred in
11 effecting the repairs for the subject bridge
12 structure and in what proportionate amounts should
13 such cost be allocated, and will the Union Railroad
14 Company agree to bear a reasonable portion thereof?

15 A The Union Railroad Company has no opinion as to
16 which party should bear the costs for repairs to
17 the subject bridge structure except that the
18 Union Railroad Company should not bear any portion
19 of these costs.

20 The Union Railroad Company will bear all
21 costs related to protection of its wire lines,
22 crossing under the structure during the period
23 while repairs were being made.

24 Q What is the present obligation of the Union
25 Railroad Company at the subject bridge structure

1 with respect to the maintenance thereof?

2 Will it agree to perform any future
3 maintenance at this location and bear the costs
4 thereof, and has the Union Railroad Company any
5 opinion as to which party or parties heretofore
6 should be required to share in the performance
7 and cost of such future maintenance?

8 A The Union Railroad Company has no present
9 obligations with respect to the maintenance of
10 the subject structure. It does not agree to
11 perform any future maintenance nor to bear any of
12 the costs thereof. The Union Railroad Company has
13 no opinion as to which party or parties hereto
14 should be required to share in the performance and
15 cost to such future maintenance except that it
16 should not be required to share therein.

17 Q Does the Union Railroad Company desire to submit
18 any additional relevant testimony?

19 A The Union Railroad requests that the subject
20 bridge structure be immediately inspected for
21 repairs and rehabilitation of the drainage system
22 and for complete removal of all gunite from the
23 girder faces and from the underside of the side-
24 walks and sidewalk brackets.

25 The roadway drainage system is so inadequate

1 that it permits water to fall directly to the
2 work areas of the Union Railroad Company below
3 where workmen are required to walk 24 hours a day,
4 seven days a week in the performance of their
5 tasks.

6 The water from the bridge frequently falls
7 in such quantities that it makes some of the
8 surfaces on which it falls hazardous for the
9 workmen who must traverse these areas.

10 During subfreezing weather, most of the water
11 freezes and forms as ice, some dropping on the
12 work surfaces beneath and some hanging from the
13 underside of the bridge structure. Such hazards
14 are created that both the Union Railroad Company
15 and the Pennsylvania Department of Bridge Division
16 Employees have been required to remove the hanging
17 icicles in order to reduce the hazards from falling
18 ice.

19 Also the Union Railroad has often been
20 required to do extensive saltings in areas where
21 dripping occurs to disperse the ice from the work
22 surfaces. The gunite which was applied many years
23 ago to the outside face of the main girders of the
24 bridge structure and to the underside of the side-
25 walks and brackets has deteriorated and become

1 loose in many places.

2 Chunks of gunite have fallen onto the work
3 areas below and as recently as February 25, 1972,
4 a large chunk of gunite became dislodged and fell
5 onto the roof of a Union Railroad workman's
6 automobile while driving on the roadway under
7 span 8 where 20 workmen had walked under about 15
8 minutes before.

9 Q You took some photographs of this gunite situation
10 and you also have plans which you used to make
11 reference as to the position from which you took
12 the various photographs, did you not?

13 A I did.

14 (Union Railroad Exhibit No. 1, being a
15 map, was produced and marked for identifica-
16 tion.)

17 BY MR. ORR:

18 Q I show you a plan which has been marked Union
19 Exhibit No. 1, and ask you if you will give a
20 description of what that is?

21 A This plan is an 8-1/2 by 11 piece of paper which
22 is a part of Union Railroad drawing on a scale of
23 one inch equal a hundred feet whereon the subject
24 bridge structure has been shown in yellow coloring.
25 The bridge piers are shown in red coloring. The

1 small encircled areas colored green are showing
2 the camera locations of four photographs which were
3 taken about one week ago.

4 Q By whom?

5 A By myself.

6 Q Of course, this plan also shows the tracks which
7 are in what the Union Railroad calls the classifi-
8 cation yard, does it not?

9 A Yes, that is right.

10 MR. ORR: We offer in evidence Union
11 Railroad Exhibit No. 1.

12 (Union Railroad Exhibit Nos. 2 through
13 5, being photographs, were produced and
14 marked for identification.)

15 BY MR. ORR:

16 Q I now show you four photographs which have been
17 marked Exhibits 2, 3, 4 and 5.

18 Now, having reference to Union Railroad
19 Exhibit No. 1 which has a legend on the bottom
20 indicating a point from where you took it by
21 this one in the green circle?

22 A It is.

23 Q And Exhibits 2, 3, and 4 are similarly indicated
24 on the map, are they not?

25 A This is right.

1 Q Now, you have a legend at the bottom of each
2 photograph, No. 1 shows generally the view of
3 span 8 looking south. Where is this gunite you
4 speak of?

5 A The gunite that I have referred to is on the
6 outside face of the girders and on the underside
7 of the sidewalk and on the sidewalk brackets. It
8 can be most clearly observed by looking at
9 photograph No. 2 which is a close-up view taken
10 over the roadway surface from which the--a piece
11 was reported to have fallen onto a Union Railroad
12 employee's automobile.

13 Q Now, this gray streak running almost perpendicularly
14 in the center picture, is that the gunite?

15 A That does indicate gunite that was applied with
16 some reinforcing mesh over one of the intermediate
17 members of the main girder called a stiffener
18 angle.

19 Q Does that gunite protrude from the face of the
20 girder?

21 A Yes, it does.

22 Q About how far?

23 A About six inches or less except for part of the
24 area whereas photograph 2, Exhibit 3, shows
25 evidence of some of the gunite having fallen away.

1 Q We have some demonstrative evidence here. We have
2 a piece of a portion of gunite that fell on the
3 automobile.

4 The driver said that it represented about
5 one-third that fell. How much does this weigh?

6 A That weighs 2-1/4 pounds. That piece that you
7 have in your hand weighs 2-1/4 pounds.

8 Q Now, Exhibits 4 and 5 are taken--well, as I say,
9 a general view of span 7 and 8 looking north and
10 a close-up view of the span looking north.

11 You took these pictures to show the condition
12 of the gunite, is that not correct?

13 A We did.

14 MR. ORR: We offer in evidence Union
15 Exhibits 1, 2, 3, 4 and 5.

16 MR. BETHARDS: No objection.

17 MR. DICK: No objection.

18 THE EXAMINER: Admitted without
19 objection.

20 BY MR. ORR:

21 Q Suppose one of your workmen had been struck by
22 that piece of gunite, what would have been the
23 result?

24 MR. DICK: I would object to that
25 question. I believe it is conjecture. It

1 is something that, of course, will not happen.
2 I doubt if the witness is a medical authority
3 or a doctor. I believe we are going little
4 far afield from the subject matter of the
5 hearing.

6 MR. ORR: We are calling to the
7 attention of the Commission a condition that
8 needs to be corrected now with respect to
9 this particular bridge, and while I agree
10 that this man is not a medical witness--

11 BY MR. ORR:

12 Q How far did this piece of gunite fall down?

13 A Yes. This piece of gunite from its location on
14 the bridge structure to the ground is about 25,
15 between 25 and 30 feet.

16 Q Has gunite fallen in the past?

17 A Yes.

18 Q In your opinion will it continue to fall in the
19 future?

20 A Yes, it will.

21 Q Is the deterioration of the gunite restricted to
22 a few spans of the bridge?

23 A The deterioration of the gunite is not restricted
24 to any particular span. I took pictures of this
25 area only to show or to provide exhibits for all

1 of the spans which would have required quite a
2 volume of photographs. These are typical of the
3 entire structure.

4 Q How many tracks, roadways and work areas does the
5 Union Railroad have underneath the bridge?

6 A The Union Railroad owns and operates 32 tracks,
7 two roadways and one work area under the bridge.

8 The potential per personal damage and
9 property damage is great, and will not be
10 eliminated until this gunitite is removed.

11 Q These problems of water drainage and deterioration
12 have been brought to the attention of anybody
13 employed by the Public Utility Commission?

14 A Yes. I talked to Mr. Calder previously at another
15 meeting down here on January 6th. I am sorry.
16 December 15th at another hearing.

17 MR. DICK: What year was that?

18 THE WITNESS: 1971.

19 And then also by a letter from our
20 chief engineer pertaining to final field
21 viewing. That letter is dated January 6th.
22 At that time I spoke specifically pertaining
23 to the drainage situation.

24 (Union Railroad Exhibit No. 6, being a
25 letter dated January 6, 1972, was produced

1 and marked for identification.)

2 MR. DICK: Could I just ask a question.

3 At the time after the Commission
4 had ordered PennDOT to go into plans for
5 repairs and to do repairs, did the railroad
6 bring this particular situation to the
7 attention of PennDOT in cooperating with them
8 on repairs to be made?

9 THE WITNESS: We reviewed at that time
10 at the field viewing out there because this
11 was a complaint docket, and the primary
12 concern was to take care of the problems
13 relating to structural safety for road
14 carrying capacity.

15 The inference at that time was that
16 other matters would be taken care of at a
17 later date.

18 MR. DICK: Was this specific matter
19 presented at that meeting?

20 THE WITNESS: I don't recall that it was.
21 However, I would say this, that all of the
22 persons involved in the field viewing and the
23 field inspection, this situation is very
24 apparent.

25 MR. DICK: Would the railroad be willing

1 to seek to work this out informally with
2 PennDOT as to what necessary repairs might
3 be needed and if not satisfactory, then, the
4 avenue would be to file a complaint with the
5 Commission concerning these areas, and it
6 would seem, I think, that the condition arose
7 last year where this piece had fallen on the
8 employee's car.

9 THE WITNESS: In informal discussion with
10 Mr. Calder, it was my understanding that the
11 best way to do this, to bring it to the
12 Commission's attention would be to so inform
13 the Commission at the time of this hearing.

14 MR. DICK: Now, Mr. Calder, I am quite
15 sure indicated that you testified to and is
16 well taken, but again could we suggest to you
17 to try to work this out informally with
18 PennDOT, and if not, to file a new complaint.

19 MR. ORR: I am not objecting, but I
20 would like to go on.

21 BY MR. ORR:

22 Q I refer you to a letter, a copy of which has been
23 marked Union Exhibit No. 6, which is a letter
24 dated January 6, 1972 from V. M. Schwing, chief
25 engineer, to Mr. W. D. Calder, P. E.

1 Is that the letter concerning which you
2 earlier testified?

3 A This is the letter that I referred to.

4 Q Within the body of the letter I see in the first
5 paragraph, "We do not plan to attend the forth-
6 coming final inspection on January 20."

7 I believe there was a letter from Mr. Calder
8 informing Mr. Schwing that there would be this
9 final inspection on January 20th to meet the
10 interested parties at the bridge structure. Is
11 that not correct?

12 A This is correct.

13 Q And Exhibit No. 6 is a reply to that letter, is
14 that correct, sir?

15 A That is right.

16 MR. ORR: Cross-examine.

17 MR. DICK: I just want to state for the
18 record that Mr. Calder is an engineer with
19 the Public Utility Commission and was assigned
20 to this matter.

21 No questions. Thank you.

22 MR. BETHARDS: No questions.

23 THE EXAMINER: Thank you, Mr. Danks.

24 (Witness excused.)

25 MR. DICK: I believe Duquesne Light

1 Company would be next. I don't know who
2 Duquesne Light has here.

3 THE EXAMINER: No one has appeared for
4 Duquesne.

5 MR. DICK: Equitable Gas Company.

6 THE EXAMINER: No counsel has appeared
7 for Duquesne.

8 MR. DICK: Carnegie Natural Gas Company.
9 No counsel for them.

10 A VOICE: I am representing the company.

11 MR. DICK: Do you wish to make any
12 statement for the record?

13 Bell Telephone Company of
14 Pennsylvania.

15 THE EXAMINER: No counsel has appeared
16 on their behalf.

17 MR. DICK: That's all, Mr. Examiner,
18 unless we have any public witnesses.

19 THE EXAMINER: Does anyone have any
20 witnesses to be heard? Does this complete
21 the testimony in the opinion of all parties?

22 Do the parties wish to file briefs
23 in this matter?

24 MR. BETHARDS: The Department would
25 suggest, Mr. Examiner, that it is not quite

1 time to determine that point because I moved
2 previously that the Commission order both
3 the Department and the county and the City of
4 Duquesne to produce their records regarding
5 maintenance and absent that I indicated that
6 I would file petition requesting subpoena
7 duces tecum against both the county and the
8 city, so I would request that the hearing be
9 continued until such time as we have had an
10 order from the Commission or I file my
11 petition for a subpoena duces tecum.

12 MR. DICK: I would suggest clarification
13 from Mr. Bethards. If the Commission were to
14 grant your motion for a subpoena duces tecum,
15 then, after examination of the records that
16 are submitted, could counsel determine whether
17 a further hearing would be necessary and so
18 advise the Commission.

19 MR. BETHARDS: Yes. Certainly.

20 MR. DICK: And would that be all right
21 with the County of Allegheny?

22 So we will let the record stand
23 that upon all counsel examining these records
24 and if the Commission grants the subpoena
25 duces tecum, they notify the Commission

1 whether they desire further hearing. That's
2 if the Commission grants your motion. If the
3 Commission does not grant the motion, then, I
4 would consider the record to be closed.

5 MR. BETHARDS: I can see no reason, Mr.
6 Dick, why the Commission should not on its
7 own really order these records. They are
8 relevant to the issues.

9 MR. DICK: If they do grant your motion,
10 and I already stated that could happen in
11 this case, but I am saying if the Commission
12 were to refuse your motion, do we consider
13 the record closed without further hearing.

14 MR. BETHARDS: I think so.

15 MR. DICK: That's all, Mr. Examiner.

16 THE EXAMINER: That concludes the hearing
17 as of today, gentlemen.

18 MR. BETHARDS: We reserve the right to
19 file a brief.

20 THE EXAMINER: I will note that the
21 parties reserve a right to file briefs.
22 However, I can't tell you at this time what
23 disposition will be made on the motion.

24 (Whereupon at 12:05 o'clock P. M.,
25 hearing in the above matter was continued.)

