



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

December 3, 1985

IN REPLY PLEASE
REFER TO OUR FILE

C-844440

TO ALL PARTIES
(See attached list)

Pennsylvania Department of Transportation
v.
Consolidated Rail Corporation, Snyder Township,
Blair County, and The Bell Telephone Company of Pennsylvania

TO WHOM IT MAY CONCERN:

Enclosed is a copy of the Recommended Decision prepared by Administrative Law Judge Larry Gesoff.

An original and nine (9) copies of signed exceptions to the decision, if any, MUST BE FILED WITH THE SECRETARY OF THE COMMISSION IN ROOM B-18, NORTH OFFICE BUILDING, NORTH STREET AND COMMONWEALTH AVENUE, HARRISBURG, PA OR MAILED TO P.O. BOX 3265, HARRISBURG, PA 17120 and a copy served on each party of record within 15 days of the date of this letter. The signed exceptions will be deemed filed on the date actually received by the Secretary of the Commission or on the date the exceptions are deposited in the mail as shown on U.S. Postal Service Form 3817 certificate of mailing attached to the cover of the original document (52 Pa. Code §1.11(a)).

Replies to exceptions, if any, must be served on the Secretary of the Commission, in the manner described above, within 10 days of the date that the exceptions are due.

Exceptions and reply exceptions shall obey 52 Pa. Code 5.533 and 5.535, particularly the 40 page limit for exceptions and the 25 page limit for replies to exceptions. Exceptions should be clearly labeled as "EXCEPTIONS OF (name of party) - (protestant, complainant, staff, etc.)".

Any reference to specific sections of the Administrative Law Judge's Recommended Decision shall include the page number(s) of the cited section of the Decision.

All timely filed exceptions and replies thereto will be attached to the decision for consideration at Public Meeting. Late filed exceptions and late filed replies will not be attached.

jr

Enclosures

Certified Mail

Receipt Requested

cc: ALJ Gesoff/Office of ALJ/Bureau of S & C - Rail/Law Bureau/Chairman
Commissioners/OSA/Mr. Bramson

Very truly yours,

William H. Smith

William H. Smith

Chief Administrative Law Judge

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Department of
Transportation

v.

Consolidated Rail Corporation,
Snyder Township, Blair County,
and The Bell Telephone Company
of Pennsylvania

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C-844440

RECOMMENDED DECISION

Before

Larry Gesoff
Administrative Law Judge

HISTORY OF THE PROCEEDING

By Complaint filed November 2, 1984, the Pennsylvania Department of Transportation (PennDOT) alleges that the bridge structure which carries State Highway Route 55 (formerly U.S. Route 220) above the grade of Consolidated Rail Corporation (Conrail) main line tracks in Snyder Township, Blair County, suffers from localized deteriorations due to lack of preventative maintenance. It is further alleged that the Commission had previously assigned the responsibility for that maintenance to Pennsylvania Railroad Company (PRR), and that said company is the predecessor of Conrail. Furthermore, PennDOT alleges that Conrail failed to perform the necessary repairs, despite PennDOT's letters of September 6, 1983 and December 29, 1983 requesting it to do so. PennDOT requests that this Commission direct Conrail to rehabilitate the portions of the bridge which are in a state of disrepair.

By answer docketed on November 21, 1984, Conrail admits that it is the owner and operator of the railroad tracks located at the crossing. However, it denies any knowledge of the deteriorations alleged by PennDOT and demands proof thereof. Furthermore, Conrail denies that it is bound by any of the terms and conditions of this Commission's previous order assigning maintenance to PRR.

To resolve the matters of this Complaint, a field conference was held on January 3, 1985 at the site of the crossing, and hearing was held on June 26, 1985, at Hollidaysburg, Blair County. Participating at hearing were PennDOT, Conrail, Snyder Township and the Commission's Trial Staff. PennDOT presented two witnesses, one of whom sponsored four witnesses. Conrail, Snyder Township and Trial Staff each presented one witness. The hearing transcript is 76 pages long. Owing to the brevity of the transcript, no separate summary of testimony is set forth. Instead, relevant portions of the testimony appear in the following Findings of Fact.

