

1. <u>REPORT DATE:</u>	:	2. <u>BUREAU AGENDA NO.</u>
3. <u>BUREAU:</u> Rail Transportation	:	DEC-78-TR-494*
4. <u>SECTION(S):</u>	:	5. <u>PUBLIC MEETING DATE:</u>
6. <u>APPROVED BY:</u> Director: R. A. Peteritas 7-5188 Supervisor:	:	December 21, 1978
7. <u>MONITOR:</u> Commissioner O'Bannon	:	
8. <u>PERSON IN CHARGE:</u> Huff 7-2153	:	
9. <u>DOCKET NO:</u> C.18922	:	

10. (a) CAPTION (abbreviate if more than 4 lines)
 (b) Short summary of history & facts, documents & briefs
 (c) Recommendation

(a) PENNSYLVANIA PUBLIC UTILITY COMMISSION
 v.
 DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH
 OF PENNSYLVANIA, ET AL.

(b) The involved bridge, carrying State Highway Route 736 Extension above the tracks of Union Railroad Company in the City of Duquesne, Allegheny County, was ordered posted for five (5) tons on August 10, 1978.

PennDOT, by petition filed October 11, 1978, seeks hearing on an improvement at the involved crossing, the allocation of the costs thereof, the enforcement of the posted weight limit, and cooperation from Union Railroad Company in expediting the improvements.

By order issued May 22, 1975, the Commission directed, inter alia, that PennDOT maintain the structure exclusive of the easterly sidewalk which was directed to be the responsibility of the city of Duquesne.

(c) Issue an order denying the petition of PennDOT; directing that City of Duquesne enforce the posted weight limit; and directing that all parties cooperate with each other doing any required maintenance to the bridge.

11. MOTION BY: Commissioner Bloom
 SECONDED: Commissioner Carter

Commissioner Chm. Goode - Yes
 Commissioner O'Bannon - Yes
 Commissioner Johnson - Yes

CONTENT OF MOTION: Staff recommendation adopted.

DOCUMENT
FOLDER

DOCKETED
COMPLAINT DOCKET
JAN 8 1979

January 5, 1979

C. 18922

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

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

DEPARTMENT OF HIGHWAYS OF THE COMMONWEALTH OF PENNSYLVANIA, UNION RAIL-
ROAD COMPANY, CITY OF DUQUESNE, COUNTY OF ALLEGHENY, THE BELL TELEPHONE
COMPANY OF PENNSYLVANIA, CARNEGIE NATURAL GAS COMPANY, EQUITABLE GAS
COMPANY AND KEYSTONE PIPELINE COMPANY

Dear Sir:

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

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

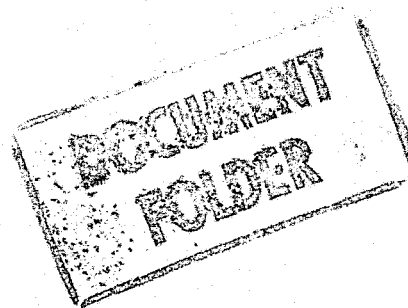
Very truly yours,

C. J. McElwee
Secretary

PLS
Encls.
Return Receipt

see attached letter list.

Law Bureau
Bureau of Transportation - rail



PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held December 21, 1978

Commissioners Present:

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

Pennsylvania Public Utility Commission

C. 18922

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, Equitable Gas
Company and Keystone Pipeline Company.

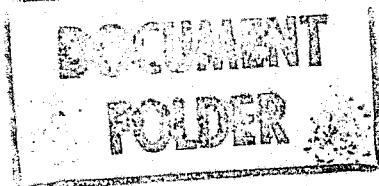
O R D E R

BY THE COMMISSION:

By emergency order issued August 10, 1978 (ratified August 24, 1978) this Commission, upon Pennsylvania Department of Transportation's recommendation, directed the department to immediately post the bridge carrying State Highway Route 736 Extension (Traffic Route 837) over and above the grade of the tracks of Union Railroad Company, and above Thompson Run, in the city of Duquesne, Allegheny County, for a maximum load limit of five tons, and to establish, mark and maintain a suitable detour for vehicles weighing in excess of five tons.

This matter is presently before us upon petition, filed October 11, 1978, by Pennsylvania Department of Transportation.

In its petition the department suggests that, in order to improve the safety at the involved crossing, the following work steps be taken:



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1. All gunite on the structure should be removed.
2. The existing sidewalks should be removed.
3. Three safety parapets should be placed on the structure to facilitate the implementation of a temporary sidewalk.
4. Traffic on the structure should be restricted to one lane in each direction.
5. A plan should be prepared for maintenance and protection of traffic.
6. An in-depth inspection of the structure should be made to determine what is necessary to eliminate the hazardous conditions existing at the crossing.
7. The involved structure should be reconstructed or replaced as recommended by the in-depth inspection report.