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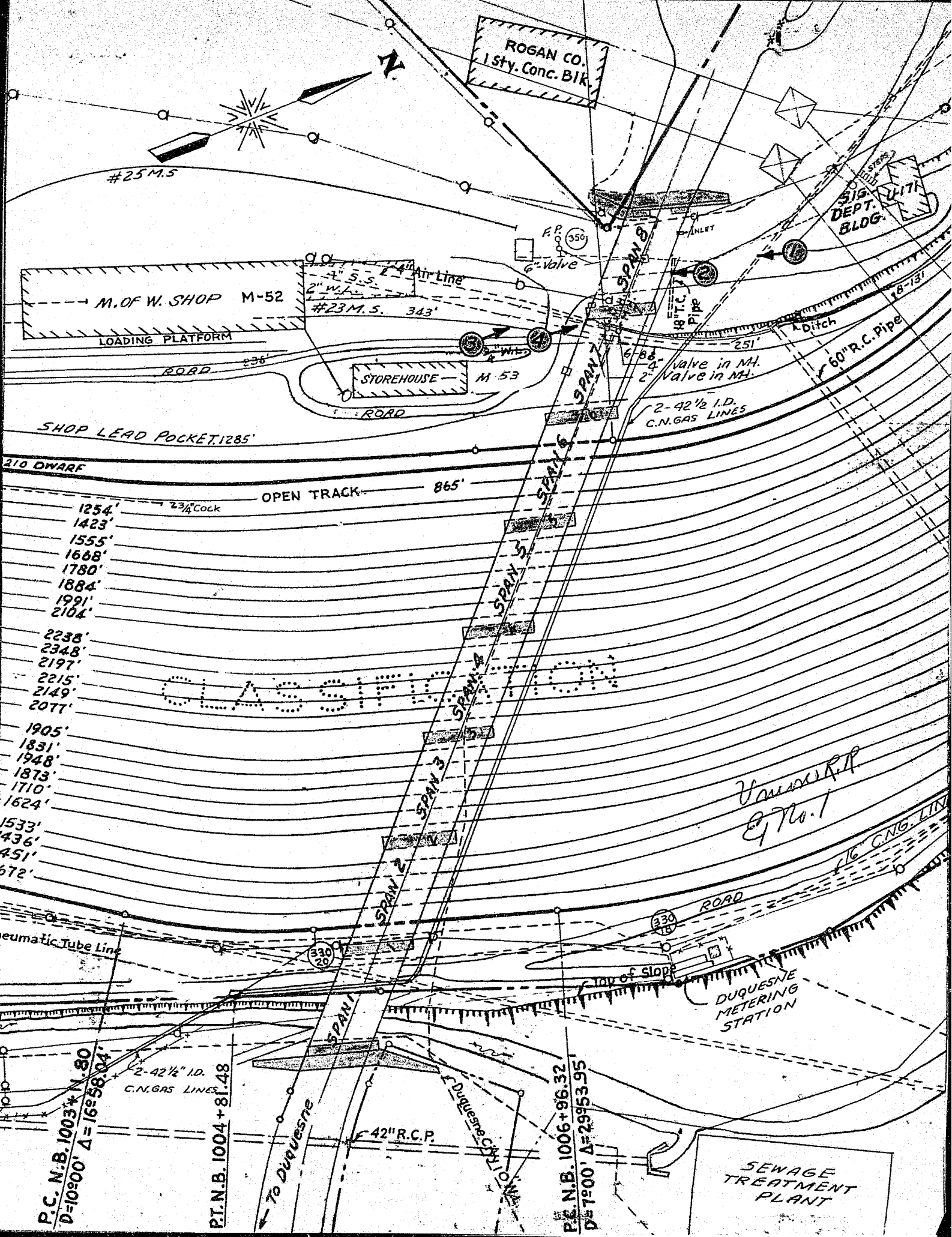
C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Public Utility Commission of the Commonwealth of Pennsylvania and that this transcript is a correct copy of the same.

MOHRBACH & MARSHAL, INC.

By George R. Bernick
Official Reporter

Reported By: George R. Bernick
MOHRBACH & MARSHAL, INC.
2000 State Street
Harrisburg, Penna.



ROGAN CO.
1 sty. Conc. Blk

SIG. DEPT. BLOK.

M. OF W. SHOP M-52

LOADING PLATFORM

STOREHOUSE M-53

SHOP LEAD POCKET 1285'

OPEN TRACK 865'

- 1254'
- 1423'
- 1555'
- 1668'
- 1780'
- 1884'
- 1991'
- 2104'
- 2238'
- 2348'
- 2197'
- 2215'
- 2149'
- 2077'
- 1905'
- 1831'
- 1948'
- 1873'
- 1710'
- 1624'
- 1533'
- 1436'
- 1451'
- 1372'

CLASIFIED

Vanover R.P.
E, No. 1

DUQUESNE
METERING
STATION

SEWAGE
TREATMENT
PLANT

P.C. N.B. 1003 + 11.80
D=10°00' Δ=16°58'04"

P.T. N.B. 1004 + 8.48

P.L. N.B. 1006 + 96.32
D=7°00' Δ=29°53'95"

2-42 1/2" I.D.
C.N.GAS LINES

42" R.C.P.

To Duquesne

Duquesne CHILLON

330

330

Pneumatic Tube Line

ROAD

16" C.N.G. LINE

ray of slope

#25 M.S.

#23 M.S. 343'

ROAD 236'

ROAD

2-42 1/2" I.D.
C.N.GAS LINES

18-13'

60" R.C. Pipe

Valve in M.H.
Valve in M.H.

8" T.C. Pipe

A.P. 350

6" Valve

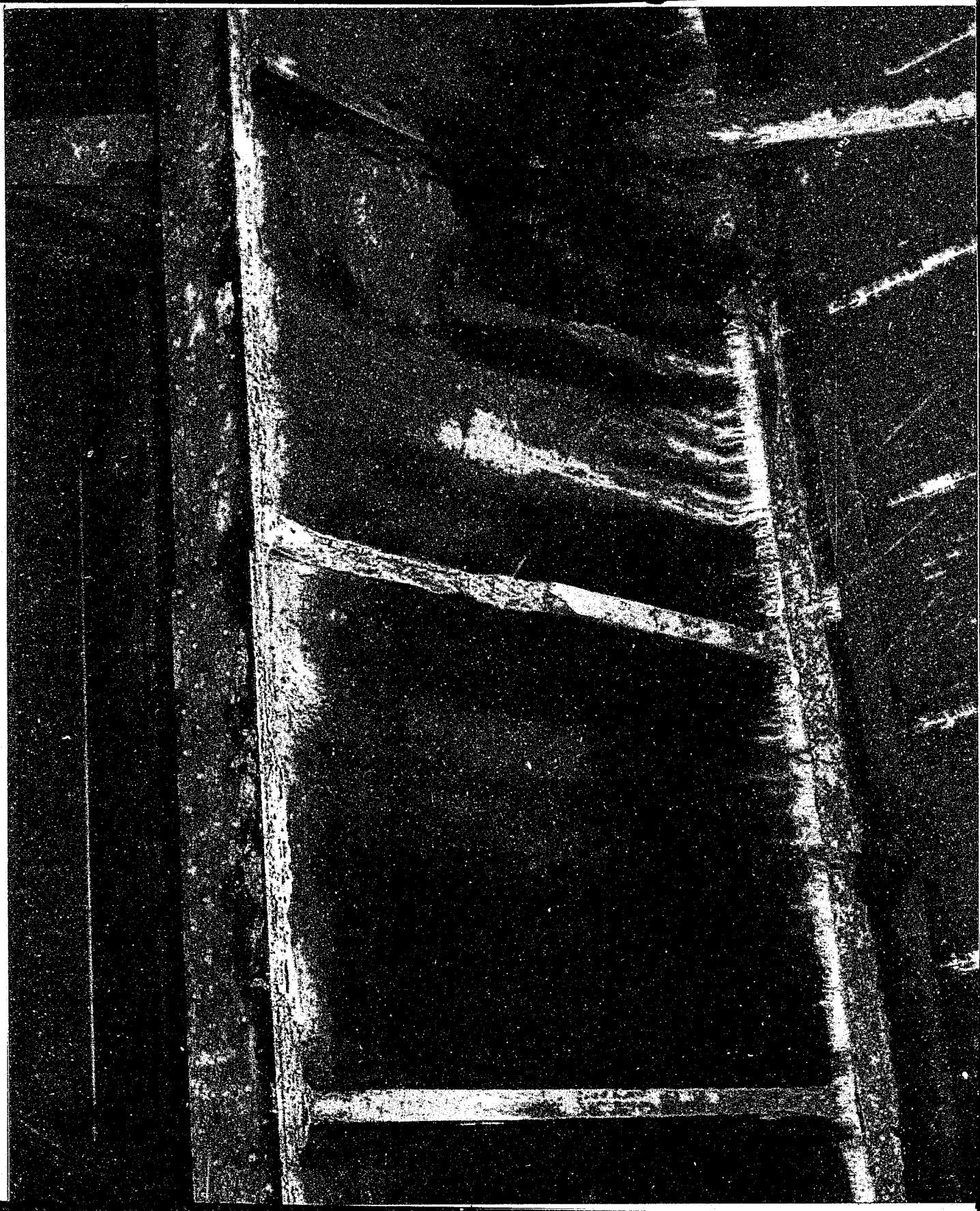
INLET



Photograph No. 1 - GENERAL VIEW OF SPAN 8 LOOKING SOUTH



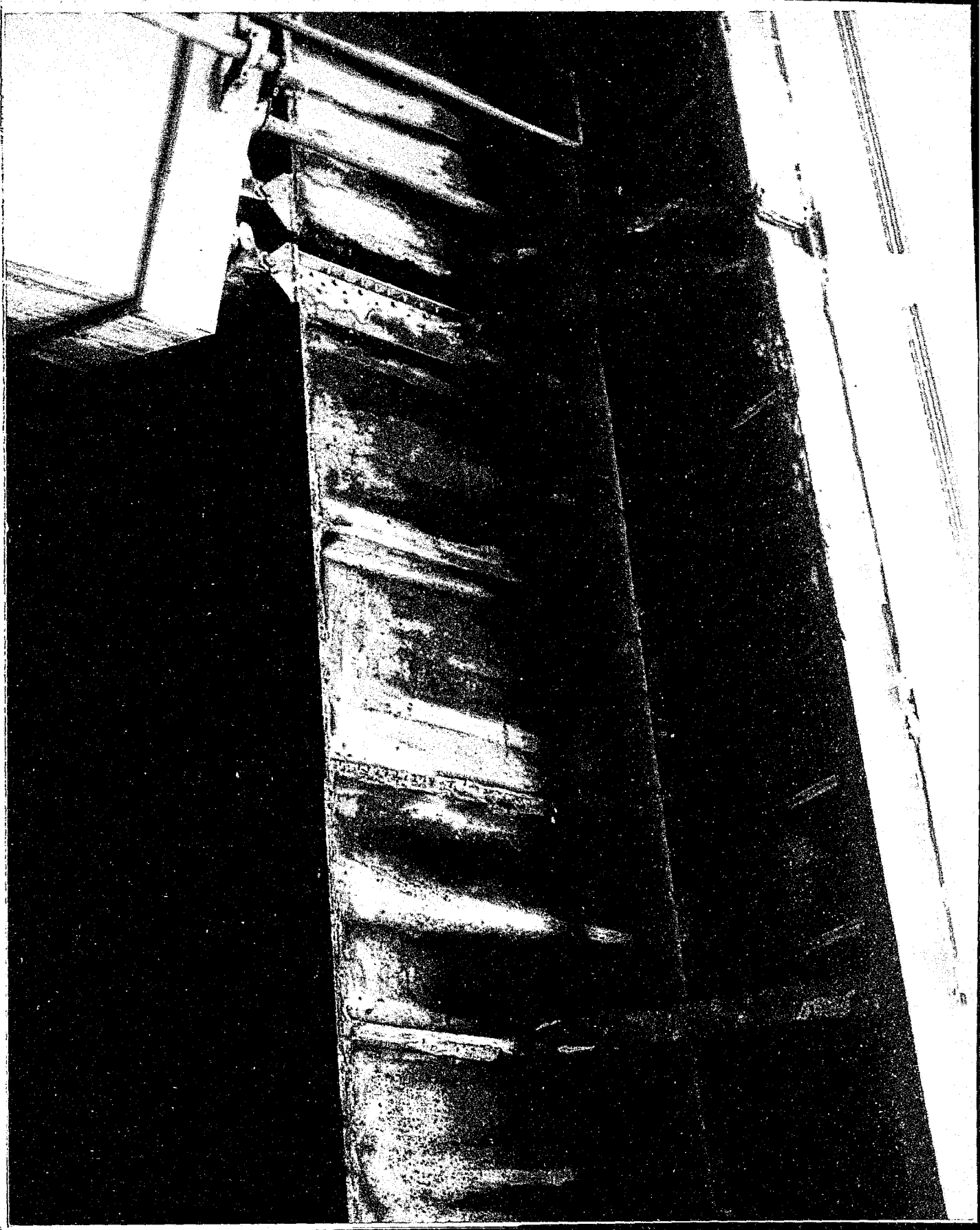
Photograph No. 2 - CLOSE UP VIEW OF SPAN 8 LOOKING SOUTH



Photograph No. 3 - GENERAL VIEW OF SPANS 7 AND 8 LOOKING NORTH



Photograph No. 4 - CLOSE UP VIEW OF SPAN 7 LOOKING NORTH



RECEIVED
1972 APR 27 AM 7:56
PUBLIC UTILITY
COMMISSION

January 6, 1972

Mr. W. B. Calder, P.E.
Public Utility Engineer
Pennsylvania Public Utility Commission
Bureau of Transportation
P. O. Box 3265
Harrisburg, Pa. 17120

Subject: P.U.C. Complaint Docket No. 18922 - Duquesne Boulevard Bridge
State No. 736 - Station 471+00 - URR No. 72

Dear Mr. Calder:

We made a final inspection with Department of Transportation Inspector Mr. Reed on October 7, 1971. Our property in the vicinity of the subject structure had been satisfactorily "cleaned-up". Accordingly, to the best of our knowledge all work ordered to be performed under this emergency order has been completed. We do not plan to attend the forthcoming final inspection on January 20.

Our inspection pertained only to matters relating to this Complaint Docket. We, therefore, respectfully request that this facility be considered for additional inspection and complete rehabilitation of the several inadequate and deteriorated portions. Our present concern which directly affects the safety of our workmen pertains to the lack of roadway drainage control which results in water and/or ice falling from the roadway above onto our tracks and walkways below.