FINDINGS OF FACT

1. The bridge carrying L.R. 55 across Conrail tracks in Snyder Township, Blair County was constructed by the Commonwealth of Pennsylvania Department of Highways in 1940 pursuant to Commission order at Docket C-11005. (PennDOT Exhibit #1, p. 19) The structure has a total length of 242'-1". At the center pair of rails beneath the bridge the minimum vertical under clearance is 21'-3" (measured). (PennDOT Exhibit 2, p. 4)

2. The paved roadway on the bridge is 44'-0" curb to curb. Presently there are three lanes on the structure. The 12'-0" center

lane is used as a "left-turn-only" lane for both southbound and northbound traffic. The shoulders are 3'-0" wide, leaving two 13'-0" lanes for the north and south traffic flow. (PennDOT Exhibit 2, p. 4)

3. The structure has no posted weight restrictions; vehicle speeds were observed to be approximately 50 miles per hour. (PennDOT Exhibit 2, p. 4)

4. The deck consists of an 8" thick reinforced concrete slab and asphalt overlay. The deck is supported by ten 24" I rolled steel stringers at 4'-9" spacing. (PennDOT Exhibit 2, pp. 4, 20)

5. The main members of the superstructure consist of two steel through trusses, 48'-6" on center, spanning 228'-9" between bearings. There is a 5'-9" clear width sidewalk cantilevered from the west truss. The floorbeams are typically spaced at 25'-5" on center. The floorbeams and truss members consist of riveted, built up steel sections. All the structural steel, below the deck and sidewalk excluding the bearings, is encased in concrete. The substructure consists of reinforced concrete abutments and wingwalls. (PennDOT Exhibit 2, pp. 4 and 5)

6. The highway on the bridge has recently been resurfaced by PennDOT with bituminous material and is in excellent condition (N.T. 8).

7. The Order of this Commission at C-11005, dated March 20, 1939, and entered into evidence at PennDOT Exhibit #1, contains the following provisions for maintenance of the structure:

- A) that Pennsylvania Railroad at its sole cost and expense, thereafter maintain its altered facilities at the crossing, and the substructure and superstructure of the new bridge, exclusive of the roadway paving on the superstructure.
- B) that Township of Snyder, at its sole cost and expense, thereafter maintain that portion of

the ramp approach extending southwestwardly from State Highway Survey Station 1044+00 of the new main highway located beyond the north-westerly edge of the pavement on the new main highway.

- C) that the Department of Highways, at its sole cost and expense, maintain the remainder of the improvement, including the roadway paving on the new bridge. (PennDOT Exhibit 1, pp. 21, 22)

8. The present volume of traffic using this bridge is 8394 vehicles per day, of which 2% are trucks. It is expected that this will increase at a rate of 1.25% per year (N.T. 9). The traffic is primarily local (N.T. 23, 64).

9. An in-depth inspection of the bridge was performed for PennDOT by A. G. Lichtenstein and Associates in November 1981. It made the following findings:

- A. The structure was found to be in overall fair condition. The curbs and sidewalks [sic] are severely spalled and there is a lack of an adequate drainage system for the bridge. There is a hole in the pavement at the east shoulder of the roadway at the north deck joint. Numerous areas of the exterior stringer and truss encasement are spalled off and the exposed steel is moderately rusted. The concrete abutments and wingwalls exhibit areas of large spalling. There is soil erosion at the southeast and northwest embankments.
- B. The structural ratings of the bridge are controlled by the interior stringer with the following ratings:

<u>Vehicle</u>	<u>Inventory Rating</u>	<u>Operating Rating</u>	<u>Safe Load Capacity</u>
H20	12 Tons	22 Tons	-
HS20	20 Tons	38 Tons	-
ML80	-	-	29 Tons

- C. The deck will require reconstruction from the first interior stringers to the fascias (including the pedestrian sidewalk). A permanent barrier should

be added during this work to prohibit vehicle impact to the trusses.

- D. The bituminous overlays have increased the dead load on the structure significantly (+20%) and should be removed down to the top of the concrete deck. Concurrently, an extensive deck evaluation study should be performed to determine the feasibility of providing a new wearing surface vs. an entire new deck. (PennDOT Exhibit 2, pp. 2-3).