The petitioner avers that, due to PennDOT's critical financial condition, the department cannot accurately forecast its participation in the costs of reconstructing or replacing the involved bridge; therefore, the Commission should allocate the costs of the department's suggested work among all the interested parties. PennDOT further avers that Federal funds will be available to assist any of the interested parties in the reconstruction or replacement of the subject bridge.

The petitioner further avers that, in order to assure the safety of the user of the involved crossing, it is necessary for the presently posted five ton maximum weight limit to be vigorously enforced.

The petitioner also avers that, in view of the need to save both time and cost, it is especially important for Union Railroad Company to cooperate by permitting the fastest possible method of implementing the department's suggested work.

In its petition the department requests hearing be held in this proceeding for the purpose of taking testimony on the proposed crossing improvement, the cost allocation among the interested parties, the enforcement of the posted weight limit on the bridge, and the need for cooperation from Union Railroad Company in expediting the necessary improvements.

Following the issuance of a telegram order on March 26, 1970, directing that the involved bridge be posted for a maximum weight limit of five tons, this Commission, on April 27, 1970, instituted an investigation upon its own motion into the use and safety of said bridge and directed PennDOT to prepare construction plans showing details of all work necessary to restore the bridge structure to a capability for standard highway loading.

By order issued June 1, 1970, this Commission directed, inter alia, that Department of Transportation, at its initial cost and expense, furnish all material and do all work necessary to effect full and complete restoration and repair to the structure in accordance with the plan submitted by PennDOT and approved by this Commission and that, upon completion of the work, hearing would be held to allocate the costs of all work associated with the repair work.

Following hearings held March 22, 1972 and November 26, 1973, this Commission issued an order on May 22, 1975, allocating the costs associated with the repair work and the maintenance of the crossing and the approaches thereto. Said order was appealed to the Commonwealth Court by the Department, but the court, at 21 Pa. Commonwealth Ct. 407, 346 A2d 371 (1975), reaffirmed the Commission's action.

The maintenance provisions of said order read as follows, to

wit:

"10. That upon completion of the repairs to the crossing structure and its opening to public use, each non-carrier utility, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its respective facilities within the limits of the project.

"11. That upon completion of the repairs to the crossing structure and its opening to public use, Union Railroad Company, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain its tracks and other facilities located upon its right-of-way.

"12. That upon completion of the repairs to the crossing structure and its opening to public use, City of Duquesne, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the sidewalk on the east side of the bridge structure, and the 12-inch water main installed thereon.

"13. That upon completion of the repairs to the crossing structure and its opening to public use, Department of Transportation, at its sole cost and expense, furnish all material and do all work necessary thereafter to maintain the remainder of the crossing, including the substructure and superstructure of the bridge carrying State Highway Route 736 Extension above the tracks of the railroad company and over Thompson Run, and the highway approaches thereto."

Upon full consideration of the Department's petition, as well as the record in this proceeding, we find that all of the work currently deemed necessary by the Department to insure the safety of the crossing, is repair work within the scope of the maintenance responsibilities delineated in the May 22, 1975 order.

Consequently, inasmuch as the May 22, 1975 order is explicit as to the parties responsible for the maintenance of the involved crossing

and its approaches, we conclude that a hearing for the purpose of submitting evidence on the repair work to the bridge and related cost allocations is neither necessary nor appropriate.

Moreover, the Department's petition raises no new evidence of change in conditions or circumstances since issuance of the Commission's order of May 22, 1975.

Accordingly, we deny the Department's instant petition and direct that any necessary repairs be made, and the costs associated therewith borne, by the party or parties charged with maintenance responsibilities at the crossing, in accordance with the May 22, 1975 order.

Additionally, we agree with Department of Transportation that it is necessary for the safety of the crossing user that the maximum weight limit of five tons, for which the bridge is presently posted, should be enforced, and we order City of Duquesne to enforce same; THEREFORE,

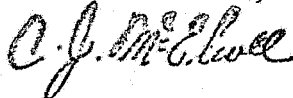
IT IS ORDERED:

1. That the petition filed October 11, 1978 by Pennsylvania Department of Transportation, in this proceeding, requesting hearing be held, be and is hereby denied.
2. That City of Duquesne immediately begin a rigorous program of enforcing the five ton maximum weight limit posting of the involved bridge, and report weekly to this Commission all enforcement proceedings it initiates.
3. That Department of Transportation, Union Railroad Company and City of Duquesne cooperate with each other and all other involved

parties so that any maintenance work can be expedited without undue delay.

4. That in all respects not inconsistent herewith our prior orders in this proceeding remain in full force and effect.

BY THE COMMISSION,



C. J. McElwee
Secretary

(SEAL)

ORDER ADOPTED: December 21, 1978

ORDER ENTERED: **JAN 5 1979**