Cordially,

V. M. Schwing
Chief Engineer

DOCKETED
COMPLAINT DOCKET
MAY 8 1972
ENTRY No. *18922*

ACD/chs

cc: P. S. Young
W. S. Miller

PA. PUBLIC UTILITY COMMISSION
DOCKET NO. *C 18922* FOLDER NO. _____
Union Railroad EXHIBIT I.D. *6*
RECEIVED AT *GPH* DATE *3-22-72*
RE. ORDER *George R. Bernick*

Before

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

C. 18922 - Penna. Public Utility Commission v.
Dept. of Highways of the Commonwealth of Penna.
et al.

Complaint Docket C. 18922

At Pittsburgh, Penna., Monday, November 26, 1973

DOCKETED
COMMISSION DOCKET
DEC 6 1973
ENTRY No. _____

CLERK PUBLIC UTILITY COMMISSION

73 DEC 5 AM 8:19

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Pages 54 To 125

**RECORD
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FILE
A. M. H.

MOHRBACH & MARSHAL, INC.
SHORTHAND & STENOGRAPHIC REPORTERS
2000 STATE STREET
HARRISBURG, PA. 17103
236-9304

1 Before

2 THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

3 - - - - -

4 C. 18922 - Pennsylvania Public Utility
5 Commission v. Department of Highways of the Commonwealth of
6 Pennsylvania, Union Railroad Company, City of Duquesne,
7 County of Allegheny, The Bell Telephone Company of Pennsylvania,
8 Carnegie Natural Gas Company, Duquesne Light Company,
9 Equitable Gas Company and Keystone Pipe Line Company -
10 Investigation upon Commission motion for the purpose of
11 determining whether the bridge carrying State Highway Route
12 736 Extension above the grade of the main line and yard
13 tracks of Union Railroad Company and above Thompson Run in
14 the City of Duquesne, Allegheny County, is dangerous or
15 inadequate in its present condition to accommodate safely
16 the class and volume of highway, pedestrian and railroad
17 traffic currently traversing the crossing; and for the purpose
18 of determining the nature and extent of any required
19 alteration, reconstruction and/or abolition of the crossing,
20 and for the purpose of determining the party or parties that
21 should be required to perform work and bear the cost
22 thereof, and to maintain the crossing upon completion of
23 any improvement found to be necessary.

14 Further hearing.

16 - - - - -

17 Stenographic report of hearing
18 held at State Office Building,
19 300 Liberty Avenue, Pittsburgh,
20 Pennsylvania

19 Monday
20 November 26, 1973
21 at 10:00 o'clock a.m.

22 - - - - -

23 RALPH T. BELL, ESQUIRE, EXAMINER

1 APPEARANCES:

2 THOMAS C. DICK, ESQUIRE
3 North Office Building
4 Harrisburg, Penna.
5 For: PUC

6 WILLIAM E. BETHARDS, ESQUIRE
7 Room 223, CAB Bldg.
8 Harrisburg, penna.
9 For: Penna. Dept. of Transportation

10 RALPH S. SAPP, ESQUIRE
11 County Law Department
12 Jones Law Building
13 Pittsburgh, Penna.
14 For: County of Allegheny

15 JAMES R. ORR, ESQUIRE
16 747 Union Trust Bldg.
17 Pittsburgh, Penna.
18 For: Union Railroad Company

19 NORMAN M. BARTKO, ESQUIRE
20 1009 Duquesne Blvd.
21 Duquesne, Pa.
22 For: City of Duquesne.

23 W. B. CALDER
24 North Office Bldg.
25 Harrisburg, Penna.
For: PUC - Transportation Bureau

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P R O C E E D I N G S

1
2 THE EXAMINER: We are ready to proceed,
3 gentlemen.

4 MR. DICK: Mr. Examiner, this is a continuation
5 of a hearing into Docket No. C. 18922 relating to the
6 Thompson Run Bridge as it is known, and specifically this is
7 a continuation of hearings we have held.

8 This hearing today is to allow the parties
9 to submit testimony and evidence as to maintenance that has
10 been performed upon the bridge in the past.

11 THE EXAMINER: All right.

12 MR. DICK: And I believe the Pennsylvania
13 Department of Transportation will be first.

14 MR. BETHARDS: Yes, that is right, Mr. Dick.
15 I call on Mr. Clements.

16 THE EXAMINER: All right.

17 Are all parties who have an interest in
18 this matter represented by counsel?

19 I see the Union Railroad listed, PennDOT,
20 City of Duquesne and, of course, the Public Utility Commission
21 and the County of Allegheny. Are there any other parties?

22 MR. BARTKO: The City of Duquesne is present.

23 THE EXAMINER: All right. Let's proceed.

24 WILLIAM J. CLEMENTS, called as a witness
25 on behalf of PennDOT, being first duly sworn, was examined

1 and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. BETHARDS:

4 Q Please state your full name for the record,
5 sir.

6 A William J. Clements.

7 Q By whom are you employed, Mr. Clements,
8 and at what address?

9 A Commonwealth of Pennsylvania, Department of
10 Transportation, Transportation and Safety Building, Harrisburg.

11 Q In what capacity, sir, are you employed by
12 the Department?

13 A I am a Civil Engineer in the Design Bureau.

14 Q Are you duly authorized to testify here
15 today?

16 A Yes.

17 Q Have you seen the bridge involved?

18 A Yes.

19 Q When did you last see it?

20 A At the field conference. I haven't looked
21 at it since they've done the repair work.

22 Q Mr. Clements, referring to the questions
23 and suggested procedure sheet issued by the Commission in
24 this case, please submit testimony and produce records to
25 show the dates, extent, cost and all other pertinent

1 information relating to any maintenance performed by the
2 Department of Transportation on the structure in question?

3 A Other than the work that has just been
4 completed, and we have placed those costs into the record at
5 the last hearing, we can find no record of any other maintenance
6 performed on the bridge by the Department.

7 Q Does the record in the prior proceeding
8 show exactly what work we did and how much it cost?

9 A Right.

10 MR. BETHARDS: Cross-examine.

11 CROSS-EXAMINATION

12 BY MR. SAPP:

13 Q You performed no work, that is, the Department
14 of Transportation, Mr. Clements, on this bridge at any time
15 in its history?

16 A No. We just did the work that was proposed
17 under this procedure for which we submitted a plan and in the
18 last hearing submitted the actual cost for the contract.

19 Prior to that we have no record of any work
20 being performed.

21 Q What is the date of your inspection of this
22 bridge prior to this present work?

23 A The inspection was made of the bridge when
24 this proceeding was instituted and that was back in 1970.

25 Q 1973?

1 A Yes, that's when we notified the Commission
2 that the bridge should be reduced to a posted load limit of
3 ten tons.

4 Q Do your records show any inspection of the
5 bridge in the years 1961, 1962 or in the '60's?

6 A I don't have any knowledge of an inspection
7 being made in the '60's.

8 Q Would you have inspection records?

9 A If there were inspections made of the extent
10 that we had submitted to the Commission, yes, we would.

11 Q Would they be in your custody?

12 A They would probably -- yes, they would be
13 in the central office and in the district office also.

14 Q Do your files or do you have anything or
15 any documentary evidence with you indicating that the
16 inspection took place?

17 A The only inspection that I had evidence or
18 documentary evidence of is already in the record and that
19 was the inspection report of the inspection that was made
20 when we instituted this investigation.

21 I had checked with our central office
22 bridge unit for any inspection reports that they had on the
23 bridge and they had none. I had checked with the district
24 office, and they had none.

25 Q How often are inspections of bridges made

1 by your department?

2 A Well, since the disaster in West Virginia,
3 there is a definite procedure of bridge inspections. I can't
4 recall now how often they are made, but they are in two
5 different categories. One is a cursory inspection which
6 may reveal some deficiency that would require more in-depth
7 inspection. I think it is annually the cursory inspection
8 which is made.

9 Q Annually since what year?

10 A Well, this is just since the Silver Bridge
11 disaster which I think was around 1969 or 1970.

12 Prior to that we made annual inspections
13 or bridges that were under our jurisdiction.

14 Q Your records would indicate then if any
15 inspections were made of this bridge in the '60's?

16 There would be a notation of it?

17 A There should be, yes, sir.

18 Q Would you furnish that for the Commission
19 as an exhibit?

20 A That's it. I can't find any.

21 Q You can't find any?

22 A No, sir.

23 Q I see. Could we conclude from that then
24 that you haven't made any inspections of this bridge in the
25 '60's?

1 A Well, I don't know whether you could or not.
2 There was one where an inspection report was submitted.

3 MR. SAPP: No other questions, Mr. Examiner.

4 BY MR. DICK:

5 Q Mr. Clements, the repairs that were made in
6 accordance with the Order of the Commission would be emergency
7 repairs rather than rehabilitation repairs?

8 A As I understand, they were not completely
9 rehabilitation.

10 Q And this was just to remove the temporary
11 load restriction that was imposed upon the bridge back at
12 that time?

13 A That's correct.

14 Q Should there be a complete rehabilitation
15 plans drawn for this bridge?

16 A There is at the present time, existing some
17 deficiencies in the structure which possibly in the near
18 future could cause the same problem that we've had in 1970,
19 and the bridge should be completely rehabilitated.

20 Q When you say "the near future" could you
21 approximate the number of years?

22 A Within the next three to five years, I would
23 say.

24 Q Would PennDOT be willing to develop plans
25 for the rehabilitation of the bridge?

1 A We would not agree to do so based on the
2 situation as it exists. Of course, if the Commission so
3 ordered the Department to do so, I can't say what the
4 Department's position would be right now, but I do know that
5 we could not agree to do so.

6 MR. DICK: Thank you, Mr. Clements.

7 MR. BETHARDS: Mr. Examiner, the Department
8 has no further testimony and we, therefore, rest.

9 THE EXAMINER: All right.

10 MR. BETHARDS: I assume, sir, that other
11 attorneys in the room have no questions for Mr. Clements?

12 THE EXAMINER: Is there any cross-examination
13 by any other parties represented here?

14 MR. ORR: Union Railroad has none.

15 MR. BARTKO: City of Duquesne has none,
16 Mr. Examiner.

17 THE EXAMINER: Let us proceed.

18 Do you have any further evidence to be
19 offered?

20 MR. SAPP: The County of Allegheny will go
21 last.

22 Is there any testimony to be offered here
23 by the City of Duquesne or the Union Railroad?

24 THE EXAMINER: If anybody has testimony to
25 offer, please come forward.

1 MR. BARTKO: The City of Duquesne has some
2 testimony.

3 VINCENT F. MANNELLA, called as a witness on
4 behalf of the City of Duquesne, being first duly sworn, was
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BARTKO:

8 Q State your name.

9 A Vincent F. Mannella.

10 Q What is your position with the City of
11 Duquesne?

12 A I am the City's consulting engineer.

13 Q How long have you held that position?

14 A Either late spring or early summer of 1970.

15 Q In that position, do you direct the repair
16 work that's done by the City of Duquesne.

17 A Yes, sir.

18 Q In the period of time that you have been
19 the engineer for the City of Duquesne, have you ever directed
20 repair work to be done to the Thompson Run Bridge?

21 A No, sir.

22 Q When you took over the job of city engineer,
23 were the files of the previous engineer left for you?

24 A Yes.

25 Q Have you had a chance to review those files

1 with reference to possible Thompson Run Bridge work?

2 A Yes, sir.

3 Q Have you been able to locate any files having
4 to do with or dealing with repair work on the Thompson Run
5 Bridge?

6 A There are none.

7 Q To the best of your knowledge, has the City
8 of Duquesne ever done any repair work on the Thompson Run
9 Bridge?

10 A To the best of my knowledge, no, never.

11 Q With regard to the sidewalk area of the
12 Thompson Run Bridge, are you aware of correspondence with
13 the State Highway Department asking them to perform various
14 repair work?

15 A Yes, sir, I am.

16 MR. BETHARDS: If counsel is going to refer
17 to a document now, Mr. Examiner, I would request that before
18 examination proceeds that I be permitted to read it.

19 THE EXAMINER: You have that right.

20 Would you attorneys please come up here
21 a minute.

22 (Discussion off the record.)

23 THE EXAMINER: Let's proceed.

24 MR. BETHARDS: Mr. Examiner, I have reviewed
25 the letter referred to by the attorney for the City of

1 Duquesne and I have no objection to his proceeding in connection
2 therewith.

3 THE EXAMINER: Very well.

4 BY MR. BARTKO:

5 Q In November of 1970, Mr. Mannella, were you
6 the city engineer?

7 A Yes, sir, I was.

8 MR. BARTKO: I will mark this letter dated
9 November 19, 1970, from the Commonwealth of Pennsylvania,
10 Department of Transportation as City of Duquesne Exhibit A.

11 THE EXAMINER: Do you have sufficient copies?

12 MR. BARTKO: We can run those off for you
13 people in a short period of time if you grant us that leave.

14 THE EXAMINER: Fine.

15 (City of Duquesne Exhibit A,
16 being a letter dated November 19,
17 1970, signed by Anthony J. Gaeta,
was produced and marked for
identification.)

18 BY MR. BARTKO:

19 Q Will you please read into the record this
20 letter?

21 A This letter is addressed to Mr. Norman M.
22 Bartko, City Solicitor, City of Duquesne, Duquesne,
23 Pennsylvania and it is from the Commonwealth of Pennsylvania,
24 Pennsylvania Department of Transportation.

25 "Dear Mr. Bartko: Reference is made to your

1 letter dated November 10, 1970, addressed to Mr. N. H. Udani,
2 District Bridge Engineer, pertaining to the sidewalk portion
3 of the Thompson Run Bridge.

4 "The State and County had different inter-
5 preations of Act 615. The State's interpretation of Act 615
6 was that the portion pertaining to maintenance between curbs
7 was the State's responsibility but beyond the curb area
8 maintenance was the responsibility of others.

9 "Since that time we have been authorized
10 by the Central Office to incorporate that portion beyond the
11 curbs. Therefore, the sidewalk area will be maintained by
12 the Pennsylvania Department of Transportation and this walkway
13 area will be taken care of in a short time.

14 "We wish to thank you for your patience and
15 cooperation in this matter.

16 "Very truly yours,

17 "Anthony J. Gaeta."

18 MR. BARTKO: I offer Exhibit A.

19 THE EXAMINER: There are no objections,
20 as I understand.

21 MR. BETHARDS: No objections, sir.

22 THE EXAMINER: Admitted.

23 MR. BARTKO: That closes the City of
24 Duquesne's testimony.

25 THE EXAMINER: Any examination?

1 MR. BETHARDS: Yes, I have one or two
2 questions, Mr. Examiner.

3 CROSS-EXAMINATION

4 BY MR. BETHARDS:

5 Q Mr. Mannella, are you aware that the
6 Commission entered an Order in this case on June 1, 1970?

7 A No, sir, I wasn't.

8 Q I show you, sir, from the Department's
9 file an interim Order from the Commission to Complaint
10 Docket No. 18922 dated June 1, 1970.

11 That is in reference to this proceeding,
12 isn't it, sir?

13 A I don't know. I have never seen it.

14 Q It is Complaint Docket No. 18922 which is
15 the identification number for this proceeding, is it not?

16 A Yes, sir.

17 MR. SAPP: Objection. Improper examination.

18 THE EXAMINER: Wait a minute. Now, any
19 objection on the part of testimony given by this witness,
20 he should make the objection and not you.