10. The same report recommended the following actions:

- A. A restrictive load posting should be considered by the PennDOT.
- B. The curblines are in need of repairs. This would involve reconstruction of the concrete deck from the first interior stringer to the fascia at the east truss and similarly include the pedestrian sidewalk at the west truss. A "Jersey-Type" safety shape barrier should be incorporated in the design to safeguard against vehicle impact to the trusses.
- C. The bituminous material should be removed down to the top of the concrete deck thereby reducing the dead load on the structure. This would increase the load capacity of the interior stringers to 16 tons for H and 28 tons for HS trucks based on the Inventory levels. Concurrently, a complete deck evaluation study should be performed to determine the feasibility of providing a new wearing surface (i.e. L.M.C.) vs. an entire new deck to the area of the deck between curbline repairs. The extent to which encasements will require removal should be given consideration at this time. Reconstruction of the expansion deck joints should be included in the final schedule of repairs.
- D. The following items are in need of maintenance work:
 - (1) Repair the hole in the pavement at the northeast corner of the bridge. This will include repairs to the concrete backwall at this location.
 - (2) Clean and paint all exposed structural steel.

- (3) Repair or replace the expansion bearings to insure their proper function.
- (4) All concrete elements of the sub-structure should be cleaned of loose material and an epoxy mortar applied to prevent further deterioration. Special attention should be given to the bridge seats where large spalls have exposed the steel reinforcement.
- (5) Monitor the expansion joint in the southwest wingwall for further lateral displacement.
- (6) Stabilize the erosion at the southeast and northwest embankments.
- (7) Remove vegetation which has grown beyond the approach shoulders.

11. With regard to the highway on the bridge, holes continually develop in the pavement of the north approach in the area of the north backwall because the backwall is deteriorated and cannot adequately retain the fill which supports the approach roadway (N.T. 10).

12. With respect to the holes in the deck along the curb line, these conditions are dangerous because the holes could cause loss of control if a vehicle strikes them (N.T. 10).

13. A structural analysis has revealed that this bridge is not capable of carrying the present legal loadings for Pennsylvania. It is currently only capable of carrying vehicles weighing a maximum of 29 tons (PennDOT Exhibit 2, pp. 13-18, N.T. 10). The current maximum allowable load for Pennsylvania is 40 tons (N.T. 11).

14. The bridge should be posted for a vehicle weight restriction of 29 tons (N.T. 19) (PennDOT Exhibit 2, p. 2).

15. PennDOT has performed several inspections of the bridge: in August, 1976; November, 1979; November, 1981, June, 1983; and November 1984.

16. The design of the bridge met all of the necessary federal and state highway design criteria in existence in 1939 (N.T. 33).

17. Reconstruction or rehabilitation of this bridge would be eligible for federal funding (N.T. 33).

18. For design and economical evaluation purposes, the life expectancy of a concrete deck ranges from 40 to 50 years. The deck of this bridge is now 46 years old (N.T. 38), and the life expectancy of the overall structure with proper maintenance ranges from 50 to 100 years.

19. Bell has informed this Commission by letter that it has facilities located on the bridge but it cannot ascertain to what degree they will be affected by a possible rehabilitation. It is willing to relocate them as necessary at its initial cost and expense subject to a hearing on the allocation of cost at a later date (N.T. 44).

20. Conrail is the owner of the rail line beneath the structure, and has been since April 1, 1976 (N.T. 49).

21. Presently there are three mainline tracks under the bridge (N.T. 49).

22. Conrail denies any responsibility to maintain the structure, nor does it agree to perform any work or bear any cost (N.T. 51).

23. The bituminous layers have built up to a point higher than the curb line. This causes the water to spill over under the side

instead of running off the deck at the ends, as it was designed to do (N.T. 52).

24. The bridge is designed on a vertical curve and the roadway is crested, so that any water is directed to the curbline of the bridge which then channels it off the ends. The excessive overlay of macadam and presence of debris has interrupted this process and contributed to the deterioration (N.T. 72 and PennDOT Exhibit 2, p. 3).

25. The use of road deicing salt and cinders as well as normal aging of the bridge has contributed to its deterioration. (N.T. 72).

26. The expansion joints of the bridge have been paved over with bituminous material (N.T. 52).

27. Prior to recent advances in bridge technology, nothing could have been done to prevent water from permeating the deck (N.T. 61).

DISCUSSION

The evidence submitted by PennDOT in the form of the in-depth inspection report and the testimony of witnesses establishes that the subject bridge is in need of repair, possibly including rehabilitation of the deck, as will be discussed below. It has also been established that Conrail now owns and operates three mainline tracks beneath the structure, having acquired them upon its creation by the United States Congress after the bankruptcy of the Penn Central Railroad, successor to the Pennsylvania Railroad Company (PRR). PRR was assigned maintenance responsibility for the entire bridge structure, exclusive of the roadway

paving on the superstructure, by this Commission's Order at C-11005, dated March 20, 1939.