21 MR. SAPP: I can make an objection. I object
22 to it as being improper cross-examination.

23 THE EXAMINER: The objection is overruled.

24 MR. BARTKO: I will object to the question
25 and request a side-bar conference with the Examiner, if you

1 please.

2 MR. BETHARDS: Then I will withdraw the
3 question, Mr. Examiner, and put my evidence in through a
4 rebuttal witness.

5 THE EXAMINER: All right. Any further cross-
6 examination of this witness?

7 MR. BETHARDS: Yes, I have one or two more
8 questions.

9 THE EXAMINER: You may proceed.

10 BY MR. BETHARDS:

11 Q Were you present at the prior hearing, Mr.
12 Mannella?

13 A Yes, sir, I believe I was.

14 Q Were you present during the complete course
15 of the testimony?

16 Did you hear all of the testimony?

17 A I don't recall.

18 Q Do you recall that the Department testimony
19 was that under the prior Orders of the Commission maintenance
20 responsibility for this bridge was upon the County and with
21 the City of Duquesne to reimburse the County for 40 percent
22 of the cost for any work done?

23 A I recall hearing that, yes, sir, I do.

24 Q Do you recall that I requested at that
25 hearing that the City of Duquesne inspect its accounting

1 records and payment records since 1961 and advise the
2 Commission whether or not the city had made any payments to
3 the county?

4 A Yes, sir.

5 Q For work done by the county by way of
6 maintenance of the bridge?

7 MR. SAPP: I object to this line of questioning.
8 It is highly improper.

9 THE EXAMINER: Objection is overruled.

10 MR. SAPP: Counsel here is making his own
11 interpretation of a record which is grossly improper.

12 I don't know whether all this is true by
13 this testimony nor does anybody else.

14 It is further objected to that this is highly
15 improper cross-examination. This witness has testified on
16 direct examination pertaining to one document and that is
17 all that the cross-examination can pertain to.

18 MR. BETHARDS: Now, Mr. Examiner, I can
19 examine --

20 MR. BARTKO: I want to add another objection
21 to this line of questioning in that you are in effect, through
22 this line of questioning, trying to expound your theory
23 behind your case and it should be brought in your summary,
24 in conclusion. You aren't getting to the issue here present.

25 MR. BETHARDS: I am just going into the

1 matter, sir, of whether or not pursuant to the terms of the
2 prior Commission Order which the witness says he recollects,
3 whether or not the witness has inspected the accounting and
4 payment records of the City of Duquesne since 1960 to see if
5 there were any payments made to the county.

6 THE EXAMINER: Objection is overruled. Please
7 proceed.

8 BY MR. BETHARDS:

9 Q Did you inspect the accounting records and
10 payment records of the City of Duquesne since 1960 to see
11 if any payments were made to the county for any maintenance
12 performed?

13 MR. SAPP: The question is improper.

14 THE EXAMINER: You have made your objection
15 and I overruled your objection. Now, let him answer if he
16 can.

17 MR. SAPP: Well, I don't want to argue with
18 the Examiner. If you will please, this is another question
19 on the record. He assumes in his question that there had
20 been payments made by the City of Duquesne and this is
21 improper.

22 MR. BETHARDS: That is what I am trying to
23 find out, Mr. Examiner.

24 THE EXAMINER: Objection is overruled.

25 MR. SAPP: Please don't assume. Ask him if

1 any payments ever had been made by the City of Duquesne.

2 THE EXAMINER: Objection is overruled. Please
3 proceed.

4 BY MR. BETHARDS:

5 Q Have you inspected the accounting and payment
6 records of the City of Duquesne, and let's go back to 1950 --
7 let's go back to 1950. That's the date raised in the prior
8 hearing, to see if the city ever was reimbursed or reimbursed
9 the county in the amount of 40 percent?

10 A I inspected the records shortly after the
11 last meeting as requested. Now, I don't recall if I went to
12 1960 or 1950, but the records are somewhat, -- well, the
13 condition of the records in the city hall leave something to
14 be desired and I find no evidence of any payments made to
15 the county from the City of Duquesne.

16 Now, by the same token, I did not personally
17 go into the actual accounting records of the comptroller
18 or the treasurer's office.

19 I worked from my records that I had in hand
20 from the engineering office and there was no evidence of
21 payment that I could see or find.

22 BY MR. DICK:

23 Q From that point forward, to what date did
24 you inspect the records?

25 A Currently.

1 MR. BETHARDS: The Department has no further
2 questions, Mr. Examiner.

3 BY MR. DICK:

4 Q Now, Mr. Mannella, I take it in your
5 testimony you said you inspected the files to see whether any
6 maintenance had been performed by the City of Duquesne. That
7 was your initial testimony, is that correct?

8 A Primarily, but also we would have had in
9 our office if there was any evidence, letters or communications
10 recommending bills to be paid, because any statements that
11 are rendered for payment out of the Department of Streets
12 and Roads has to be brought upon by a recommendation of the
13 engineer, so there would be a letter to this effect in the
14 files recommending payment to go out and I saw nothing in
15 that line.

16 Q In other words, there is no letter or
17 recommendation for payment, and I have to add one other thing
18 to the question, payment to whom?

19 A To the county or to the state or to anybody
20 that I could find.

21 Q So there was no recommendation or approval
22 for payment to the County of Allegheny for any maintenance
23 work that was done on the bridge?

24 A I think that's right, yes.

25 Q And that, to your recollection, goes back

1 to 1960 or maybe 1950, but you are not sure?

2 A That is correct. I'm cloudy on that.

3 Q Could we pin down whether it is 1950 or
4 some year within the '50's that you went back to?

5 What is your best recollection of the year
6 that you went back to in the records?

7 A I don't recall. I just don't recall.

8 Q Are there records in your department that
9 go back prior to 1960 concerning the Thompson Run Bridge,
10 maintenance thereon?

11 A I would say most likely, yes.

12 Q What are the conditions of those records?

13 A Well, all our records are in good condition.
14 It is just that the completeness of the records or the
15 correctness in their filing or their chronological sequence
16 leaves something to be desired.

17 Q But it is possible to inspect those records
18 to determine whether any payment was made by the City of
19 Duquesne to Allegheny County for maintenance performed on
20 the Thompson Run Bridge?

21 A Yes, I think that's possible.

22 Q If the Commission were to order that a
23 search be made, would the City of Duquesne make that search
24 or would you make a search?

25 A Certainly.

1 Q Was there any reason why you did not go
2 back further in your inspection than the dates or the
3 approximate dates you alluded to?

4 A It is difficult enough going back 10 or 15
5 or 20 years with the records in the condition they are in;
6 and to carry on an extended research back for 25 or 30 years
7 just makes it that much more difficult.

8 Q The condition of the records you spoke of
9 have to do with the chronological order rather than, we'll
10 say, the physical condition?

11 A I think the physical conditions are fine,
12 right.

13 Q All right. From your inspection of the
14 records for the period of time that you made that inspection,
15 would you conclude that no payment has been made by the City
16 of Duquesne to the County of Allegheny for maintenance work
17 on the Thompson Bridge?

18 A Yes, sir, there was none that we could find.

19 MR. DICK: Thank you.

20 BY MR. BETHARDS:

21 Q Mr. Mannella, do you have a file, as the
22 city engineer of the City of Duquesne, covering the Thompson
23 Run Bridge?

24 A Do I have one personally?

25 Q Is there one as far as you know?

1 A No, not as such. It is more or less or
2 let's say the city file department is topsy.

3 MR. BETHARDS: I have nothing further.

4 BY MR. SAPP:

5 Q Mr. Mannella, I refer you to City of Duquesne
6 Exhibit A.

7 Does your file contain a copy of the letter
8 which was mailed and which you received in response to it?

9 A The letter was not initiated by us, and I
10 do not think -- do you have that here -- if it is not in the
11 letter that Mr. Bartko has, I don't have it.

12 Q Well, this letter does start out, doesn't
13 it, "Reference is made to your letter dated November 10,
14 1970. . . ."?

15 A Right.

16 Q So there was a letter mailed from your
17 office?

18 A No, this letter is addressed to Mr. Bartko.

19 Q Mr. Bartko, the City Solicitor?

20 A Right. Not from my office.

21 Q Did you check with Mr. Bartko to see
22 whether or not he had a copy of that letter?

23 A No.

24 Q I say can you?

25 A Certainly.

1 Q Will you furnish it, please, for this
2 hearing as an exhibit?

3 A I can get it in, but I don't know about
4 today.

5 Q No, not today.

6 A Yes, sir.

7 MR. SAPP: I have no other questions.

8 MR. ORR: Union Railroad has no questions.

9 THE EXAMINER: Do you gentlemen want to look
10 at that letter?

11 He requested some letter be made part of
12 this proceeding which you haven't seen.

13 MR. BETHARDS: We have copies.

14 THE EXAMINER: Do you have copies of it?

15 MR. BETHARDS: Yes.

16 THE EXAMINER: So it won't in any way affect
17 your case.

18 MR. BETHARDS: No, sir.

19 THE EXAMINER: Any further testimony from
20 this witness on either side?

21 MR. BARTKO: May it please the Examiner,
22 in the interim here I have found a carbon copy of my letter.

23 MR. SAPP: May I see it, please.

24 MR. BARTKO: Yes.

25 MR. SAPP: It is dated prior to that.

1 THE EXAMINER: Gentlemen, are you satisfied
2 that this is a carbon copy of the original letter which you
3 received?

4 MR. BETHARDS: Yes.

5 THE EXAMINER: And you have no objection
6 to it?

7 MR. BETHARDS: No objection, sir.

8 THE EXAMINER: That will be marked Exhibit B.

9 (City of Duquesne Exhibit B,
10 being a letter dated November 10,
11 1970, signed by Norman M. Bartko,
12 City Solicitor, was produced and
13 marked for identification.)

14 REDIRECT EXAMINATION

15 BY MR. BARTKO:

16 Q Mr. Mannella, I show you a carbon copy of
17 a letter dated November 10, 1970, addressed to Mr. N. Udani.

18 Would you please read that letter into the
19 record?

20 A "Dear Mr. Udani: Over the years, the Council
21 of the City of Duquesne has received numerous complaints from
22 the citizens of our town concerning the manner in which the
23 sidewalks are maintained on the Thompson Run Bridge. At the
24 last Council meeting, a spokesman appeared and read various
25 letters from the State Department of Transportation and the
County of Allegheny. The County letter said it was up to the
State. The state letter said it was up to the County. In the

1 meantime, the deplorable condition of this bridge persists.

2 "The purpose of this letter is to urge your
3 department to take corrective action and if need be, to work
4 out some cooperation agreement with the County in this respect.

5 "Very truly yours,

6 "Norman M. Bartko, City Solicitor."

7 MR. BARTKO: I offer in evidence Exhibit B.

8 MR. BETHARDS: No objection.

9 THE EXAMINER: So ordered. It is admitted.

10 MR. BARTKO: I'm finished.

11 MR. SAPP: I have no questions.

12 RECROSS-EXAMINATION

13 BY MR. DICK:

14 Q Mr. Mannella, just to be absolutely sure
15 that we have everything, I show you the questions and suggested
16 procedure, that first question there, and if you read it,
17 sir, pertaining to the City of Duquesne. Please read it to
18 yourself.

19 Now, you've testified here for the record.
20 Is there anything having to do with records or anything as
21 towards maintenance that the City wishes to introduce in
22 response to that question?

23 MR. BARTKO: We have another matter that we
24 would like to bring up at this time and possibly the situation
25 can be worked into the proceedings here in a sense/an amendment
as

1 to the proceedings presently going on.

2 The City of Duquesne under the easterly side
3 of this bridge has a water line which is in need of repair.
4 The City has been in contact with the PennDOT people and asked
5 them for permission to put this water line on top of the
6 sidewalk area rather than repair the one now which is presently
7 hanging, beneath the sidewalk area.

8 PennDOT has suggested that we bring this
9 matter up today at this hearing to make the Public Utility
10 Commission aware of our need for approval to get this water
11 line placed on top of the sidewalk which would be a great
12 economic benefit to the City.

13 I can proceed to ask my engineer some relevant
14 questions with respect to that.

15 MR. DICK: That was not the point of my
16 question. I asked Mr. Mannella to read Question No. 1 of
17 the questions and suggested procedure so that he would
18 understand what the Commission was seeking.

19 I was merely trying to see if there was
20 any testimony or records as to dates, the extent, cost, or
21 any other pertinent information relating to any maintenance
22 performed on the crossing structure, which is referred to as
23 the Thompson Run Bridge prior to the institution of these
24 proceedings and whether there is any of that that the City
25 wishes to introduce at this hearing other than what's been

1 testified to.

2 MR. BARTKO: I have no more evidence. I
3 know of no more -- do you have any more information, Mr.
4 Mannella?

5 THE WITNESS: There is only one other place
6 that we could look and probably that might be through the
7 comptroller's office and that is to see if there is any
8 drafts or written warrants issued.

9 In my records there is nothing I see from
10 our search. We done nothing with regard to maintenance or
11 repair.

12 BY MR. DICK:

13 Q Mr. Mannella, would your office check with
14 the comptroller's office to see if there has been any payments
15 made?

16 A Sure.

17 Q I would ask you that that go back prior to
18 the institution of these proceedings, back to, we'll say,
19 when the bridge was first rehabilitated, we'll say, back to
20 about 1930.

21 A This is maintenance bills and/or warrants
22 or drafts made with the County of Allegheny?

23 Q To 1930.

24 MR. BETHARDS: Are you requesting, Mr. Dick,
25 that the City of Duquesne make that information available to

1 Commission in the form of a letter with a copy to each party
2 of record?

3 MR. DICK: I would suggest that that be done
4 and if there are any exhibits that you wish to add or to
5 affix to the letter, fine. I mean, that's up to you. Also,
6 as Mr. Bethards had requested, send a copy to each party in
7 the proceeding.

8 THE WITNESS: This may take a little time
9 from 1930.

10 MR. DICK: Make it 1930.

11 THE WITNESS: 1930. Okay.

12 MR. DICK: Thank you very much.

13 MR. BARTKO: Are you finished?

14 MR. SAPP: I have no questions.

15 FURTHER REDIRECT EXAMINATION

16 BY MR. BARTKO:

17 Q With regard to this water line relocation,
18 have you addressed correspondence to the Pennsylvania
19 Department of Highways with regard to relocating a city water
20 line on the Thompson Run Bridge?

21 A Yes, sir, I have.

22 Q Will you explain what the purpose of this
23 relocation is?

24 A The city currently has an 18-inch water
25 line swung around the sidewalk area of the bridge supported

1 from the bridge superstructure.

2 We've recently taken or the city has recently
3 acquired bids for the replacement of this line, and the bids
4 have come in considerably higher than what the city anticipated,
5 at about \$3,000 below our estimate.

6 However, the cost of the installation with
7 regard to the netting that would be required for safety
8 reasons and the method of installation would have to be done
9 from equipment swung over the side of the bridge whereas the
10 sidewalk is in disrepair, and there seems to be a hassle who
11 should pay for it, repair it.

12 The city in its letter to PennDOT, if we
13 get permission to put the line on the sidewalk, close the
14 sidewalk towards the Monongahela River over permanently from
15 pedestrian traffic and have it just for the pipe, and the
16 city could save money and PennDOT would be eased of at least
17 50 percent of the sidewalk maintenance and the city would
18 provide its own maintenance for the pipe, water line on the
19 sidewalk, and that one section of the sidewalk area that would
20 be permanently closed to the public.

21 In PennDOT's reply to the city, they have
22 suggested that this matter be brought up at this hearing and
23 it would be proper procedure to do so.

24 MR. BETHARDS: So that actually, sir, you
25 are requesting this permission from the Commission, are you not?

1 THE WITNESS: Yes, that's about the size of
2 it.

3 MR. BETHARDS: Thank you, sir.

4 BY MR. BARTKO:

5 Q The State Highway Department has indicated
6 to you, Mr. Mannella, that they have no objection to this?

7 A In essence there he said they have no
8 jurisdiction to give permission, but they don't see anything
9 wrong with the matter.

10 They have tentatively approved subject to
11 PUC's decision.

12 MR. BARTKO: Mr. Examiner, at this time I
13 would like to move that the proceedings here be amended so
14 as to include the request with regard to this water line so
15 a determination could be made on that matter also.

16 THE EXAMINER: Any objection to that?

17 MR. BETHARDS: The Department has no
18 objection, sir.

19 MR. DICK: No objection.

20 MR. SAPP: County of Allegheny has no
21 objections.

22 THE EXAMINER: All right. So ordered.

23 FURTHER RECROSS-EXAMINATION

24 BY MR. DICK:

25 Q Mr. Mannella, have you any plans showing the

1 work that would be required to relocate the water line?

2 A Yes, I do.

3 Q Could you get those and submit them to the
4 Commission with copies to all counsel?

5 A All we have are the drawings of the project
6 as was bid with the pipe under the bridge. We haven't
7 formulated any plans for fastening or fixing into the sidewalk.

8 Q Well, if you are proposing to the sidewalk,
9 then, I would ask that plans be submitted showing how it
10 would be affixed to the sidewalk or the area which you are
11 suggesting?

12 A Yes.

13 Q And also include what plans there would
14 be for the removal of the old water line and who is going
15 to take care of this.

16 A I would at this time suggest that it just
17 be abandoned and left in place because then we're getting
18 in high cost factor of working over the outside of the bridge,
19 over the ravine.

20 Q So, the plans we would be interested in or
21 the plans as to the relocation of the water line on the
22 sidewalk area as you have testified to and --

23 A Yes, I understand.

24 Q -- and also if you just make as part of the
25 plans a letter stating what disposition should be made with

1 the old water line.

2 A Sure.

3 Q And with copies to all the parties.

4 A Sure.

5 Q Thank you.

6 A No problem. We will take care of that.

7 MR. BARTKO: I am finished.

8 MR. ORR: Do you wish me to proceed?

9 THE EXAMINER: Yes.

10 (Witness excused.)

11 JOHN R. SHAPER, called as a witness on
12 behalf of the Union Railroad Company, being first duly sworn,
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. ORR:

16 Q What is your name?

17 A John R. Shafer.

18 Q By whom are you employed?

19 A Union Railroad Company.

20 Q In what capacity.

21 A My present title is Director of Engineering
22 Services.

23 Q How long have you worked with the Union
24 Railroad Company?

25 A Thirty three years.

1 Q Are you familiar with the railroad company
2 records pertaining to various bridges?

3 A I am familiar with the maintenance of the
4 way department files on this particular bridge, yes.

5 Q Do you know that the Union Railroad Company
6 has been asked to submit testimony and produce records to show
7 the dates, extent, cost and all other pertinent information
8 relation to any other maintenance performed on the crossing
9 structure carrying state highway Route 7366, extension above
10 the tracks of the railroad company prior to the institution
11 of this proceeding which was in early 1970.

12 Did you have an examination made of your
13 records to determine whether any maintenance was performed
14 by the Union Railroad on this structure prior to 1970?

15 A Yes.

16 Q According to those records, was any
17 maintenance performed?

18 A I could find nothing in the records to indicate
19 that we ever performed any maintenance work on this structure.

20 Q The Union Railroad Company was also asked
21 to, if it wished, submit any additional relevant testimony.

22 You are aware, are you not, that in this
23 proceeding on March 22, 1972, Mr. A. C. Danks introduced
24 testimony in this proceeding?

25 A Yes.

1 Q And you have read his testimony?

2 A Yes, sir.

3 Q Is there anything you wish to add?

4 A I have nothing to add to Mr. Danks'
5 testimony.

6 MR. ORR: Cross-examine.

7 THE EXAMINER: Any cross-examination of
8 this witness?

9 MR. DICK: Yes, Mr. Examiner.

10 CROSS-EXAMINATION

11 BY MR. DICK:

12 Q Mr. Shafer, you said you have read the
13 testimony of Mr. Danks?

14 A Yes, I have.

15 Q Are you in agreement with his testimony?

16 A I would say yes.

17 Q In its entirety, sir?

18 A I would say in its entirety, yes, sir.

19 MR. DICK: Thank you, sir.

20 MR. BETHARDS: No questions.

21 MR. SAPP: No questions.

22 MR. ORR: The Union Railroad Company has
23 no other testimony.

24 (Witness excused.)

25 THE EXAMINER: Any other testimony,

1 gentlemen?

2 MR. SAPP: Before the County of Allegheny
3 proceeds, the County would ask for a statement for the record
4 in the nature of an offer of what is intended to be proved
5 or shown by question No. 1 of the County, and also the
6 relevance and the competency of the question.

7 MR. DICK: Are you asking for an offer?

8 MR. SAPP: Yes, I am.

9 MR. DICK: Does the County understand the
10 question?

11 MR. SAPP: We understand.

12 MR. DICK: So there is no question concerning --

13 MR. SAPP: We are questioning its propriety.

14 MR. DICK: Its propriety?

15 MR. SAPP: Yes, concerning the issue in
16 this case.

17 MR. DICK: When did you receive the questions
18 and procedures, or when did the County receive them?

19 MR. SAPP: My letter is dated October 24,
20 1973.

21 MR. DICK: And you have not raised any
22 objection with the Commission prior to this hearing?

23 MR. SAPP: I haven't. I don't see where
24 that's relevant either.

25 MR. DICK: I think it is.

1 MR. SAPP: This is the hearing.

2 MR. DICK: The objection should be raised
3 prior to the hearing.

4 MR. SAPP: You may think so. It is not
5 my understanding of the procedure of practicing law before
6 this Commission or any court in this land. The hearing is
7 right here, now. You are the counsel.

8 MR. DICK: That is correct.

9 MR. SAPP: And you are asking for a --

10 MR. DICK: I am stating.

11 MR. SAPP: I am asking for an offer.

12 MR. DICK: An objection should be raised
13 prior to the hearing.

14 THE EXAMINER: What is your objection?

15 MR. SAPP: We would like to have an offer
16 as to why such a question.

17 THE EXAMINER: You are making objections.
18 Now, you tell me why you object to them. That's the first
19 thing.

20 MR. SAPP: I object to the question as
21 being irrelevant, incompetent and immaterial.

22 THE EXAMINER: That objection is overruled.

23 MR. DICK: I am asking for an offer to
24 see what is intended to be proved.

25 THE EXAMINER: I don't think we have to

1 give you an offer.

2 MR. SAPP: I think the Examiner is being
3 arbitrary and capricious along with the Commission.

4 MR. BETHARDS: Mr. Examiner, may I say that
5 at the last hearing Mr. Sapp stated they would produce the
6 records of the maintenance performed by the County to this
7 structure from a period of from 1950 to 1960 if ordered to
8 do so by the Commission.

9 Now, the Order by the Commission to do so
10 is in the form of Question No. 1, and the questions and
11 suggested procedure issued by the Commission in this case.

12 THE EXAMINER: All of you gentlemen know
13 that I wasn't the Examiner in the last hearing.

14 I think Mr. Conly was, is that correct?

15 MR. BETHARDS: That is correct.

16 THE EXAMINER: Now, if Mr. Sapp agreed to
17 produce the records and the cost and one thing and another
18 at the last hearing, I don't know what would prompt him to
19 change his mind from that time to this time.

20 MR. SAPP: I have not changed my mind.
21 I am merely restating my position.

22 THE EXAMINER: Wait a minute. Did you agree
23 to do so at the last hearing?

24 MR. SAPP: I said no. I did not agree to
25 do that. I raised the objections of relevancy and competency

1 at that time.

2 THE EXAMINER: Then, let's look at the
3 testimony.

4 MR. SAPP: What I am raising a question to
5 now and don't understand is why the Examiner along with these
6 other attorneys over here does not find it easy to make an
7 offer.

8 THE EXAMINER: Is there anything in the
9 testimony?

10 MR. BETHARDS: That's my recollection, Mr.
11 Examiner. May I examine the notes, please, sir.

12 THE EXAMINER: Yes.

13 MR. BETHARDS: May I have a ten-minute
14 recess, sir?

15 THE EXAMINER: All right, let's take the
16 recess.

17 (Short recess was taken.)

18 THE EXAMINER: All right, gentlemen. Let
19 us now proceed.

20 MR. BETHARDS: Yes, Mr. Examiner.

21 Referring to the notes of testimony at the
22 last hearing held on March 22, 1972, before Mr. Conly, beginning
23 at page 10 of the notes of testimony, there was some discussion
24 between me and Mr. Sapp regarding the effect of Act 615
25 upon the Commission jurisdiction in these highway-railroad

1 crossing cases, and I am quoting beginning on page 11 of the
2 notes of testimony in the third paragraph. "Mr. Bethards:
3 Mr. Examiner, of course, Act 615 speaks for itself, but I do
4 believe that the Act reserves to the Commission the right
5 to act on any existing orders. My offer still stands. We
6 are willing to make available to the Commission the statement
7 of any work that we may have done on the bridge provided
8 also that the County checks its records and reports or if
9 it has no records, that it so state."

10 "Mr. Sapp: I am willing to do that. Just
11 what dates do you want? I am asking for your records since
12 1961."

13 "Mr. Bethards: We would like to have the
14 County, Mr. Sapp, check its records from 1950 to 1961."

15 "Mr. Sapp: For what purpose? Will you
16 make an offer for the record."

17 "Mr. Bethards: For the purpose of determining
18 just what the County did in performing maintenance in
19 accordance with the obligations set forth in the Commission's
20 Order."

21 "Mr. Sapp: Well, we think that is immaterial
22 and irrelevant in this proceeding. However, if we were
23 directed to do so by the Commission, we will certainly do so
24 and we are asking that you be directed to furnish your records
25 of any maintenance on this bridge since the year 1961."

1 That's the end of quote on page 12 of the
2 notes of testimony.

3 The Commission, therefore, has issued its
4 Order both to the Department and to the County and to the
5 City that it testify regarding maintenance performed on the
6 bridge, and that is the purpose of this proceeding.

7 THE EXAMINER: Does that satisfy you, Mr.
8 Sapp?

9 MR. SAPP: It doesn't satisfy me at all.
10 If they are refusing to make an offer, that's their position.
11 That's their position.

12 Counsel from either the Highway Department,
13 State Department or Commission counsel, I am asking them for
14 an offer because I would like to find out --

15 THE EXAMINER: Make an offer and let's
16 satisfy Mr. Sapp.

17 MR. DICK: I would refer the County of
18 Allegheny through its representative here to look at Section
19 409(b), Public Utility Law, 66 Purdens Statute 1179 which
20 empowers the Commission with the exclusive right to determine
21 or prescribe by regulation or order, the points at which,
22 and the manner in which, such crossing may be constructed,
23 altered, relocated or abolished, and the manner and conditions
24 in or under which such crossing shall be maintained, operated
25 and protected to effectuate the prevention of accidents and

1 the promotion of the safety of the public.

2 In line with that and the powers that are
3 given the Commission by the Public Utility Law, the Commission
4 issued an investigation upon its own motion on April 27, 1970,
5 and it ordered in paragraph 1 that an investigation be hereby
6 instituted by the Pennsylvania Public Utility Commission on
7 its own motion under the provisions of the Public Utility
8 Law for the purpose of determining whether the above described
9 crossing, above grade is dangerous or inadequate in its
10 present condition to accommodate safely the class and volume
11 of highway, pedestrian, and railroad traffic currently
12 traversing the crossing, for the purpose of determining the
13 nature and extent of any required alteration or relocation
14 or abolishment of the crossing, and further, for the purpose
15 of determining what party or parties should be required to
16 perform work and bear the cost thereof, and the party or
17 parties that should be required to maintain the crossing
18 upon completion of any improvement found to be necessary.

19 In line with this, the Commission has issued
20 questions and procedures pertaining to this crossing and today
21 it has requested that information as to prior maintenance
22 be entered into the record for determination in line with
23 the Commission's Order.

24 MR. SAPP: Is counsel for the Commission
25 suggesting by his statement there that the Public Utility Law

1 abrogates the rules of evidence of the Commonwealth of
2 Pennsylvania?

3 MR. DICK: In what respect?

4 MR. SAPP: In any respect.

5 I am asking for an offer. That's a rule
6 of evidence.

7 THE EXAMINER: That's not a rule of
8 evidence. There are rules of procedure and practice before
9 the Commission which the Commission issues.

10 MR. SAPP: Aren't the rules of evidence
11 a part of that procedure?

12 THE EXAMINER: Mr. Sapp, you asked for an
13 offer. Now, this man has given you an offer, and you are
14 trying to tell me that the offer he made is a rule of evidence.

15 MR. SAPP: I haven't heard any offer made
16 pertaining to this testimony that they are asking for.

17 THE EXAMINER: You haven't heard any?

18 MR. DICK: I stated as is set forth in the
19 Public Utility Law and in the order of the Commission.

20 MR. DICK: Yes, but this specific factual
21 material that you are after certainly isn't contained within
22 what you are reading.

23 THE EXAMINER: You agreed at the last
24 hearing you would produce it.

25 MR. DICK: Factual material that you are

1 after.