Conrail argues that it is not PRR's legal successor and acknowledges, therefore, no maintenance responsibility for the structure. It contends that the prior order of this Commission does not apply to it and that it has no responsibility to maintain the bridge. This argument has been considered and rejected by this Commission and Commonwealth Court. In rejecting Conrail's argument, the Court stated:

"The RRRA [Regional Rail Reorganization Act of 1973, as amended] transferred the assets included in Interstate Commerce Commission (ICC) accounts Nos. 1-45¹⁰ to Conrail. Included in ICC account No. 39 are above grade bridges. Just because property is transferred free of any liens and encumbrances does not mean the new owner is not responsible for the continued maintenance of that property" Conrail vs. Pa. PUC (Conrail) 423 A.2d 1108 at 1111, 55 Pa. Cmwlth. Ct. 576 (1980).

¹⁰ 49 CFR §1201 (1979).

The Court goes on to point out that it reviewed and affirmed the PUC's assessment of bridge repair costs between old and new owners of a railroad in Pa. P.U.C. v. Southeastern Pennsylvania Transportation Authority, 21 Pa. Cmwlth. Ct. 106, 343 A.2d 371 (1975) (SEPTA), where it held:

"it is the presence and ownership of the track involved, not any benefit conferred which places liability on the railroad (Citations omitted). SEPTA at 111, 343 A.2d at 374"

Thus, the Court concluded:

"While Conrail may contest ownership of and maintenance responsibilities for the bridge, it can hardly contest ownership of the railroad tracks." Conrail supra at 111.

Therefore, I conclude that Conrail has the responsibility of maintaining the bridge herein.

If the relative benefits of the parties are taken into consideration, it is clear that Conrail now enjoys benefits very similar to those enjoyed by the PRR at the time the bridge was built. At that time, PRR operated four mainline tracks under it (PennDOT Exhibit 1, p. 1). Conrail now operates three (N.T. 49). The highway over the bridge carried four lanes of traffic (PennDOT Exhibit 1, p. 3); it now carries three (PennDOT Exhibit 2, p. 4). Since the bridge was originally built, a bypass road has been also built, which undoubtedly relieves the bridge of a great deal of traffic it would have carried otherwise. While no information has been given concerning exact traffic volumes for the railroad, it appears that both the railroad and highway volumes, at least in terms of lanes and tracks in operation, have lessened proportionately. Thus, I conclude that the relative benefits which existed at the time of the Order of 1939 are substantially the same today.

The bridge was originally built at the Highway Department's expense and PRR's basic obligation was to maintain the structure. From 1976 to the present, Conrail enjoyed the same benefits of the structure without having contributed any money toward its construction or maintenance. There is no evidence of record to establish that any railroad ever performed any maintenance on the structure. Thus, to date, the railroads under the bridge have enjoyed the benefits of the grade separation virtually free of charge. It is hard to imagine that this Commission, in assigning maintenance responsibilities to the railroad, could have intended this outcome. It is only appropriate that Conrail,

which owns and operates the railroad tracks at the crossing, should bear the same burden as that originally assigned to PRR.

The specific deficiencies existing at the bridge are presented in the in-depth inspection report submitted by PennDOT at its Exhibit 2. With regard to the approaches, slope erosion at the northwest and southeast embankments is evident. On the bridge, the sidewalk is in poor condition, with its top surface severely scaled throughout and with large spalls at the pedestrian railing anchor posts. Vegetation is growing in the heavily accumulated debris. Concrete has broken away and spalled through at the north sidewalk deck joint. The concrete curbs are in poor condition and are spalled to the level of the asphalt wearing surface. Excessive debris has accumulated at the curb lines. (PennDOT Exhibit 2, pp. 9-10).

The deck has holes at several locations along the west curb lines and the steel reinforcement is exposed in those locations. There are large spalls along the east fascia where the reinforcing steel is uncovered. Two significant cracks traverse the asphalt at the deck joints. A 2' 1' "cave-in" exists at the east shoulder pavement at the north deck joint (PennDOT Exhibit 2, p. 10), which constitutes a hazard to the travelling public (N.T. 10).