2 THE EXAMINER: You agreed at the last hearing
3 that you would produce it.

4 MR. SAPP: I didn't say I would produce it.

5 THE EXAMINER: You said at the last hearing
6 if I interpreted when Mr. Bethards read it, that you agreed
7 that you would produce what they wanted here today.

8 MR. SAPP: No, I didn't. I did not agree
9 to any such question as this, and I am asking for an offer
10 pertaining to it.

11 If they don't want to give me an offer,
12 that's all well and good.

13 THE EXAMINER: Mr. Sapp, this is what you
14 said at the last hearing.

15 "I am willing to do that. Just what dates
16 do you want. I am asking for your records since 1961."

17 "Mr. Bethards: We would like to have the
18 County, Mr. Sapp, check its records from 1950 to 1961."

19 "Mr. Sapp: For what purpose. Will you
20 make an offer for the record?"

21 "Mr. Bethards: For the purpose of deter-
22 mining just what the County did in performing maintenance in
23 accordance with the obligation set forth in the Commission's
24 Order."

25 "Mr. Sapp: Well, we think that is immaterial

1 and irrelevant in this proceeding. However, if we were
2 directed to do so by the Commission, we will certainly do so
3 and we are asking that you be directed to furnish your records
4 of any maintenance on this bridge since the year 1961."

5 "Mr. Bethards: Well, in view of Mr. Sapp's
6 position, Mr. Examiner, I will state for the record that we
7 will furnish the information if ordered to do so by the
8 Commission and on the condition that the Commission orders
9 the County to furnish information from the year 1950 to 1962."

10 "Mr. Sapp: I have no other questions."

11 Now, that's what you agreed to.

12 MR. SAPP: That is right.

13 THE EXAMINER: All right. Let's proceed.

14 MR. SAPP: I am making a request for an
15 offer from the Commission.

16 THE EXAMINER: The offer has already been
17 made.

18 If you feel it is insufficient, I can't
19 help that.

20 MR. SAPP: All right. Note my exception.

21 THE EXAMINER: All right. Give your
22 testimony, if you have any.

23 MR. SAPP: Very good.

24 Before calling my witness, I ask that the
25 Public Utility Commission take judicial notice of Act 615

1 of the Commonwealth of Pennsylvania, that is Act 615 in its
2 entirety.

3 RICHARD B. WAUGH, called as a witness on
4 behalf of the County, being first duly sworn, was examined
5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. SAPP:

8 Q What is your name, please.

9 A Richard B. Waugh.

10 Q What is your occupation, Mr. Waugh?

11 A Engineer in the County of Allegheny.

12 Q In that capacity, are you authorized to
13 testify on behalf of the County of Allegheny in this proceeding?

14 A Yes, I am.

15 (County Exhibit No. 1, being
16 a cost breakdown, was produced
and marked for identification.)

17 BY MR. SAPP:

18 Q I show you what has been marked for
19 identification as County of Allegheny Exhibit No. 1, and I ask
20 you what this is?

21 A This is a maintenance record of Allegheny
22 County for Bridge No. 1, Thompson Run, South Side, City of
23 Duquesne.

24 Q Is this a photostatic copy of the original on
25 file with the County of Allegheny?

1 A Yes, it is.

2 Q And the original is within the custody of
3 whom?

4 A The original is in the custody of the
5 Bridge Department, Bureau of Bridges.

6 Q And, in turn, it is within your custody?

7 A Yes.

8 Q I ask you from this exhibit to read into
9 the record the remarks contained in the remark block.

10 A Under "remarks" it reads, "Taken by state
11 July 1, 1945. Returned to Allegheny County March 13, 1950.
12 City of Duquesne is to pay 40 percent of all maintenance."

13 Q I ask you to read any other remarks on that
14 document?

15 A Down below it reads, "Bridge taken by State-
16 May 1, 1962, House Bill No. 1707, Act 615."

17 (County Exhibit No. 2, being a
18 resolution, was produced and
marked for identification.)

19 BY MR. SAPP:

20 Q I show you what has been marked for purposes
21 of identification as County of Allegheny Exhibit No. 2, and
22 ask you what this is?

23 A Exhibit No. 2 is entitled, "Resolution".

24 Q That's a resolution by the County of
25 Allegheny, is that correct?

1 A That is right.

2 Q And referring to the last page of that
3 exhibit, it was certified on the 20th day of March, 1962?

4 A Yes.

5 Q And this is an exact copy of the original
6 on file with the County of Allegheny, is that correct?

7 A That is right.

8 (County Exhibit No, 3, being a
9 letter dated April 12, 1972,
10 signed by Mr. Park H. Martin,
Secretary of Highways, was produced
and marked for identification.)

11 BY MR. SAPP:

12 Q I show you what's marked for identification
13 as Exhibit No. 3, and ask you what this is?

14 A Exhibit No. 3 is a letter to the County
15 Commissioners dated April 12, 1962 from Park H. Martin,
16 Secretary of Highways.

17 Q This is a copy of that letter mailed to
18 the County Commissioners of the County of Allegheny, is that
19 correct?

20 A That is right.

21 Q And it is dated April 12, 1962, is that
22 correct?

23 A Yes, sir.

24 (County Exhibit No. 4, being an
25 agreement, was produced and marked
for identification.)

1 BY MR. SAPP:

2 Q I now show you what's marked for identifica-
3 tion as County Exhibit No. 4, and I ask you what this is?

4 A Exhibit No. 4 is an agreement.

5 Q Between whom?

6 A An agreement between the Commonwealth,
7 Department of Highways hereinafter called the Commonwealth
8 and Allegheny County.

9 Q I am referring you to page 2 of this
10 agreement. Is the subject bridge in this proceeding contained
11 therein?

12 A Yes.

13 Q And that bridge is known as what?

14 A I'm sorry. That bridge is not contained
15 herein.

16 Q It is not mentioned in this agreement?

17 A No, sir.

18 MR. SAPP: Mr. Examiner, by virtue of that,
19 we will withdraw the exhibit.

20 (Whereupon, County Exhibit No. 4 was withdrawn.)

21 MR. SAPP: You may cross-examine.

22 CROSS-EXAMINATION

23 BY MR. DICK:

24 Q Mr. Waugh, looking at Exhibit No. 1, are
25 there records which show a more specific description of the

1 maintenance performed through those years listed?

2 A I don't know of any records that we had
3 that would be more detailed than what we have here, sir.

4 Q To your knowledge, could you describe in
5 detail the maintenance that was performed as set forth in
6 those years from 1944 to 1954?

7 MR. SAPP: If the Examiner please, we
8 renew our objection to this line of questioning, and this
9 specific question with reference to details concerning all
10 of this work done under Act 615 of 1962.

11 THE WITNESS: No, I do not know.

12 THE EXAMINER: Objection overruled.

13 BY MR. DICK:

14 Q In 1954 it is noted there there was a
15 material contract. What is that registration number?

16 A That would be a requisition number.

17 Q That's 5628 and 5629. Would that be
18 available?

19 A I raised the same question myself and they
20 tell me that those requisitions being that far back would
21 probably be in the archives some place but quite difficult
22 to find.

23 Q And at the archives, they would have some
24 system of filing, I take it?

25 A I would assume they would. We did make

1 by the way, a check to see if we cannot locate it in the
2 Department itself and they were not available.

3 Q Coming from that point of time that's listed
4 on the exhibit, were you able to find anything pertaining
5 to the other areas?

6 A Well, 1953, of course, it does specifically
7 say cleaning and painting. That was done by a contractor
8 named Nick Gardis and the amount was \$10,850.

9 Q In other words, there would be on file
10 in your department, documents pertaining to that?

11 A Possibly there would be. I can't tell you
12 for sure.

13 Q How about 1957-1958 forward?

14 A Well, I don't know what more detailed
15 records might have been kept other than this which is a
16 bridge maintenance record from the bridge maintenance record
17 book.

18 Q Well, would you say whether there are any
19 records available in your department for the years, let's
20 say, from 1953 forward?

21 A I can't tell you yes or no right at the
22 moment.

23 Q Is there any chronological sequence in this
24 record, 1944-1945, and then we come to 1943. Then going
25 forward we come to 1954, 1955 and then 1953.

1 A I would assume on the cleaning and painting,
2 that possibly a period of time to make sure that the job had
3 been done properly before final payment, would be my guess,
4 to the contractor and then after all the invoices had been
5 cleared and final payment made and the total cost arrived at,
6 it was entered into the ledger.

7 Q Well, would I take it, sir, then that yearly
8 dates, just years really listed are really the same when the
9 maintenance or whatever is described there was initiated rather
10 than completed?

11 A No, I would think of it more the other
12 way, that that would be *the current year that the work was*
13 done.

14 In other words, it might have been a year
15 and a half. I'm only guessing right now.

16 Q Do I take it, sir, that these photocopies
17 of the original record --

18 A Photostatic of the original record, yes.

19 Q For any of the repairs that are shown in
20 this exhibit, were you able to ascertain any records showing
21 billing to the City of Duquesne?

22 A I could find no record.

23 Q Sir, as a result of your search, whatever
24 you did to give me that answer, there was no work done in
25 which the City of Duquesne would have been billed?

1 A In other words, I can't really tell you.
2 Possibly in some other department they might have the billing
3 of the City of Duquesne. Well, I don't know. I wasn't
4 concerned about that phase of it.

5 Q Would it be another department that would
6 make the decision to bill the City of Duquesne?

7 A I don't know.

8 Q Now, I notice under the "remarks" it says,
9 "City of Duquesne is to pay 40 percent of all maintenance."

10 A Uh-huh.

11 Q And yet you find no record of that, sir?

12 A I didn't look for the record as such.

13 As I say, I was not concerned with that
14 phase of the maintenance. We were instructed to furnish
15 the maintenance records on a particular bridge from 1950 to
16 1961.

17 MR. DICK: Thank you, sir.

18 BY MR. BETHARDS:

19 Q Mr. Waugh, under the remarks I read a
20 quote, "Taken by the State July 1, 1945. Returned to
21 Allegheny County March 13, 1950."

22 Is that right, sir?

23 A That's what I read, yes, sir.

24 Q That's from 1945 to 1950, and the State
25 is supposed to have had maintenance responsibility, is that

1 right, according to this language?

2 A It would look that way.

3 MR. SAPP: If you know.

4 Do you know?

5 THE WITNESS: No, I don't know. Only to
6 look at that. I don't know.

7 BY MR. BETHARDS:

8 Q I direct your attention, sir, to an item
9 of maintenance performed in 1948. Is that correct, sir?

10 A Yes.

11 Q That's within the time period mentioned
12 between July 1, 1945 and March 13, 1950?

13 A Yes.

14 MR. BETHARDS: That's all.

15 REDIRECT EXAMINATION

16 BY MR. SAPP:

17 Q Mr. Waugh, under this remarks, do you know
18 the circumstances under which that statement there is taken,
19 "Taken by the State July 1, 1945?"

20 A I have no idea.

21 Q Do you know what circumstances or conditions
22 or otherwise it was returned to the County of Allegheny?

23 A No, sir.

24 Q You know nothing about that agreement or
25 how that took place?

1 A No, I don't.

2 Q All you know is what you read under that
3 block, "remarks" is that correct?

4 A Yes, sir.

5 MR. SAPP: No other questions.

6 THE EXAMINER: Any further questions.

7 MR. BETHARDS: Department has no further
8 questions, Mr. Examiner.

9 THE EXAMINER: All right.

10 MR. SAPP: That is all from the County of
11 Allegheny.

12 THE EXAMINER: We have a gentleman here
13 who wants to ask a question or two.

14 MR. BARTKO: Yes.

15 RE-CROSS-EXAMINATION

16 BY MR. BARTKO:

17 Q A question was asked you, sir, with regard
18 to whether or not you know of an agreement between the
19 Commonwealth of Pennsylvania and the County of Allegheny
20 providing for the period between July 1, 1945 and March 13,
21 1950.

22 A Uh-huh.

23 Q Have you ever seen that agreement?

24 A No, sir.

25 Q Is that copy of the agreement present here

1 today?

2 A No, I never seen it. We do not have a copy
3 of it.

4 First of my knowledge was when I saw it
5 in the sheet here. Apparently it's an agreement taken July 1,
6 1945. I don't know if this was an agreement --

7 Q Can you get a copy of that agreement?

8 MR. SAPP: We don't know if it is an
9 agreement.

10 MR. BARTKO: Mr. Examiner, counsel for the
11 County is trying to testify here and --

12 THE EXAMINER: Let the man answer the question
13 for himself. Go ahead.

14 If you don't know, just say so.

15 THE WITNESS: I have no idea.

16 MR. BARTKO: At this time, Mr. Examiner,
17 I would like for you to issue a directive to the County to
18 provide us with a copy of that agreement.

19 MR. SAPP: I object. I object and I would
20 like to ask counsel for what reason or what purpose.

21 THE EXAMINER: Is there such a contract?

22 We don't know.

23 MR. BARTKO: Counsel for the County referred
24 to it in his cross-examination of his own witness.

25 MR. SAPP: I did not refer to an agreement.

1 I asked him whether he had an understanding of what the
2 circumstances were, and if there were any kinds of agreements
3 or what the circumstances were, that this was taken by the
4 State July 1, 1945. He said he did not.

5 THE EXAMINER: I ask, is there an agreement?

6 MR. SAPP: We don't know what the circum-
7 stances were.

8 THE EXAMINER: What's that?

9 MR. SAPP: We don't know what the circumstances
10 were.

11 THE EXAMINER: This witness evidently doesn't
12 know of any agreement, is that correct?

13 MR. WAUGH: That is correct.

14 THE EXAMINER: Now, this is off the record.

15 (Discussion off the record.)

16 THE EXAMINER: Go back on the record.

17 MR. BARTKO: What I want to know is what
18 official basis or authority existed for these remarks to be
19 put on the County's Exhibit No. 1, wherein it is stated that
20 it was taken by the state on July 1, 1945, and returned to
21 Allegheny County on March 13, 1950.

22 It would seem to me if anybody should know
23 the answer to that question, first it would be the Public
24 Utility Commission itself who would have jurisdiction of
25 any kind of transfer responsibility of that nature.

1 THE EXAMINER: Provided they were notified
2 of any transfer or responsibility.

3 MR. BARTKO: I was under the understanding
4 that any such agreement like that is subject to approval by
5 the Public Utility Commission.

6 THE EXAMINER: Well, you know, my friend,
7 the only trouble with that that everything that is supposed
8 to be done isn't always done. That's just the trouble with
9 things like that. That's the only answer I could give you.

10 I don't know whether this witness knows
11 on what basis that statement and remark was made and how it
12 was made and I don't know, so maybe you better ask him and
13 try to get an answer.