The underside of the deck suffers from many fine cracks which exhibit leaching and efflorescence, and also from random heavy spalling. (PennDOT Exhibit 2, p. 11) As for the concrete encased members of the superstructure, the bottom flange encasement of the exterior stringers sounds hollow when struck with a hammer, as does the truss encasement of the bottom chord. The encasement in the vicinity of the connection is spalled and the wire mesh is exposed and rusted. The encasement is

separated from the exterior gusset plate at several locations. (PennDOT Exhibit 2, p. 11)

The exposed truss members above the deck exhibit moderate amounts of rust throughout, and several vertical truss members have an accumulation of debris at road level. The exposed fixed truss bearings show moderate to severe rusting and accumulation of debris. The expansion joints are moderately rusted. (PennDOT Exhibit 2, p. 12)

With respect to the substructure, there are accumulations of debris in the vicinity of the truss bearings. The abutments show many large areas of "leaching, hollow concrete spalls, and rusted exposed steel reinforcement." There are numerous large spalls on the wingwalls. (PennDOT Exhibit 2, p. 12)

In addition, the report points out that the bituminous overlay on the roadway surface is about 5½ inches thick and has reduced the height of the curbs to about 3½ inches. This, along with the heavy spalling of the curbs, drastically reduces their effective height, resulting in inadequate confinement of traffic (PennDOT Exhibit 2, p. 20) and interference with the designed drainage system (N.T. 72).

Conrail argues that these deficiencies are the result of the age of the bridge. It has presented evidence to show that the life expectancy of the deck ranges from 40 to 50 years, with the age of this deck now being 46 years. The life expectancy of the entire structure was estimated to range from 50 to 100 years.

Certainly age is an important factor in considering the deterioration of a bridge. There is little doubt that age is at least partly responsible for the deficiencies at this structure. However, the estimates of life expectancies, while very useful, are general

evaluations and should not be allowed to impeach specific evidence of specific defects. In this case, PennDOT has presented ample evidence to show that specific defects exist at the bridge. Many of these defects such as rusting of metal and spalling of concrete, which may accompany the aging of the bridge, are nonetheless repairable items which should have been repaired in the normal course of proper maintenance of this bridge. It is apparent that the failure to perform maintenance repairs on this bridge has contributed greatly to its deterioration. While it is unclear whether Conrail should be held responsible for the failure of its predecessor to perform maintenance, it is clear that Conrail inherited the bridge on April 1, 1976 and has never performed maintenance on it (N.T. 61). In any event, the burden of performing maintenance should be borne by Conrail as the present owner and operator of the rail line at the crossing.

The evidence also establishes that actions of PennDOT have contributed to the accelerated deterioration of the structure. PennDOT increased the thickness of the bituminous wearing surface on the bridge to a point where it interferes with the proper drainage of water from the structure. (This material has also covered the expansion dams.) This situation has caused the water to drain over the sides of the structure, a result not contemplated by the design of the bridge. This has contributed to the deterioration of the bridge. Accordingly, PennDOT should bear a portion of the expense of the necessary repairs. Based on the evidence in the record, PennDOT will be directed to reimburse Conrail for the expense it incurs in complying with ordering paragraph 4 below.

It has also been suggested that PennDOT's use of deicing salt on the bridge has contributed to the deterioration of the bridge. PennDOT's witness disputes this, arguing that such use of salt does not cause deterioration, but only accelerates it. The witnesses also opined that had the deck received adequate preventative maintenance, the salt ions would not have been able to react with the steel members or reinforcing bars (N.T. 12). The only way to determine this for sure is to perform core borings and measure the chloride ion content. As it will be necessary to perform a study of the deck, the degree of chloride penetration and concentration in the area of the reinforcement bars can be ascertained.

It has been recommended that PennDOT be ordered to remove the bituminous material and, concurrently, that a deck study be performed to determine if a rehabilitation of the bridge deck is necessary and to determine cost estimates for such a rehabilitation. Such a study is warranted considering the age and condition of the deck. I shall recommend, therefore, that PennDOT, at its initial cost and expense, prepare this study and also determine the structural integrity of and the chloride concentration in the concrete, and its expected affects on the reinforcement bars. As the study can be performed without removing the bituminous material, PennDOT should be allowed to delay removing the excess material until after it is determined whether or not the deck will be replaced. Similarly, repair or reconstruction of the expansion joints and bearings will be delayed.