14 MR. BARTKO: The witness has already
15 answered my question to the effect that he doesn't know,
16 so I will address my question to the Examiner here as the
17 representative for the Public Utility Commission and request
18 that an examination be made of the records with regard to
19 the maintenance of this bridge.

20 THE EXAMINER: You can put that on the
21 record in the form of a request to the Commission if you
22 so desire.

23 MR. BARTKO: I request that the Commission
24 make an investigation of its records to determine whether
25 or not any official document appears in their files to

1 verify the remarks on County's Exhibit No. 1 which makes
2 reference to the State taking over this bridge on July 1,
3 1945, and returning it to Allegheny County on March 13, 1950.

4 THE EXAMINER: In order to get a true
5 answer to that, you'd have to go further than the Commission,
6 my friend. You'd have to go as far as the records of
7 Allegheny County, wouldn't you, to get a true answer, because
8 if Allegheny County doesn't notify the Commission of what
9 they did concerning that matter, why, then, of course, the
10 Commission wouldn't/^{have}any knowledge of it, so there are only
11 two places that you can get that. That's the Commission
12 and the only other place I would know of would be the records
13 of Allegheny County, so if you are going to make a request,
14 you make a request of both places to get your answer.

15 MR. BARTKO: I also make a second request
16 that such a question be directed to the representatives from
17 Allegheny County to provide the evidence that substantiates
18 these remarks on County Exhibit No. 1.

19 THE EXAMINER: All right.

20 MR. SAPP: We also include the Department
21 of Transportation.

22 MR. BARTKO: And the third request directed
23 to the Department of Transportation.

24 THE EXAMINER: Well, I don't know -- I am
25 not going to be argumentative, but the Department of

1 Transportation has nothing to do with the remarks that are
2 made on the records of Allegheny County, so I don't know
3 what they would have to do about it.

4 MR. BARTKO: When I use or see the word
5 "State" in the remarks, I automatically assume the Department
6 of Transportation.

7 THE EXAMINER: All right.

8 MR. BARTKO: I have no further questions.

9 THE EXAMINER: You understand that that's
10 a request that you are making of the Commission to check their
11 own records and the records of Allegheny County and the
12 Highway Department, is that right?

13 MR. BARTKO: I have asked you to direct the
14 County and the Department of Transportation to search their
15 files for evidence.

16 THE EXAMINER: I'm sorry, but I don't have
17 any powers to direct anything. You better make your request
18 of the Commission because otherwise you are not going to get
19 very far with it.

20 I don't have any right to direct anybody
21 to do anything.

22 MR. BARTKO: I then formally amend my request
23 to be directed to the Commission itself.

24 THE EXAMINER: All right.

25 MR. BARTKO: Thank you, sir.

1 MR. SAPP: Any other questions of this
2 witness?

3 BY MR. DICK:

4 Q Mr. Waugh, on Exhibit No. 1 of Allegheny
5 County, are any of these notations your notations, sir?

6 A No, sir.

7 Q Were any notations entered on this record
8 by someone under your supervision?

9 A No, sir.

10 MR. DICK: Thank you, sir.

11 MR. SAPP: That's all from the county.

12 THE EXAMINER: All right.

13 MR. BETHARDS: I assume, Mr. Examiner,
14 that Mr. Sapp is going to offer his exhibits.

15 MR. SAPP: Yes. We offer into evidence,
16 Mr. Examiner, Exhibits 1, 2 and 3.

17 THE EXAMINER: Any objections?

18 MR. BETHARDS: Mr. Examiner, the Department
19 has no objection as to their admission into evidence, as
20 to the factual matters therein contained, but we certainly
21 do object to all conclusions of law contained therein,
22 particularly as to the conclusion in Exhibit No. 1, quote,
23 bridge taken by the state May 1, 1962, House Bill No. 1707,
24 Act 165, end quote.

25 THE EXAMINER: We will admit the exhibits

1 for whatever value they might have.

2 (Witness excused.)

3 MR. BETHARDS: I would like to recall Mr.
4 Clements in rebuttal to the City's testimony.

5 THE EXAMINER: Very well.

6 WILLIAMS J. CLEMENTS, recalled to the stand,
7 as a rebuttal witness, being previously duly sworn, was
8 further examined and further testified as follows:

9 REDIRECT EXAMINATION

10 BY MR. BETHARDS:

11 Q Mr. Clements, were you in the hearing
12 room when Mr. Mannella testified on behalf of the City of
13 Duquesne?

14 A Yes.

15 Q Do you recall that he identified a certain
16 letter from the district engineer, Mr. Gaeta, to Mr. Norman
17 Bartko, dated November 19, 1970?

18 A Yes.

19 Q Does that letter which I now hand to you
20 refer to certain work done by the Department on the bridge?

21 A Yes.

22 Q What work does it refer to?

23 A Refers to work beyond the curb in the
24 sidewalk area.

25 Q Would you please state for the record

1 why the Department performed that work and pursuant to what
2 authority it performed it?

3 A Paragraph 3 of the Public Utility Commission
4 Order which initiated Complaint Docket 18922, that Order being
5 dated April 27, 1970, ordered the Department of Transportation
6 pending final determination to maintain the bridge.

7 Q Can you identify the particular paragraph
8 in the Order which so states and read it into the record,
9 please.

10 A It is the order issued by the Commission
11 on April 27, 1970, on page 3, paragraph 3, which reads and
12 I quote, "That pending final determination of the matters and
13 things involved, Department of Highways furnish all material
14 and do all work necessary to maintain the substructure and
15 the superstructure of the existing bridge in a safe and
16 satisfactory condition for all traffic permitted to use the
17 structure."

18 MR. SAPP: C'mon now, let's not have any
19 secret consultations here.

20 BY MR. BETHARDS:

21 Q Has the Commission held a hearing in this
22 case yet regarding cost allocations?

23 A Yes, it has.

24 Q What has the Commission provided with
25 regard to cost allocations for work performed by any party

1 pursuant to its Order?

2 A It has not issued an order allocating cost
3 yet.

4 Q Then, all work is to be done subject to the
5 party's initial cost and expense pending final determination?

6 MR. SAPP: I object. The Order speaks for
7 itself. May I see that Order before you start talking more
8 about it.

9 I object to any questions referring to cost
10 allocation. This Order has nothing to say about cost
11 allocation.

12 MR. DICK: Are you excluding paragraph 3
13 of the Order?

14 MR. SAPP: I think furthermore I object to
15 any more testimony pertaining as to what that order says.
16 It is specifically an order which speaks for itself. We
17 don't need the Highway Department's interpretation of the
18 Order.

19 BY MR. BETHARDS:

20 Q Mr. Clements, I refer you to the Commission's
21 Order dated June 1, 1970, particularly to the first paragraph
22 on page 2, and I ask you to read that into the record without
23 comment.

24 MR. SAPP: For what purpose is this being
25 read into the record?

1 MR. BETHARDS: To show that the Commission
2 has not yet allocated final costs and that everything to date
3 that has been done has been done pursuant to the party's
4 initial cost and expense.

5 MR. SAPP: Is that in regard to this present
6 hearing?

7 MR. BETHARDS: In regard to all work done
8 by the Department.

9 The Order shows that the work was done at
10 the initial cost and expense, and if the witness will read
11 that into the record, it will prove it.

12 MR. SAPP: Are you talking about this hearing?

13 We're having these hearings for the purpose
14 of cost allocation, aren't we?

15 THE EXAMINER: That's what I thought.

16 MR. SAPP: That's what I thought, too.

17 THE EXAMINER: Read it into the record.

18 THE WITNESS: Page 2 of the Commission
19 Order of June 1, 1970, quote, "None of the parties present
20 at a subsequent field conference held on May 22, 1970,
21 tendered formal objection to the general proposal as offered
22 by the Department of Highways, nor to any of the specifics
23 of necessary repairs as shown on the Department's plan.

24 "There were expressed, however, the not
25 uncommon denials of financial responsibility and pleadings

1 for exemption from participation in cost allocations. Such
2 restricting objections should not in our opinion be cause for
3 delay of action in the matter inasmuch as all parties will be
4 afforded an opportunity to be heard prior to the cost
5 allocation."

6 BY MR. BETHARDS:

7 Q Then the same Order, Mr. Clements, will
8 you read paragraph 3 into the record.

9 A "That the Department of Highways of the
10 Commonwealth of Pennsylvania at its initial cost and expense
11 furnish all material and do all work necessary to effect full
12 and complete restoration and repair to the subject structure
13 in accordance with the approved plan."

14 Q And also, Mr. Clements, referring to the
15 same Order on page 3, again will you read into the record
16 the first paragraph at the top of page 3?

17 A "Further, since the Department of Highways
18 agrees to bear all initial costs related to performance of
19 bridge repair work in accordance with its plan, subject to
20 future hearings on the matter of cost allocation and future
21 maintenance responsibilities, we find and determine that
22 permanent repairs to the structure should be initiated
23 promptly."

24 MR. BETHARDS: Thank you, Mr. Clements.

25 That's all I have.

1 THE EXAMINER: Do you have any questions?

2 MR. BARTKO: No questions.

3 MR. BETHARDS: I submit Mr. Clements for
4 cross-examination.

5 MR. SAPP: I have no questions.

6 MR. DICK: No questions.

7 MR. BETHARDS: Department has nothing
8 further, Mr. Examiner.

9 THE EXAMINER: I assume now that the
10 testimony will be closed?

11 Will there be further hearings in this
12 matter?

13 MR. DICK: Just a moment.

14 THE EXAMINER: Let's go off the record.
15 (Discussion off the record.)

16 THE EXAMINER: Go back on the record.
17 Then, your testimony is not closed.

18 MR. DICK: That is correct, testimony is
19 not closed.

20 THE EXAMINER: Yours isn't either, Mr. Sapp?

21 MR. SAPP: Except for the exhibits.

22 MR. MOREAU: Excuse me, sir.

23 THE EXAMINER: Here's a gentleman from the
24 Bell Telephone Company. We've had a lot of things happen
25 that I have forgotten about the gentleman from the Bell

1 Telephone Company.

2 Sir, you said that you wanted to make a
3 statement.

4 Give us your name, please.

5 MR. MOREAU: Lawrence Moreau.

6 THE EXAMINER: I think you told me when you
7 came up to speak with me that it was the impression of your
8 company, the Bell Telephone Company, that their first
9 impression was that they didn't have any interest in this
10 hearing, is that correct?

11 MR. MOREAU: You are right.

12 THE EXAMINER: Then after they reviewed
13 the matter, they decided that they did have an interest, is
14 that correct?

15 MR. MOREAU: That's right.

16 THE EXAMINER: And you further stated
17 that your counsel was not available, and I believe you said
18 they had gone to Philadelphia?

19 MR. MOREAU: No, sir. They are located
20 in Philadelphia and they come to Pittsburgh or any place
21 else in Pennsylvania at these hearings.

22 THE EXAMINER: Well, I have to advise you
23 that the rule is that where you have a corporation involved
24 that they always have to be represented by counsel.

25 Now, it is not my intention, sir, to deprive

1 you of any of your rights that your company feels that it
2 may have in this matter, and I can say to you now that this
3 matter is not closed because there is going to be further
4 hearings, so that I would say to you that you get in touch
5 with your counsel and have them request that you be permitted
6 to give testimony at some further hearings.

7 MR. MOREAU: We shall, sir. This is all
8 a mistake. I was going to make a statement.

9 I am with the Bell Telephone Company of
10 Pennsylvania located at 201 Stanwyx Street.

11 Due to incorrect advice received from our
12 engineers, our counsel did not think it necessary to attend
13 the hearing.

14 We've got two cables on this bridge.

15 THE EXAMINER: I don't want you to put any
16 testimony on the record now.

17 THE WITNESS: I want to make sure we are
18 physically affected on this bridge. We want you, Mr. Examiner,
19 to know that we will present testimony at some future date.

20 THE EXAMINER: I'm sure the Commission won't
21 deprive you of any of your rights and we'll permit you to
22 offer testimony at some future hearings.

23 MR. MOREAU: Thank you, sir.

24 THE EXAMINER: I'm sorry that I almost let
25 you go without hearing from you.

1 MR. BETHARDS: Mr. Examiner, I would like to
2 state for the record that the Department has completed its
3 testimony and insofar as the Department is concerned, we see
4 no need for a further hearing.

5 MR. DICK: In reviewing the matter, I think
6 this would close the testimony.

7 However, I would say for the Bell Telephone
8 Company, if they would have their attorney submit the
9 information, that would be fine.

10 THE EXAMINER: Well, I have made that
11 statement to the representative of the Bell Telephone Company
12 based on what the previous thought was that there was going
13 to be another hearing. Now, I don't like to deprive the
14 Bell Telephone Company of their right to present testimony.
15 If there is some other way you can go about it, fine.

16 MR. DICK: May we go off the record just
17 a second, Mr. Examiner?

18 THE EXAMINER: Yes.

19 (Discussion off the record.)

20 THE EXAMINER: Back on the record.

21 We will close the testimony and you will
22 send whatever testimony you have by letter or whatever. Send
23 it to all parties of interest.

24 MR. MOREAU: Yes. Thank you, sir.

25 MR. DICK: Mr. Examiner, we have stated to

representative of the Bell Telephone Company, that what he has indicated to me, is that the testimony that he would give would be very short and direct and it is my understanding that they have incurred no cost in this case or in this matter.

MR. MOREAU: That is right.

MR. DICK: And if they will submit a letter setting forth the testimony or a statement --

THE EXAMINER: It is understood that a statement or a letter will go to all parties, that is, everyone in interest in this case.

MR. MOREAU: Yes, we understand that, sir. We were made a party of this, but our engineers misread it.

MR. DICK: Fine.

THE EXAMINER: Okay.

MR. MOREAU: Thank you, gentlemen.

THE EXAMINER: We can now safely say that the record is closed, is that correct, on both sides?

MR. DICK: Subject to all the exhibits that are to be submitted by the parties.

THE EXAMINER: All right.

MR. DICK: As the testimony shows or the record shows.

(Whereupon, at 1:50 o'clock p.m., hearing in the above matter was concluded.)

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me during the hearing on the above cause before the Public Utility Commission of the Commonwealth of Pennsylvania and that this transcript is a correct copy of the same.

MOHRBACH & MARSHAL, INC.

By George R. Bernick
Official Reporter

Reported by:

George R. Bernick
MOHRBACH & MARSHAL, INC.
2000 State Street
Harrisburg, Pa.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Four Parkway Center
875 Greentree Road
Pittsburgh, 15220
November 19, 1970



em1

IN REPLY REFER TO
O. R. XL3
Thompson Run Bridge
Allegheny County

Mr. Norman M. Bartko, City Solicitor
City of Duquesne
Duquesne, Pennsylvania 15110

Dear Mr. Bartko:

Reference is made to your letter dated November 10, 1970, addressed to Mr. N. H. Udani, District Bridge Engineer, pertaining to the sidewalk portion of the Thompson Run Bridge.