It appears that the sidewalk and curbs will also need repair and possibly replacement. In its report, PennDOT should provide an analysis and recommendation for restoring those items. PennDOT's

inspection report also recommends installation of a "Jersey type" safety barrier to protect the trusses from the impact of vehicles. PennDOT should provide an estimated cost of this work also.

If PennDOT's study determines that the deck needs to be replaced, I recommend that PennDOT be prepared to present testimony at a further hearing as to the availability of federal funds for such a project.

The evidence also establishes that this bridge should be posted for a vehicle weight restriction. Owing to the different configurations of vehicles using the bridge, no single limitation is practical. I recommend therefore, that PennDOT be directed to post the bridge for 12 ton limits for single unit vehicles and 20 tons for combination vehicles.

In line with the above discussion, Conrail will be required to perform repairs to the structure as stipulated in ordering paragraph 4, and to bear 85% of the cost of that work. I recommend that Conrail be directed to maintain the entire structure, exclusive of the bituminous paving on the deck surface, at its sole cost and expense.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding.
2. This matter is properly before the Commission.

RECOMMENDED ORDER

Therefore,

IT IS ORDERED:

1. That the Complaint of Pennsylvania Department of Transportation at C-844440 is sustained.
2. That Pennsylvania Department of Transportation, at its initial cost and expense, within six months of the date of service of the Commission's order, perform and submit to all parties of record and to this Commission, an evaluation study of the bridge deck:
 - (a) to determine the chloride concentration in the deck concrete, the structural integrity of the deck and whether or not the deck should be replaced. If so, the estimated cost of said work;
 - (b) to determine whether the curbs and sidewalks should be repaired or replaced and the estimated cost;
 - (c) to present plans and cost estimates for the installation of a "Jersey type" or other appropriate safety barrier to protect the trusses from the impact of vehicles;
 - (d) to ascertain if federal funds or funds from other sources will be available for rehabilitation of the deck, and if so, the percentage that would be paid by those funds;
 - (e) to determine the cost of installing an impermeable membrane on the deck, if the old deck is to remain;
 - (f) an evaluation on the removal of all concrete encasement to increase the load carrying capacity of the bridge and what that capacity would be, as well as the estimated cost of painting the steel members which would be exposed by removal of the concrete encasement.
3. That Pennsylvania Department of Transportation, at its sole cost and expense, install and maintain at appropriate locations on

each end of the bridge and on the highway approaches, signs which restrict the weight limit on the bridge to 12 tons for single unit vehicles and 20 tons for combination vehicles.

4. That Consolidated Rail Corporation, at its initial cost and expense, within one year of the service of the Commission's order, provide all materials and perform all work necessary to complete the following repairs:

- (a) repair the hole in the pavement at the northeast corner of the bridge. This will include repairs to the concrete backwall at this location.
- (b) clean and paint all exposed structural steel.
- (c) monitor the expansion joint in the southwest wingwall for further lateral displacement.
- (d) stabilize the erosion at the southeast and northwest embankments.
- (e) remove debris and vegetation which has accumulated on the superstructure.
- (f) remove all debris from around the beam expansion bearings.

5. That until further order of this Commission, Consolidated Rail Corporation, at its sole cost and expense, maintain the entire bridge structure, exclusive of the bituminous paving on the superstructure.

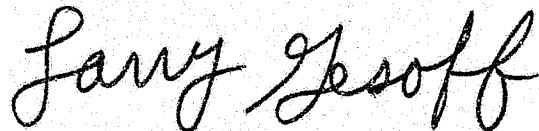
6. That until further order of this Commission, Pennsylvania Department of Transportation, at its sole cost and expense, maintain both highway approaches to the bridge and the bituminous paving on the superstructure.

7. That upon completion of the repairs ordered in Paragraph No. 4, Pennsylvania Department of Transportation, when and as certified

by this Commission, pay to Consolidated Rail Corporation a sum or sums of money equal to 15% of the actual cost of work performed and material furnished by Consolidated Rail Corporation.

8. That Consolidated Rail Corporation bear the remaining 85% of cost it incurred in complying with Paragraph No. 4 above.

9. That upon submission of PennDOT's study, further hearing be held to consider said study and additional repairs to be completed such as repair or replacement to the expansion dams and beam expansion bearings.