The State and County had different interpretations of Act 615. The State's interpretation of Act 615 was that the portion pertaining to maintenance between curbs was the State's responsibility but beyond the curb area maintenance was the responsibility of others.

Since that time we have been authorized by the Central Office to incorporate that portion beyond the curbs. Therefore, the sidewalk area will be maintained by the Pennsylvania Department of Transportation and this walkway area will be taken care of in a short time.

We wish to thank you for your patience and cooperation in this matter.

Very truly yours,

Anthony J. Gaeta

Anthony J. Gaeta
District Engineer

PA. PUBLIC UTILITY COMMISSION	
DOCKET NO. <u>Q 18922</u>	FOLDER NO. _____
<u>Duquesne</u> EXHIBIT NO. <u>A</u>	
HEARING AT <u>Pgh Pa</u>	DATE <u>11-22-73</u>
REPORTER <u>George R. Bernick</u>	

PA. PUBLIC UTILITY COMMISSION
NOV 5 11 08 AM '70

RECORD
FOLDER

CITY DUQUESNE

" A "

EX

DOCKETED
COMPLAINT DOCKET
DEC 6 1970
ENTRY NO. *[Signature]*

466-3000
XXXXXXXXXX

November 10, 1970

PA. PUBLIC UTILITY COMMISSION	
DOCKET NO. <u>C-18922</u>	FOLDER NO. _____
<u>Supplement</u> EXHIBIT NO. <u>B</u>	
HEARD AT <u>Top Pa</u>	DATE <u>11-27-73</u>
REPORTER <u>George R. Bernick</u>	

Mr. N. Udani
 District Building Engineer
 Department of Public Transportation
 4 Parkway Center
 375 Greentree Road
 Pittsburgh, Pennsylvania 15220

RE: Thompson Run Bridge

Dear Mr. Udani:

Over the years, the Council of the City of Duquesne has received numerous complaints from the citizens of our town concerning the manner in which the sidewalks are maintained on the Thompson Run Bridge. At the last Council meeting, a spokesman appeared and read various letters from the State Department of Transportation and the County of Allegheny. The County letter said it was up to the State. The State letter said it was up to the County. In the meantime, the deplorable condition of this bridge persists.

The purpose of this letter is to urge your department to take corrective action and if need be, to work out some cooperation agreement with the County in this respect.

Very truly yours,

Norman M. Bartko
 City Solicitor

COMMUNICATIONS OFFICE
 PUBLIC UTILITY
 COMMISSION

73 DEC 5 AM 8:20

RECEIVED

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CITY OF DUQUESNE

EX B

OVERSIZE DOCUMENT(S)

County Exhibit No. 1
(cost breakdown)

FABRY 19
3/20/62

P. C. N° 18922

HEARING 11-26-73

COUNTY OF ALLEGHENY

EXHIBIT N° 2

OFFICE COPY
COUNTY DEPT. OF WORKS
CONTRACT DIVISION
ROOM 502 FILE

73 DEC 5 AM 8 21

PUBLIC UTILITY
COMMISSION

- RESOLUTION -

WHEREAS, the County of Allegheny has heretofore constructed or taken over and maintained certain hereinafter designated highways, bridges, tunnels, viaducts and approaches thereto; and

WHEREAS, any and all contracts for the improvement of the hereinafter named highways, bridges, tunnels, viaducts and approaches thereto, heretofore entered into between any contractor and the Commonwealth of Pennsylvania or the County, or both, have been completed; and

WHEREAS, under the provisions of Act No. 615 of the General Assembly of the Commonwealth of Pennsylvania of 1961, approved by the Governor September 18, 1961, such highways, bridges, tunnels, viaducts and approaches thereto shall, if and when the County Commissioners consent thereto by resolution, a copy of which shall be filed in the office of the Clerk of Courts of the proper county and with the Department of Highways, be adopted by the Commonwealth as State highways and shall thereafter be maintained, repaired, and constructed in the same manner and with like power and authority as provided by the laws of the Commonwealth applicable to State highways;

NOW, THEREFORE, BE IT RESOLVED, That in accordance with the authority granted by Act No. 615 of the General Assembly of the Commonwealth of Pennsylvania of 1961, approved by the Governor September 18, 1961, the Board of County Commissioners of Allegheny County does hereby consent to the adoption by the Commonwealth as State highways of the following highways:

LOCATED
COMP. IN FILE
DEC 6 1973
ENTERED

PA. PUBLIC UTILITY COMMISSION
DOCKET NO. C 18922 FOLDER NO.
County EXHIBIT NO. 2
HEARING AT Rgh Pa DATE 11-27-73
REPORTER George P. Bernick

2019

Route 02263 - Beginning at the intersection of Allegheny River Boulevard and Washington Boulevard, thence over Allegheny River Boulevard to its intersection with Shades Run Bridge a distance of 1.39 miles;

Route 02269 - Beginning at the intersection of Banksville Road and Penn-Lincoln Parkway West, thence over Banksville Road to the Dormont Borough line a distance of 2.50 miles;

Route 02270 - Beginning at the intersection of Liberty Tunnel and Bridge and Forbes Street, thence over and through such bridge and tunnel to their intersection with Saw Mill Run Boulevard a distance of 1.87 mile;

and the following named bridges:

- No. 3 - Pennsylvania Railroad
- No. 4 - Pennsylvania Railroad
- No. 2 - Little Saw Mill Run Cr.
- No. 3 - Little Saw Mill Run Cr.
- No. 5 - Little Saw Mill Run Cr.
- No. 6 - Little Saw Mill Run Cr.
- No. 7 - Little Saw Mill Run Cr.
- No. 4 - Little Saw Mill Run Cr.
- Liberty Bridge
- Glenwood Bridge (No. 8 Monongahela)
- Jerome Street (No. 3 Youghiogheny)
- 31st Street Bridge (No. 6 Allegheny)
- Sewickley Bridge (No. 1 Ohio)
- McKees Rocks Bridge (No. 2 Ohio)
- West End Bridge (No. 3 Ohio)
- 62nd Street (No. 8 Allegheny)
- Highland Park Bridge (No. 9 Allegheny)
- 40th Street Bridge (No. 7 Allegheny)
- Hulton (No. 1 Allegheny)
- McKeesport-Duquesne (No. 5 Monongahela)
- Clairton-Glassport Bridge (No. 6 Monongahela)
- 15th Street McKeesport (No. 1 Youghiogheny)
- No. 4 Turtle Creek Monroeville Borough
- No. 1 Thompson's Run S. S., Duquesne Boulevard, City of Duquesne
- No. 21 Chartiers Creek, Steuben Avenue, Pa. 60 Crafton V & I Railroad, Butler Pike
- No. 1 Thompson's Run, E. Side U. P. Church, Turtle Creek Borough
- No. 4 Saw Mill Run, Library Road
- No. 13 Girty's Run, Milvale Borough
- No. 1 Chartiers Creek, West Carson Street
- No. 1 Pine Run, City of Clairton
- No. 1 Pennsylvania Railroad, Guyasuta Sta., O'Hara Twp.
- No. 1 Lick Run, Cochran's Mill Sta., Snowden Township
- No. 4 Gourdhead Run, 1 mile north of Allison Park Station
- No. 2 Cat Fish Run, Bethel Borough, Equitable Gas Pumping Station
- No. 2 Saw Mill Run, City of Pittsburgh
- No. 8 Deer Creek, 3/8 miles west of Martin School South Birmingham Avenue, Ohio River Boulevard, Avalon Borough
- Forest Avenue, Ohio River Boulevard, Ben Avon Borough


BE IT FURTHER RESOLVED, That a copy of this resolution be filed in the office of the Clerk of Courts of the

County of Allegheny and with the Department of Highways of the Commonwealth of Pennsylvania.

- C E R T I F I C A T E -

I, MURRAY W. SNYDER, the duly appointed, qualified and acting Chief Clerk of the Board of County Commissioners of the County of Allegheny, Pennsylvania, DO HEREBY CERTIFY that the foregoing resolution was legally adopted at a meeting of the Board of County Commissioners of the County of Allegheny, Pennsylvania, duly held on the 20 day of March, 1962, and that said resolution has been compared by me with the original thereof on file in my office and is a true copy of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Allegheny this 20 day of March, 1962.



Chief Clerk
Board of County Commissioners of
the County of Allegheny,
Pennsylvania

2049

5 Copies

XERO COPY

XERO COPY

P.O.C. No. 18922

HEARING 11-24-73

COUNTY OF ALLEGHENY

EXHIBIT No 3

REC'D DEC 5 1962

8:22

NON-PUBLIC UTILITY COMMISSION

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS
HARRISBURG



OFFICE OF
SECRETARY OF HIGHWAYS

April 12, 1962

County Commissioners
Allegheny County Courthouse
Pittsburgh 19, Pennsylvania

Gentlemen:

This will acknowledge receipt of the certified copy of the Resolution of the Board of County Commissioners of Allegheny County, adopted March 20, 1962, consenting to the adoption by the Commonwealth as State Highways of the highways, bridges, tunnels, viaducts and approaches thereto, as set forth in the Resolution and in Act No. 615 of the General Assembly of the Commonwealth of Pennsylvania of 1961, approved by the Governor on September 18, 1961.

It is noted that the Resolution has been adopted in accordance with the requirements of Act No. 615. It is further noted that the letter of transmittal recites the filing of a certified copy in the office of the Clerk of Courts of the County of Allegheny to No. 2 March Sessions, 1962, Commissioners' Road Docket, in accordance with the requirements of Act 615.

The Resolution will be kept on file, and the highways, bridges, tunnels, viaducts and approaches thereto required by the Act to be taken over as State Highways not later than May 1, 1962, will be adopted on May 1, 1962.

Your interest and cooperation are appreciated.

Very truly yours,

Park H. Martin

Park H. Martin
Secretary of Highways

3-12
Duff. Louch
4-13-62

PA. PUBLIC UTILITY COMMISSION	
DOCKET NO. <i>18922</i>	FOLDER NO. _____
<i>County</i>	EXHIBIT NO. <i>3</i>
HEARING AT <i>Pgh Pa</i>	DATE <i>11-27-73</i>
REPORT BY <i>George R. Bernick</i>	

H

5/21/30W/20
8/13/32

P.O.C. No 18922
HEAR G 11-26-73
COUNTY OF ALLEGHENY
EXHIBIT No 4

Copy - Francis Barry ①
Law Dept
Ralph Sapp ③

Sapp

ROOM 502 FILE 2056

- AGREEMENT -

THIS AGREEMENT, made and entered into this 19 day of June, A. D. 1962, by and between the COMMONWEALTH OF PENNSYLVANIA, acting through the DEPARTMENT OF HIGHWAYS, hereinafter called the COMMONWEALTH,

A
N
D

ALLEGHENY COUNTY, a political subdivision of the COMMONWEALTH OF PENNSYLVANIA, acting through its duly elected representatives and authorized officers, hereinafter called the COUNTY,

WITNESSETH:

WHEREAS, COMMONWEALTH, on May 1, 1962, took over and assumed jurisdiction, maintenance and reconstruction of all bridges in Allegheny County, as contemplated in the Omnibus Bill, enacted by the 1961 session of the Legislature; and

WHEREAS, COUNTY, notwithstanding COMMONWEALTH'S control since the above mentioned date continued to energize street lights upon the aforesaid bridge; and

RECORD FOLDER

WHEREAS, it is the intent of the parties hereto mentioned that COMMONWEALTH, without any exceptions, is to assume all cost of maintenance and reconstruction with respect to the bridges hereinafter set forth; and

Handwritten notes and scribbles on the left margin.

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COMMONWEALTH DECKET
DEC 6 1973

PA. PUBLIC UTILITY COMMISSION
DOCKET NO. C 18922 FOLDER
County EXHIBIT NO. 4
HEARING AT Pgh Pa. DATE 11-22-73
REPORTER George R. Bernick

WHEREAS, the bridges contemplated in this agreement are as follows:

Over the Allegheny River

1. Thirty-first Street Bridge
2. Now Sixty-second Street Bridge
3. Highland Park Bridge
4. Fourtieth Street Bridge
5. Hilton Bridge

Over the Monongahela River

6. Liberty Bridge
7. Glenwood Bridge
8. McKeesport - Duquesne Bridge
9. Glassport - Clairton Bridge

Over the Ohio River

10. Sewickley Bridge
11. McKees Rocks Bridge
12. West End Bridge

Over Yough River

13. Jerome Street Bridge
14. Fifteenth Street Bridge
McKeesport

Over Turtle Creek

15. Moss Side Boulevard Bridge

Over Chartiers Creek

15. Bridge Number 21

NOW, THEREFORE, intending to be legally bound hereby, and in consideration of the above premises and the mutual covenants hereinafter made, it is agreed by and between COUNTY and COMMONWEALTH, acting through their respective and proper officers, as follows:

1. COMMONWEALTH, at COMMONWEALTH'S sole cost and expense and without any exception, will maintain and reconstruct bridges mentioned in this agreement, including the energizing of the street lights upon aforesaid bridges.

2. COUNTY, in lieu of energizing street lights, upon the aforesaid bridges, will pay the Department of Highways the sum of Fourteen Thousand Four Hundred Seventy and 41/100 (\$14,470.41) Dollars annually.

3. It is understood and agreed by the parties hereto that this agreement will take effect as of May 1, 1932, and the bills for energizing street lights upon aforesaid bridges will be adjusted accordingly.

4. This agreement shall remain in full force and effect until terminated or cancelled by mutual agreement of the parties, but either of the parties may, by giving six months'

written notice to the other party, signify its intent to re-negotiate the amount to be paid under the provisions of paragraph 2 hereof.

IN WITNESS WHEREOF, the parties hereto, through their properly authorized officers, have caused this agreement to be executed the day and year first above written.

ATTEST:

[Handwritten signature]

[SEAL]

COMMONWEALTH OF PENNSYLVANIA

By *[Handwritten signature]*
Deputy Secretary of Highways

COUNTY OF ALLEGHENY

ATTEST:

[Handwritten signature]
Chief Clerk

By *[Handwritten signature]*
[Handwritten signature]
Commissioners

APPROVED:

[Handwritten signature]
Director, County Department of
Works

APPROVED AS TO FORM AND LEGALITY:

[Handwritten signature]
Deputy Attorney General

[Handwritten signature]
County Solicitor

[Handwritten signature]
First Asst. County Solicitor