Larry Gesoff
Administrative Law Judge

Date: November 18, 1985

67-83F
COMMON

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Harrisburg, PA 17120



Office of Chief Counsel
December 18, 1985

IN REPLY REFER TO

RECEIVED

Jerry Rich, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, Pennsylvania 17120

DEC 18 1985
SECRETARY'S OFFICE
Public Utility Commission

Re: C-844440

Dear Mr. Rich:

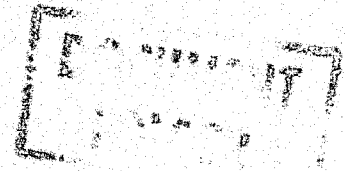
Enclosed please find original and nine (9) copies of Exceptions of the Pennsylvania Department of Transportation to Recommended Decision filed in the above entitled matter.

I hereby certify that a copy has been served on the parties of record in this case.

Very truly yours,

Stephen F. J. Martin
Assistant Counsel

220/SFJM/mvh
787-6485



Enclosures

cc: W. J. Clements, P. E., (Attn: Milton Davis)
District 9-0
Parties of Record - Page 2

Jerry Rich, Secretary
December 18, 1985
Page 2

PARTIES OF RECORD

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any evidence of record.

In Finding of Fact 13, the Administrative Law Judge found:

13. A structural analysis has revealed that this bridge is not capable of carrying the present legal loadings for Pennsylvania. It is currently only capable of carrying vehicles weighing a maximum of 29 tons (PennDOT Exhibit 2, pp. 13-18, N. T. 10). The current maximum allowable load for Pennsylvania is 40 tons (N. T. 11).

Finding of Fact 14 states:

14. The bridge should be posted for a vehicle weight restriction of 29 tons (N. T. 19) (PennDOT Exhibit 2, p. 2).

Yet after finding as fact that the structure should be posted for 29 tons, the Administrative Law Judge ordered posting at 12 and 20 tons.

The 12 and 20 ton limits were apparently derived from the inventory rating of the interior stringer of the bridge, noted in the inspection report submitted as the Department's exhibit 2. Neither the report itself nor the Department witness suggested that the inventory rating therein noted should establish the carrying capacity of the bridge or control the posted limit. In fact, National Bridge Inspection Standards and AASHTO guidelines permit the posting of load levels as high as the operating levels rather than inventory levels.

Use of the inventory rating to determine the posted limit is in error. In addition, it is submitted that no other evidence of record supports a conclusion that the bridge should be posted for 12 tons for single unit vehicles and 20 tons for combination vehicles. The recommended posting for 29 tons offered by the Department's witness (N. T. 19) was not disputed by either the railroad's witness or the testimony of the Commission's engineering staff. Even taking into consideration continuing deterioration of the bridge since the most recent inspection report, a posting for maximum weight limits less than 26 tons for single unit vehicles and 34 tons for combination vehicles is not warranted and is not supported by any evidence of record.

2. Exception is also taken to ordering paragraph 9 of the Recommended Decision, which directs that further hearing be held to consider repair or replacement of the expansion dams and beam expansion bearings. Further hearing should also include consideration of the repair or replacement of elements of the substructure.

On page 12 of the Recommended Decision, the Administrative Law Judge, on the basis of ample evidence of record, identified deterioration of the substructure of the bridge. Specifically, it was noted:

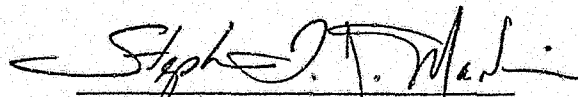
With respect to the substructure, there are accumulations of debris in the vicinity of the truss bearings. The abutments show

many large areas of "leaching, hollow concrete spalls and rusted exposed steel reinforcement." There are numerous large spalls on the wingwalls. (PennDOT Exhibit 2, p. 12).

Consequently repair of the substructure should not be excluded from consideration at further hearing. While ordering paragraph 9 does not specifically exclude such consideration, it should be amended to specifically include consideration of repairs to the substructure.

In conclusion it is submitted that for the foregoing reasons, ordering paragraph 3 should be amended to provide for a posted maximum weight limitation of not less than 26 tons for single unit vehicles and 34 tons for combination vehicles. It is submitted further that ordering paragraph 9 should be amended to specifically include for consideration at further hearing, repair to the substructure of the subject bridge.

Respectfully submitted,



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